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A Student-Life Approach to Copyright Infringement at UCLA

Mr. Chairman and Members of the Committee, I appreciate this opportunity to appear before the subcommittee today. When I spoke before this panel in 2004, I emphasized how seriously the University of California and UCLA take illegal file sharing and copyright infringement. As creators of intellectual property ourselves, we remain as concerned as ever about this issue. Copyright infringement, whether of software, books, journals or entertainment media, is a problem that we cannot and do not ignore. The question we continue to face is how to best address copyright infringement and digital piracy by college students.

As an institution of higher education, several values are particularly important to us. Because academic freedom is partly dependent on privacy, by University of California presidential policy we do not monitor electronic communications. We are equally committed to our obligation to help prepare our students for their lives beyond their years here and to encourage the core values and ethics that will help them to be successful and responsible contributors to society. As such, our efforts in tackling the problem of digital piracy in our campus community are focused both on sustainable shifts in behavior and on addressing the immediacy of the issue.

Besides adhering to our responsibilities as a university, we believe this emphasis on student life will have benefit to a broader community. We continue to see little digital piracy using the on-campus resources depended on by our 60,000 students, faculty and staff – whether they be computer laboratories, library facilities or networks. Rather, most of the claims of infringement sent to UCLA are directed to the residential halls, where approximately 12,000 students live. Thus, claims of piracy on university resources are concentrated in only about 20% of the UCLA community; this is true across the University of California system as well, with between 20 – 25% of campus communities using network resources involved in piracy claims. Far more UC students live off-campus, making them part of the great majority of students who use commercial Internet Service Providers to access information and services outside the University's purview. Hence, our efforts to affect behavior and to instill important core values and ethics in all of our students has the potential of a broader impact on the piracy problem than simply focusing on a technological fix for a small population in our campus environment, a population that is very small compared to that of commercial service providers.

To be sure, we wish to address digital piracy on our campus. In 2004, I talked about the "teachable moment": taking a claim of infringement and turning it into an opportunity for affecting student behavior. It is in this regard that I am pleased to be here this afternoon. The University of California as a 10-campus system has been collectively building on the experiences of each of its campuses. Today, I am focusing on UCLA's student life emphasis in addressing illegal file sharing.

Based on our three years of experience, I would also like to reaffirm that driving this effort as a student-life issue rather than a technical issue is key. In 2004, I spoke of UCLA's three-faceted strategy for addressing illegal file sharing, all toward the goal of shifting student behavior: the Quarantine, which uses automated technology to quickly route an allegation of copyright infringement so that it can be handled as a campus judicial matter, with the "first offense" treated as a teachable moment; a proactive push to offer legal online entertainment services; and an integrated educational campaign.

UCLA's Student Affairs organization has taken the lead in pulling these three facets together and integrating them into its existing programs to imbue our students with a strong sense of ethical character, whether in the classroom or in a meeting with the Dean of Students. While taking the lead on this issue, Student Affairs has worked closely with information technology leaders to build effective and efficient processes, and with legal counsel to ensure compliance with the law.

The UCLA Quarantine process and the teachable moment

The reactive, enforcement part of our strategy for illegal file sharing remains the Quarantine process, which marries full DMCA compliance with our campus judicial process to create a teachable moment. When a copyright infringement notification is received, the offending computer is quickly identified and put into quarantine: that is, file sharing is effectively blocked internally and externally. However, access to on-campus student services such as library resources and registration is maintained, recognizing that an individual needs to continue to function in his or her educational capacity even as due process occurs. The

automation involved in routing a claim of infringement to the residential halls and putting the proper computer into quarantine means that we can direct human effort where it is most needed: due process and education. Though this automation is not perfect and sometimes requires manual intervention, much is now automated and we continue to tune our algorithms to confidently increase the number of machine-handled cases.

We believe one of the best metrics for gauging the success of our strategy is the rate of repeat offenses. Since 2004, we have received a total of 813 infringement notifications for our residential campus population. Overall, only 9% have proven to be second-time offenders. On a year-to-year basis the percentage of second-time offenders has remained relatively constant. In some cases, we observed absolute claim figures increasing, but feel this may be misleading. For example, we believe a substantial increase in graduate student housing since 2004 (44%) can more than account for the rise in the number of first-time claims for graduate students. (Also, though we cannot draw any conclusions, during this same period, the proportion of RIAA notifications representing first time offenses has decreased – falling from 17% to 13% between 2004 and 2006 – while claims related to video and TV media have increased. Anecdotally, we do see students surprised to discover that television programs, for example, cannot be shared legally, though they understand that music sharing is illegal.)

Such analyses, and our extensive interviews for both first- and second-offense cases, have provided us with valuable input that we are using to improve the effectiveness of our judicial responses. For example, we have found that more than 60% of those identified in a second claim of file sharing did not understand that the software was still running or how to completely disengage it, one of many findings that dispel the common perception that students are technologically savvy (rather, they are technologically *comfortable*).

Based on what we see, we are adjusting the process for first-time offenders to strengthen the educational component and even more clearly define what constitutes infringement. Later this year, we expect that those involved in a first-time situation will be directed to a Web site where they will view a short video developed by the University of Richmond Law School (<http://law.richmond.edu/ipi/whatdoyouthink.htm>) and then required to answer a series of questions culled from the content. Upon submitting correct answers, these students will be directed to a UCLA website that provides both an overview and explicitly states what is at stake in repeating the act of illegal file sharing. These students will then be required to acknowledge that they have completed the review and to reaffirm their personal responsibility in using campus computing services.

For the second-time offender, we have also strengthened the educational component: they are required to attend an ethical decision-making workshop and write a five-page paper covering any misunderstandings they have had regarding what file sharing behaviors are acceptable. There are also practical aids we provide: a mandatory technical evaluation of their computers to verify that the offending materials, along with all file-sharing software, are removed; and a list of all multimedia files on their computers so that they can evaluate whether they are at risk. Finally, there is a sanctioning component, where such repeat offenders are generally put on one year's disciplinary probation, with further offenses resulting in suspension. We note that for our student population the possibility of not graduating, or of being rejected by a graduate or professional school because of a sullied academic record from illegal file sharing, causes significantly greater anxiety than the threat of paying fines. This integrated series of requirements has proven effective, as we have had only two repeat offenders who committed further offenses, both of whom were suspended from the University for at least one academic quarter.

We are looking at infringement cases in a more holistic sense judicially as well. A student may demonstrate patterns of behavior that indicate a need for help, and treating illegal file sharing as a separate issue is not always in the best interests of these students. By reviewing their behaviors holistically, we can help them identify underlying causes so they can make changes and continue to thrive academically.

Promoting legal alternatives to file sharing

We believe legal alternatives are an integral piece of the effort to combat digital piracy. To bolster student appreciation for and use of legitimate sources of copyrighted material, UCLA has been part of a UC-CSU consortium to contract services from digital entertainment providers; we have contracted with CDigix, iTunes and Mindawn. Our consortium, with its combined student base across the University of California and California State University systems, is in talks with additional vendors as the landscape changes and new legal services that appeal to our students become available.

At UCLA we market our legal services mix within an outreach campaign entitled "Get Legal," which currently has 20% participation from a resident campus base of 12,000. We see "Get Legal" as a limited success story: successful in that our subscriber base is among the larger but limited with respect to overall percentage of registered students. The participation rate is particularly disappointing considering the local marketing effort put forth, which includes: resident hall signage and handouts, presentations at student government councils and at information and technology service fairs, quarterly advertisements in the student newspaper, highlighted presence on campus portal Web sites, and promotion by the Dean of Students Office at new-student orientation sessions. The "Get Legal" campaign also maintains a visible and high-level presence online, with a campus Web site (<http://www.getlegal.ucla.edu>) to assist students interested in subscribing, purchasing, troubleshooting and obtaining account assistance.

Though an important component of our three-faceted strategy, it is clear that these online digital entertainment services remain problematic. First and foremost is the incompatibility with iPods (despite local marketing efforts, no UCLA student has signed up for the contracted "CTRAX To Go" portable player music service because of this incompatibility). However, our students also perceive these legal services to

be limited in content, dependent on specific vendors or operating systems, and/or providing an uneven user experience. Generally, digital rights management means downloads are often unusable or non-transferable onto the vast majority of students' portable players.

Students are also significantly confused by legal nuance. For example, they have asked why they cannot acquire a television program through P2P methods 12 hours after the program aired, when they can legally record the program as it airs or watch it for free while it is streaming from the broadcaster's Web site later that night. Or why, if a song is not available domestically through a legal service, it is not okay to acquire it through P2P (this has arisen from some of our foreign students). They also wonder why they have more rights with a purchased CD that can then be copied, sold or given away than a track or album purchased through a legal music service, and why downloads purchased online cost as much as or more than their equivalents in bricks-and-mortar venues, which they perceive as having significantly higher real costs, such as packaging and store overhead.

Such concerns are not trivial to students. As creators of intellectual property ourselves, we understand the complexity in business models, particularly in a nascent area. But we also feel there are not good answers to give, because the business models are not yet viable. Until that changes, promoting legal services – while a critical component in moving forward on the piracy issue – will on its own result in only modest changes.

Education and awareness

At an institution where the currency is education, we strongly believe that informing students through education and awareness campaigns is the best way to make a sustainable impact on the issue of piracy.

This education takes many forms in addition to those I have described. Student Affairs conducts workshops on copyright and ethics, meets with student leaders and student government councils about the consequences of illegal file sharing, and conducts open forums to discuss copyright and the state of entertainment in the digital age. Multiday orientation sessions for newly arrived students include Q&As with the Dean of Students on intellectual property theft. Anti-piracy flyers are posted within the residence halls and official communiqués are sent to the student body: Digital piracy is a violation of the student conduct code: The University will discipline regardless of external legal proceedings or financial settlement. It is made clear that the University is not a safe harbor, and that we are powerless to assist students should lawsuits ensue. In fact, our entire education and awareness program is aimed at preventing a student from ever getting to that point.

Though these individual activities are important, we see even more fundamentally the strength of weaving the piracy issue into larger campus initiatives about core values and ethics... in other words, into the student-life experience.

All of these efforts, both individual and integral, generate discussions that are instructive, helping us both to fine-tune and give guidance to our outreach programs and practices. (For example, though we have a vast range of outreach initiatives for undergraduates, we had not previously focused on education of graduate students – something our increased graduate housing has brought to our attention.) We feel we have considerable room to grow in this area. A program used across the nation, dubbed "Alcohol Edu," seeks to educate freshmen about the risks related to drinking and may provide ideas for a similar model.

The ethical student

The development of our students is a concern of the entire University. Though affecting behavior requires a substantial investment of time and effort, we believe part of the institution's mission is to help prepare our students for their lives beyond our doors, and that this is a worthwhile investment. That is why we feel it so important that this be driven as a student-life issue rather than a technology issue. A purely short-term, defensive or technological solution does not afford any opportunity for a teachable moment, or for what we consider to be the greater possibility of sustainable changes in behavior. Our mission is not shared by organizations outside of the educational realm, so we recognize that short-term measures may be appropriate in other circumstances, particularly when the piracy problem is largely beyond the purview of educational institutions. But at UCLA, we are encouraged by what we have seen and continue to be enthusiastic about the student life focus.