

Campus file sharing and fair use

College presidents and chancellors have recently received letters from Graham Spanier (Pennsylvania State University), Cary Sherman (Recording Industry of America), and David Ward (American Council of Education) encouraging university leaders to make changes in their computing policies in order to address the issue of peer-to-peer file sharing among students. Of course, the use of file-sharing systems for activities that infringe copyright is illegal. We do not want to diminish the seriousness of this issue. But we do want to encourage college and university librarians to remember that there are legitimate applications of file-sharing systems and fair use of copyrighted materials.

The use of peer-to-peer file sharing to facilitate the distribution of unauthorized copies of copyrighted works often uses up valuable bandwidth, thus affecting overall campus network operations. But not all file-sharing activities constitute piracy. Moreover, universities and libraries are just beginning to discover new and lawful ways to use peer-to-peer networks for research, teaching, and lawful document transfer. And even some transfer of music files could be lawful acts. We encourage universities and libraries to continue to use peer-to-peer networks for legal activities.

Any discussion of peer-to-peer file sharing must acknowledge that the rights of users of copyrighted materials form the basis for the balance of copyright law. The library community should not lose sight of the fact that the progress of learning, research and discovery is the goal of higher education and the underlying purpose of the copyright law. (We also note that dealing with file sharing is a multifaceted issue


that implicates, in addition to copyright, such issues as privacy and intellectual freedom.)

As a new school year gets underway, it is important for librarians to help advise college administrators on copyright policy. Librarians understand the importance of a balanced approach to copyright law and are the copyright expert focal points on campuses. We must be at the table when university policies are established to respond solely to industry concerns. While piracy is wrong and infringers should be held accountable, we must be vigilant to ensure that decisions made today do not adversely affect education and research for years to come.

Fair use upheld

In June, the Supreme Court's decision in *MGM Studios v. Grokster* unanimously reaffirmed the Sony Betamax principle, thus upholding fair use in the digital age. In the Sony case (1984), the court held that the makers of the VCR should not be held liable for copyright infringement simply because the device could be used for infringing purposes. The text of the court's opinion contains a statement emphasizing the importance of lawful uses of file sharing (see the decision, www.supremecourt.us.gov/opinions/04slipopinion.html). We echo the court's opinion that legal peer-to-peer sharing offers many benefits in security, cost, and efficiency.

It is important that university libraries address the problem of illegal file-sharing on campuses, but librarians are asked to keep in mind that technological protection measures aimed at preventing piracy can also inhibit students' and library users' ability to exercise fair use.

To learn more about fair use in the digital age, visit www.ala.org/copyright. And through the academic year, stay tuned to ALAWON for the latest on copyright legislation and litigation. 

Bernadette Murphy is communications specialist at ALA's Washington Office, e-mail: bmurphy@alawash.org