

Basic Information on Copyright Infringement

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Copyright

(noun) the exclusive right to produce copies and to control an original literary, musical, or artistic work, granted by law.

The creator of the original work has legal control over their work and how it is used and distributed. Since the work is protected by the law, the creator has the right to take legal action against anyone who uses their work without permission and outside of ['Fair Use'](#).

Copyright Infringement

(noun) violation of the rights of a copyright

If you are downloading music or movies or videos, and you do *not* have permission from the owner, in the eyes of the law, you are stealing – and there are hefty penalties.

You may purchase and download content from a [legitimate source](#). You have the right to use that content. However, that may *not* give you the right to distribute that content to others.

Being a student does not give you immunity.

DMCA (Digital Millennium Copyright Act) Infringement Notice

For all the details of the DMCA, go to <http://www.copyright.gov/legislation/dmca.pdf>

Franklin Pierce is considered an internet service provider and complies with DMCA.

Upon receiving notice from our provider of a copyright infringement, the University will track down and notify the person who is charged with copyright infringement and deny access to the illegal copies of the copyrighted content. The issue will then be turned over to Judicial Affairs.

[Example of an Infringement Notice](#)

Enforcement

Unless purchased legitimately for your own use, it is against the law to download copyrighted content. Unless you have express permission, it is illegal to share copyrighted content.

Disciplinary Action: The University is responsible for investigating possible violations of University code and enforcing rules, which could result in the monitoring of stored material and/or disciplinary action. All allegations of abuse of this policy will be handled by the judicial system. See [Student Computer Use Policy](#), [Student Code of Conduct Article IV](#).

Financial Penalties: 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. See [Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws](#)

Being a student does not give you immunity.

Fair Use of a Copyrighted Work

The section of the copyright law (<http://www.copyright.gov/title17/92chap1.html#107>) that defines Fair Use says:

“the fair use of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”

Uploading and downloading materials for non-academic use does not fall under the protection of Fair Use.

The Higher Education Opportunity Act of 2008 (HEOA)

(Pub. L. 110-315)

added provisions to the Higher Education Act of 1965, as amended, (HEA) **requiring institutions to take steps to combat the unauthorized distribution of copyrighted materials through illegal downloading or peer-to-peer distribution of intellectual property.**

These requirements were effective upon enactment of the HEOA, August 14, 2008.¹ On October 29, 2009, the Department published final regulations implementing the statutory requirements (74 FR 55902). These regulations go into effect July 1, 2010.

For more information about HEOA, go to

<http://www2.ed.gov/policy/highered/leg/hea08/index.html>

Illegal File Sharing

There are programs ([P2P](#)) written specifically for file sharing. Using these programs to download the files for free so that you do not have to purchase the copyrighted materials is illegal. If you do not have permission from the owner, or if you have not paid a fee for the right to download the file, chances are you are illegally downloading the file and you are breaking the law.

Legal Alternatives to P2P Software

There are many authorized sites where you can purchase copyrighted content.

Some legal music download sites include:

Amazon: <http://www.amazon.com>

Apple iTunes Music Store: <http://www.itunes.com>

Napster Music: <http://www.napster.com>

Rhapsody Music: <http://www.rhapsody.com>

EMusic: <http://www.emusic.com>

Some legal movie download sites include:

Amazon: <http://www.unbox.com>

CinemaNow: <http://www.cinemanow.com>

Online Piracy

Uploading, downloading, and/or sharing of copyrighted files without the owner's permission is referred to as online piracy. Engage in online piracy and you could be charged with and possibly convicted of a felony called [copyright infringement](#).

Peer-to-Peer (P2P) Networks

Peer-to-Peer (P2P) software and networks (like BitTorrent, LimeWire, KaZaA) are mostly used for illegally downloading and sharing of copyrighted content. Buying the P2P application does *not* make the files you download legal.

Since the files shared over P2P networks are usually copyrighted works, you are putting yourself at risk for downloading content from these networks. To avoid these risks, there are services on the Internet that allow you to legally purchase copyrighted works online. By purchasing the content legally through these services, you not only avoid the risk of copyright infringement, but you also reduce your exposure to computer viruses and spyware.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

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.

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.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

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.

Example of an Infringement Notice

RE: Unauthorized Distribution of the Copyrighted Motion Picture Entitled
Clash of the Titans

Dear General Manager:

We are writing this letter on behalf of Warner Bros. Entertainment Inc. ("Warner Bros.").

We have received information that an individual has utilized the below-referenced IP address at the noted date and time to offer downloads of copyrighted motion picture(s) through a "peer-to-peer" service, including such title(s) as:

Clash of the Titans

The distribution of unauthorized copies of copyrighted motion pictures constitutes copyright infringement under the Copyright Act, Title 17 United States Code Section 106(3). This conduct may also violate the laws of other countries, international law, and/or treaty obligations.

Since you own this IP address (74.220.233.58), we request that you immediately do the following:

- 1) Contact the subscriber who has engaged in the conduct described above and take steps to prevent the subscriber from further downloading or uploading Warner Bros. content without authorization; and
- 2) Take appropriate action against the account holder under your Abuse Policy/Terms of Service Agreement.

On behalf of Warner Bros., owner of the exclusive rights to the copyrighted material at issue in this notice, we hereby state, that we have a good faith belief that use of the material in the manner complained of is not authorized by Warner Bros., its respective agents, or the law.

Also, we hereby state, under penalty of perjury, under the laws of the State of California and under the laws of the United States, that the information in this notification is accurate and that we are authorized to act on behalf of the owner of the exclusive rights being infringed as set forth in this notification.

Please direct any end user queries the following.

Warner Bros. Entertainment Inc.
Attn: Worldwide Anti-Piracy
4000 Warner Blvd.
Burbank, CA 91522
818.954.3091 - phone
infringements@warnerbros.com - email

Kindly include the Case ID 996669198, also noted above, in the subject line of all future correspondence regarding this matter.

We appreciate your assistance and thank you for your cooperation in this matter. Your prompt response is requested.

Respectfully,

A Kempe
Enforcement Coordinator
MediaSentry

INFRINGEMENT DETAIL

Infringing Work: Clash of the Titans
First Found: 20 Apr 2010 05:28:35 EDT (GMT -0400) Last Found: 20 Apr 2010
05:28:35 EDT (GMT -0400) IP Address: 74.220.233.58 IP Port: 15928
Protocol: BitTorrent
Torrent InfoHash: B4CF91396E8330F648308ECE6F7E11B6822CCDFD
Containing file(s):
Clash.Of.The Titans.2010.TS.Xvid-Classified.torrent (768,762,665 bytes)

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