

# Piracy on campuses

## Opportunity not problem

by Donna L. Ferullo

The standoff between higher education and the entertainment industry over the approach to reducing piracy of copyrighted materials on college campuses appears to be like high noon in the Old West. It is show-down time, folks. Who is going to draw first? Who will still be standing after the shots are fired and the smoke clears?

The Recording Industry Association of America (RIAA) has clearly ratcheted up its anti-piracy campaign and its demands that universities contain or, better yet, eliminate the piracy on their campuses. RIAA also took it a step further than sending out the traditional cease and desist letters by suing four college students for copyright infringement. The students who had been downloading online music and sharing the files with their peers settled out of court in May 2003 and agreed to pay the recording industry between \$12,000 to \$17,000 over the next three years for their infractions.

In August 2003, RIAA announced that they would be going full speed ahead in pursuing alleged copyright infringers, and they did just that. In early September, RIAA filed lawsuits against 261 people, including a 12-year-old and a 66-year-old retired school teacher for copyright infringement via peer-to-peer (P2P) file-sharing. Certainly, not all cases of P2P file-sharing are illegal on college campuses if the use is covered under the exemptions to the copyright law. However, the recording industry is not making any such distinction and claims that the suits are more about getting

the message across to students that piracy or copyright infringement is illegal rather than trying to recover monetary damages. However, in the cases where piracy occurs, RIAA's message is real but the intent is skewed and the energies and resources of all parties are wasted traveling down that road. There needs to be a real resolution to the problem.

Threats, intimidation, and law suits accomplish very little and only expand the schism between the parties. The piracy issue should not be viewed as a problem but as an opportunity. It is an opportunity for both universities and the entertainment industry to each gain something of value and move forward with their missions.

The technology that allows for downloading and sharing online music and digital movies is not going to disappear. Technological innovations are encouraged in most sectors, and in the entertainment industry as well, as long as that technology is not used to circumvent the system. The entertainment industry needs to re-evaluate and restructure its approach to the use of such technology so that it is a win-win situation for all concerned.

### A solution

There is no doubt that the issues are complex but there is a solution to the problem. I propose that the recording industry and the motion picture industry embrace the publisher's model of doing business. The entertainment industry should compile digital databases of all their products and license them to the higher education community, similar to licenses of-

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ferred by publishers of textual information. The databases would contain all types of music and movies which could be accessed and used in a variety of ways.

Entertainment industry executives need to cease their adversarial relationship with universities and instead collaborate with them to develop a business model that would allow for downloading online music, movies, and file sharing. The current business models that have been used by the entertainment industry in the past are not working.

New pricing models for the distribution of online music by Apple and AOL, which have been endorsed by the recording industry, are not practical or feasible for educational institutions. For example, the cost should be calculated per database not per song and it should be an annual charge not a monthly service fee. The license would contain the parameters for use of the materials, which would be appropriate for a university.

Many students can not differentiate between the information that is purchased/licensed by libraries and universities and provided to them via a controlled access Web site and what they obtain through the Internet. The goal of libraries has been to provide seamless access to information and have that information available anywhere and at anytime. It is no wonder that many students believe that downloading a song or video from the Web is comparable to downloading a journal article from the university's or library's restricted access Web site. To many students there is no difference because in either case they are able to access the information that they need.

Technologically, many universities and colleges are on the cutting edge and not only expect but require their faculty and students to use such technology in creative ways. Research depends upon pushing beyond the bounds of reason to discover and create new inventions and works. Faculty encourage students to shed the constraints of traditional thinking and think outside the box. However, in order to do that, one must incorporate all types of resources into a project.

On today's campuses, multimedia assignments are not the exception but the norm. However, much of the access to different types of media is either nonexistent or so restrictive that in many cases the material cannot be used. Access to music, images, and text should

be equal and should be available in a digital format.

Some naysayers might argue that members of a university community might use such a database for entertainment rather than educational purposes. However, who is to say that the purpose might not be one and the same and does it really matter? In a traditional library, do we question whether someone is reading a book or a journal for educational purposes or for the pure enjoyment of it? Why should the use of digital materials—be they music, movies, or books—be any different? Content is content regardless of what form it takes.

Copyright issues will always be a concern no matter what the medium or the terms of a license agreement. There will always be discussions as to whether a use is fair under the copyright law or whether another copyright exemption is applicable in any given situation. Those discussions need to take place.

### **Copyright education**

Copyright education on campuses is also crucial and is legally mandated by several recent amendments to the copyright law. This proposal in no way negates a university's legal, moral, and ethical responsibilities to their communities to comply with the copyright law and to actively promote and encourage the use of exemptions provided under the law.

By passing the Technology, Education, and Copyright Harmonization Act (TEACH) of 2002, which totally rewrites the distance education exemption of the copyright law, Congress explicitly recognized that the use of digital works in education is a necessary and integral part of the teaching and learning experience. It is incumbent upon the entertainment industry to recognize the differences between the educational community and the general public. Such recognition would benefit all the players.

Creating a digital database of music and movies that is accessible to the educational community in a variety of different ways and under a totally restructured business model would undoubtedly facilitate the reduction of piracy on campuses. It would also allow both the entertainment industry and universities to halt this unending game of chess and move forward in encouraging and promoting the invention and use of creative works, which is what copyright is all about. ■