

Ringling College of Art and Design

Plan for Combating the Unauthorized Distribution of Copyrighted Material by Users of the Ringling College of Art and Design Network

Version 5 December 2010 12/16/10; 4/8/11

Complies with the Higher Education Opportunity Act (HEOA) of 2008
Public Law 110-215 34 CFR § 668.14, § 668.43

HIGHER EDUCATION OPPORTUNITY ACT (HEOA) OF 2008

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OVERVIEW

Ringling College of Art and Design complies with the Digital Millennium Copyright Act, the Higher Education Opportunity Act (HEOA), and intellectual property laws through its policies and protocols. Sections § 668.14 and § 668.43 of HEOA include provisions to curb the unauthorized distribution of copyrighted materials, with particular attention to unauthorized distribution of copyrighted materials on the campus network. These include, but are not limited to, movies, music, images, books, and software. The provisions of HEOA require that Ringling College of Art and Design:

- Develop and implement a written plan to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network; and
- Provide an annual disclosure to students informing them of federal copyright laws and explaining institutional policies and sanctions related to violations of copyright law;
- Periodically review and, to the extent practical, offer legal alternatives for acquiring copyrighted material.

The following is Ringling College of Art and Design's plan for complying with HEOA regarding the unauthorized distribution of copyrighted materials on the College's campus networks.

POLICIES AND SANCTIONS

Multiple policies of Ringling College of Art and Design address copyright/intellectual property. The following policies are posted online for faculty, staff, students and trustees of Ringling College and included in the official Faculty, Staff and Student Handbooks, also online:

- Responsible Use of Electronic Communications Policy
- Responsible Use of Information Technology Resources
- Intellectual Property Ownership Policy
- Ringling's Position on Sharing Utilities such as Morpheus and Napster

When Ringling College faculty, students, and staff activate their network services, they must complete an acceptable use agreement (<http://www.it.ringling.edu/Policies.33.0.html>)

Additionally, these policies are included in the Student Handbook

- Residential Data Network Connection Privilege Agreement
- Notebook Computer Information Grant of License

Upon entering Ringling College, students sign a statement that they understand they are responsible for reading, understanding, and abiding by the Student Handbook which is posted online.

Ringling College of Art and Design does not monitor P2P activities on its Data Network. External entities that protect the rights of the record companies and owners, such as the Recording Industry Association of America (RIAA) and Motion Picture Association of America (MPAA), the Business Software Alliance (BSA), and the Entertainment Software Association (ESA) among others, monitor illegal downloading, copying or sharing of music, videos, commercial software and computer games using P2P programs across the Internet. When a copyright violation is discovered, copyright holders or their agents will report the alleged infringement to the Office of the President or the Office of Institutional Technology where the IP address is registered. Ringling College is required to respond to complaints from copyright holders, and entities representing copyright holders, regarding computers on campus that are illegally distributing copyrighted materials. Copyright holders or their agents will request that the Office of Institutional Technology identify the owner of the device 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 Office of Institutional Technology blocks the IP address alleged by the cease and desist notice from the organizations that protect the rights of the media companies and owners.

The Office of Institutional Technology then notifies the user or Responsible Party of the notice via an electronic process and requests a cease and desist statement from the user or party responsible for breaching the Responsible Use of Electronic Communications agreement.

Furthermore, the user who has violated copyright and fair use policy through downloading and sharing of copyright-protected materials must submit their computer(s) to the Office of Institutional for verification that the material and applications used to download and share the materials are removed from their computer(s). The responsible party must acknowledge the breaching Responsible Use of Electronic Communications agreement and understanding of the federal law in order to regain network access privileges.

Second consecutive offenses require viewing of the Copyright Education materials and referral to the Office of Student Life.

Third consecutive offenses are referred to the Office of Student Life. If there are no extenuating circumstances, the third offense usually triggers suspension of user's access to the Internet via Ringling College network permanently.

Disciplinary action will be taken by Office of Student Affairs or by an employees' supervisor in accordance with Office of Human Resources policy and procedures.

In addition, the Office of Institutional Technology monitors network activities and identifies potential violators and follows the above procedure.

ANNUAL DISCLOSURE TO STUDENTS

At the start of each academic year, the Office of Institutional Technology sends a welcome back message to all students which contains a reminder that the unauthorized distribution of copyrighted materials violates federal copyright laws as well as institutional policies. This message also contains links to the sites where students can access institutional policies, protocols, and guidelines. See Addendum A.

EDUCATION AND AWARENESS

Ringling College is committed to responsible use and protection of copyrighted content and educating its community in that regard.

- Ringling College employees and faculty are educated during new employee and new faculty orientation sessions by the Offices of Institutional Technology, Library Services and Human Resources.
- When Ringling College faculty, students, and staff activate their network services, they must complete an acceptable usage agreement. The agreement includes several statements relating to copyright infringement and how it relates to Ringling College policies and the law <http://www.ringling.edu/iso/compliance/heoa/>.
- Incoming students new to Ringling College are educated during orientation sessions. Students are directed to review the Student Handbook and must sign a statement that they understand that they are responsible for reading, understanding, and abiding by the Student Handbook which is posted online.
- Annually, students are sent a notice informing them of federal copyright laws and penalties and informing them of institutional policies and sanctions related to violations of copyright law.
- A Web page dedicated to copyright and fair use is published and maintained by the Offices of Institutional Technology and Kimbrough Library. Links to in-house and external information and training sources are included.
- Training and awareness presentations are offered on campus by such offices as Center for Career Services and incorporated into classroom instruction by faculty and the Director of Library Services.

LEGAL ALTERNATIVES

In addition to its efforts to educate and inform the Ringling community about issues relating to copyrighted material and its procedures for handling notices and occurrences of unauthorized distribution of copyrighted material, the College provides sources of and information about legal means of downloading and acquiring copyrighted material. Kimbrough Library, through its subscription licensing program and library acquisitions, provides electronic books and periodicals, sound effects and music, images, and other resources for legal download at lib.ringling.edu. EDUCAUSE's Legal Sources of Online Content page <http://www.educause.edu/legalcontent> is supplemented with links to additional sources, including MusicUnited <http://www.musicunited.org/>; RespectCopyrights <http://www.respectcopyrights.org/>, and <http://uis.georgetown.edu/students/legaldownloads/>.

TECHNOLOGY-BASED DETERRENTS

Ringling College of Art and Design complies with the Digital Millennium Copyright Act and the Higher Education Opportunity Act (HEOA) and vigorously attempts to identify alleged copyright infringers. In addition, the Office of Institutional Technology has protocols that result in escalating access restrictions for alleged copyright infringers on the campus wireless network and the residence hall network, the two networks for which the majority of copyright infringement notices are received when the College is notified of such instances of infringements.

Ringling College has implemented technology based solutions to:

1. monitor bandwidth usage of user's of the campus network resources,
2. monitor network traffic to identify the largest bandwidth users via their assigned IP number,
3. electronically block violator's computers from the Internet,
4. accept and respond to DMCA notices in a timely fashion

PERIODIC REVIEW OF THE PLAN

The College shall review this Plan for Combating the Unauthorized Distribution of Copyrighted Material by Users of the Ringling College of Art and Design Data Network as necessary and appropriate given developments in technology, law, regulation and policy, but shall conduct a formal review of the Plan no less than every year. The review shall be led by the Office of Institutional Technology, Library, and Vice-President for Student Life and others as necessary.

ADDENDUM A : Annual Disclosure to Students

A memo to Students—Copyright and File Sharing

Ringling College of Art and Design does not monitor P2P activities on its Data Network. External entities that protect the rights of the record companies and owners, such as the Recording Industry Association of America (RIAA) and Motion Picture Association of America (MPAA), the Business Software Alliance (BSA), and the Entertainment Software Association (ESA) among others, monitor illegal downloading, copying or sharing of music, videos, commercial software and computer games using P2P programs across the Internet. When a copyright violation is discovered, copyright holders or their agents will report the alleged infringement to the Office of the President or the Office of Institutional Technology where the IP address is registered. Ringling College is required to respond to complaints from copyright holders, and entities representing copyright holders, regarding computers on campus that are illegally distributing copyrighted materials. Copyright holders or their agents will request that the Institutional Technology identify the owner of the device 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.

Penalties and Legal Actions

Penalties

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

1. Suspension from Ringling Data Network.
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 Student Affairs or by an employees' supervisor in accordance with HR policy and procedures.

Legal Actions

1. Lawsuits - In January 21, 2004 the RIAA sued 532 people for large-scale copyright infringement.
2. Focusing on Higher Education Students - September 30, 2004, the RIAA Brings Lawsuits Against 762 Illegal File Sharers.
3. 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.

Using P2P File Sharing on-campus

When using P2P file sharing programs, users should be aware of what they are downloading and sharing to avoid violating copyright laws, because even accidental violations can result in penalties. If you choose to use a P2P program regardless of the risks, please take the following steps to protect yourself:

1. Prior to installing P2P software, make sure it 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.
2. Turn off or disable the upload ability from your computer if you are not actively sharing documents. There may be an option in your software to "disable uploading to others", "disable file sharing" or reduce "upload rates" to zero.
3. Refrain from downloading files that are likely protected by the 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.
4. Disable your file sharing applications when you are not using them. This will limit the amount of bandwidth consumption on your computer.
5. Please contact Institutional Technology Help Desk if you need further assistance.

Recommended Practices

1. Disable the Simple File Sharing feature on Windows machines. You can do so, by clicking on Start→Control Panel →Folder Options →Tab View→ Uncheck "Use Simple File Sharing"→Apply→OK .
2. Install and update anti-virus and anti-spyware software frequently. Please visit Institutional Technology website on operating systems update instructions for Microsoft Windows and Mac OS X platforms.
3. Install and maintain your personal firewall updates.
4. Adhere to Ringling College of Art and Design's copyright policy and copyright violation guidelines.
5. For more information on how to disable file sharing on your computer, please visit the Institutional Technology Documentation page on File Sharing.

Addendum B: For Website

Information to Students Regarding Copyright and Technology Resources

It is the policy of Ringling College of Art and Design to comply with copyright and other intellectual property laws. As a network and Internet user, you must be aware of laws and policies concerning the use of copyrighted material, especially digital material – music, movies, software, etc.

Students agree to comply with Ringling's policies and procedures with respect to copyright, intellectual property, and use of technology resources when they enroll at the College. These may be found in the Student Handbook and include: Responsible Use of Electronic Communications Policy, Responsible Use of Information Technology Resources, Intellectual Property Ownership Policy, Ringling's Position on Sharing Utilities such as Morpheus and Napster Residential Data Network Connection Privilege Agreement, and Notebook Computer Information Grant of License.

Copyright exists in any original work which exists or is fixed in any tangible medium of expression. Images displayable on computer screens, computer software, music, books, magazines, scientific and other journals, photographs and articles are some of the things subject to copyright. A copyright notice is not required for the work to be protected.

As provided in 17 U.S.C. §§ 107 and 108, it is a violation of copyright law to copy, distribute, display, exhibit or perform copyrighted works without the authority of the owner of the copyright, except for those circumstances which meet the exemptions and exceptions as specified by law. For information about copyright law and various exceptions, see the website of the U.S. Copyright Office at www.copyright.gov, especially the FAQs. In short, copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner. In the file sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Legal penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

Institutional sanctions can include suspension of user's access to Ringling College networks and referral to the appropriate College administrative office for disciplinary action.

Legal alternatives to illegal downloading include licensed resources provided by Ringling College's Kimbrough Library and Office of Institutional Technology and other suggested resources listed at <http://www.ringling.edu/iso/compliance/heoa/>.

Office of Institutional Technology and Kimbrough Library