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Memorandum

To: CSU Presidents

Date: September 3, 2003

Christine Helwick

From: Christine Helwick
General Counsel

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Subject: RIAA

The Recording Industry Association of America has begun an effort to subpoena information about individuals who are believed to have engaged in unauthorized peer-to-peer (P2P) file sharing of copyrighted music and other works. Several universities have been served with subpoenas.[1] While the RIAA message was muted somewhat recently by statements in Congress that it intends only to go after major copyright violators, the risk to university students is clear. Multi million dollar lawsuits have already been filed against four individual university network users. It is only a matter of time before CSU and/or its students are confronted with an RIAA subpoena. If your campus receives a subpoena from RIAA for information about students (or others) who may have engaged in unauthorized P2P file sharing, please contact your University Counsel.

It is important that CSU students know of their responsibilities and rights in this area, and the potential liability for wrongful P2P copyright violations. P2P file sharing and the enabling software are not per se illegal and there are numerous applications where the sharing of data is permissible. Unauthorized downloading and uploading of copyrighted music and movies, however, constitutes an illegal copyright infringement. Ignorance of law is not an excuse, nor is the explanation that "Everybody else is doing it". The RIAA claims the industry loses $4.2 billion per year to piracy. For further information on the RIAA and its work to reduce infringement, see: www.riaa.com.

The penalty for copyright infringement, both monetary damages and in some cases criminal liability is significant. Damages can range from $200 per infringement for an "innocent" violation to $150,000 per infringement for a willful violation. Courts have additional discretion to award costs and attorney fees. Copyright infringement in some instances is punishable by up to 5 years in prison. A Joint Committee of the Higher Education and Entertainment Communities has prepared a White Paper with much technical information about copyright law and potential liability for students engaged in P2P file sharing. The paper is available at: http://acenet.edu/washington/legalupdate/2003/P2P.pdf.

[1] It has been widely reported that two such subpoenas were recently quashed, but only because they were issued in the wrong jurisdiction.