

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 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 2: Example of Preservation Notice E-mail. 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

2010 0924 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

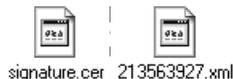


Exhibit 2: Example of Preservation Notice E-mail

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