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## Concerned Father Makes Transition to Media Pirate

By ANNA WILDE MATHEWS

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AGOURA HILLS, Calif. -- It didn't take much for a suburban computer programmer named David Simon to make the transition from concerned father to accused global media pirate.

Last November, Mr. Simon set out to appease his eight-year-old daughter, Phoebe, who was upset about missing too many episodes of the cartoon show "Pokemon." With two of his VCRs not working and a third in the habit of eating tapes, Mr. Simon plugged his TV antenna into a computer, fiddled awhile and saved the show on his family's home computer network. When his daughter's friends got jealous, he put the episodes on a Web page for them all to see.

Mr. Simon later set out to turn his family's "virtual VCR" into a business that would record television shows on a Web site for viewers around the world to watch at their convenience. And though his fledgling enterprise has no financing, no offices and no executives other than Mr. Simon, it does have the rapt attention of a dozen major entertainment companies, which have slapped Mr. Simon and his start-up company, **RecordTV**, with a \$10 million copyright infringement lawsuit in a U.S. District Court in Los Angeles.


*David Simon*

The companies, including giants like [Time Warner Inc.](#) and [Walt Disney Co.](#), allege that Mr. Simon is stealing their shows and beaming them illegally to Web users everywhere. The entertainment companies' swift response shows how eager they are to move more aggressively against potential video pirates than they did in the music

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industry. The major record labels last year allowed Napster Inc. to build an audience numbering in the hundreds of thousands before taking legal action against its controversial file-sharing program.

Mr. Simon's service demonstrates how easy it is to grab some of the most valuable entertainment there is and zap it everywhere without asking its owners' permission. These days, a lone programmer working out of a home office, with little more than a PC and a high-speed Internet connection, is all it takes.

"Out of the MIT undergraduate population, probably half of them could have done this in their spare time," says Michael Bove, a principal research scientist at the Massachusetts Institute of Technology's Media Laboratory.

Mr. Simon, a wiry 40-year-old with hair past his shoulders, is awed by his new status as a Hollywood bad guy. A programmer for a printing-software company in Ventura, Calif., Mr. Simon's interest in technology is hinted at by the red Volkswagen Beetle -- California plate DEBUG ME -- that sits in his driveway. His quiet San Fernando Valley lifestyle has been disrupted enough that he hasn't had time recently for his solitary 15-mile runs. The situation is so off-putting that Mr. Simon says he hasn't read beyond the first page of the lawsuit against him. "I'm in over my head," he says.



Movie Studios Sue  
Web Site Offering TV-  
Show Replays (June  
16, 2000)

It didn't take much for Mr. Simon to become a cutting-edge Web player. He had already been using his computer to watch the news and "Star Trek" reruns. He did that by connecting his TV signal to his computer's TV tuner card.

He then began working nights and weekends to create the "glue" -- computer code -- that would stitch together four elements: the tuner card, software to capture and store the images, RealPlayer software to stream the video, and a Web site to provide access to it all. While that is no job for a novice, Mr. Simon says: "For a good techie, it's doable."

Mr. Simon didn't want the responsibility of running a start-up. "Until all this happened, I had the most stress-free, relaxed life in the world," he says. But he began to wonder whether he might have a lucrative business idea on his hands. With his wife, Robin, he began searching for an unclaimed company name -- VCR.com wasn't available -- and studied up on raising venture capital. He put together a five-page business plan with the help of his dad, who is retired from the furniture business.

By March, Mr. Simon unveiled his primitive site for the world to see.

With a pinkish background and a cheesy logo, he concedes: "It was a pretty ugly Web site."

Its appeal had much more to do with what it could do: provide a simple and convenient way of watching a TV show whenever you want to watch it. Web surfers could simply pick a program from the TV listings -- which Mr. Simon dutifully typed in from a newspaper -- click on a "record" button, and then hit "play." The site bragged: "It's as simple as that!"

Actually the operation didn't attract much interest from the venture-capital world, but Internet fans were turned on to it by a March recommendation from a Web service called Netsurfer. The plug came with this prescient warning: "There is every possibility that the Powers That Be may soon express supreme displeasure with such sites, so better get while the getting is good."

Mr. Simon was grateful to Netsurfer but not prepared for the traffic jam. "You brought our Web site to its knees," he wrote. And so in April and May, he started upgrading his hardware and later lugged the whole operation to a local Internet service provider that could offer faster connections.

Still, the site had technical problems. Reflecting the limitations of streamed video on the Web, the picture itself was small and often grainy. At one point, he posted a message to users explaining: "All shows recorded before 4/5/00 were lost, sorry, nothing we can do about that now." Still, **RecordTV** claimed 100,000 registered users by the time it was sued on June 15.

Jack Valenti, president of the Motion Picture Association of America, explains that the industry wanted to send a strong signal to Mr. Simon and anyone else bent on redistributing TV programming on the Web. "We're not going to make it easy for these guys to steal our material," Mr. Valenti says. "You have to go after these people fast, immediately, when they poke their head up."

Mr. Simon is suddenly the newest lightning rod in the debate over who owns entertainment content on the Internet. He has received a lot of supportive e-mails, including one asking for "the SOB CEOs' e-mail addresses." The **RecordTV** Web site now features an online discussion of the legal troubles, with one supporter saying that the media giants "should be happy that they get more chances to have their lame wares broadcast into more homes."

Potential investors have contacted him from out of the blue, and attorneys eager to represent him contributed to the flood of e-mail. Oddly, the San Rafael, Calif., attorney who does now represent Mr.

Simon, Ira Rothken, argues that **RecordTV** was so glitch-prone and delivered so little programming to its users that plaintiffs aren't entitled to damages. Mr. Rothken's main legal argument, however, is that Mr. Simon's service should be treated no differently under the law than a VCR. People can record programs for their own use.

But Mr. Simon doesn't have the stomach for a long fight, saying "I'm not trying to be the crusader or the martyr." He is eager to settle, but Mr. Valenti -- stressing that he has no comment on this case -- says, "There can be no middle ground on pilfering somebody's property. You don't license stealing."

For the moment, nobody can use Mr. Simon's service anyway. Call up **RecordTV.com** and you'll find a photo of the tanned Mr. Simon and his bio, with a note reading: "This Web site is currently down while we deal with some legal issues."

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