

Creative Expression- Benefiting From Your Copyright and Using the Copyright Works of Others in Your Business;

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UAE Copyright Act

- Federal Law No. 7 of the Year 2002 Concerning Copyrights and Neighboring Rights
- Copyright and Related Rights (Neighboring Rights), Enforcement of IP and Related Laws, Traditional Cultural Expressions, Traditional Knowledge (TK)

Term of Protection

- **20.—1. The economic rights of the author stipulated in this law shall be protected through his lifetime and fifty years beginning from the first day of the calendar year following the death.**
- 2. The economic rights of the joint authors shall be protected through their lifetime and fifty years beginning from the first day of the calendar year following the death of the last surviving author.
- 3. The economic rights of the authors of collective works except the authors of applied arts shall be protected for a period of fifty years beginning from the first day of the next calendar year of the first publication in case that the author is a legal person but in case that the author is a natural person, the period will be calculated according to the rule stipulated in (1) and (2) of this article.
- The economic rights of the works published for the first time after the death of their author expire after fifty years starting the first day of the next calendar year of its first publications.

Copyrights and Related Rights

- Copyright and Related Rights (Neighboring Rights), Enforcement of IP and Related Laws, IP Regulatory Body, Traditional Cultural Expressions, Traditional Knowledge (TK)

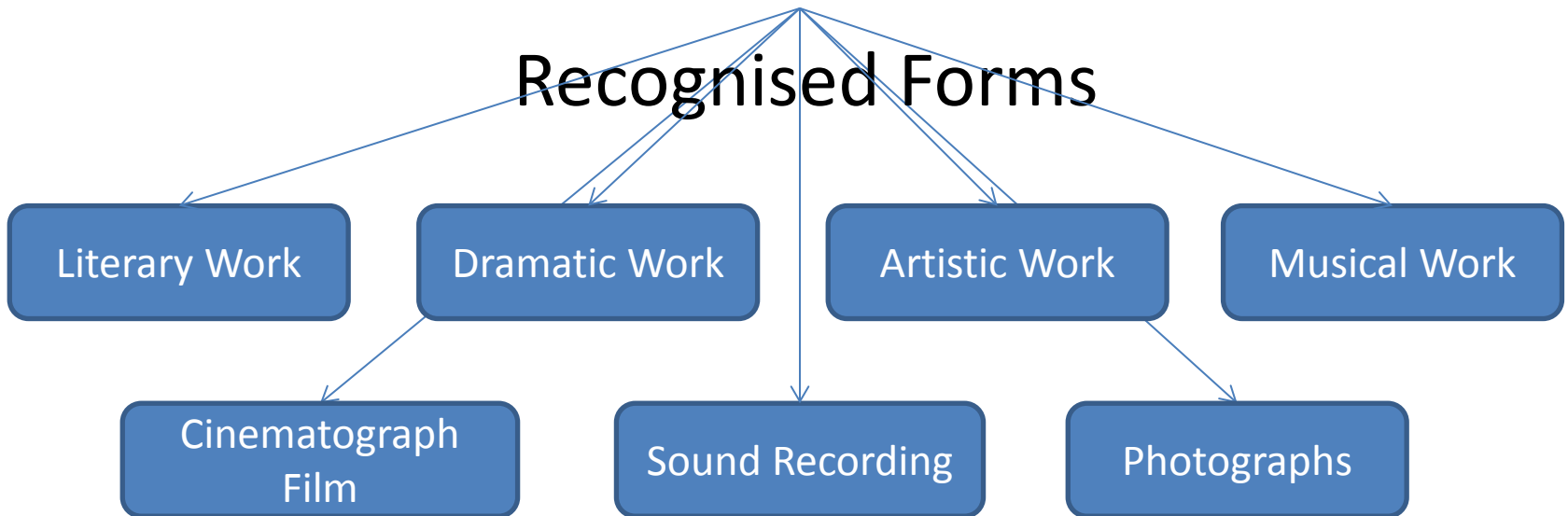
Notes: The Implementing Regulations of Copyright Law were issued by The Minister of culture and Information's decision No. 1688/1 dated 10/04/1425H (29 May 2004) and amended by the Decision of the Minister of Culture and Information No. 1640 dated 15/05/1426H (22 June 2005)).

The Regulations contain 35 articles and 3 chapters: general definitions (Article 1); protected works and the rights of public performance (Chapter One, Articles 2-10); liability for copyright infringement and procedures of detection and investigation of copyright violations (Chapter Two, Articles 11-29); and general provisions (Chapter Three, Article 30-35).

Article 35 indicates that these Regulations shall be effective after two months from the date of publication in the Official Gazette.

Creative Expression: COPYRIGHTS

- Ideas Expressed in Tangible form
- Protects Expression and not the Idea



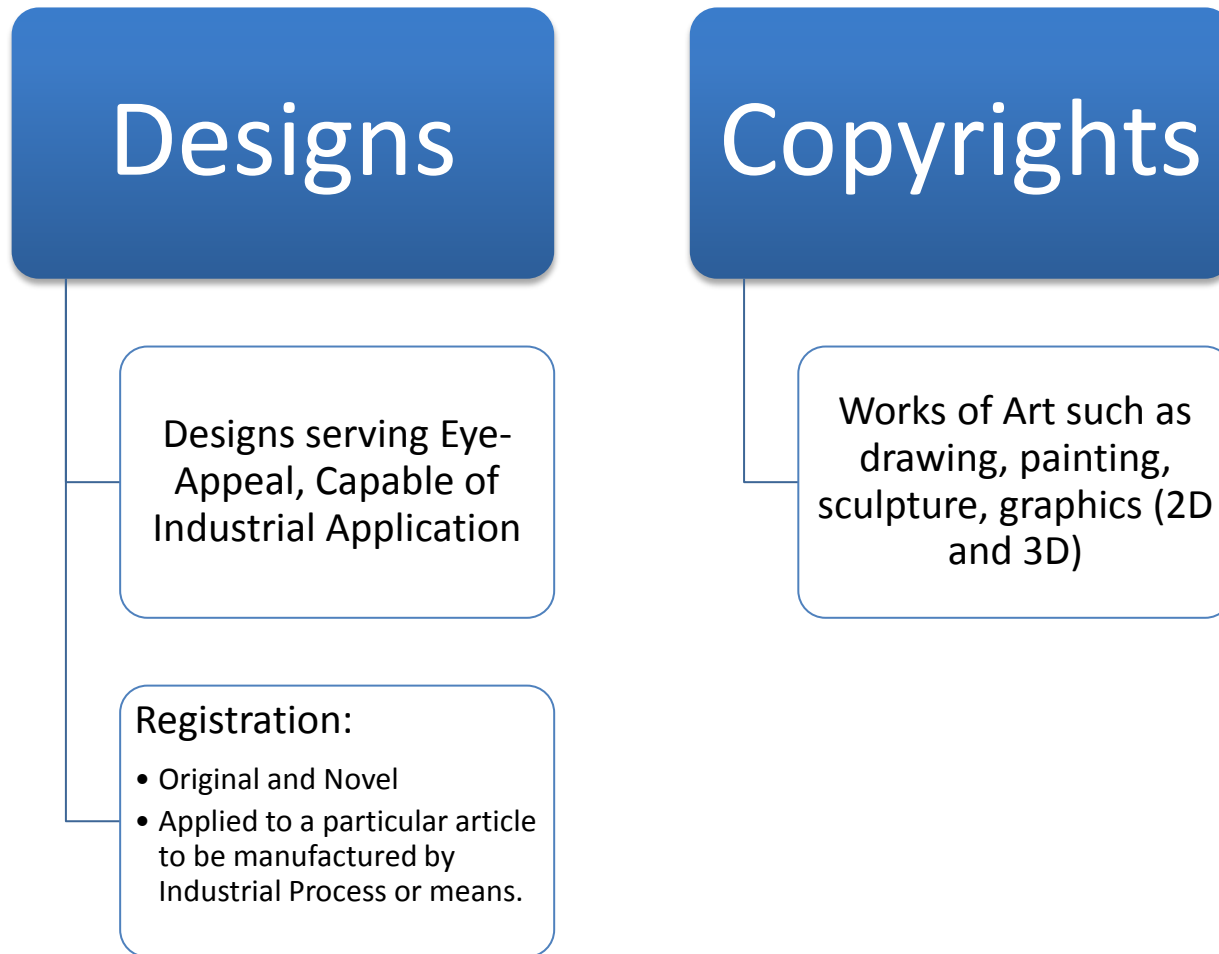
Copyrights:

- Idea/Expression Dichotomy
- Tangible Form
- Originality and Modicum of creativity
- Term - Life plus 60 years
- Rights: Reproduction, Adaptation, Distribution, Derivative work, Public performance, Public Display

Creative Expression: Designs

- Any aesthetic design that-
 - Is new
 - Is original
 - Is not functional
 - Is Capable of industrial application
- Term: 5 years and renewable twice
- Originally subject of Copyrights
- Rights- To make, copy, sell, offer for sale, import

Design and Copyright Interface



Design and Copyright Interface

- Works of Art capable of design protection are not eligible for copyright protection.
- Copyright in an unregistered design is lost when more than 50 copies of an article with the design is industrially produced. (Sec. 15, Indian Copyright Act, 1958)

- ‘Just because an article has utilitarian use, that use does not preclude copyright protection’- US Supreme Court in *Mazer v. Stein*

Clarification issued for Copyright- Design interface post *Mazer* and subsequent cases

- Artistic Components of a utilitarian thing can be subject to copyright protection
- Sec. 17, US Copyright Act- “Pictorial, graphic, and sculptural works” include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, diagrams, models, and technical drawings, including architectural plans.

Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

USING THIRD PARTY COPYRIGHT IN BUSINESS

- Modes of Acquisition
 - Work for hire (Person commissioning the work becomes first owner)
 - Assignment
 - License
- Any or all of the rights granted under copyright law may be licensed/assigned for exploitation
- Publishing, Broadcast, Sale, Performance, Display, Making derivatives- Modes of exploitation

Buyers Beware!

- Ensure that works being taken are original
- Ensure clear titles
- Perform due diligence on third party IP risk
- Take warranties and indemnities
- Demand registrations where necessary
- Have regard to business considerations such as shelf life of the work

When do you need permission to use other's CR

- The use of any works in which someone else owns CR requires the owner's prior consent if the planned use implies the use of all or part of the rights granted to the CR owner.
- Playing protected music for your consumers so also text, images, artworks: even if you want to use only a part of the song, you still need permission
- Get express written permission

When do you not need permission

- Not protected content
- Facts and ideas
- Work which has fallen in public domain
- Fair use material

How to reduce risk of Infringement

- Educate staff
- Obtain written permission
- Mark a photocopiers VCRs CD or DVD burners with a clear indication that the equipment should not be used to infringe CR

CR Infringement

- Economic Right:

Some one also makes copies of your manual
Imports an infringing work, selling your works' pirate version

- Moral Right

If your contribution as an (co) author of the work is not recognized: If the copier passes off as an author of your work

Copyrights and Digital Economy

FICCI, in partnership with Google released new research that showed the web makes a big impact on small to medium enterprises (SMEs) in India

- The report, 'Internet's Role in the Performance of - India's Small and Medium Enterprises' compiled and presented by Nathan Associates, showed that SMEs, who use the web, fare much better than those that do not.
- **Report snapshot:**
- * The Internet can be a great equalizer for SMEs, providing them with access to new markets, more customers and visibility so as to unleash their potential. The survey of 951 small and medium enterprises in various industrial and geographical clusters across India shows that SMEs that use the Internet, 69 percent experienced an increase in customers, and 63 percent an increase in geographic reach and 44 percent saw an increase in firm employment.
- * Controlling for factors such as an SME's investment in plant and machinery, the age, sex and education of personnel, and ownership type, the study found that using the Internet for business operations increased the SME's revenue by 51 percent and profits by 49 percent.
- * On an average, an SME adopting the Internet is able to grow its customer base by 7 percent and employment growth by 4 percent.

- **The Internet**

- A middle school science class studying ocean ecosystems must gather material for multimedia projects. The teacher downloads pictures and information on marine life from various commercial and noncommercial sites to store in a folder for students to access. This is fair use.
- An elementary school designs a password-protected Website for families and faculty only. It's OK for teachers to post student work there, even when it uses copyright material without permission.
- A student film buff downloads a new release from a Taiwanese Website to use for a humanities project. As long as the student gives credit to the sites from which he's downloaded material, this is covered under fair use.
- A technology coordinator downloads audio clips from MP3.com to integrate into a curriculum project. This is fair use.

- **Part III: Video**

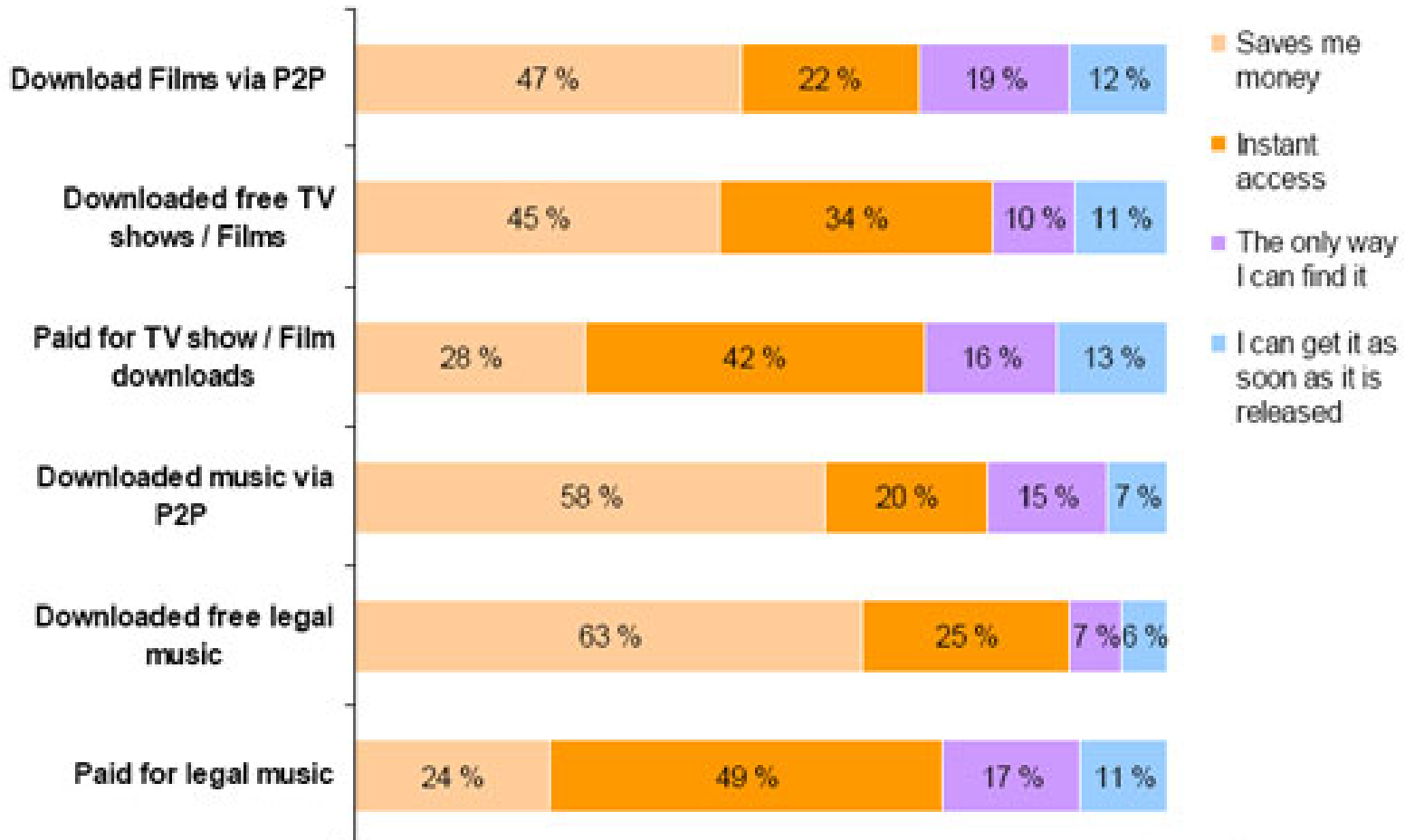
- A teacher videotapes a rerun of *Frontier House*, the PBS reality show that profiles three modern families living as homesteaders from the 1880s did.
- In class, students edit themselves "into" the frontier and make fun of the spoiled family from California. This is fair use.
- A student tries to digitize the shower scene from a rented copy of *Psycho* into a "History of Horror" report. Her computer won't do it. The movie happens to be on an NBC station that week, so the teacher tapes it and then digitizes it on the computer for her. This is fair use.

Opportunities of Exploitation- Limitless

- Internet
 - Online streaming
 - Online games
 - Software as Service
 - Sale through downloads and e-commerce
 - Video on Demand
- Mobile
 - Mobile streaming
 - Mobile downloads
 - Mobile games
 - Mobile applications
 - Derivative contents such as wallpapaers, ringtones

Why Digital Medium?

Motivations for downloading content



Source: Global Web Index

Minimal Cost, Quick and Easy

- Creation of Content
- Copying of Content



- Transfer and distribution of Content

- Advantages for bot
Pirates (Violators)



Owners and

Online Piracy: Channels

- Online Streaming- YouTube, MetaCafe, Daily Motion, Yahoo
- Online Sharing- Peer to Peer (P2P) sharing sites, Torrents
- Any other file sharing or file upload system



Some Facts on Piracy (Source: GoGulf.com)



Online Users Find **Nothing Wrong** in Online Piracy



of Digital piracy sites are **hosted** in North America and Western Europe



of All global Internet **bandwidth** is used for Online Piracy



of Data transferred using **P2P networks** is copyrighted

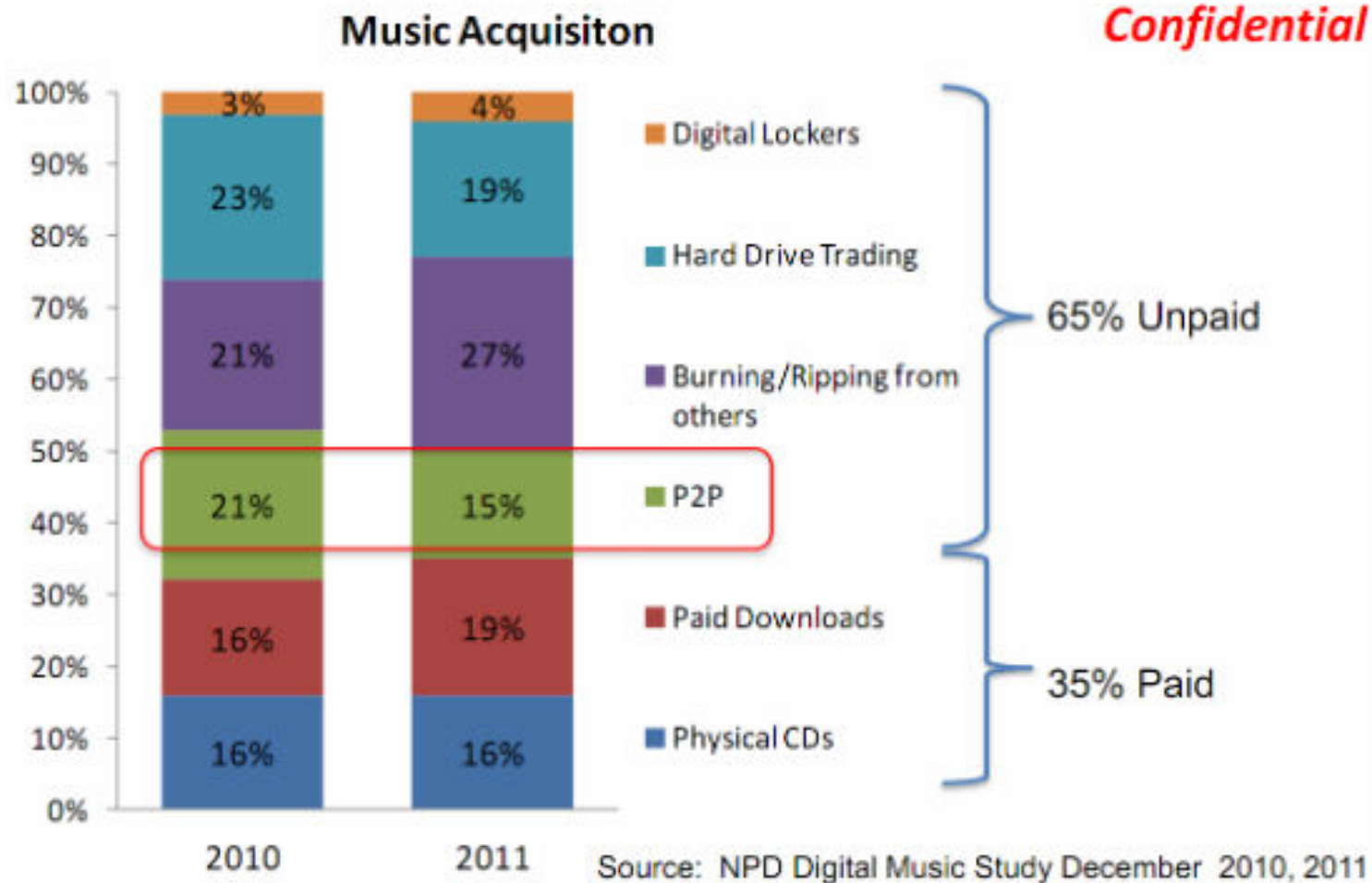


of files available for download on **Cyberlockers** sites (Rapidshare, Megaupload, etc) are copyrighted material

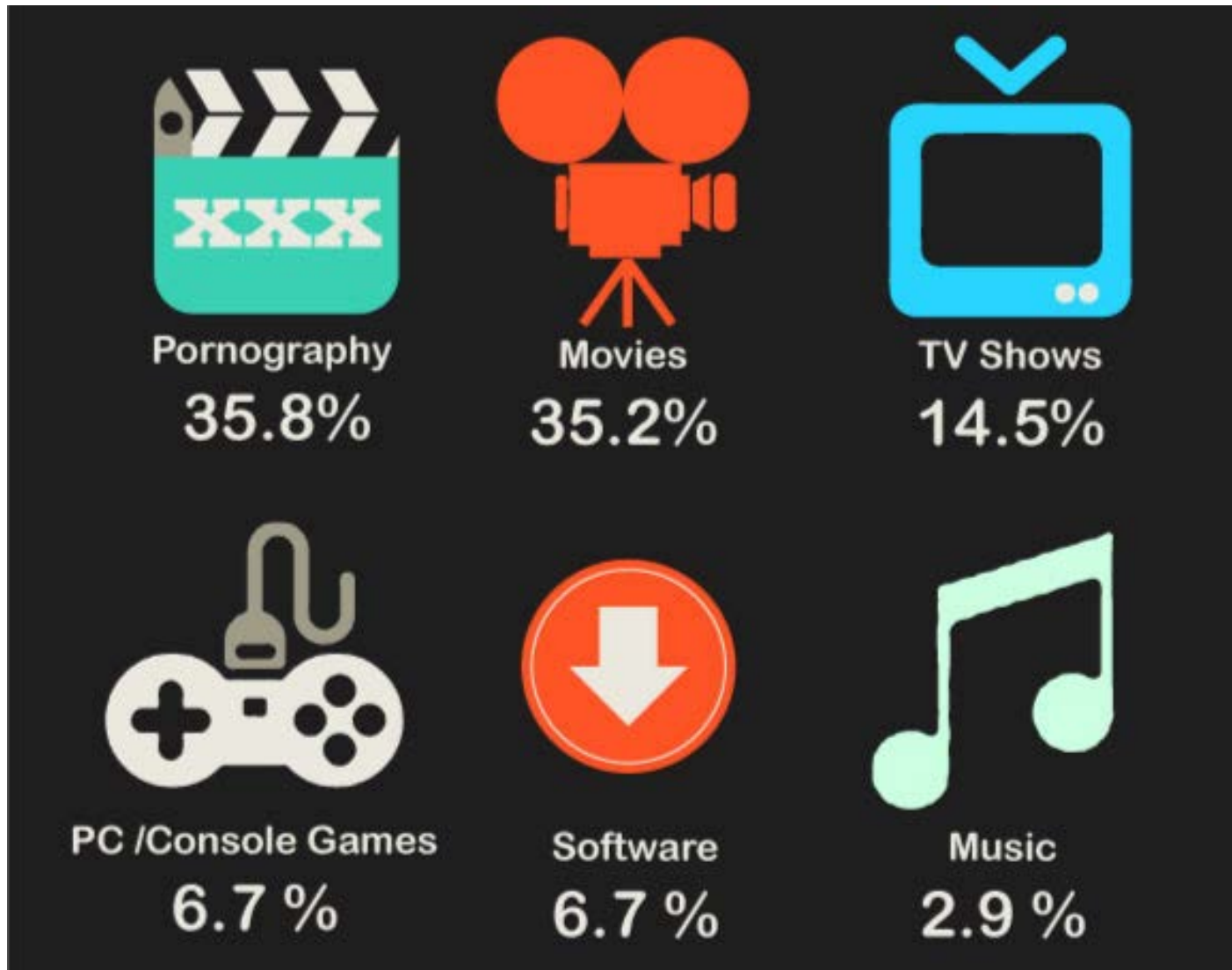


only **1** out of **10,000** pcs of the most popular content on the **OpenBitTorrent** tracker is non-copyrighted

But the Majority of Music Acquired Still Comes From Illegal Sources



Most Pirated Items on Web (Source: GoGulf.com)



And Where does this Happen? (Source:

GoGulf.com)



Dealing With Online Piracy



Remedies for Online Piracy



- Technology Solutions
 - Digital fingerprints
 - Surveillance, Attack and takedown
 - Digital Rights Management
- Legal Solutions
 - Legal Actions for Infringement
 - Injunctions – equitable relief
 - Jon Doe Orders- Search and Inspection orders
 - Online Forums- WIPO Domain Name Dispute Resolution

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14th Jan, 2012

INFRINGED REPORT - SUMMARY

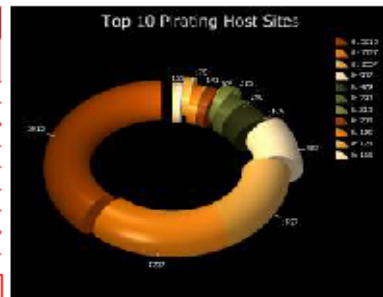
Ladies Vs Ricky Bahl

Release Date : 9th December, 2011
 Director(S) : Maneesh Sharma
 Actor(s) : Anushka Sharma, Ranveer Singh, Parineeti Chopra.
 Distribution Company : Yash Raj Films
 Start Date : 9th Dec, 2011
 End Date : 14th Jan, 2012

Sl. No.	Category	Results	
1	Total No. of Infringements	12607	
2	Number of Links Removed	12478	98.98%
3	Linking Sites and Thread Links	23324	
4	Fake Links	17677	
5	Working Links*	129*	
6	Cyber Locker (LSD) removal	11210	88.91 %
7	Online Streaming removal	446	3.53 %
8	Torrent (P2P) removal	736	5.83 %
9	Image removal	86	0.68 %
10	Top Hosting Site	mediafire.com	
11	Top ISP	National Internet Backbone	
12	Top Country	India	
13	Top Region	Karnataka	
14	Top City	Bangalore	

* Expecting 34.88% of 129 working links would get removed in the next 24 hours time.

Top Pirating Websites		
Sl. No.	Hosting Site	No. of Links Infringed
1	mediafire.com	3813
2	filesolve.com	1727
3	filesonic.com	1537
4	filejungle.com	902
5	filesonic.in	479
6	filefactory.com	290
7	filepost.com	215
8	dailymotion.com	205
9	rapidshare.com	192
10	uploadstation.com	175



MODEL INFRINGEMENT REPORT FROM TRACKING AGENCIES



The End