

# File Sharing and Copyright Policy

## Section 1. WHAT YOU NEED TO KNOW

Clark University provides its faculty, staff and students with access to the electronic resources they need to support its mission of education, research and service. In providing for these electronic resources, Clark also encourages appropriate use of the Internet with respect to copyright law. Using Clark's network to download or share copyrighted music, movies, television shows, games or any other copyrighted works without the permission of the copyright owner is a violation of Clark's Appropriate Use Policy (AUP) and may result in legal sanctions, judicial office penalties, and/or network termination, among other consequences.

## Section 2. WHAT IS FILE SHARING?

P2P (or peer-to-peer) filesharing is the sharing of files between computers using P2P software.

## Section 3. WHAT IS P2P SOFTWARE?

P2P software is any file sharing software (such as KaZaA, BitTorrent, Morpheus, BearShare, Grokster, Limewire, Gnutella, eMule, eDonkey, etc.) that allows users to both share content from their computers and to connect to other, similarly configured computers, for the purpose of downloading or transferring electronic content.

### Is P2P software illegal?

No. P2P software has many legal uses. Unfortunately, it is often used for unauthorized sharing and downloading of copyrighted materials such as music, films, TV programs, video games, and software. Much of these materials are protected by copyright laws and many P2P users trade these materials without the authorization of the copyright holder. *This is illegal and unethical.*

### Does Clark prohibit the use of P2P software?

Clark has found that while P2P software can be used legally, most often P2P network activity consists of the sharing of music and video files for personal enjoyment.

P2P applications tend to consume a significant amount of network bandwidth. Consequently, other network activities such as academic research and file transfers can be compromised. In an environment where we share network resources, disproportionate use of those resources is not fair. For this reason, Clark has placed strict restrictions on P2P traffic transmitted over the Clark network.

So, while Clark does not prohibit the use of P2P software on our network, you may experience poor network performance while engaging in P2P file sharing activities.

## **Is P2P software safe to use?**

Many P2P applications, *by default*, expose your private file system to the wider P2P network of public users. This sets you up as an easy target for hacking, computer viruses, and spyware. So, while the software itself is legal, you may want to avoid downloading/installing such programs, unless you have a specific, legitimate use for them. If you do have such software installed, monitor it carefully.

## **Section 4. PROTECTION FROM VIRUSES**

P2P applications copy files from unknown sources to your computer. If you use a P2P application and you don't use antivirus software, you're flirting with disaster. Clark University provides antivirus software on all Clark managed machines. Information about protecting your personal computer can be found on [Clark's Information Technology webpage](#). Make sure you have av installed and keep it up to date.

## **Section 5. PROTECTION FROM SPYWARE**

Many P2P applications install spyware. Spyware collects personal data about your Web surfing and other online habits and sends that information to advertisers or other interested third parties. Some spyware causes computer problems such as blocked Internet connections.

## **Section 6. COPYRIGHT**

### **How can I tell if a file I downloaded is copyrighted?**

Unless you personally created a file or you have received permission (in writing) from the copyright holder to distribute that file, it's probably protected by copyright and thus illegal to share. In the United States, virtually all works created since 1922 are protected under copyright, regardless of the medium in which they appear. No registration, copyright notice or other formalities are required for copyright protection. Copyright protection occurs automatically, as soon as the creative work is expressed in a tangible medium of expression. Publications, photos, graphics, films, music, software and multi-media works are all types of works protected by copyright that can be accessed over the Internet. Read our copyright policy for more information about copyright law.

### **How does the University know if I have downloaded files illegally?**

While Clark does not generally monitor the content of your online activities, we may find that you have violated Clark policies and/or state and federal law during the normal course of network monitoring. Also, please note that many entities and organizations are actively looking for people who are downloading or distributing copyrighted materials.

The Recording Industry Association of America (RIAA) has notified Clark University and other universities of its intention to continue to sue students for infringing their members' copyrights. The RIAA has filed thousands of lawsuits and we believe this

campaign will continue and expand. The RIAA has even gone so far as to automate out-of-court settlements online.

## **Section 7. ADHERENCE TO OTHER FEDERAL STATE AND LOCAL LAWS**

In addition to the RIAA, many other content owners, including the Motion Picture Association of America, send takedown notices under the Digital Millennium Copyright Act (DMCA) for videos, movies, games and software. Takedown notices request that access to infringing files on the Internet be removed or disabled.

### **What happens if I am caught downloading copyrighted files?**

The punishments can be quite heavy. Online infringement of copyrighted music, for instance, can be punished by up to 5 years in prison and/or \$250,000 in fines. Individuals may be held liable for damages and lost profits up to \$150,000 per infringed copyright. The minimum penalty is \$750 per song.

If Clark receives notification from a copyright holder or their agent indicating that alleged copyrighted materials are being illegally distributed/downloaded from or to your computer, or if Clark determines from network monitoring that you have violated university policies, at the very least, the following occurs:

- Per the Digital Millennium Copyright Act, Clark's DMCA agent is required to investigate the source of the alleged violation and issue a cease-and-desist order.
- Clark's DMCA agent will notify you of the alleged violation via email. A copy of the notice will also be sent to Clark's Chief Information Officer and the Dean of Students.
- If it is the first allegation, you will be given 3 business days to reply with explanation, after which time if no notification is received, your network account will be suspended and any networked hardware related to the offense will be denied access to the Clark network.
- Continued violations will result in further punitive action, not limited to fines and permanent suspension of campus network privileges along with potential civil and/or criminal prosecution.

### **What should I do if I receive a pre-litigation settlement offer?**

As specified in the Digital Millennium Copyright Act (DMCA), when Clark University receives notification from a copyright holder or their agent indicating that alleged copyrighted materials are being illegally distributed/downloaded from or to your computer, or if Clark determines from network monitoring that you have violated University policies, Clark is obligated to investigate the source of the alleged violation and issue a "cease-and-desist" order to ensure the infringing material is taken down,

removed, and/or access to it is blocked). As per Clark's policy, the University's DMCA agent forwards such notices to the infringing individual so that she or he may properly address the issue.

On occasion, a copyright infringement notice offers an opportunity to settle any claims the copyright owners may have prior to their commencing legal action in federal court -- this is known as a pre-litigation settlement offer. If the University receives such a message, we will forward the electronic letter to your Clark email address so that you can make an informed decision on how to proceed. In so forwarding such notices, the University does not vouch for the accuracy of what is contained in the notice, does not take a position on what you should do in response to the notice, and will not offer legal advice regarding the matter. It is important that you read any information you receive about such matters very carefully. If you get into this kind of situation, it is best to involve your family in discussions and consider obtaining legal advice from your own attorney.

The University may be served with a subpoena to reveal the identity of the individual whose computer was allegedly engaged in copyright infringement. This action is a necessary pre-condition for a lawsuit since the University does not provide the identity without a subpoena.

### **Will the University protect me if I am accused of violating someone's copyright?**

The University cannot protect you from a copyright complaint. In fact, we may be legally required to assist a complainant in pursuing action against you. The penalties can range from University sanctions to civil and criminal prosecution. Individual copyright owners and the entertainment industry are quite active in pursuing legal actions. You are not protected just because you received material at no cost or are distributing material with no charge. Your *only protection* is to not download, possess or distribute any unlicensed copyrighted material.

### **What if someone else uses my computer to download copyrighted materials?**

You are responsible for your computer and all activity that takes place on it. Be wary when lending your computer to others. You should also take necessary steps to ensure your operating system has the latest updates, patches, and virus software to best protect it from unwanted intruders.

### **How can I obtain digital music and movie files legally?**

Lots of music and movies can be legally obtained through online subscription services or from sites officially permitted by the copyright holders to offer certain downloads. The [Motion Picture Association of America offers this list](#) and we have provided a list of some of these "free" or "pay-for-play" services below. [EDUCAUSE also maintains a web page dedicated to legal sources of online content](#). Clark does not recommend or endorse any one of these services over another.

## Music

[www.amazon.com/mp3](http://www.amazon.com/mp3)  
[www.napster.com](http://www.napster.com)  
[www.iTunes.com](http://www.iTunes.com)  
[www.SHOUTcast.com](http://www.SHOUTcast.com)  
[www.freeplaymusic.com](http://www.freeplaymusic.com)  
[www.spotify.com](http://www.spotify.com)  
[www.archive.org/details/etree](http://www.archive.org/details/etree)

## Movies

[www.hulu.com](http://www.hulu.com)  
[www.itunes.com](http://www.itunes.com)  
[www.netflix.com](http://www.netflix.com)  
[www.archive.org/details/movies](http://www.archive.org/details/movies)

## Related Policies and Regulations

Clark's Appropriate Use Policy

Motion Picture Association of America

[EDUCAUSE legal sources of online content](#)

## History/Revision Information

**Responsible Office/ Division:** The Vice President for Information Technology and CIO is charged with the responsibility to periodically review the policy and propose changes as needed.

**Effective Date:**

**Last Amended Date:**

**Next Review Date:** August 8, 2024