Napster "freedom" at Northeastern University: a distanced ethnography

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In 2004, when I joined the Department of Communication Studies at Northeastern University, it was an engaging organization focused on undergraduate education using the "Co-op Model." This model celebrated the roots of Northeastern as a working class college for commuter students from around Boston, a place where most of them were earning a degree as best they could while working. Consequently, the campus had been a vast parking lot of asphalt. Surrounding the campus, on the other side of the tracks beyond Ruggles Railway Station[1], the disenfranchised black community lived mostly in poverty and unnoticed, among a smattering of the Irish working class along with many students in private and college accommodation.

Northeastern was, in the tradition of US higher education, a vehicle for upward mobility. The Co-op Model was celebrated as almost a guarantee for employment after graduation because students earned credits through internships at communication and media firms, but more expressly in engineering, nursing and physical therapy, with the result that the majority of those internships translated into full time employment upon graduation. (In the interests of full disclosure, two of my children graduated from Northeastern, one being awarded a tuition break the other a partial break, as many of the professoriate's children do as a somewhat curious strategy to retain faculty with financial privileges. One of my children, an English major received no assistance in the co-op system, while the other child, a music major, had a good co-op run in media production). None of this was familiar to me when I started at Northeastern as an untenured associate professor. In being recruited, I was encouraged by James Stellar the Dean of the College of Arts and Sciences at the time, to bring my international academic, journalism and consulting knowledge and experience to the faculty. At the time, all I really knew about Northeastern was two things: the department was chaired by P. David Marshall, another Australian although originating in Canada, who I had engaged with through cultural studies at The University of Queensland and secondly, Sean Fanning/Napster.

Who could not be interested in Sean Fanning? With a background in music industry journalism, research and teaching, as well as technology consulting, I told myself that he represented radical cultural potentialities, and perhaps Northeastern did as well? As the Internet swept everything up into its digital maw, this young man's name represented a full affront to the music industry through his development of a networked system of file sharing. He was by any standard measure a public nuisance, presented in the media as a figure whose repurposing of music files in MP3 digital streaming form was a threat to the music industry which was on its way to working out how to further maximize its exploitation of creative artists, namely musicians, through digitization. By 1999, his last year at Northeastern, Sean had beaten them to it in a radical turn that offered music free, as a kind of universal public good. Suddenly, the Internet looked like it might deliver on the hopes and aspirations some of us had for it – to offer culture in its broadest possible form as a disrupting agent to all cultural industries in their excessive capitalist manifestations, emancipating human capacity to create new forms of creative

1 Ruggles Railway Station

experience. In so doing, music "streaming" would undo the system of finance wealth extraction from artists, possibly even the public. This was especially true for working class culture's popular music that had been reduced to commodified form, accessible through record company mediation. In the context of the working class history of Northeastern, Sean Fanning offered more than a celebrated "disruption" to the existing economy in the mode of Harvard Business School types drawing on the liberal capitalist theory of Joseph Schumpeter. Sean Fanning's intervention into the digital horizon of cultural circulation, generated radicality and with it a moral panic from the powers that be. For thousands of others it shifted the calculation, making access to culture "free" as a source of pleasure, entertainment and cultural expression, perhaps even food for revolt. Pew Research Center summarized the situation:

> Before Napster, internet users had limited access to digital music through legitimate channels. After Napster's software allowed fans to share their entire catalog of music files online, the music ecology radically changed (Madden 2009).

More censorious in its approach, *The New Yorker's* Stephen Witt summarized Napster as:

> a generation-wide flouting of both social norms and the existing body of law, with little thought for consequences (Witt 2015).

Witt's 2015 *New Yorker* article provides a liberal overview of how established power is embodied in intellectual property law, and what became the lawfare case against Napster, Sean Fanning, peer-to-peer networking and the possibilities for free streaming culture in general. For the opponents of Napster, such as the Record Industry Association of America (RIAA) it was a pirate activity, for users it marked a short-lived disruption into chaos, out of which might emerge a new world cultural order. That indeed had been an argument put in the 1980s by the anarchist Hakim Bey, in his theories about <u>Temporary Autonomous Zones</u> or <u>TAZ</u> (1985).

This is not the place for me to theorize any relationship between TAZ and Napster: that is a task that others can undertake, perhaps in a misguided belief in the inherent virtues of anarchist disorder. The fact remains, that in the digital moment of sonic chaos, Napster at Northeastern was generally pushed to the side of campus consciousness, an embarrassment in the rush to pursue academic prestige at a selective admissions university. Still, on arriving on campus in 2004, Sean Fanning and Napster existed like a beacon for the possible emergence of a different kind of mediated musical world. He offered a point of access for the free circulation of music culture.

My ethnographic efforts at observing and participating in the quest for digital freedom originating at Northeastern University are a shadow of struggles in the university and society, to help transition capitalism out the door.

Boston Zeitgeist – radical imaginaries

For community activists from the Boston/Cambridge Massachusetts area, Fanning was in some respects their progeny: a computer user pushing open doors for access to cultural products that were otherwise tied down by industrial ownership structures. He can be viewed as a continuation of the idea that computerization could be put to use to mobilize public activism in the overthrow of capitalist exploitation. In effect, Fanning's action was not disconnected from the culture of the computer activism scene in Boston. For my purposes, a scene is considered in the sociological sense of creating a generalized environment in which political action occurs because of the sense of change that permeates culture and social relations. In this way, a scene, "work[s] upon the social and institutional foundations of cities so as to produce distinctive complexes of knowledge and behavior" (Straw 2004).

In recounting his first-hand participation in the Boston scene, Peter Miller told me that Boston in the 1970-1990s had been rich with innovation dedicated to the creation of social movements connecting

black, minority and radical science communities in a shared commitment to "community media and technology," drawn in his case, from the UC Berkeley School of political theory (Miller 2019). In the early 1990s, community technology centers became community computing centers, generating the "Community Technology Center's Network" with over 1000 members nationally. By the end of the 1990s there were 20,000 Community Technology Centers across the United States.

Miller's activism was concentrated around the "Community Action Agency of Somerville" then with "Playing to Win at Scale," the second community computing center set up in the US, based at the Somerville Center for Adult Learning Experiences in Boston. (The first such community computing center was set up in a public housing basement in East Harlem, New York in 1981 by Antonia "Tony" Stone (2020), who moved to Somerville, Boston in the late 1980s). As Miller tells it:

> She designed the (Somerville) center to teach people computers, how to use them and how to have access to them; primarily populations that didn't have ordinary access. She worked with prisoners, she worked with low literacy populations, she worked with non-English speakers (Miller 2019).

The centers were premised on the notion that technology could be a tool utilized within society to remake it through the use of autonomous communication by the working class and the racialized subaltern. For sections of the activist community, the zeitgeist of Boston leading into the 1990s was constituted by this new potential. It was almost the antithesis of the control economy that at that stage, was defined by formal structures of the government regulated media industry. That was until the 1996 U.S. Telecommunication Act deregulated all digital communication, opening the floodgates through which Sean Fanning found a way to create Napster (Breen 2011).

For Bostonians, there was the possibility of making it yourself in the digital space. Left radicals accepted that a libertarian philosophy enabled them to be able to express freedom on this new "thing" – the internet. After all, it was public, and as Miller noted, many thousands of users could log into community action projects through local libraries – all of which are publicly funded and free for public use. In this context, the early internet offered the continuation of the ideal of emancipation through digital communication, where new users and businesses would break the existing hold of monopoly owners of communication technology.

Reconstructing Napster within this historical trajectory involves theorizing one of the key themes of Marxism: that the political economy of human development involves the unhindered creation and development of human ingenuity in service to the bulk of humankind, the proletariat, not profit (Draper 1971). This concept, also generically described as "emancipation," was incorporated into the community projects – not, it must be said, explicitly as Marxist exercises, but as opportunities for humanistic community realization through networked communication technologies. The antithesis of free creation is destructive competitive activity within society, transitioning to its intended expression as monopoly capitalism. Monopoly capital persistently over determines human agency, denying the potential for the emergence and refinement of the socialist objectives incorporated within Marxism. In the latter category, a million flowers bloom, in a way not defined by profit-seeking exploitation of human labor, but by the need for culture imagined, innovated and produced to meet human needs, primarily those of the working class. Marxism recognizes that "free competition" is destroyed by the concentration of exploitative interests whose priority is profit, not people or culture (Mattick 1943). With the invention of digital streaming and the "always on" communication environment of the internet, a "new mode of production" (Sweezy 2004) emerged that offered opportunities for freedom, and what is now its contradictory opposite: totalized domination by a select few platforms known as "The Magnificent Seven:" Tesla, Microsoft, Apple, Amazon, Nvidia, Alphabet, Meta (Edelsten 2024).

What happened?

When I investigated Napster at a rudimentary level at Northeastern, David Marshall cautioned me: "No one likes to talk about Sean Fanning at Northeastern." When I asked a student who seemed to know a few things about ripping music files, he told me that he thought Fanning's uncle was more involved than Sean. It was a comment that went nowhere when I inquired further. After several emails and phone calls led to nothing, the effort to fill in the gaps to my knowledge had produced merely a casual comment that suggested that Sean had disappeared in Silicon Valley to find a way forward for Napster, as much as to avoid the RIAA litigation that sought to "cease and desist" his streaming music innovation while personally crushing him. The research, with suggestions that Fanning be invited to talk to Northeastern students about his experiences, came to nothing. I accepted that the chase was over and history would miss the originator's perspective. (I did however have an apocryphal experience in 2007, in the Central Australian desert with 20 Northeastern students on a month-long summer academic program. A student who seemed to be listening to his headphones all the time, thereby missing the sounds of the desert and the instruction, informed me that thanks to file sharing developed by Napster, he had 5000 songs stored on his phone. Before the emergence of platforms with almost infinite choice, this sounded as perverse as it was pointless, reducing music to a social activity where bragging rights about quantity mattered to some people more than the songs and sounds of music culture).

Given the research failure to unpack information about the source of Napster, the best that I could do was to pursue two streams: talk with students in my classes about Fanning as a symbol of what the Internet could have been and secondly, to connect those critical classroom efforts with the legal scholar and colleague Lawrence Lessig. Larry and I met during the Internet Bubble in 1997 at a conference convened by the Government of Cayman Islands. We were critics among a small group of academics, consultants and government officials looking uncritically for ways to ride the new technology to economic success. That the Caymans became known as a haven for tax cheats and evaders, should not be omitted from this history of digital monopoly development. That the islands extend the unregulated power of the Magnificent Seven reinforces their refusal to engage with public policy obligations such as paying taxes.

> A series of studies by a leading international tax economist and colleagues concluded that just six U.S. MNCs — Apple, Cisco, eBay, Facebook, Google, and Microsoft — underpaid their federal corporate income taxes by a combined $277 billion between 2009 and 2022 because of their abusive profit shifting practices. The IRS recently sued Microsoft to recover $29 billion it claims the company owes for tax years 2004-2013 alone (Mazerov 2024).

Monopolists like nothing more than domination. As for free culture, they like it when it lines their pockets.

Educational free culture meets monopoly capitalism

University education in the United States is grounded in the history of an orientation to knowledge that flows freely in a positive relation to the development of society. In this sense it is ostensibly THE liberal project, because it is quintessentially "progressive." At least this was the case as defined by the champion theorist of a liberally educated America, John Dewey, whose idea of "practice-theory-practice" informed the creation of a kind of pragmatic-instrumental pedagogy directed at American development. His philosophy of education, defined in 1916 in <u>Democracy and Education: An Introduction to the Philosophy of Education</u> is a reference for a few contemporary holdouts in the critical, liberal and humanities orientation (Dewey 1916). This includes educational theorists in the US Government (Gibbon 2019). In fact, Dewey was one of several thinkers whose progressive ideas opened the door to the role of public education in furthering a democracy informed by ethics in an America being remade after the Civil War. It was a country deeply influenced by left and Marxist thinking in the 1930s, with the

resulting red baiting, anti-communist surge (known generally a "McCarthyism") against the kind of ideas progressives realized in education. Aspects of progressive educational theory included concepts of free play, open investigation of ideas and practice combined with social justice (Hildebrand 2024). This kind of liberal college education was taken up as a national project of dual development: technological innovation as the engine of capitalism, especially after World War 2. During Dewey's day, it would not be excessive to claim that for the US Government, free culture was homologous with academic freedom and "talent cultivation," in a kind of emancipatory free-for-all of creativity aligned with the state and business interests (Chen and Ming 2021). It fact, it was a radically progressive educational theory that still serves as a benchmark for some analysis. For example, a 2024 definition of academic freedom in the context of protest encampments against the genocide of Palestinians in Gaza noted the liberal claim to: "everyone's right to be free of content-based speech restrictions in the public sphere" (Srinivasan 2024).

Of course, such a narrative risks privileging one theory of education against the reality of deeply conservative forces who constrained then circumvented progressivism with business fetishism. In this deeply contested terrain, Henry Giroux has been especially clear on the way US higher education and education in general has been unmade by corporate interests. For example, Stealing Innocence: Youth, Corporate Power and the Politics of Culture, makes a case with a clarion call to identify and stop the profit maximizing corporatization of academic life (Giroux 2000). The challenges in working in the US college system to expand ideas such as those of Dewey's in the interest of an emancipatory system of teaching and learning are complex, yet now mostly directed by private interests in the service of contemporary monopoly capital (Breen 2011). Somewhat thankfully, the contradictions are constituted by an innovation culture that identifies cash flow within a mostly liberal social science and humanities educational context, which, to be effective, includes criticism of business fetish culture. And yet, industrial capture by "vested interests" has the upper hand, as the corrupt Magnificent Seven technology sector dominates. They admit however, that the continuation of liberal education in related institutions has value in so far as liberal arts education makes for more sophisticated extractors of profit (Ivywise 2024).

It is (still) possible to express a version of academic freedom in the contemporary university by teaching texts such as Dewey's Democracy and Education, and in relation to Napster, texts such as Lawrence Lessig's CODE (Lessig 2006). Indeed, CODE still provides empirical evidence within a liberal legal Constitutional framework for how corporations structured or "coded" the attack by the RIAA and the music industry on free culture, Napster and Sean Fanning. This aspect of monopoly capitalism was achieved through legislative procedures that produced a legal apparatus intent on denying freedom to innovate culture. Corporate claims to private property ownership used Intellectual Property law, specifically The Digital Millennium Copyright Act (1998), to capture culture in cyberspace at an industrial level by redirecting the Bill of Rights, as Lessig put it, to remove the guarantees for certain freedoms, such as "speech, privacy and due process" (Lessig 2006: 14).

While looking for Sean Fanning, I was the academic sponsor through the Communication Department, of a lecture by Lessig at Northeastern in March 2006. The "Free Culture Forum" was arranged by the Northeastern University Library and attracted an overflow audience. The event served as an indicator that some academic researchers and students were conscious of the way the university had been structured around the interests of monopoly capital, chasing the Napster innovation off campus. Through loosely held alliances with each other we worked in an attempt to sustain the university as a free space for the innovation of theoretical and practical ideation. This challenge persists. The protest encampments against the genocide by Israel in Gaza share elements of the same impulse for academic freedom in the university: the freedom not to be overwhelmed by narrowing, fascistic forces of reaction that expect the university to be an exclusionary site of elitist business interests. In reflecting on the case, it is clear that Napster and Sean Fanning at Northeastern University serve as an early example of the unmaking of the liberal university as a site of innovation for free culture.

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