

Digital Copyright and DMCA Takedown Notice

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Digital Copyright and DMCA

Carnegie Mellon University takes copyright violation seriously. Besides raising awareness about copyright law, it takes appropriate action in support of enforcement as required by policy and law. United States [copyright law](#) "protects the original works of authorship fixed in any tangible medium of expression, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device".

The University's [Copyright Policy](#) states that all members of the University must comply with US copyright law and it explains the fair use standards for using and duplicating copyrighted material. In addition, the policy prohibits the duplication of software for multiple uses, meeting the [Digital Millennium Copyright Act \(DMCA\)](#) requirements. The DMCA criminalizes the development or use of software that enables users to access material that is copyright protected. Furthermore, the [Computing Policy](#) prohibits the distribution of copyright protected material via the University network or computer systems, unless the copyright owner grants permission.

The Digital Millennium Copyright Act (DMCA)

[The Higher Education Opportunity Act of 2008](#) (Public Law 110-315) Section 488, requires institutions of higher education to annually inform students that "unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities". The law goes on to require institutions "to provide a summary of penalties for violation of Federal copyright laws, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information system".

DMCA Takedown Notice

A DMCA Takedown notice is a letter or email that the University receives from the copyright holder or a representative of the copyright holder, under the Digital Millennium Copyright Act, requesting that the University remove, disable access to, or disable distribution of material allegedly involved in copyright infringement. The notice will include the IP address of the machine allegedly involved in the infringement, a description of the allegedly infringing material, and a timestamp with the time, time zone, and date. Once the notice is received, Carnegie Mellon is obligated to ensure that the infringing material does not remain accessible from the system listed in the takedown notice.

Reasons for receiving a DMCA Takedown Notice

Computing Services sends out an email with an enclosed Takedown or DMCA notice to students in reference to reports of the illegal distribution of copyrighted material. The university does not monitor for illegal copyright activities on its network. Institutions that protect the rights of the copyright owners, such as the Recording Industry Association of America (RIAA), and the Entertainment Software Association (ESA) among others monitor:

- **Illegal downloading, or sharing of copyright material**, similar to CDs, DVDs, software programs, music, movies, plays, eBooks, databases, Label designs, photographs, and computer games **on the university network**, either by publishing such materials on websites, or by any other means.
- **Misuse of P2P programs for illegal distribution of copyright material.** Peer-to-Peer (P2P) file sharing is the use of a P2P application that shares files with other users across the internet e.g. BitTorrent, Kazaa, Bearshare, Morpheus, Gnutella, Limewire. The process of file sharing to download files, as well as to make them available for others to upload can be a source of illegal distribution of copyright protected material, which may result in civil and criminal penalties.
- **Misuse of Cyberlocker services for illegal distribution of copyright material.** Cyberlockers similar to RapidShare, Hotfile, Mediafire, Megaupload, and Google and Yahoo storage are online services that allow users to store and share files through a web link (URL) with others. The act of providing a link to others to access copyrighted material from a cyberlocker account is considered illegal distribution of copyright protected material, which may result in civil and criminal penalties.

When a copyright violation is discovered, copyright holders or their agents will report the alleged infringement to the Internet Service Provider (ISP) where the IP address of the computer serving the material is registered. As an ISP, the university is required to respond to complaints from copyright holders, and organizations representing copyright holders, regarding computers on the campus network that are illegally distributing copyrighted materials. Copyright holders or their agents will request that the University identify the owner of the computer associated with the reported IP address and relay the Takedown or DMCA Notice to the alleged copyright infringer and/or coordinate the removal of access to the infringing content.

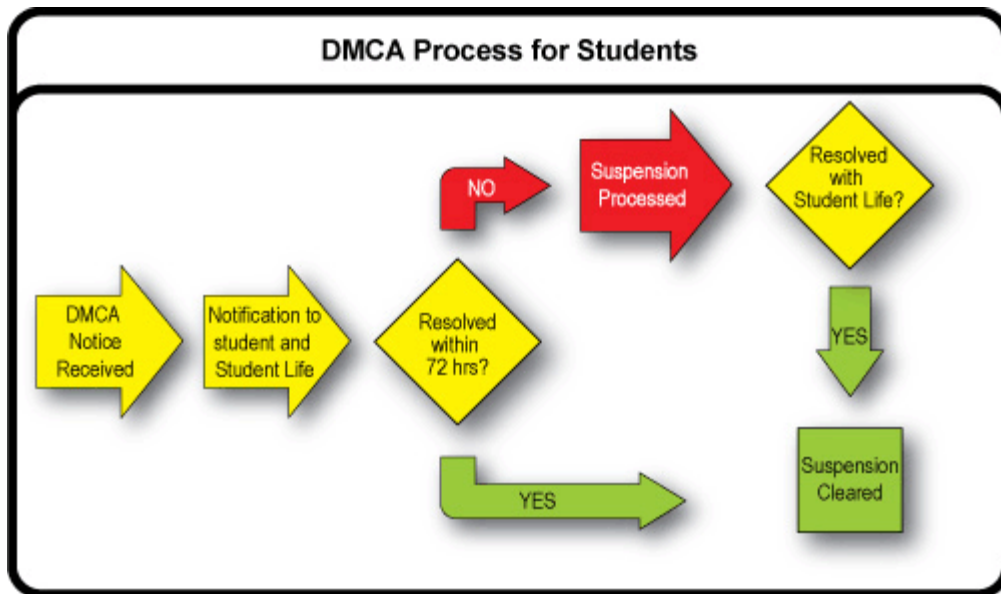
The University Processing of a DMCA Notice

The copyright holder or a representative of a copyright holder sends a DMCA Takedown notice in a form of an email or letter to the university requesting that the university remove, disable access to, or disable distribution of the material allegedly involved in copyright infringement.

After receiving a DMCA Takedown notice, the Information Security Office (ISO) will identify the computer that was using the IP address at the time specified in the notice, and will then take the following actions:

1. Using the NISC system, notification will be sent in an email to the student and to the Student Life Office, with the DMCA notice appended. In this email, the student will be directed to contact the Student Life Office and schedule a meeting with a representative.
2. The student - the alleged infringer, will have 72 hours from the time of the notification to resolve the issue with the Student Life Office in order to prevent the suspensions outlined below. To schedule a meeting, call Student Life Office at (412) 268 - 2142.
3. Once the student meets with a representative of the Student Life Office and resolves the issue, the Student Life Office will respond to the internal DMCA notice to either prevent the suspension or to have suspended access restored.
4. If the incident is not resolved after 72 hours have passed, the following actions will occur:
 - a. All computers registered to the student (owner) on the Campus Wired Network will be suspended
 - b. All computers registered to the student on the Campus Wireless Network will be suspended
 - c. Access (by user ID) to the Computing Services provided VPN service (Library and general use) will be suspended
 - d. Access (by user ID) to the CMU SECURE Wireless Network will be suspended
 - e. The ability to register new computers in NetReg will be suspended
 - f. Email notification will be sent to the student account and to the Student Life Office. The student will be able to access the email using a university cluster, an email kiosk, or a computer that is not registered under their name on the campus network.

Access will not be restored until a designated representative of the Student Life Office informs advisor@andrew.cmu.edu that the issue is resolved and that access should be restored.



Other Legal Actions

Carnegie Mellon could receive a number of notices related to the copyright infringement or be served with subpoenas from an agency representing the copyright holder. Other than DMCA Takedown notices, the following are the most common copyright infringement notices sent from organizations representing copyright holders:

- Preservation Request
- Early Settlement Letter
- Subpoena

These notices do not have to be sent in any particular order, and are not all required. For example, a representing agency could choose to send an Early Settlement Letter as the first notice to be communicated to the alleged infringer, which could then be followed by a subpoena. A Takedown notice could also be sent separately.

Preservation Request

A preservation request is initiated by organizations representing copyright holders. These requests are usually sent to the ISP, such as Carnegie Mellon, demanding that the alleged infringer's contact information be preserved in response to a future subpoena. The notice will typically also request that the alleged infringer preserve any evidence that might reside on the computer identified in the preservation request. The preservation request, similar to the

Takedown notice, contains the IP address that was reported in the violation and the timestamp, including time, date, and time zone. The ISO uses this information to determine what individual is responsible for the system.

Early Settlement Letter

The agency representing the copyright holder may give the alleged infringer an opportunity to settle the matter outside of a courtroom. The representing agency sends ISPs, such as Carnegie Mellon, an “Early Settlement Letter” with a request that it be forwarded to the user associated with the IP address involved in the alleged copyright infringement. The letter informs the alleged infringer of a possible lawsuit, and presents them with the opportunity to settle the claim in order to avoid having to resolve the claim in court. This letter may include a link to a settlement website where a reduced amount, ranging from \$1,000 to \$5,000, can be paid with a credit card. In addition, the letter may inform the alleged infringer that they are prohibited from deleting information or programs related to the copyright infringement, as they are considered evidence and must be preserved. In the interest of providing students with notice of potential legal claims and an opportunity to settle such claims, it is the practice of Carnegie Mellon to forward Early Settlement Letters to the alleged infringer. The University does not disclose names, contact information or any other personally identifiable information to the copyright holder in response to Early Settlement Letters.

A student may choose to respond to the Early Settlement Letter or they may seek the advice of an attorney. The Student Life Office at Carnegie Mellon can provide recommendations on whom to contact for advice.

Subpoenas

Subpoenas received by the University from copyright holders or their representatives generally request the identity of the user of a particular IP address which allegedly used the University’s network to unlawfully distribute copyrighted material. A subpoena could be served without sending a DMCA notice, or a preservation request, to the alleged infringer. Subpoenas generally allow for a reasonable period of time within which the recipient is required to respond. Carnegie Mellon will inform the alleged infringer of any receipt of a subpoena for copyright violations prior to providing any information to the party that served the subpoena. In order to afford the alleged infringer(s) the opportunity to challenge the subpoena through the court system, the University will withhold its response until the expiration of the reasonable time specified in the subpoena. Unless the subpoena is successfully challenged, Carnegie Mellon will be compelled to provide the information requested in the subpoena.

Penalties and Legal Actions

A user in violation of copyright law may face the following penalties:

1. Suspension from the university network as described under The University Processing of a DMCA Notice.
2. Prosecution in criminal court or a civil lawsuit seeking damages. Civil liability for copyright infringement can be as high as \$150,000 per instance of infringement in addition to legal fees. Criminal penalties for a first offense may be as high as three years in prison and a fine of \$250,000.
3. Disciplinary action taken by the Student Life Office. For students, a second copyright violation will result in wired and wireless network access suspension for a minimum of 15 days, and will require the alleged infringer to meet with a Student Life representative and complete an educational sanction. Network access will only be restored when Student Life notifies the ISO on behalf of the student that the issue is resolved.

Successful Legal Actions Against Individuals

"John Doe" lawsuits - In January 21, 2004 the RIAA sued 532 people for large-scale copyright infringement.

Focusing on University Students - September 30, 2004, the RIAA Brings Lawsuits Against 762 Illegal File Sharers.

On June 18, 2009, a federal jury held an individual liable for \$1.92 million (\$80,000 per song) for copyright infringement of 24 songs using the Kazaa peer-to-peer network.

Avoid a DMCA Notice

To avoid violating copyright laws, users should consider the following:

- When using P2P file sharing programs on the university network, users should be aware of what they are downloading and sharing. Prior to installing P2P software, you should assess whether the software provides you with the ability to restrict access to a designated shared folder. While installing the software, designate a folder that contains only the files you want others to see and access.
- Turn off or disable the upload ability from your computer if you are not actively sharing documents. There may be an option in your P2P software to "disable uploading to others", "disable file sharing" or reduce "upload rates" to zero. Note that some P2P software will lose preferences when updated or reinstalled. If you have disabled file sharing and "run on startup" you may need to reset those preferences after an update.

- Refrain from downloading files that are likely protected by copyright law, and do not make such files available to others. While there are cases where the legal right to copy and distribute may not be clear, items such as commercial software with a "free" or "hacked" license, current movies and music, and other items that you would normally pay for, are likely not being shared legally.
- Disable your P2P file sharing applications when you are not using them. This will limit the amount of bandwidth consumption by your computer.
- When sharing a cyberlocker web link with others, avoid granting access to material protected under copyright law, and store this material in a separate folder.
- Disable the Simple File Sharing feature in Windows XP/Vista/7. To do so, click on the **Start** button, and then select **Control Panel**
 - In XP, select Appearance and Themes
 - In Vista/7, select Appearance and Personalization

Select **Folder Options**, and then select the **View** tab. Scroll to the bottom of the **Advanced settings list**:

- In XP, clear the Use simple file sharing (recommended) check box
- In Vista/7, clear the Use Sharing Wizard (recommended) check box

Click **Ok**, and then close all windows.

- Turn Off File Sharing on Mac. To do so, from the **Apple** menu, choose **System Preferences**, and then in System Preferences window **click Sharing**. Remove the check from **File Sharing**
- Adhere to Carnegie Mellon's [copyright policy](#) and [copyright violation guidelines](#). Students should also read the Residence Hall and Dedicated Remote Access Guidelines to familiarize themselves with issues and penalties for copyright violations.
- Consider using one of EDUCAUSE recommended [resources for legal downloading](#).
- Adhere to the [Cyber Security Pledge](#) when it comes to monitoring bandwidth usage, not sharing copyrighted material and physically secure your computer.

For more information on [File Sharing](#), and on [FQA: file sharing](#), please visit the Computing Services Security Documentation page on File Sharing.

Resources and References

Resources

Carnegie Mellon Information Security Office (ISO)

<http://www.cmu.edu/iso/>

Carnegie Mellon Computing Services; File Sharing

<http://www.cmu.edu/computing/network/fileshare/>

Carnegie Mellon Computing Services; Peer to Peer Frequently Asked Questions

<http://www.cmu.edu/computing/doc/network/fileshare/faqpeer.html>

EDUCAUSE 55 Resources for Legal Downloading

<http://www.educause.edu/Resources/Browse/LegalDownloading/33381>

References

Carnegie Mellon Copyright Policy

<http://www.cmu.edu/policies/documents/Copyright.html>

US Copyright Office

<http://www.copyright.gov/>

Carnegie Mellon Computing Policy

<http://www.cmu.edu/policies/documents/Computing.htm>

Carnegie Mellon Copyright Violation Guideline

<http://www.cmu.edu/iso/governance/guidelines/copyright-memo.html>

Carnegie Mellon Computing Services; What is Peer to Peer File Sharing?

<http://www.cmu.edu/computing/doc/security/general/peer.html>

Carnegie Mellon Computing Services; operating system updates for Microsoft XP

<https://www.cmu.edu/computing/firstconnect/secure/win-xp/update-os.html>

Microsoft Vista/7

<https://www.cmu.edu/computing/firstconnect/secure/win7/update-os.html>

Mac

<https://www.cmu.edu/computing/firstconnect/secure/mac/update-os.html>

Digital Millennium Copyright Act

<http://www.copyright.gov/legislation/dmca.pdf>

Higher Education Opportunity Act – 2008

<http://www.ed.gov/policy/highered/leg/hea08/index.html>

Office of International Relations; Filesharing Programs and “Technological Features to Induce Users to Share”

http://www.uspto.gov/web/offices/dcom/olia/copyright/oir_report_on_inadvertent_sharing_v1012.pdf

Music United

www.musicunited.org/6_legalsites.html

Recording Industry Association of America (RIAA)

<http://www.riaa.com/>

http://www.riaa.org/newsitem.php?news_year_filter=2004&resultpage=5&id=E578CA9B-0323-652D-60E0-0FC0B4DE626A

Motion Picture Association of America (MPAA)

www.mpaa.org

Electronic Frontier Foundation

<http://www.eff.org/riaa-v-people>

Disable Simple File Sharing in Windows XP/Vista/7

<http://www.cmu.edu/computing/network/filesshare/windows.html>

How to Turn Off File Sharing for Mac OS X v.10.5

<http://www.cmu.edu/computing/network/filesshare/mac.html>