Marty, thanks so much for that kind introduction. Good morning, everyone.

It's quite an honor to be a keynote speaker at the first-ever P2P conference and expo. I've prepared some very brief remarks that I'm hoping will take significantly less time than I've got allotted and then I'll open the floor to discussion. I'd like to thank Marty Lafferty and the DCIA for organizing this event and for inviting me to speak. I haven't given any talks like this since I testified before the Senate Judiciary Committee last September. That hearing represented a turning point for me, as I made a public commitment to work closely with the RIAA to respond to their concerns regarding the eDonkey client. At the time of that Senate hearing, the Grokster case was still relatively new and we spent a good deal of time predicting what life would be like in a post-grokster world. Well, here we are. As it's still pretty early in the morning, I'm going to share with you some very general thoughts on the industry and let the other speakers get into much more detail. I look forward to hearing from many of you throughout the conference.

Marty asked me to start with a brief background of myself and my company, MetaMachine, which develops and distributes the P2P file-sharing application, eDonkey. Prior to joining eDonkey, I was a copyright owner in the publishing industry as the founder of a company called SparkNotes.

I'm sure that many of you are familiar with our biggest competitor, Cliffs Notes, the makers of those yellow and black study guides that got me through high school and college.   For 50 years, Cliffs Notes had an extremely simple and profitable business model: sell paperback books to students in book stores. In fact, the Cliffs Notes brand was so strong that they had over 90% market share and virtually no one bothered to compete with them.

Then the Internet came along. To me, the web provided a drastically different way for users to experience and interact with educational content. For one thing, a website never runs out of inventory and is open 24 hours a day. For another, distributing a study guide over the web had virtually no marginal cost so the model of selling a physical book for $5 could be completely rethought. We hired an army of writers and built a collection of study guides which we gave away for free on the web.

Cliffs Notes saw the Internet differently. To be sure, they sold their books through Amazon.com, but they did not predict the fundamental impact that the web would have on consumer behavior. If they had realized that consumers would come to expect information to be available 24/7 at the click of the mouse and made their content available on the web around the same time we did, SparkNotes would not have stood a chance and Cliffs Notes would still be the dominant brand of study guides.

Fast forward seven years to the present day. SparkNotes has far surpassed Cliffs Notes and now dominates the industry. If any of you have relatives in high school or college, ask them which they use, and they'll almost certainly say SparkNotes. As it was, it took Cliffs Notes a full five years after we made our content available for free on the web before they followed suit. But it was too little too late.

The upshot of this story is that if Cliffs Notes had embraced the possibility of the web early enough, been willing to experiment with new business models, and, most importantly, listened to their customers, they could have evolved and saved their business.

After SparkNotes I teamed up with my business partner, Jed, who originally developed eDonkey because he was intrigued by the technical challenge of distributing large files efficiently. The story that most people know about eDonkey starts around 2001 when we were still called "eDonkey2000" (because someone before us had actually bothered to register the eDonkey.com domain name) continues through the development of the more advanced "Overnet" protocol, and culminates with eDonkey's being the most widely used P2P protocol.

I thought it would be interesting to share with you all some facts about eDonkey that most people probably don't know, or haven't really thought about.

First, it's worth noting, I think, that virtually no other file-sharing company is a technology company at heart. Almost every other file-sharing client is simply a front-end to the open-source gnutella protocol. If we had just wanted to be in the file-sharing business, we could have simply developed a gnutella client like everyone else.

Second, in 2002, we launched a subsidiary company called TransmissionFilms.com to leverage our technology as a distribution platform. We approached dozens of independent filmmakers and acquired the rights to distribute hundreds of independent films through our site. Of course, using peer-to-peer distribution allowed us to offer consumers extremely low prices. We experimented with both a la carte and subscription models. Unfortunately, without major studio content, it was very hard to market the collection we had built. There just isn't a huge market for old independent films and it is extraordinarily expensive to acquire those customers. But in hindsight it is interesting that in 2002 we invested more money in Transmission Films than we did in the eDonkey business.

Third, in 2004 – in the pre-Grokster world – I believe that eDonkey was the only major P2P company that proactively reached out to three of the major labels with three different proposals for experimental partnerships, one of which was organized by the DCIA. These partnerships strove to try new models that would reinvent eDonkey to compete with the open P2P applications.

Fourth, we have had our own intellectual property challenges. Many of you may be familiar with a P2P client that just happens to be called eMULE. The eMule developers decided that they would make an exact replica of the eDonkey client without any of the advertising. In essence, we had to compete with a "free-er" version of our own free product.

Ok, enough about me and eDonkey. While the other speakers today will likely have interesting demos to share with you, I'm here without even a powerpoint presentation. Instead, I want to discuss a few issues that I hope will frame some of the conversations that follow throughout the day. Before I get into my thoughts, I want to make it exceedingly clear that I have no axes to grind and in particular, I have had only positive interactions with executives at the RIAA and the major labels.

As I think about the recent history of file-sharing, I keep running into analogies to the war in Iraq. One of the most salient learnings from Iraq is that winning the war is often easier than winning the peace. In our legal system, as in armed conflict, victory is relatively well-defined and it can be achieved with the deployment of overwhelming force against your adversary.

Of course, just as defeating the Iraqi army turned out to be less important than some initially thought, defeating the P2P companies may have little impact on the future of file-sharing and copyright infringement. Continuing the analogy, the real battle here is for the hearts and minds of music consumers. So we must ask ourselves: how are we going to win the peace?

Over the last year, we've heard lots of talk of "conversion plans" – most publicly the one pursued by iMesh. I've been guilty of having this mindset, myself. But as I've thought about it more, "conversion" sounds like something you do to someone not something you do with or for them. Virtually every conversion plan I've heard of has involved technical restrictions or business rules intended to force consumers to change their behavior. This is usually done by a bunch of P2P or music executives in a conference room without input from real live file-sharers. If you take a step back and think about it, though, that's probably not the optimal way to go about winning the hearts and minds.

Let's imagine that Proctor & Gamble wanted to change the behavior of their Metamucil consumers. How would they go about doing that? Would they create plastic bottles that self-destructed if someone didn't use the Metamucil as regularly as P&G wanted? Would they just decide one day to introduce Metamucil Rights Management that allowed each consumer to drink their Metamucil only out of one specific glass? Of course I am being facetious here, but the point is that consumers are real people who won't just play along with whatever we decide.

What any other company would do is ask, "Who am I competing with and how can I make a compelling product that consumers will prefer to their alternative?" Now, new products and new business models require an education process and I think we've all forgotten about that critical element. We can't just make consumers do what we want them to do; we have to convince them to do it. We should all take responsibility for falling short in educating the public.

How do we educate tens of millions of file-sharers? Well, I don't know for sure, but I do know a good place to start: the existing P2P clients. BearShare, Limewire, Morpheus, and eDonkey have each amassed significant user bases and have each indicated interest in cooperating with copyright owners. That gives us a rare opportunity to conduct real-world experiments to educate and communicate with file-sharers. Rather than try to force each of these P2P clients down the same "conversion" path, why not look at each one as an opportunity to try winning the hearts and minds of consumers. As I see it we have these precious few opportunities to engage highly concentrated groups of file-sharers in a constructive, productive dialogue. Once these users are scattered to the offshore, underground "darknets" we'll never have this chance again.

I hope there will be plenty of discussion about new P2P business models throughout the day today. As I've thought about new business models for eDonkey and the music industry more generally over the last few years, there seems to be one central question at the very core: will we always have to compete with free?

During the Senate hearing that I testified at in September, Senator Feinstein, quite insightfully, echoed a similar sentiment when she said about P2P: "We either need to make it legal OR make it go away." I have to admit, when I first heard that statement I didn't really understand what she was talking about. I thought maybe she didn't really understand how the technology worked. But as I've thought about it more, her insight has become clearer to me. If we could by and large make the free alternative "go away", then it would obviously make sense to rely on our existing legal system to pursue vigorously any open P2P's that arise. But – and here's the insight I missed originally – if we can't make open P2P go away, than legal battles aren't going to be productive. In that case, we're going to need a marketing solution rather than a legal one.

Now what's interesting about this situation is that ordinarily when there's uncertainty about which way a market will turn, scores of entrepreneurs enter on all sides of the issue and build businesses around their hypotheses to influence the outcome. We're going to be hearing from many such entrepreneurs today. But what's unique about this situation is that an entrepreneur can't simply enter the music business with his own ideas of what product will be compelling to consumers because of course he doesn't have access to major label content.

And this is what makes the position of the record labels so difficult and why over time I've come to sympathize more and more with their predicament. Entrepreneurs can't really innovate with radical, new business models so the entire burden of evolving the music industry really rests with a handful of executives at the major record labels. That is a daunting responsibility.

So, this central question of whether we'll always have to compete with free is one that I hope people will debate candidly today, because the directions we all take our businesses depend critically on this answer. The official answer so far, of course, has been "no, we won't always have to compete with free." And honestly, I'm in no position to say that's wrong; in fact, I hope it's right.

If indeed open file-sharing can be truly contained at a level satisfactory to the majority of copyright owners, then very little entrepreneurship is needed. Various a la carte store fronts will spring up to compete with iTunes; new subscription models will compete with

Napster and Rhapsody. The P2P sites will be shut down and we can indeed win the war without having to win the peace – peace will be the only alternative.

If, however, legal and legislative victories do not lead to changes in consumer behavior, then changing consumer behavior – not building new technology or new business rules – is our challenge. We have wonderful assets at our disposal, including the musicians who are some of the most influential people in our society. Also, as I mentioned earlier, we have several P2P clients with large user bases that can be fertile testing grounds for new ideas.

As I wrap up my remarks, I thought I would highlight a few issues that should have a big impact on the P2P and music industries over the next year.

1. The resolution of the Grokster case. It's sometimes easy to forget that the Grokster case is still very much a part of the post-Grokster world. On the one hand, I'm afraid that there's very little good that can come out of the Grokster case for any of the parties involved. On the other hand, the sooner we get clarification on the Supreme Court's decision, the better for everyone.

2. The success of iMesh. iMesh has positioned itself as THE copyright-friendly, consumer-friendly P2P application. We've been hearing about their plans for the better part of the last two years but have yet to see meaningful traction in the marketplace. I'm not trying to pick on iMesh, but theirs is an important experiment that we should all be interested in following.

3. The proliferation of rogue, offshore sites like The Pirate Bay. As P2P companies like eDonkey seek to partner with the major labels, such sites make it increasingly difficult to come up with a product that consumers will embrace. Of course, this gets back to my earlier question of whether we will always have to compete with free.

4. Who is going to come with a bold, innovative vision? I think our industry has spent most of the last year like a dear in headlights. Early on, no one seemed quite sure what to make of the Grokster decision and then everyone just seemed to wait and see what everyone else would do.

5. Last but not least, will we have won the peace? Will we have stopped talking among ourselves and started talking to consumers? We can have all the greatest content, technology, and business models but they are all moot if we can't get educate consumers and convince them participate.