



**J. Keith Yarbrough, Asst. VP
Information Resources Division**

September 5, 2008

To: U.T. Permian Basin Students

From: J. Keith Yarbrough, Assistant Vice President for Information Resources

Re: Peer-To-Peer File Sharing

Many university students across the nation are being financially hurt and suffering heightened levels of stress and anxiety because of allegedly illegal downloading and file sharing issues. The following information is designed to help our students and others who may have encountered problems in this area. We want all users of our computer networks to do the right thing and to follow the law.

Over the past eighteen months, the Recording Industry Association of America (RIAA), a trade association of recording companies holding music and video copyrights, and the Motion Picture Association of America (MPAA) have been taking legal action against university students nationwide who allegedly illegally download or share music and video using peer-to-peer (P2P) programs. Currently, numerous university students throughout the country who use LimeWire, KaZaA, BitTorrent, or any other file-sharing program have been targeted. While file-sharing or downloading software itself may be lawful, downloading or sharing of copyrighted songs or movies without the artist's consent usually is a violation of federal copyright law, should not be done, and can result in expensive fines. This is true even if a student's file-sharing program is uploading songs without his/her knowledge or consent. For instructions on how to disable file sharing in popular P2P applications, visit the Web site of your P2P program. Nearly all songs and movies downloaded by students are copyrighted.

In many situations where legal action is pursued by the RIAA, they will email a pre-suit settlement notice to the student's internet service provider (ISP), which usually is then forwarded to the student. At UTPB, that notice is sent out by the Information Resources Division (IRD) as a courtesy so that students can be informed about a potentially serious legal situation. The notice will inform the student of the violation and offers a chance to settle before being sued in Federal Court. Typically, it will cost the student a minimum of \$3,000 to settle a case at this stage. If the student ignores the settlement offer, the ISP usually will receive a subpoena or court order requiring the release to the RIAA of the student's name and address that is linked to the violating IP address. The RIAA then usually sues the student in federal court if a case has not yet been filed. Settlement costs go up substantially at this point. If the student does nothing or decides to fight the matter in court and loses, a judgment

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could be entered for a minimum of \$750.00 per violation (song/movie) possibly resulting in a judgment for tens or even hundreds of thousands of dollars. If the judgment is not paid, it could follow the student for decades, harming credit and possibly hurting job prospects. The university will NOT defend or protect you in these situations.

In addition to the risk of a costly civil lawsuit, federal criminal prosecution could be pursued if the violations exceed \$2,500 and the RIAA or MPAA proves that there was actual intent. This could include punishment of a fine of \$100,000 or more and/or 10 years in jail. Moreover, students who illegally download or distribute copyrighted materials are in violation of UTPB's Acceptable Use Policy (<http://ird.utpb.edu//information-for-students/acceptable-use-policy/>) and are subject to disciplinary actions that may include termination of their computer network privileges. There have been national reports of students who have had their computers utilized by others to engage in illegal file-sharing activity; accordingly, all students are urged to make sure their computers are password-protected and appropriately configured with anti-virus and firewall technologies.

We want to help our students avoid serious problems in this area. If you receive a pre-suit settlement notice, a subpoena, or are served with a federal lawsuit, you should strongly consider seeking the assistance of legal counsel. However, it is better if you avoid the problem completely. If you are doing these illegal activities, or know someone who is, you are urged to stop or to encourage the other person to stop! It is wrong, is illegal conduct and is not worth the risk and serious problems that can result.

For information related to legal sources of on-line music and videos visit

<http://www.utexas.edu/its/support/topics/music/>

The preceding information has been adapted from material provided by Dr. Juan C. Gonzalez, Vice President For Student Affairs at The University of Texas at Austin.