

AUG 22 2005



American Council on Education
Office of the President

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August 16, 2005

Gene Awakuni
Chancellor
University of Hawaii at West Oahu
96-129 Ala Ike
Pearl City HI 96782

Dear Chancellor Awakuni:

As you know, the unauthorized use of copyrighted material – particularly the exchange of such material via the Internet – continues to receive widespread attention by policy makers and the news media. In light of this on-going discussion, I commend the attached message on the subject of illegal file sharing of copyrighted works on college campuses from Penn State University President Graham Spanier and Recording Industry Association of America President Cary Sherman.

Since 2002, the Joint Committee of the Higher Education and Entertainment Communities, which they co-chair, has diligently communicated with leaders in higher education about the seriousness and scope of copyright infringement on college campuses and offered constructive recommendations for resolving the problem. ACE has been encouraging and supportive of those efforts.

The teaching of ethics and values to students is a reiterative process. The coming academic year will undoubtedly present continuing challenges with respect to the protection of copyrighted movies and music in the campus environment.

I trust you will find the attached statement helpful, and appreciate the efforts of both Graham Spanier and Cary Sherman to bring it forward for your consideration. We share this with you to again demonstrate our commitment to supporting colleges and universities in your efforts to serve students and society.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David Ward', written in a cursive style.

David Ward
President

DW/wt



August 16, 2005

Gene Awakuni
Chancellor
University of Hawaii at West Oahu
96-129 Ala Ike
Pearl City HI 96782

Dear Chancellor Awakuni:

As the new school year approaches, there is a new level of clarity concerning piracy on file-sharing networks.

In June, the Supreme Court handed down its decision in the case of *MGM Studios Inc. v. Grokster Ltd.*, finding that file-sharing companies and others who intentionally encourage or induce copyright infringement by third parties can be liable for infringement themselves. While any specific ramifications for universities are yet to be determined, the underlying message is straightforward: stealing intellectual property is wrong. This new school year provides an extraordinary opportunity to reaffirm this message for our students. The rare occurrence of a unanimous Court decision in *Grokster* gives weight to ongoing efforts to address the rampant piracy present at our nation's colleges and universities.

The education and entertainment communities have worked hard to find solutions to protecting and valuing copyrighted works while respecting and maintaining other fundamental values within the academic environment. We certainly have seen some positive results since the Committee of the Higher Education and the Entertainment Communities, which we co-chair, began its work in December of 2002. But massive illegal file-sharing, what Justice Breyer equated to "garden-variety theft," nevertheless remains a serious problem on college and university networks.

Many students arrive on campus eager to use the high-speed connections to pirate songs, movies, games, and other creative content. The flood of these illegal files typically uses a significant portion of the available bandwidth intended for academic purposes. Further, these files threaten the security and stability of a school's computing infrastructure by potentially introducing malicious viruses, worms, and Trojan horses. The continuing presence of illegal file-sharing on campus has been further brought to light by the music and film industries, which have stepped up their widely publicized litigation efforts, bringing lawsuits to school campuses where students are made directly aware of the consequences of illegal behavior.

Clearly, illegal file-sharing has immediate repercussions for both schools and their students. But failing appropriately to address such activity may have even more far-reaching effects. In the words of the Supreme Court, "the ease of copying songs or movies using software like Grokster's...is fostering disdain for copyright protection."

This is unacceptable in any instance, but should be particularly disturbing at institutions of higher education, where creators and inventors thrive. A recent letter to schools from the Association of Governing Boards of Universities and Colleges further clarifies this point, stating that, "promotion and compliance [of copyright law by schools] is a matter of self-interest—to preserve their credibility in protecting their own intellectual property." To value an institution's own contributions to society, it is necessary to foster an environment that respects *all* creative work.

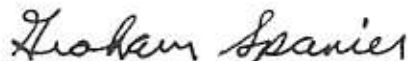
Although challenges clearly remain, the past year has seen remarkable progress in addressing the issue of piracy on campus. More than 50 schools across the country have adopted legitimate online services such as Napster, Cdigix, Ruckus, Rhapsody, and iTunes, to enable their students to acquire music and movies legally. In addition to basic bandwidth shaping, many schools have also implemented anti-piracy filtering technology to limit the inappropriate use of their networks and to allow legitimate online services to succeed. Educational programs, campaigns, and communications are growing. Acceptable use policies are now common, stating the proper use of school resources and outlining the penalties for noncompliance.

The decision in *Grokster* can be a catalyst for renewed attention by schools. Specifically, we suggest that you consider the following:

- Inform students of their moral and legal responsibilities to respect the rights of copyright owners
- Specify what practices are, and are not, acceptable on your school's network
- Impose effective remedies against violators of your policies and the law
- Determine whether your school is hosting an internal file-sharing system on your Local Area Network (LAN), allowing students to illegally trade files without accessing the public Internet
- Implement anti-piracy hardware, software, or other means to prevent piracy
- Adopt a legitimate service to offer students an alternative to stealing.

We look forward to the new school year and the opportunity to engage university leaders in further discussion on copyright policies and initiatives. This issue was important enough to reach the highest court in the land; the message was clear enough to receive a unanimous decision. The promotion of theft, even in the digital age, should not be tolerated. A new generation of young adults looks to all of us for guidance. We stand ready to assist in any way.

Sincerely,



Graham B. Spanier
President
The Pennsylvania State University



Cary H. Sherman
President
Recording Industry Association of America