

File Sharing: what you should know

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Over the past year, the recording, motion picture, and software industries have become increasingly aggressive in their campaign against peer-to-peer file sharing. The Recording Industry Association of America has filed lawsuits against some 26,000 alleged file sharers to date and is now targeting college students specifically. The Motion Picture Association of America has sued many thousands more – including at least one RISD student who allegedly had shared a single copy of a single movie. The Entertainment Software Association recently began a similar campaign of its own.

Most of these lawsuits are being settled, typically for payments in the range of \$3,000 to \$5,000 each, but the potential liability is significantly greater. Earlier this month, in the first of these lawsuits to go to trial, the RIAA won a judgment of \$222,000 against a woman who allegedly had shared just 24 songs – an astounding \$9,250 per song. And, arguably, even that was a “bargain.” Under applicable law, the amount of damages that can be awarded against an infringer can run as high as \$150,000 for each work infringed, and, in some circumstances, there can be criminal penalties as well.

The RIAA, MPAA, and ESA determine whom to sue by actively monitoring file-sharing networks and then issuing subpoenas to ISPs for the identities of the file sharers they find. RISD has not yet received such a subpoena, but it has received a number of infringement notices, which often are precursors to subpoenas and lawsuits, and would have no choice but to comply were it to receive one.

These tactics may seem misguided and heavy-handed, but the RIAA, MPAA, and ESA

are correct that most file sharing constitutes copyright infringement. While it generally is accepted that “space-shifting” – ripping an MP3 from a CD you already own for your own personal use on your own computer or MP3 player – is “fair use,” the courts have held that it is not legal to then share that MP3 indiscriminately over the Internet. The technology may make it easy for you to do so, you may not be charging anything, you may be “publicizing” the artist in the process, and the music, movie, and software industries’ business practices may themselves be worthy of debate, but none of those justifications is a viable defense to a copyright infringement suit under current law.

At an institution devoted to the creation of art, we should be especially mindful of these issues. Artists’ and designers’ livelihoods are dependent in large part on the creation of, and the respect of others for, intellectual property. Just as you wish to protect the economic value of your own copyrights, so, too, do the musicians, filmmakers, and other fellow artists whose work is being traded over the Internet without appropriate compensation.

In addition, illegal file sharing is also a violation of RISD’s computer use policy. While RISD does not actively monitor its networks, it will respond to violations that come to its attention, and repeat infringers will be deprived of further network access.

Additional information about these issues can be found at the following:

- [EFF: RIAA v. The People](#)
- [The RIAA’s Position on File Sharing](#)
- [The MPAA’s Position on File Sharing](#)