May 31, 2007

The Honorable Lamar Smith
The Honorable George Miller
The Honorable Howard McKeon
The Honorable Howard Berman
The Honorable Howard Coble
c/o House Judiciary Committee Subcommittee on Courts, the Internet and Intellectual Property
B-352 Rayburn Building
Washington, DC 20515

Dear Members of Congress:

On behalf of University of Michigan President Mary Sue Coleman, I am responding to your letter to her dated May 1st regarding unlawful downloading of copyrighted works on our campus.

Let me begin by stating clearly and concisely – the University of Michigan does not condone unlawful copyright infringement of any kind by our students, faculty or staff. We have a long record of educating and enforcing the law on this subject and are pleased to participate in this survey of what we do to address this issue. Indeed, the University of Michigan was cited by the Recording Industry Association of America just a few years ago as doing a good job with its educational programs.

Attached to this letter is a narrative response that answers the many questions in your survey. We provided as much material as possible to show how we deal in a proactive way with this issue on our campus.

In reviewing our responses, I would ask that you also keep the following points in mind:

- Unlawful peer-to-peer file sharing and other types of copyright infringement are a problem of our times, and postsecondary institutions share the same challenges as others do in addressing the toddler years of the digital era.

- While we may have users who engage in unlawful behavior, this does not make the institution an offender. In fact, the efforts most postsecondary institutions engage in to discourage and prohibit copyright infringement exceed those of most other Internet Service Providers, including the largest ISPs in the nation.
The statistics we use to catalogue copyright infringement need to be consistent. For instance, your letter references data from the MPAA that it issued 740 DMCA infringement notices during a period in 2006; in fact, we did not even receive 740 notices TOTAL during that period—a fact which we apprised the MPAA of prior to the time they released their data. We understand that there are people who misuse our networks, but basing a solution in the facts, rather than distorted implications, will further our common goal of thwarting unlawful copyright infringement. As of last week, the MPAA has begun answering our requests to work cooperatively. In a telephone conversation, MPAA indicated that their numbers relate to individual copyrighted works, not infringers. Similarly, we have not been able to corroborate the numbers that RIAA used to come up with their “Top Ten” lists of offending universities. We also are still trying to verify a number of the claims cited in the cover letter. While any and all such unlawful downloading is problematic, we believe the process by which these numbers are generated needs to be much more transparent.

The problem of unlawful downloading of music, videos and other material begins long before students arrive on any college campus. Indeed, each year we take on the responsibility to educate our incoming class of freshmen about lawful uses of our network. In most cases, few if any of those incoming students have ever had any sort of education about copyright—either from their junior high or high school or from their family’s personal Internet Service Provider. If this issue is to be seriously addressed, that educational process cannot wait until students reach college.

While unlawful file sharing on college campuses is a reality, the vast majority of Americans using the Internet (including many college students) do so outside of university networks. Indeed, RIAA’s own figures say that 74% of unlawful downloads occur on networks other than those operated by colleges and universities (though, we have been unable to substantiate these statistics). We respectfully suggest that similar scrutiny be applied to major ISPs such as telephone companies and cable companies, given the much greater numbers of Internet users. Indeed, were the same level of activity focused on those providers, we might be on our way toward addressing the previous point regarding educating young people about copyright.

We agree that technology could be the ultimate solution to this problem. However, despite various claims from numerous vendors, we are not aware of any network software that works on all university networks that would allow a university to screen out illegitimate uses of file-sharing, while protecting legitimate ones and maintaining privacy rights. We understand that a joint higher ed/copyright community effort is underway to create such software, and we eagerly await the results of their work.

The University of Michigan has taken a proactive stance on this issue and will continue to do so. We believe in the principles underlying copyright, in educating our students about how to be productive, law-abiding contributors to society, and in the proper enforcement of the law. We look forward to continuing a dialogue with you and other members of
Congress on this issue, but more importantly we intend to continue to work diligently with the entertainment community to find new ways to address this issue.

We appreciate the opportunity to respond to your concerns.

Sincerely,

[Signature]

John L. King
Vice Provost for Academic Information

Attachments