

Statement on University of Nebraska Response to Copyright Infringement Notifications

The University of Nebraska does not routinely monitor its computer network to detect the infringement of copyright protected material such as music, movies, television programs, games, software and books. The University receives copyright infringement notifications of various kinds from the owners of the copyright protected material that has allegedly been infringed.

The Digital Millennium Copyright Act (DMCA), 17 U.S.C. § 512, provides copyright owners or their representatives with a statutory procedure for notifying entities that provide online services or network access, or facilities for that purpose (known as service providers), of infringing activities by their subscribers or account holders. The University is a Service Provider within the definition provided by § 512 (k) of the DMCA. More information about the DMCA and how to contact the University regarding copyright infringement is on the University of Nebraska's website at <http://www.nebraska.edu/siteinfo>.

A DMCA notice has six parts that are mandated by 17 U.S.C. § 512(c)(3)(A): (1) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. (2) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site. (3) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the Service Provider to locate the material. (4) Information reasonably sufficient to permit the Service Provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the party may be contacted. (5) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law. (6) A statement that the information in the notification is accurate, and under penalty of perjury, the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. See Exhibit 1, Example of DMCA Notice.

Response to DMCA Notices

Receipt of a DMCA notice indicates that the University's policy on computer use, see http://www.nebraska.edu/about/exec_memo16.pdf, may have been violated by the user at the IP address identified in the DMCA notice. The University respects the rights of ownership for all intellectual or entertainment property protected by copyright and explicitly prohibits the illegal sharing of

copyright protected material. The University responds to DMCA notices that substantially comply with the statutory requirements within ten working days of receipt by (1) removing the allegedly infringing material if it is on our network, (2) disabling access for the person at the address, and/or (3) taking other appropriate action against the user at the IP address. The University does NOT release the name of a user to the sender of a DMCA notice upon receipt of a DMCA notice. The University only provides identifying information about an IP address to a copyright owner in response to a valid subpoena. University legal counsel determines how to respond to a subpoena.

DMCA “take down” notices are useful in dealing with allegedly infringing information that resides on an Service Provider’s system or network as a result of a user’s action. Downloading of music, movies, games, software, etc. that is copyright protected may violate the copyright owner’s rights. Sharing of copyrighted information by uploading without the authorization of the owner can also be a copyright violation. Running of peer-to-peer file sharing software such as Gnutella, Ares, Warez, Blubster, Edonkey, KaZaA, Limewire, Shareaza, BitLord and Bit-Torrent may put a user at serious risk of violating the rights of copyright owners in copyright protected materials that are shared. Copyright owners engage in monitoring of Internet traffic to detect the use of file sharing that violates their rights to copy and distribute copyrighted materials they own. A Service Provider that merely acts as a conduit for transitory digital network communications is usually not in a position to “take down” infringing file sharing material in response to a DMCA notice.

Response to Settlement Letters

On February 28, 2007 the Recording Industry Association of America (RIAA) introduced a new strategy for dealing with copyright infringement. The new RIAA strategy includes sending a "settlement letter" to University Service Providers. RIAA sends an e-mail to the University/Service Provider claiming that a Service Provider’s user is violating the record companies’ copyrights by uploading and downloading copyrighted recordings. The e-mail to the Service Provider also states that if a settlement is not reached with the person at the IP address, a lawsuit will be filed and a subpoena will be served on the Service Provider requesting information to identify the person at the IP address associated with the alleged copyright infringement. See Exhibit 2, Example of Settlement Letter E-mail to Service Provider. The University preserves records associated with the IP address in anticipation that a John Doe complaint may be filed and subpoena issued.

The e-mail to the Service Provider comes with a pdf file attached that contains a pre-lawsuit settlement letter that RIAA requests the University/Service Provider to forward to an IP address associated with the alleged infringement.

The RIAA settlement letter offers the person at the IP address the

opportunity to settle out of court. Settlements under this program have been reported to be in the \$3,000-\$5,000 range. If a user receives a settlement letter, it is the user's responsibility to decide how to respond to the RIAA. The user should consult with his or her legal counsel before making a decision.

When the University receives an RIAA settlement letter it will forward that letter to the IP address that the RIAA has identified in the accompanying e-mail to the University. The University's procedures for addressing violations of the University computer use policy are followed as a result of receipt of a settlement letter e-mail. The University does NOT release the name of a user upon receipt of a settlement letter e-mail. The University only provides identifying information about an IP address to a copyright owner in response to a valid subpoena.

Response to Preservation Notices

In March, 2007, the University began to receive e-mails from RIAA called preservation notices. A preservation notice is notice to the University/Service Provider to preserve specific records that could be useful in a subsequent court case by an RIAA member against a person accused of copyright infringement who has used an IP address on the University/Service Provider's network. See Exhibit 4: Example of Preservation Notice E-mail. The University has informed RIAA that it will only act in response to Settlement Letters, DMCA notices, and subpoenas. The University will not any take action in response to preservation notices.

Disabling Peer-to-Peer Program

When the user is informed that an infringement notice has been received, the user should be told that the user has a duty to preserve evidence that relates to the claims against the user. The user should not attempt to delete any peer-to-peer programs that were on the user's computer, or to delete copyrighted recordings that were downloaded or made available for uploading before the infringement notice was sent. A user may obtain information on disabling, but not deleting a peer-to-peer program at www.musicunited.org.

Individuals who receive their Internet access from a Service Provider other than the University (e.g. Time Warner Roadrunner, Alltel DSL, Qwest, etc.), may want to ask their Service Provider how they will be handle notices of copyright infringement.

Walter Weir, Chief Information Officer, University of Nebraska
Copyright Infringement Notice Procedure

Exhibit 1: Example of DMCA Notice

RIAAInfringementNotification <antipiracy2@riaa.com> To: Walter Weir

02/20/2007 06:01 PM

SUBJECT: Case ID 213563927 - RIAA Infringement Notification

VIA EMAIL

February 20, 2007

Walter G. Weir
University of Nebraska-Lincoln
210 Varner Hall
3835 Holdrege
Lincoln, NE 68583-0742 US

Re: Copyright infringement

Dear Sir or Madam:

I am contacting you on behalf of the Recording Industry Association of America, Inc. (RIAA) and its member record companies. The RIAA is a trade association whose member companies create, manufacture, and distribute approximately ninety (90) percent of all legitimate sound recordings sold in the United States. Under penalty of perjury, we submit that the RIAA is authorized to act on behalf of its member companies in matters involving the infringement of their sound recordings, including enforcing their copyrights and common law rights on the Internet.

We believe a user on your network is offering an infringing sound recording for download through a peer to peer application. We have attached below the details of the infringing activity.

We have a good faith belief that this activity is not authorized by copyright owners, their agent, or the law. We are asking for your immediate assistance in stopping this unauthorized activity. Specifically, we request that you remove or disable access to the infringing sound recording.

We believe it is in everyone's interest for music consumers to be better educated about the subject of copyright law and music. In addition to taking steps to notify this network user about the illegal nature of this activity, we encourage you to refer him/her to the MUSIC Coalition's website at www.musicunited.org. The site contains valuable information about what's legal and what's not when it comes to copying music.

You should understand that this letter constitutes notice to you that this network user may be liable for the infringing activity occurring on your network. In addition, under the Digital Millennium Copyright Act, if you ignore this notice, your institution may also be liable for any resulting infringement. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained. Moreover, this letter does not constitute a waiver of our members' right to sue the user at issue for copyright infringement.

Thank you in advance for your prompt assistance in this matter. If you have any questions, please feel free to contact me via e-mail at antipiracy2@riaa.com, via telephone at (202) 775-0101, or via mail at RIAA, 1025 F Street, NW, 10th Floor, Washington, D.C., 20004. Please reference Case ID A213563927 in any response or communication regarding this infringement.

Sincerely,

Jeremy Landis
Online Copyright Protection
RIAA

Infringement details:

First Found: 18 Jan 2007 22:05:15 EST (GMT -0500)
Last Found: 19 Feb 2007 10:00:26 EST (GMT -0500)
Network: Morpheus
IP Address: 129.93.179.163
IP Port: 49102
Protocol: Gnutella

List of infringing content:

Gwen Stefani Cool
Weezer Beverly Hills
Kanye West Gold Digger
Pretty Ricky Your Body
Ciara Goodies
DANIEL POWTER Bad Day
MICHAEL BUBLE Save the Last Dance For Me
BUCKCHERRY Crazy Bitch
JOSH TURNER YOUR MAN
NICKELBACK FAR AWAY
PAPA ROACH LAST RESORT
PUSSYCAT DOLLS BEEP
RASCAL FLATTS ME AND MY GANG
SNOW PATROL CHASING CARS
BLINK-182 ALL THE SMALL THINGS

Infringing files:

Filename: Gwen Stefani - Cool.mp3
Filesize: 5,112k
Filename: Weezer - Beverly Hills(1)(1).mp3
Filesize: 7,830k
Filename: Kanye West Ft. Jamie Foxx - Gold Digger.mp3
Filesize: 6,306k
Filename: Pretty Ricky - Your Body.mp3
Filesize: 6,108k
Filename: Pretty Ricky - Bluestars - 02 - Your Body.mp3
Filesize: 6,108k
Filename: My Goodies- Petey Pablo Ft. Ciara.mp3
Filesize: 3,480k
Filename: Daniel Powter - Bad Day(1).mp3
Filesize: 3,654k
Filename: Michael Buble - Save The Last Dance For Me (Wedding Date
Soundtrack).mp3
Filesize: 5,128k
Filename: Buckcherry - Crazy Bitch.mp3
Filesize: 6,167k
Filename: Josh Turner - Your Man .mp3
Filesize: 6,642k
Filename: 06 Nickelback - Far Away.m4a
Filesize: 3,777k

Filename: Papa Roach - Last Resort.mp3
Filesize: 3,173k
Filename: the pussicat dolls- beep.mp3
Filesize: 5,362k
Filename: Rascal Flatts - Me And My Gang.mp3
Filesize: 3,401k
Filename: Snow Patrol - Chasing Cars.mp3
Filesize: 5,236k
Filename: Blink 182 - All The Small Things.mp3
Filesize: 2,300k

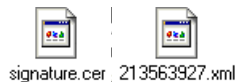


Exhibit 2: Example of Settlement Letter E-Mail to Service Provider

Dear Director of Security:

We are national counsel to a group of record companies and their labels and subsidiaries including BMG Music; EMI Music North America; SONY BMG MUSIC ENTERTAINMENT; Warner Music Group Inc.; and UMG Recordings, Inc. ("record companies"). Our clients create, manufacture, and/or distribute the majority of all legitimate sound recordings sold and distributed in the United States.

We believe that one of your subscribers has been violating federal copyright laws by uploading and downloading the record companies' copyrighted sound recordings without authorization. Before initiating a lawsuit against that individual, we are sending you an early settlement letter that we now ask you to forward to your subscriber. This letter describes the record companies' claims against the subscriber and offers to settle those claims at an early stage for a substantially reduced dollar amount. We ask that you forward this letter as promptly as possible. If we do not hear back from your subscriber shortly, we will go ahead and file suit.

We are also sending you this advance notice to alert you to the possibility that we will seek identifying information about the subscriber if we do not resolve our claims against this individual in a timely manner. Specifically, we will seek to serve a subpoena on you that will request documents that identify the name, current (and permanent) addresses, telephone numbers, email addresses, and MAC (Media Access Control) address of the subscriber of your network who has infringed the record companies' copyrighted sound recordings. Please preserve all documents that reflect identifying information of the subscriber in the meantime.

The user was located at IP address: 129.93.125.107 2007-02-16 04:05:46 EST and has been assigned case id 118518734.

We hope this advance notice has proved helpful. Thank you for your cooperation. Please feel free to call if you have any questions.

Sincerely,

Katheryn Jarvis Coggon
Holme Roberts & Owen
1700 Lincoln, Suite 4100
Denver, Colorado 80203
katheryn.coggon@hro.com

CONFIDENTIALITY NOTICE - This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain information that is confidential or legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that you must not read or play this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender by telephone or return e-mail and delete the original transmission and its attachments without reading or saving in any manner. Thank you.

FEDERAL TAX ADVICE DISCLAIMER We are required by U. S. Treasury Regulations to inform you that, to the extent this message includes any federal tax advice, this message is not intended or written by the sender to be used, and cannot be used, for the purpose of avoiding federal tax penalties.



118518734.pdf

Exhibit 3: Example of Settlement Letter

The pdf file attached to the Settlement Letter E-Mail to the Service Provider contains the settlement letter to the person at the IP address, and is reproduced on the following pages:



Holme Roberts & Owen LLP
Attorneys at Law

DENVER

March 21, 2007

Re: Notification of Copyright Infringement Claims

BOULDER

CASE ID# 118518734

Dear Sir/Madam:

COLORADO SPRINGS

We have asked your Internet Service Provider to forward this letter to you in advance of our filing a lawsuit against you in federal court for copyright infringement. We represent a number of large record companies, including EMI Recorded Music, SONY BMG MUSIC ENTERTAINMENT, Universal Music Group and Warner Music Group, as well as all of their subsidiaries and affiliates ("Record Companies"), in pursuing claims of copyright infringement against individuals who have illegally uploaded and downloaded sound recordings on peer-to-peer networks.

LONDON

LOS ANGELES

We have gathered evidence that you have been infringing copyrights owned by the Record Companies. We are attaching to this letter a sample of the sound recordings you were found distributing via the LimeWire (LimeWire) peer-to-peer network. In total, you were found distributing 579 audio files, a substantial number of which are sound recordings controlled by the Record Companies.

MUNICH

SALT LAKE CITY

The reason we are sending this letter to you in advance of filing suit is to give you the opportunity to settle these claims as early as possible. If you contact us within the next twenty (20) calendar days, we will offer to settle the claims for a significantly reduced amount compared to what we will offer to settle them for after we file suit or compared to the judgment amount a court may enter against you. If you are interested in resolving this matter now, please contact our Settlement Information Line at 913-234-8181 or, alternatively, you may settle this matter immediately online at www.p2plawsuits.com, using the CASE ID# that appears at the top of this letter.

SAN FRANCISCO

In deciding whether you wish to settle this matter, here are some things you should consider:

- The Copyright Act imposes a range of statutory damages for copyright infringement. The minimum damages under the law is \$750 for *each*

Donald J. Kelso

1700 Lincoln Street, Suite 4100 Denver, Colorado 80203-4541 tel 720.528.2641 fax 720.528.2642



Holme Roberts & Owen LLP
Attorneys at Law

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copyrighted recording that has been infringed (“shared”). The maximum damage award can be substantially more. In addition to damages, you may also be responsible for paying the legal fees we incur in order to pursue these claims, and are subject to having an injunction entered against you prohibiting you from further infringing activity.

- Now that you are aware that a lawsuit may be filed against you, there is an obligation for you to preserve evidence that relates to the claims against you. In this case, that means, at a minimum, the entire library of recordings that you have made available for distribution as well as any recordings you have downloaded, need to be maintained as evidence. Further, you should not attempt to delete the peer-to-peer programs from your system – though you must stop them from operating. For information on how to do this, you may visit www.musicunited.org.

This is a serious matter and to the extent you have any questions, we strongly encourage you to contact us to ask those questions. Finally, if you would like more information regarding music downloading/file sharing and peer-to-peer networks, please visit www.p2plawsuits.com.

**IF WE DO NOT HEAR FROM YOU WITHIN TWENTY (20)
CALENDAR DAYS FROM THE DATE OF THIS LETTER, THEN WE
WILL FILE SUIT AGAINST YOU IN FEDERAL COURT.**

We are not your lawyers, nor are we giving you legal advice. We urge you to consult with an attorney immediately to advise you on your rights and responsibilities.

Sincerely,

A handwritten signature in blue ink that reads "Donald Kelso".

Donald J. Kelso

EXHIBIT A

IP Address: 129.93.125.107 2007-02-16 04:05:46 EST

CASE ID# 118518734

P2P Network: LimeWire (LimeWire)

Total Audio Files: 579

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	George Strait	Heartland	Pure Country	146-421
Capitol Records, Inc.	Billy Idol	White Wedding	Billy Idol	39-673
SONY BMG MUSIC ENTERTAINMENT	Journey	Open Arms	Escape	30-088
SONY BMG MUSIC ENTERTAINMENT	Mariah Carey	Always Be My Baby	Daydream	215-243
Virgin Records America, Inc.	Human League	Don't You Want Me	Dare	34-729
UMG Recordings, Inc.	Nirvana	Smells Like Teen Spirit	Nevermind	135-335
Capitol Records, Inc.	Vanilla Ice	Ice Ice Baby	To The Extreme	125-259
UMG Recordings, Inc.	Tom Petty	American Girl	Long After Dark	50-037
SONY BMG MUSIC ENTERTAINMENT	Wham	Wake Me Up Before You Go-Go	Make It Big	68-616
UMG Recordings, Inc.	Tiffany	I Think We're Alone Now	Tiffany	83-157

Exhibit 4: Example of Preservation Notice E-mail

From: RIAA [dmca@riaa.com]
Sent: 04/16/2007 12:03 PM
To: Walter Weir
Subject: RIAA Preservation Notice - 262444789

Dear Walter G. Weir:

I am an attorney with the Recording Industry Association of America, Inc. ("RIAA"). The RIAA is a trade association whose member record companies create, manufacture, and/or distribute the majority of all legitimate sound recordings sold and distributed in the United States.

I am writing to alert you to a forthcoming subpoena that may be served on you. The subpoena seeks identifying information for a subscriber of your network who has infringed our members' copyrighted sound recordings. The subpoena will request documents that identify the name, current (and permanent) addresses, telephone numbers, e-mail addresses and MAC (Media Access Control) address of the user located at the following IP address: 129.93.213.41 on 2 Apr 2007 01:40:4 EDT (GMT -0400).

In advance of serving a subpoena on you, our outside counsel will email to you an early settlement letter that we ask you to forward to the user, customer or subscriber. If the individual responds to the letter and settles the claims, we will not need to serve the subpoena on you. However, if that individual does not settle in a timely fashion, then our counsel will need to serve the subpoena.

Please preserve all documents and identifying information regarding the user, customer or subscriber in the meantime.

We hope this advance notice has proved helpful. Thank you for your cooperation. Feel free to call if you have any questions.

Sincerely,

Carlos Linares
Vice President and Counsel, Anti-Piracy
Recording Industry Association of America, Inc.
1025 F Street, NW
10th Floor
Washington, D.C. 20004
202-775-0101
dmca@riaa.com