

AULTMAN COLLEGE OF NURSING AND HEALTH SCIENCES

Copyright and Peer-to-Peer (P2P) File Sharing Infringement: Most Frequently Asked Questions

Are you vulnerable?

1. What is the copyright issue?

Under copyright law, it is illegal to download or share copyrighted materials without the permission of the copyright owner.

2. What is considered to be copyright material?

Copyrighted materials vary and include, but not limited to, written works such as books and papers, music, movies, television shows, pictures, and computer software.

3. What is Peer-to-Peer (P2P) File-Sharing?

File sharing is the process of exchanging files over the Intranet (e.g. music, games, or software, etc.). File-sharing can offer people access to a wealth of information by simply downloading special software that connects one's computer to an informal network of other computers running the same software. The software is often free and easily accessible and millions of users can be connected to each other through this software.

4. How does copyright law work?

Original expressions of work and ideas are copyrights for a certain period of time (generally the lifetime of the individual plus 70 years), including such mundane works as the papers written for class. Copyrighted materials are everywhere: books, magazines, songs, movies, TV shows, photographs, software, plays, and Websites that are subject to copyright protection. Today, copyright applies automatically to works upon creation, and it is not necessary to be afforded copyright protection.

The copyright of a work gives the owner (author, holder) a limited monopoly on reproduction, distribution, and display of that work. When a person buys or is given a copyrighted work, it is for a limited use of the material; not the right to distribute it. One has the right to read books, listen to CDs, and watch movies, and even lend the original to a friend; but a person cannot give a copy to friends or allow the work to be shared on a P2P system without permission (and generally payment to) the copyright holder.

It is NOT OK to download copyrighted songs, movies, books, or images for individual personal enjoyment without paying for them (unless you have permission from the copyright owner).

5. Are academic settings compelled to comply with copyright and P2P file sharing laws?

Yes, academic settings must follow the law and must disclose to students and employees the policies of the institution related to such.

There are certain limitations to copyright, most notably "fair use," which allows a person to use a small portion of a work in an academic setting. It is legal to quote a copyrighted work in a paper, assuming credit is given to the source. Fair use of copyrighted material requires that the source of the material be legitimate. In a class presentation an excerpt from a TV show can be shown on a legal DVD, or even if it was taped when it aired. A person cannot, however, legally show the exact same excerpt from a pirated DVD, or a video file downloaded off the Internet without permission.

6. What is the risk of violation of the Copyright Law and Peer-to-Peer File Sharing?

File-sharing can have a number of risks. When connected to file-sharing programs, one may unknowingly allow others to copy private files never intended to share. A person may download material that is protected by copyright laws and find immersed in a myriad of legal issues. A person's actions when downloading or sharing files are traceable that could result in civil and criminal charges and a significant financial penalty.

7. What are my obligations under the law and what are the legal risks?

Essentially, the law stipulates that one cannot have anything on one's computer that is not owned by the individual. More importantly, one cannot share any file to which one does not have the legal rights. Currently, copyright violations can result in civil penalties of up to \$150,000 per violation. Theoretically, if you send 10 people a copy of a song illegally downloaded, one might be facing statutory damages of \$1.5 million dollars. In addition to civil liability, there is potential criminal liability in copyright cases-- with penalties depending on the number and value of products exchanged.

Downloading (taking) and uploading (sharing) content are both fraught with risk. You might ask, "what is the harm as one can record it on a VCR or DVR?" For better or worse, the "harm" question is not really the downloader's question to ask. Copyright owners get to call the shots about whether their material is shared online, and the downloader is left to bear the responsibility for not respecting the copyright owners' decisions.

8. How do other schools handle this problem?

Colleges and universities across the country have adopted a variety of policies and practices when handling copyright violation complaints to comply with the Higher Education Opportunity Act and laws regulating copyright and file sharing. Some schools exercise little to no restriction on file-sharing while others have opted to prevent file-sharing altogether.

Resources:

U. S. Copyright Law

Higher Education Opportunity Act (H.R. 4137)

American Council on Education – a Memorandum sent August 11, 2008