

Copyright and Intellectual Property Policy

Policy:

User's responsibility and acknowledgment: Point University prohibits the use of its computing resources to conduct illegal activity. The University complies with applicable federal, state, and local laws and requires that users do the same. In receiving a Point University computing account, users agree to obey Point University computing policies and the laws referenced by these policies. Users are responsible for all activity that transpires through their computing accounts and the devices that are registered to them. Point University enforces its own policies and standards pertaining to the electronic communication environment. Regardless of whether a copyright holder pursues legal action, Point University reserves the right to block access to the Point University computing system and network for any member of the university community who repeatedly participates in behavior that is prohibited by the university's computing policies.

Risks of Illegal File Sharing: Contrary to what many students believe, U.S. federal law treats the downloading and distribution of copyrighted material as a serious offense that carries serious consequences. Any Point University computer account holder who infringes copyright laws risks a lawsuit by the copyright holder, loss of access to the Point University computer system, and disciplinary action by Point University, along with possible civil or criminal fines and imprisonment. In recent years, copyright holders and their trade associations especially the Recording Industry Association of America [RIAA] and the Motion Picture Association of America [MPAA] have aggressively pursued copyright holders' rights and have been increasingly focused on university students. Point University prohibits any infringement of intellectual property rights by any faculty, staff and student. It is against Point University policies to participate in the violation of the intellectual property rights of others. Point University's policies and procedures regarding the use of Point University computing resources can be found at <http://www.Point.edu/Technology Services and Support>.

Understanding Copyright Infringement: Point University is committed to the education of its students. Over the past few years, Point University has increased its efforts to make students aware of the policies that govern the use of its computing facilities and systems and to encourage the responsible use of Point University computing resources. These efforts include providing information about copyright laws, particularly with regard to file sharing.

In order to protect you and the university from legal actions, we want to help you better understand the acts that constitute violations of federal copyright law, especially with regard to peer-to-peer (P2P) networks. If you use Point University's network to access, download, upload, or otherwise share copyrighted materials without permission, without making a fair use, or without falling under another exception under copyright law, you are likely infringing copyright laws. In general, copyright infringement occurs whenever someone makes a copy of any copyrighted work, such as songs, videos, software, cartoons, photographs, stories, or novels, without permission (i.e., a license) from the copyright owner and without falling within the specific exceptions provided for under the copyright

laws. These exceptions include "fair use," which is briefly described below, and provisions of the Audio Home Recording Act, which allow for noncommercial copying of lawfully acquired music onto recordable compact discs (CD-Rs).

P2P File Sharing and Copyright Infringement: Peer-to-peer (P2P) computing is a powerful technology that has many uses. P2P networks can be used to share and exchange music, movies, software, and other electronic materials. The use of P2P networks to upload, download or share copyrighted material, such as movies, music, and software, can violate the rights of copyright owners. In the P2P file-sharing context, infringement may occur, for example, when one person purchases an authorized music CD, creates MP3 files or other digital copy, and then uses a P2P network to share that digital copy with others, both the individual who makes the file available and those making copies may be found to have infringed the rights of the copyright owner(s) and may be violating federal copyright law. Section 106 of the Copyright Act states: *Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.* Point University advises all computer account holders to use extreme caution when installing P2P software and to read all user agreements carefully beforehand. Make sure that you read all available documentation from the P2P software provider and understand how the P2P software is configured and operates. Some P2P programs have a default setting that index the files on your computer and publishes all of your digital content to be available to other users of the P2P network without your being aware of the activity. In such cases, you may unwittingly participate in copyright infringement. In this context, not being aware that your computer is making files available to other users may not be a defense to copyright infringement. Sorry, "Ignorantia juris non excusat," latin for ignorance of law is no excuse.

Combating Illegal Peer-to-Peer Sharing: In an effort to help combat illegal downloading and distribution of copyrighted material Point University has implemented the use of technological deterrent devices, improved network traffic monitoring, updated and implemented new policies and procedures, in addition to starting security awareness classes. You are responsible for all activity that transpires through your Point University computing account and the devices that are registered to you. Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505 of the Copyright Act. For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq. Copyright owners have been known to target both those who upload music over the P2P network and those who download from P2P network. Organizations such as the RIAA and the MPAA monitor Internet server provider (ISP) network traffic during the downloading and uploading on P2P networks to obtain users' Internet protocol (IP) addresses, and locate files that are being downloaded or uploading for user's shared P2P directories. Once an IP address and other information have been obtained, the RIAA, MPAA, and other copyright owners and their representatives can file a "John Doe" lawsuit and issue a subpoena to the ISP demanding the identity of the user connected to that IP address.

Copyright Infringement Notifications: As an ISP for its students, faculty, and staff, Point University receives notices from the RIAA and MPAA identifying the IP addresses of a Point University account holders believed to be downloading and distributing copyrighted material without authorization. Point University reserves the right to demand that the infringing conduct cease immediately; where necessary, Point University will revoke the identified individual's access to the Point University computer system. In serious situations, further disciplinary sanctions may also be appropriate.

Types of Copyright Infringement Notifications Copyright holders and organizations that represent copyright holders, such as the RIAA and MPAA, typically send out three different types of communications related to copyright infringement:

1. Cease and desist, or copyright infringement, notices – The purpose of these notices is to stop the illegal possession and distribution of copyrighted material. When the office of Information Technology (IT) receives these notices from copyright holders or their representatives, IT will contact the user whose Internet Protocol (IP) address has been identified in the notice. IT will notify the user that illegal copies of copyrighted materials must be destroyed.
2. Pre-litigation notices – These letters are used by copyright holders and their representatives prior to filing a lawsuit to recover, by way of a settlement, financial damages caused by the illegal distribution of copyrighted material. If you have been identified as participating in the illegal downloading or uploading of copyrighted materials, you may receive one of these notices, even if you have already destroyed your copy (or copies) of the material(s) in question.
3. Subpoenas – These notices indicate that the copyright holder has filed a lawsuit to recover damages for the illegal distribution of copyrighted material. If the court finds you liable, you will be subject to fines and penalties. The RIAA or MPAA has often presented an option for the alleged illegal file sharer to settle the lawsuit out of court for an undisclosed financial settlement. If the user is determined to have infringed copyrights, whether through P2P networks or other means, and has not settled, they may also be subject to sanctions to destroy all unauthorized copyright material in addition to monetary damages. In certain circumstances, federal authorities can criminally prosecute copyright infringement.

Fair Use: Copyright law provides no blanket exception from liability for university students based solely upon their status as students. There are limited circumstances where use of copyrighted materials without permission is allowable. One of these circumstances is under the legal doctrine of "fair use," such as for purposes of news reporting, criticism, commentary, or teaching. Whether use of copyrighted material without permission is "fair use" depends on a very detailed, case-by-case analysis of various factors. For more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.

There Is an Alternative: Legal Downloading: Point University provides guidelines for acquiring copyrighted material from legal alternative solutions, see <http://www.educause.edu/focus-areas-and-initiatives/policy-and-security/educause-policy/issues-and-positions/intellectual-property/legal-sources-onli>

Policy violation:

Violation of this policy may result in disciplinary action which may include termination for employees; a termination of employment relations in the case of contractors or consultants; dismissal for interns and volunteers; or suspension or expulsion in the case of a student.