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[Digital Media](#)

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# Michael Robertson: Digital music's bad boy was right

by [Greg Sandoval](#)



Michael Robertson on iTunes: "Mark my words they will go down and the rest of the world will catch them and surpass them. We've seen this before."

(Credit: James Martin/CNET)

Over the years, [Michael Robertson](#), the man who founded pioneering digital music service MP3.com, has never hesitated to make a prediction about the sector's future.

"It's not a business," Robertson has told me often in the past about ad-supported music sites. Frankly, in the past, I didn't pay much attention. I do now.

The man who has fought more [high-profile battles](#) with the record industry than anybody in technology, and whose experience in digital music is nearly unmatched, has never appeared more prescient. He told me two years ago that ad-supported music sites would perish. The licensing fees required them to pay a penny, or some fraction of that, each time a service streamed a song to a user's computer, and that was too high to sustain a business. And now just look at the sector. It's a mess.

Ruckus closed in January. SpiralFrog imploded spectacularly in March. (Read CNET's series on SpiralFrog [here](#) and [here](#)).

**"The last 10 years**

Meem nearly ran out of money, and MySpace Music has performed below expectations. Nobody in the sector has reported profits. Not even Spotify, the European music service that users, including Facebook CEO Mark Zuckerberg, have gone gaga over.

The latest breathless report came this week, claiming that, in Sweden, [Spotify makes more money than iTunes](#) for Universal Music Group, the largest of the four top music labels. Sure, Sweden is a small country but the locale is insignificant. Generating revenue for the labels doesn't mean the service is profitable, which it is not, according to my music industry sources.

As for Robertson, he is certainly a lightning rod for controversy. He likely has as many enemies as friends in tech and music circles. His second major go at operating a digital music site, [MP3tunes.com](#), has less than 500,000 users, which he acknowledges is "nothing." EMI has filed a copyright suit against him and MP3tunes.com. Still, his experience and track record at sizing up the sector make him impossible to ignore.

**Question: Are you sorry you sold MP3.com (to Vivendi which later sold it to CNET, parent company of CNET News)?**

Robertson: I probably go back and forth. We sold for \$372 million, but it really was more than that because we got a \$15 million bonus for all the employees, which is not included in that number. And there were still outstanding lawsuits, which they agreed to take over entirely. It was more than the reported price was. Listen, I grew up really poor and I owned a third of the company so that was a lot of money. That was a huge victory. At the same time, after I sold it, MP3.com just got crashed into the wall as fast as you can drive it.

That's why MySpace took off. One of the reasons was because bands didn't have anywhere to go to promote their music to their fans, so MySpace stepped in to fill the void. It's almost impossible to not look back and say, "What if, what if"...because MP3.com was really ahead of its time in terms of user-generated content, user-submitted content, and crowdsourcing. We had all of the users making their own fan pages with their own radio stations with their own playlists. All that stuff was something we were doing in 1998. So if I hadn't sold it, who knows where it might be. Maybe it would be the Facebook equivalent today of MySpace. Maybe not, it's hard to say. So I go back and forth.

**Q: Do you love music?**

**shows that there are always more dummies who get out their checkbooks and sign insane deals and do large prepays for the privilege and public recognition of partnering with the labels."**

**--Michael Robertson, founder of MP3.com**

No, I like music. But I'm really a technologist at heart. And that's one of the fundamental differences. That's why I did MP3.com so differently than everybody else. I wasn't a musician. I wasn't a record label guy.

I took a second mortgage out on my house to start MP3.com. Everything we did was controversial. People said the name was dumb at the time. People said, "You're going to be like Betamax.com." Naming a company after a format was so stupid. They don't say that anymore today. The domain name is part of it, but it is what you make of it. We were doing other things--allowing every artist to sign up and do free Web hosting, unlimited bandwidth and unlimited storage and online stats, using crowdsourcing to rank all the music. They said, "If you let everyone sign up, all you'll have is a pile of crap." I said, "No no, we're going to let the crowd source it, and whatever music they're clicking on the most will bubble up to the top."

Everyone at the time said, "That's never going to work." That was the day before Wikipedia when people didn't trust consumers. So, we did all these things that were so different at the time. Today, it's almost remedial. People wanted to charge the artist and host free songs. They had one complete song that they had to give away free. Remember, this was 1997 where people had 56K modem hookups if you were lucky. People said no one is going to download a whole song at 120Kbps.

Back then, RealNetworks was the king. It had had 85 percent of the market. Everything was RealAudio. They not only had the player, they had the server. Microsoft came into the mix and said, "All right, we're here with Windows Media and it has 10 times better fidelity, so everybody out of the pool. We're here to take over." I'm like, "You're both wrong. MP3 is where it's going to be." And they were like, "You don't have any media support, no record labels want you. You're going in the wrong direction." I said, "Hey, consumers are going to get what they want. And they are going to want MP3."

**Q: You saw that they wanted to move their content around?**

Sure, absolutely.

**Q: How did Real blow it?**

Where Real missed out is this counterintuitive notion where you have to give up control to get control. What I mean by that is, with MP3 anybody could write any software program you wanted to. You could go design hardware and create Web sites. You didn't have to drive up to Seattle and ask for Real's permission. So the notion of having open technology free to

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everybody that wasn't tightly and centrally controlled by a corporation is counterintuitive. Real was building servers and a player and standing on proprietary technology and what happened was that the rest of the world out-developed and out-innovated Real. This is what I saw with MP3. Hey, this open format allows anyone to build to it. The other guys said, "All roads have to lead back to me."

**those bets are going to lose because consumers are going to get what they want."**

**Q: That's the Sony way.**

Yeah the Sony way, and you see what happens. If you're lucky and you get the mojo going, you get the Walkman, but if you're not then you fade into irrelevancy. Apple is the one big exception with their iTunes empire, but mark my words they will go down and the rest of the world will catch them and surpass them. We've seen this before. We've seen this with the original Mac, which was a superior personal computing platform. Nobody can dispute that, but it didn't win. Microsoft Windows won because Bill Gates is a genius? No, because they had all the developers.

**Q: Talk to me about Microsoft. They haven't been very successful in digital music. What's their problem?**

Microsoft decided we aren't going to partner with the users. We're going to partner with the studios and labels. That's where they made their bet and people who made those bets are going to lose because consumers are going to get what they want.

**Q: Do you hate the music labels and film studios?**

I think it was pretty despicable for EMI to sue me personally, but outside of that it's just business. They are trying to maximize the revenue and profits they get and I'm trying to do the same for my business.

**Q: Did this all start with MP3?**

Yes. When I was doing the road show for MP3.com, when you go around talk to investors and try to get them to buy your shares. Literally a day or two ahead of me there was another person doing a road show for Liquid Audio, a proprietary, DRM sort of strategy, and they were telling people that MP3 stood for "music piracy cubed," which was nonsense. To me MP3s are inevitable. Maybe I accelerated it a little by what I did, but it is inevitable that people will get DRM-free content. People looked at me as an advocate for MP3 or worse, that I advocated for piracy. The reality is there is a certain recognition that--thanks to the Internet--the power has shifted to the consumer and away from media companies. That's just the way it is.

The reason MP3tunes.com threatens the record labels is we do have that open strategy. We have an open API that anyone in the world can build an interface for on any device, and the record labels see that as a loss of control. If you get the crowd developing you up, you're going to win. It's just a matter of time. You can out-engineer any company out there.

**Q: What's the endgame for you? When people talk about the music sites, forgive me, but they aren't talking about MP3tunes. What's going to happen to your company?**

It's not there yet because the value of the crowd is proportional to the number of devices that connect to it. We've built a nice interface, and it will sync with iTunes and that's great, but if this is the only place you can listen to your collection it's not of value to you. You say that I already have iTunes, but when I start adding devices, now the cloud becomes valuable, we only have 250,000 users. That's nothing. But when you're building an API-driven business, it takes awhile to get all those developers building your apps. It's not a mystery that cloud music is still a new concept, primarily because of the record labels' resistance to technology. There's some huge blockades and those blockades are the record labels. Right now when you start a digital music company, you come to a big fork in the road and you have to decide if you are going to partner with record labels and take on all that legacy and restrictions and onerous royalty payments, or are you going to partner with the consumers.

There's no middle ground. If you choose the consumer path, the record labels have shown they will use the courts against you. It's not just us. There is Project Playlist, SeeqPod, Imeem, and MySpace, they were all sued by the record labels. But the challenge is that if you do what Lala did, which is sign with the

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labels, you have all of these restrictions and rules and regional restrictions. Our locker system is available to anybody in the world, but Lala is only available to U.S. and Canada. How can you build a scalable business when you're restricted to two countries?

**Q: You are down on penny-per-stream rates and ad-supported music?**

It doesn't work. People say look at Pandora. They said they have 25 million registered users. They used to be a pay site, \$3 a month and nobody used them and they removed the monthly requirement and they got the huge numbers. So people have shown a real reluctance to pay a monthly fee for radio and the only companies that have gained any traction are the ones who do it for free. If you don't charge a fee then what is left is advertising as a revenue source. And it's just simple math that you can't make enough with ad banners and click-through keywords to pay a penny per song. Simple math, ask anybody who knows Internet advertising. Somebody sits there, listens to 20 songs, the royalties pile up with each tick of the clock. Those songs may or may not have ads at any given time and even if they do you can't charge enough for those ads to cover the royalty payments, much

less all the other engineering fees and bandwidth, sales and all of the other costs. There's no question that today Webcasting is not a business.

### **What about Pandora?**

Not a business. There's only two possibilities here. They go bankrupt or the royalties are changed. And I don't see the royalties being changed. Even if Pandora pays less the fees are still unsustainable. So, the rules have to change or Pandora goes out of business.

### **Q: Won't all these challenges push the legitimate services out and leave only the pirate sites? Why would the music industry want to do this? It doesn't make sense.**

The last 10 years shows that there are always more dummies who get out their checkbooks and sign insane deals and do large prepays for the privilege and public recognition of partnering with the labels.

Over the last decade, name a company that has made money with digital music online. Apple is one, but they did it primarily with hardware. You mean to tell me that every company that tried it was inept? Come on now. There had to be some good CEOs out there.

### **Q: Why do you pick fights with Imeem and Lala and other digital music companies?**

So much of the record business is done in secrecy. It usually means someone is getting screwed. That's usually why it's done in secrecy. Hey, if everybody is making money it should be out in the open. I have nothing against Imeem or Lala. I wish them success. They are digital music companies just like me. But I think the only way things change is if people realize that the current way does not work. You asked me isn't there a risk that the record labels could push out the legitimate guys and then only the black market guys are left.

Well, look at the last 10 years; Liquid Audio went away and here comes the new guy. There's constantly new companies coming up. And listen, it's sexy to work with music. It's sexy to partner with the labels and get invited to clubs and release parties. That's sexy and fun and high-profile. So over the last decade there's always more suckers that line up, so even if the current ones go out of business it's no big deal because there's a future generation to tap into and the industry doesn't have a lot to show for it over the last decade.



Greg Sandoval covers media and digital entertainment for CNET News. He is a former reporter for The Washington Post and the Los Angeles Times. [E-mail Greg](#), or follow him on Twitter at <http://twitter.com/sandoCNET>.