

CARY H. SHERMAN  
PRESIDENTVIA FEDERAL EXPRESS

April 3, 2003

Graham B. Spanier  
President  
The Pennsylvania State University  
0201 Old Main  
University Park, PA 16802

Dear Graham:

I am writing to you in your capacity as Chairman of the Joint Committee of the Higher Education and Entertainment Communities, to let you know that we have today filed lawsuits against four university network users for violation of federal copyright law. These university network users, who are students at Rensselaer Polytechnic Institute, Princeton University, and Michigan Technological University, each operate Napster-like systems on their university's campus network and are collectively responsible for the illegal distribution of millions of copyrighted songs.

We have contacted each of these universities directly to let them know why we have felt compelled to file these actions against their students. And I am writing to you to make clear that our actions against these egregious infringers should in no way interfere with the ongoing and important efforts of the Joint Committee, as explained more fully below.

\* \* \*

Let me remind you of the problem as we see it: Last October, the RIAA (along with the Motion Picture Association of America, the National Music Publishers Association, and the Songwriters Guild of America) sent a letter to over 2,300 university and college presidents to make them aware of, and ask for their help in stopping, widespread copyright infringement on P2P systems at universities. Since that letter was sent on October 3, 2002, we've seen the problem of university and college P2P piracy literally double in size. As of today, at any given moment, approximately 165 million files on the FastTrack Network (Kazaa, Grokster, and iMesh) are being offered from U.S.-based university and college networks. This means that U.S. universities and colleges have become hubs of massive international copyright piracy – indirectly and unwittingly furthering the profits of companies such as Kazaa.

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Quite apart from the increasing use of university networks for international distribution of copyrighted material, there is yet another trend that is very disturbing – an increasing number of students setting up and operating Napster-like systems on campus networks. (As you may remember, we have previously brought this issue to the attention of the Joint Committee.) It is this specific problem that these lawsuits are intended to address. The students named in these actions operate “local area Napster networks” and are responsible for massive copyright infringement. They have taken a network created for educational purposes and converted it into a convenient mechanism for music piracy, where copyright infringement is as simple as clicking a computer mouse. We filed these lawsuits to make clear to everyone that such conduct is blatantly illegal and can result in serious consequences.

This trend of students setting up Napster-like networks on campus may well be due to the increasing use of P2P applications and the associated strain on Internet bandwidth (see attached chart showing bandwidth attributable to Kazaa use on Cornell University’s network). As Internet bandwidth becomes increasingly congested and slows to a crawl, students are likely to turn to on-campus systems instead. Because of the high speed of local area network connections and the wide availability of copyrighted works, these local Napster-like networks provide an efficient means to illegally copy and distribute copyrighted works such as music, movies, software, and video games.

What is perhaps more alarming is that, in some cases, such activity is taking place with the tacit encouragement of university officials. For example, one college newspaper attributed the following statements to a university IT administrator:

‘It saves us money in the long term because we don’t have to buy more bandwidth...It’s less of a legal risk to university students when [file sharing] is kept on-campus...We would prefer that there is no risk but if you are going to share files then it is better to only expose them to other people on the network...’

Not only is the legal advice offered inaccurate, but in the interest of saving money on scarce and expensive university Internet bandwidth, it appears that at least a few university officials have ignored the growing use of Napster-like systems on their campuses.

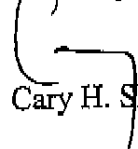
The problem of massive piracy on P2P systems such as Kazaa is not only a problem of wasting university bandwidth; it’s also about theft of creative works. Whether that theft occurs over the university’s Internet connection or on the local area network, it’s still a violation of copyright law and should be addressed accordingly. That is why we filed these lawsuits -- to bring attention to this important issue and deter other students from engaging in such activity.

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As you know, we are encouraged by the steps being taken by the higher education community to address P2P piracy at universities. We have been gratified to be working with you and the other members of the Joint Committee of the Higher Education and Entertainment Communities to address the problem of Internet piracy. But as we discussed all along, we must take appropriate actions to protect our members' rights when circumstances warrant, and the especially egregious and systematic activities described above certainly require a commensurate response. These actions against individual operators of local Napster systems should in no way detract from the valuable progress we've made with the Joint Committee to date. In fact, I believe such actions, taken directly against the most egregious of infringers, are entirely consistent with the Committee's stated mutual goals of reducing blatant piracy of copyrighted material. I remain optimistic that our Committee's work will lead to solutions to these issues of mutual importance.

Please feel free to share this letter with anyone in the higher education community who wants to understand why we filed these lawsuits. And, as always, please do not hesitate to call with any questions you may have.

Sincerely,



Cary H. Sherman

cc: Members of the Joint Committee of the Higher Education and Entertainment Communities

Presidents of the following organizations:  
American Council of Education, National Association of Independent Colleges and Universities, American Association of State Colleges and Universities, Association of American Universities, American Association of Community Colleges, National Association of State Universities and Land-Grant Colleges

Enclosure