

The Bottom Line on Information Technology Use and, in particular, File-Sharing at Immaculata University

Immaculata University ("IU") takes a strong stand against unlawful distribution of copyrighted music, movies and software. While IU does not routinely monitor internet activity, if you are downloading or sharing copyrighted works over the internet your activity can be seen by the copyright owners. If IU receives notification of claimed infringement from a copyright owner or agent about your internet activity, Federal law requires that IU take action. **You are responsible** for the activity associated with your IP address. Whether you are aware of the violation or not, the following process will occur:

- a Copyright Violation Notice with infringement specifics will be sent to your IU e-mail account;
- your network access will be disabled;
- you must provide a written statement that you will immediately **STOP** distributing or receiving copyrighted material through your IU connection;
- you must schedule an appointment to have your computer examined by IT-User Services at a cost of \$70 for first-time service and \$100 for any subsequent service.
- your network access will be restored upon receipt of your written statement **and** examination of your system by IT-User Services.

Be advised that the unlawful distribution of copyright material, including peer-to-peer file sharing may subject you to civil and even criminal penalties, as more fully described herein.

What follows are questions and answers that will educate you on IU policy and federal and state law regarding copyrights, as well as other general policies regarding the IU Copyright Policy and the IU Acceptable Use Policy.

1. What is copyright? What does it protect? How long does it last?

Copyright is the right granted by law to an author or other creator to control the use of the work created. The copyright law grants owners of copyright (authors, other creators, publishers) the sole right to do or allow others to do each of the following acts with regard to their copyrighted works:

- To reproduce all or part of the work;
- To distribute copies;
- To prepare new (derivative) versions based on the original work;
- To perform the work publicly;

- To display the work publicly.

Copyright protection covers both published and unpublished works. The fact that a previously published work is out of print does not affect its copyright. This protection exists to foster and induce the creation of all forms of works of authorship. These works include books, newspapers, magazines, computer software, multimedia works, sound recordings, audio-visual works, dissertations, research papers, photographs and other works. The copyright law protects works by providing fair returns to creators and copyright owners. To the extent copies are made without permission, publishers and authors, including faculty, are deprived of revenues in the very markets for which they have written and published. Such unauthorized and uncompensated copying could severely reduce their incentive to create new materials in all forms.

2. What types of works can claim copyright protection?

Among the types of works that are subject to copyright protection are literary, dramatic, musical, choreographic, pictorial, graphic, pantomime, sound recording, sculptural, motion picture, and audio-visual. These categories include reference works (including dictionaries), video cassettes, DVDs, and computer programs and databases. Works are protected in any medium such as print, digital, or online.

Copyright protection does not extend to facts, ideas, procedures, processes, systems, concepts, principles, or discoveries. However, a work such as a database and other compilation of facts, or literary work that incorporates ideas along with other expression is protected by copyright. Other intellectual property rights may also attach to certain types of works.

3. What are the legal penalties for copyright infringement?

Civil and criminal penalties may be imposed for copyright infringement. Civil remedies can include an award of monetary damages (substantial statutory damages, which, in cases of willful infringement, may total up to \$150,000 per work infringed, or actual damages, including the infringer's profits), an award of attorney's fees, injunctive relief against future infringement, and the impounding and destruction of infringing copies and equipment used to produce the copies.

4. What is "fair use"? How does it affect copyrighted material?

"Fair use" is a defense to an allegation of infringement under the U.S. copyright law that excuses otherwise infringing limited use of portions of a copyrighted work without the copyright owner's permission for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. There are no black or white rules for determining whether a particular activity may be considered a

permissible fair use. Instead, Section 107 of the Copyright Act establishes four basic factors that must be considered in deciding whether a use constitutes fair use. These factors are:

- The purpose and character of the use, including whether such a use is of a commercial nature or is for nonprofit educational purposes;
- The nature of the copyrighted work;
- The amount and substantiality of the portion used in relation to the copyright work as a whole; and
- The effect of the use upon the potential right to use a copyrighted work without permission.

5. What is the Digital Millennium Copyright Act (“DMCA”)

The DMCA was enacted in October 1998 primarily to bring U.S. copyright law into conformity with provisions of two World Intellectual Property Organization treaties to which the U.S. is a signatory. This Act facilitates the creation of a secure digital environment for use of copyrighted materials by encouraging the deployment of, and respect for, encryption and other technological protection systems. Accordingly, the DMCA, prohibits (with certain limited exceptions): (1) manufacturing, importing, distributing, and providing products or services whose main purpose is to circumvent encryption or other technological protections; (2) taking action to gain unauthorized access to copyright works; and (3) removing, falsifying, or tampering with “copyright management information” (that is conveyed electronically with copyrighted works to identify them and their owners and provide other pertinent data about them). The Act also clarifies the rules for operating digital networks by allowing entities that provide network services to establish procedures to facilitate the identification and correction of infringing activities engaged in by users through such networks.

Please review the IU DMCA Take-down policy located at www.immaculata.edu/policies.

6. What special relevance does the DMCA have for the IU campus community?

The DMCA provides certain categories of immunity, or “safe harbors,” for online service providers such as IU, to avoid liability for the copyright infringement of network users. Such immunity may be granted if IU adopts and implements copyright policies, educates the campus community about the copyright law, implements a “notice and takedown” procedure for addressing receipt of infringement notices, and otherwise meets the requirements of protection.

7. But I didn't do anything! Why did I receive a notice?

If you have peer-to-peer (P2P) software loaded on your computer, you are at risk for being sued by the copyright owner. This is true even if you have never downloaded music or movies here on campus, or think you have turned off file sharing or the P2P application itself. P2P applications can be running in the background, searching your entire computer for media files to share out to the world, without you knowing. It is very difficult, if not impossible in some instances to configure P2P applications to not share your legal music or movie collection, or even the contents of your hard drive, including your personal banking and other files. **The best advice is to completely delete P2P applications from your system.** If you must use P2P applications to swap content (e.g. personal photos, videos or creative works in the public domain), do so carefully to ensure that copyrighted files on your system are not shared-out to others in violation of US copyright law.

If you feel the notification of claimed infringement is in error, you have the [right](#) under the DMCA to **file a counter notification** with IU's University's designated agent for copyright infringement notification. See the IU DMCA Take-down policy located at www.immaculata.edu/policies.

Peer to peer (P2P) applications like Morpheus, BitTorrent and Limewire, as well as others, can be very difficult to configure for limited sharing. As a result, you might be cited for copyright infringement for sharing files out to the world that you legally own. To prevent this from happening, **the best advice is to delete P2P applications from your system.** If you must use P2P software, be very careful with its use to stay clear of legal trouble or disclose personal, confidential information to the world.

8. You mean someone saw my computer sharing copyrighted material on the internet and reported it to the University? Is this legal? What else can they do?

Since 2004, the motion picture and recording industries have been suing those found to be infringing on their copyrights via peer-to-peer (P2P) networks (LimeWire, BitTorrent, etc.). **Violators can be liable for fines ranging from \$750 - \$30,000 per file - \$150,000 plus imprisonment if the infringement is willful.** If IU receives a subpoena seeking your identity because the IP address used by your computer or network device (e.g. wireless router) is seen infringing on copyrights, it is required by law to disclose your identity to the courts.

The Recording Industry Association of America (the "RIAA") is now sending pre-litigation letters to suspected violators via their colleges and universities. These

letters will encourage alleged copyright infringers to settle at a discounted rate. The letters will advise that the RIAA intends to file a lawsuit against the user claiming that it has evidence that the user was infringing on their member's copyrights.

IU intends to take two steps after receiving the RIAA's request to forward the letter. First, it will forward pre-litigation letters to the students in question. Those users receiving such letters should consult with their own attorney and IU will not be responsible for providing legal advice.

Next, because illegal P2P file sharing is a violation of IU's Copyright and Acceptable Use Policies, the case will be referred to the Office of Judicial Affairs. If you receive one of these pre-litigation letters you will be required to preserve all evidence that relates to the claims against you, including any recordings you have downloaded and the P2P programs on your system. It is likely that IU will be asked to do likewise.

9. A friend set up my P2P application, and told me it would not share. How could these claims be true?

P2P applications can expose your personal information or share copyrighted files you never intended to share out to the world without your knowledge. They can put you at risk for copyright infringement even if you think you have configured them to limit sharing. Hackers can plant infectious software to take control of your computer to attack others. It is important to educate yourself and exercise caution. Many P2P applications hide the fact that they are designed to aggressively share everything on your hard drive and make it hard - if not impossible - to limit sharing. Remember, you are responsible for managing your computer - including security. It doesn't matter that you don't realize that file sharing is set to 'ON' in your P2P application, hackers exploited a hole in the security of your system, or that you set up an open-access wireless router in your room - ***you will be held accountable for the network activity attributed to your registered systems or equipment whether you have knowledge of it or not.***

10. What else do I need to know to comply with IU policies and federal and state law?

You should know that harassment, fraud and identity theft are criminal behavior. The Commonwealth of Pennsylvania and the federal government have laws that make computer crimes a serious offense. In addition:

- **You Must Secure Your Computer.** The IU Acceptable Use Policy requires you to secure your computer. You are responsible for securing

your computer from the threats of intruders who may want to use your network identification and authorization to cause national harm. Be sure your computer operating system is updated with the latest security patches; protect your PC with a password; install and update virus protection software; and do not do anything that would cause your PC to be open to others on the network.

- **Run Anti-Virus Software.** Running anti-virus software is critical to protecting your computer and the IU network. Be cautious of freeware and shareware. Be sure your anti-virus software is configured to scan all executable files for viruses before running them. This will help protect your computer from viruses, worms and trojans that corrupt files and system software, and it will help keep these foreign invaders from spreading to the computers as well.
- **Keep Operating System Up-To-Date.** Unfortunately, computer operating systems have holes in them that often expose them to being hacked and used by others without the computer owner's knowledge. You must routinely update your computer operating system as holes are discovered and patches are issued so you can fulfill your responsibility to help keep the campus network secure. Microsoft, Apple and others issue operating system patches and updates from their web sites that close these holes. Be advised that Microsoft and others NEVER send patches by e-mail.
- **Password Protect Your System and Accounts.** Computers are often compromised because they lack strong passwords or any password protection against unauthorized changes by others. Be sure to set a good password for your computer and all computer accounts. The password you use to access the IU network is a valuable secret key. It protects your personal files and information and it makes certain that the privilege IU gives you to use its electronic campus is not stolen or "borrowed" by someone else. Don't let fellow students, relatives or any other person gain access to the campus network through the access code given to you. This destroys accountability. You will be held responsible for any abuse of the network by persons you allow to use your access code or password.
- **Stamp Out the "Bandwidth Bandits".** Should you ever find yourself in the situation of needing desperately to finish an on-line homework assignment when the network slows down significantly, then you know why we use the term, bandwidth bandits. When network users run peer-to-peer (P2P) file-sharing and download copyrighted movies and music, they not only break the law and IU policy, but they

also usually use an excessive amount of network bandwidth. If your P2P software is configured to share downloaded files, the strain on the network is multiplied because a single downloaded file will be automatically offered, or shared-out, to the world through your peer-to-peer software. When others make copies of the file, more and more bandwidth is used, slowing things down for everybody. **Bandwidth bandits and negligent users will lose network privileges and be subject to full disciplinary action within the Student Affairs Judicial System and/or face legal liability.** Most of what you need to do takes up very little of the high-speed network's capacity. When you are working on the network, you generate quick, short bursts of activity, which leave the network open and ready for the next person.

- **Removing File-Sharing Programs.** The best way to avoid potential copyright violations (and, potentially, thousands of dollars of fines through the United States judicial system) is to **remove all peer-to-peer file-sharing programs from your computer.** If you see **any** P2P software on your computer, **remove it and you'll remove your liability** for sharing copyrighted material over the Internet.

Directions for removing P2P software from. . . Windows XP Computers, Windows Vista Computers, Macintosh Computers

Windows XP Computers

Use the **Add/Remove Programs** window in the **Control Panel** to remove (**uninstall**) these programs ♦ just as you would remove any program from your Windows system.

1. Turn off all file-sharing programs and all of their components.
2. Go to your computer's **Control Panel**. You can get to it by following this path from your computer's Start menu:
Start -> Settings -> Control Panel or
Start -> Control Panel
3. Double click on the **Add/Remove Programs** or **Add or Remove Programs** icon.
4. Select **Change or Remove Programs**.
5. Click once to highlight the software you would like to remove, then click on the **Remove** or **Change/Remove** button.
6. Follow the prompts on the screen to completely remove the software and its components. Some peer-to-peer file-sharing programs have companion programs that are not automatically removed (e.g., Kazaa and "My Search Bar"). If you have more than one program to remove, when prompted to reboot the computer, click **No**. Then repeat these steps until you have removed all file sharing programs.
7. *Make sure you reboot the system when you are finished.*

Windows Vista Computers

Use the **Programs and Features** window in the **Control Panel** to remove (**uninstall**) these programs ♦ just as you would remove any program from your Windows system.

1. Turn off all file-sharing programs and all of their components.

2. Go to your computer's **Control Panel**. You can go to it from your computer's **Start** menu.
3. Double click on the **Programs and Features** icon.
4. Locate the P2P software you are removing on the list of installed programs. Click once to highlight the software. At the top of the list of programs, select **Uninstall**.

Follow the prompts on the screen to completely remove the software and its components.

Some peer-to-peer file-sharing programs have companion programs that are not automatically removed. If you have more than one program to remove, click **No** if prompted to reboot your computer. Then repeat these steps until you have removed all file sharing programs.

5. ***Make sure you reboot the system when you are finished.***

Apple Macintosh Computers

1. Quit all file-sharing programs.
2. Locate the folder containing the P2P software that you want to remove. It is usually in the **Applications** folder.
3. Double-click the P2P program's folder to examine its contents.
4. Some Macintosh-compatible P2P programs come with an "uninstall" program. If you see an "Uninstall" or "Uninstaller" program, run it to remove the P2P software.

If you do not see such a program, go back to the **Applications** folder, and **move the P2P program's folder into the trash**.

5. Empty your computer's trash folder.
6. Go to the Apple menu and select **Restart** to reboot your computer.