

February 8, 2011

A Letter to Students
Copyright and Computer Use at Claremont School of Theology

Dear Students,

Technology plays a major role in our lives, and we use it daily to enhance our academic pursuits. However, these benefits also come with critical challenges and risks. To this end, I need to bring to your attention some very important information and to make you aware of new government regulations that are critical for your success as a student. My office is here to support your success as a member of the Claremont community, and to make sure that you are fully informed of key legal issues regarding the downloading and sharing of electronic files.

This letter contains important information regarding the lawful use of copyrighted materials on Claremont's network and the consequences of unauthorized downloading and sharing of movies, music, and other copyrighted materials. New federal regulations require that Claremont School of Theology communicate this information to each student every year. **I encourage you to read this letter carefully and to print it out for future reference.** Though this document does not convey all the details of the vast body of copyright law, it will give you the most important information you will need to avoid possible legal action. Over the past few years, major companies in the entertainment industry have brought successful lawsuits against students at other universities, forcing students to pay thousands of dollars in settlements for unauthorized downloading and or sharing of music and movie files through peer-to-peer (P2P) networks. We want your computing experience at Claremont to be happy and free from legal complications, so I hope that you will find this information helpful.

What is Copyright?

Copyright is a special protection for original works of authorship that exist in a fixed, tangible form, whether published or unpublished, whether in print form or digital form and including songs, movies, videos, games, software, books, journals, etc. The U.S. Copyright Act gives the copyright owners – and only the copyright owners – special rights (such as the right to make or distribute copies). Unauthorized copying or unauthorized distribution of copyrighted material is a violation of the U.S. Copyright Act. It is Claremont's policy to uphold this law and to require all faculty, students and staff to honor copyright and to refrain from copying and distributing copyrighted works, especially through peer-to-peer networks, without permission from the copyright owners.

There are exceptions to the law, such as the principle of "fair use," which permit a limited amount of copying in some teaching and research contexts, but only if specific criteria

are met. For more information, see the U.S Copyright Office's *Factsheet on Fair Use*: <http://www.copyright.gov/fls/fl102.html>

What is Copyright Infringement?

Copyright infringement occurs when a person makes a copy of a copyrighted work (such as a movie, song, software, book, cartoon, game, picture, journal, etc.) without the permission of the copyright holder and without qualifying for the exceptions to copyright, such as "fair use."

Copyright infringement also occurs when a person uploads, distributes, or shares a copy of a copyrighted work across a computer network, such as a peer-to-peer file sharing network.

What Are the Risks of Illegal Copy and Illegal File Sharing?

The consequences are very serious, because illegal copying and file sharing is taken very seriously by U.S. federal law, the recording industry, and the motion picture industry. 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. 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.

What is Wrong with Peer-to-Peer (P2) File Sharing?

Peer-to-peer (P2P) technology is a legal, useful tool, but, like all tools, it can be used in illegal ways. P2P file sharing is a way of sharing computer files directly between various networked users, without the assistance of a central server. Because this is a decentralized method, users can share files with each other without the mediation, or interference, of centralized control. There is nothing inherently wrong with P2P protocols, but in the past several years, this form of file sharing has often been used in ways that can violate the rights of copyright holders.

Here are some examples of how illegal P2P file sharing might occur.

- 1) A person makes or acquires an unauthorized copy of a copyrighted work and knowingly shares this file across a network, making this illegal copy available to others. This represents a willful and unauthorized sharing of copyrighted material, and may subject the person to civil or criminal penalties.
- 2) A person purchases a music CD, which is a legal transaction, but copies this music on his or her computer and then uses the P2P network to share this music

- with others. Allowing others to download copies of this work infringes the rights of the copyright owner. The purchased copy is legal, but the shared and downloaded copies are illegal.
- 3) A person installs a P2P program on a computer, with the settings calibrated (a) to index the files on his or her computer and (b) to make these files—even those legally obtained—available to others. Even if the person is unaware that the computer is sharing works across a network, the person may be held responsible for any illegal downloads that might occur.

In each of these examples, both those who share files, and those who make copies of these files, may be violating federal copyright law. Therefore, all users who make use of P2P protocols must exercise caution, and avoid any unauthorized downloads or sharing of materials protected by copyright. We strongly recommend that you disable the file sharing function of your P2P program. Please see the techniques for disabling P2P file sharing that are explained on the University of Chicago website (<http://itservices.uchicago.edu/groups/security/guidelines/>).

How is Copyright Infringement Detected on Networks?

Entertainment industry organizations, such as the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) monitor P2P networks and capture information about the specific computers that are uploading, sharing, or downloading copyrighted content. This information includes the IP address of offending computers, the date and time of these transactions, and the file names. Having this information, the copyright owners notify the institution, demanding that action be taken against the students who own the offending computers. In some cases, the copyright owner may take more severe action, such as filing lawsuits and issuing subpoenas regarding computer users.

How Does Claremont Respond to Notices of Copyright Infringement?

It is Claremont's policy to honor copyright and to comply with the U.S. copyright law. When Claremont receives notification that an alleged copyright infringement has occurred on its network, the School will respond quickly by contacting the network user, and taking steps to remove or disable access to the material. In some cases the School may take further disciplinary action against the individual.

How Can I Download Legally?

There are many sources for downloading music, movies, books and other content, legally. Educause maintains a comprehensive list of *Legal Sources for Downloading* (<http://www.educause.edu/legalcontent>), and the Association of American Publishers provides a list of *Sources for Legally-Available Digital Versions of Textbooks and other Written Works*

http://publishers.org/main/AboutAAP/DivisionsCommittees/about_Comm_Roster_OnlinePiracy.htm).

Please remember that when you acquire content legally, you must make an effort to understand the license or terms that came with your content. For example, if you purchased and downloaded music online, the licensing agreement will define the legal permissions and restrictions that came with your product.

In summary, we want you enjoy all of the resources that Claremont has to offer, but we encourage you to use these resources safely and legally. Please let me know if you have any questions about the issues discussed in this letter. You have my very good wishes for a successful and problem-free academic year.

Sincerely,

Lynn O'Leary Archer
Vice President for Administration and Finance/CFO
Chief Information Officer
Claremont School of Theology