

Statement of Jim Davis  
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Before the Subcommittee on  
Courts, the Internet and Intellectual Property  
Committee on the Judiciary  
U.S. House of Representatives

Oversight Hearing on  
Peer-to-Peer Piracy (P2P)  
On University Campuses: An Update

October 5, 2004

**UCLA Quarantine Approach and Studios Working Group**

Mr. Chairman, Congressman Berman, Members of the Committee, I appreciate this opportunity to appear before the subcommittee today. I am here this morning to share with you a close-up view of UCLA and the University of California in action on peer-to-peer file sharing and copyright infringement.

The starting point is to state emphatically that, as creators of intellectual property ourselves, UCLA and the University of California (let me refer to the University of California as UC) take illegal file sharing and copyright infringement very seriously. This is true whether we are talking about software, books, journals or entertainment media, and whether infringement occurs on-line or off-line.

This is not an idle assertion but in fact a position statement that has made it possible for UCLA and UC to form a constructive working partnership with a core group of MPAA member studios and the MPAA itself in the Los Angeles area. The value of our UC/Studios working group continues to evolve positively and expand.

For UCLA, a key step beyond education and bandwidth management has been the development of an approach called the “UCLA Quarantine.” The value of the UC/Studios working group becomes apparent in that the genesis of the UCLA Quarantine approach arose from an early dialog with Universal Studios. At the time, UCLA was articulating what it wanted to achieve and Universal was developing the Automated Copyright Notification System, or ACNS. We proceeded with the implementation of the UCLA Quarantine approach, which reflects the underlying design principle of ACNS and recognizes the value of an efficient response to a first notification of infringement. Universal developed and submitted ACNS to the Joint Committee.

At its most fundamental level, the UCLA Quarantine approach turns a copyright infringement notification into a campus judicial matter. Upon receiving a claim of infringement, the offending computer, associated with the named network address, is identified and put into quarantine: that is, file sharing is effectively blocked internally and externally. Access to on-campus student services such as library resources and registration is still maintained while in quarantine, recognizing that an individual needs to continue to function in his or her educational capacity even as the claim is adjudicated.

The “first offense” situation is treated as a teachable moment, with the goal of changing behavior. The quarantine can be lifted by an automatic process upon acknowledgement and agreement with policy and the removal of the material. It is made clear that a repeat offense will result in being summoned by the Dean of Students and that sanctions have ranged from warnings to suspension.

The quarantine approach was put in place for Spring Quarter 2004. We hesitate to draw conclusions on cause and effect or overall impact without further data and experience to

conduct an appropriate assessment. However, there are two observations from this first quarter of operation that stand out and will be reviewed.

First, there was a substantial drop in notifications at the point in time that the quarantine went into operation. Of the 52 claims received during the quarter, 22 claims (42%) arrived in the first two weeks, whereas the remaining 30 claims (58%) were received in the remaining eight weeks. In the two immediate prior quarters, there were 67 claims received (all first incidents) in Fall Quarter 2003 and 89 claims received (79 first incidents and 10 second incidents) in Winter Quarter 2004.

Second, although we saw a small number of individuals who had a first claim arrive prior to the quarantine being put into place and a second claim arrive afterwards, we have not seen anyone receive a first *and* second claim after quarantine was in effect. In other words, there have been no repeat incidents with the quarantine approach in operation.

It should be noted that while UCLA is a campus of 35,000 students, some 7,500, or about 20%, live in residence. This distribution of residential and non-residential students is similar for the UC's 270,000 students across its 10 campuses. For UCLA, again similar to other UC campuses, about 80% of copyright notifications point to machines in the residential halls.

Those relatively few notices that point to machines on the main campus have usually been the result of security issues in which a computer has been compromised by a virus or hacker and file sharing software installed on it unbeknownst to the owner of the computer.

Frequently, however, such compromised systems are detected by the campus network group looking for unusual traffic patterns that would indicate a computer compromise (and a claim arrives after the computer has already been fixed).

In stressing the main points, the UCLA Quarantine approach:

- Preserves due process for the individual while fully complying with the letter and spirit of the copyright laws.
- Is driven as a judicial matter, not as an information technology issue.
- Ensures the student judicial process and sanctions for copyright infringement are viewed in the context of all judicial issues.
- Is technically integrated with virus and security management of student computers in the residence halls.

From the outset, we sought more holistic approaches that (1) would satisfy copyright law, (2) could become an integrated part of the community and its policies, processes and culture, (3) would be *sustainable*, (4) would be more than a short-lived fix to solve an immediate problem, especially in light of how rapidly the technology is changing and (5) would deal with the piracy problem fundamentally as a student life problem and not just an information technology problem. We feel the quarantine approach meets these needs.

Nevertheless, the quarantine approach is inherently a defensive approach – reactive to notifications of infringement – as it was designed to be. We continue to look for measures that can complement the UCLA Quarantine approach and that are consistent with our objectives. UC is coordinating efforts to monitor both the defensive and legal service initiatives at other universities. At UCLA, we have been working on this question of additional measures with the UC/Studios group and with Professor Jeffrey Cole, formerly Director of the UCLA Center for Communications Policy and now Director of the USC Annenberg Center for the Digital Future. From Professor Cole's UCLA Internet Report,

Year 4\*, there are indications that defensive approaches, e.g., subpoenas, are having a social impact. However, the data also show that legal services may be having a constructive effect as well.

Thus recently, the University of California began work on a Request for Proposals (RFP) with the intent of facilitating access for UC campuses to legal on-line entertainment media services. For UCLA, we believe some kind of legal service will be another important “piece of the puzzle” but we also realize we must now consider movies in addition to music. The growing trend with movies has been a particularly prominent topic of discussion with our UC/Studios working group.

The University and the UC/Studios working group is also cooperating with the Governor’s office on Governor Schwarzenegger’s recent Executive Order on anti-piracy. UC leadership shares the objectives expressed in the Executive Order and campuses are actively pursuing effective practices and solutions to achieve them within the context of the UC operating principles and policy.

The RFP and the working group are two important components of a multi-faceted strategy for the University of California. Other efforts continue in parallel. For example, a resource kit containing posters, graphics and text has been developed for systemwide use by campuses in their educational campaigns. There is ongoing dialog between student affairs, general counsel and information technology to ensure appropriate input is being coordinated systemwide. And the Council of Chancellors is routinely apprised of developments and activities in this area.

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\* The UCLA Internet Report Year 4 (2004): “Surveying the Digital Future”, UCLA Center for Communication Policy

In closing, I want to again acknowledge the constructive impact and value of the UC/Studios working group. We are currently sharing information on illegal file sharing trends and indicators, discussing policy recommendations to the State Government and considering selective evaluation projects and pilots.

I hope this quick tour of our efforts may have provided you with insight into operational approaches that we believe show signs of addressing some of the issues of this very complex and big problem.

I thank you for this invitation to speak on this topic and would be pleased to respond to any questions.

## **Attachments**

1. Letter to Residents of UCLA Housing (April 12, 2004)
2. Quarantine procedure in detail
3. Press release: UCLA Implements Quarantine Approach in the Residence Halls to Make Its Policy on Illegal File Sharing Explicit (April 26, 2004)



April 12, 2004

Dear Resident of UCLA Housing:

We are writing to emphasize the personal risks to you arising from illegal file sharing and to explain the procedure that will be utilized for responding to notice of claims of online copyright infringement received by UCLA, when that notice relates to computers located in UCLA Housing owned rooms.

You may already have heard that on March 23, the Recording Industry Association of America began legal action against an additional 532 individuals, 89 of whom are from 21 different universities (UC Berkeley, USC, Stanford, Loyola Marymount and CSU Northridge in California). This is part of a continuing strategy from the entertainment industry to curb copyright infringement through file sharing.

As a creator of intellectual property, UCLA respects copyright protections and does not condone the illegal or inappropriate use of copyrighted material, whether through online means or otherwise. UCLA has taken, and will continue to take, appropriate steps to prevent illegal file sharing and to respond to notice of claims of online copyright infringement.

At the same time, UCLA respects due process and the student judicial system, and is striving to balance this respect with UCLA's intention to comply and promote compliance with copyright laws. Over the last several months, UCLA has carefully examined the process for handling notice of claims of online copyright infringement, keeping this balance in mind.

Beginning Monday, April 19, a more distinct procedure, described fully in the attachment, will be used for responding to notices of claims of online copyright infringement within the University Housing community.

This procedure, while imposing reasonable network restrictions intended to block access to the alleged infringing materials, also recognizes that an individual needs to continue to adequately function in his or her educational capacity. Thus, most education-related work will still be possible after a student provides appropriate assurances that the reported materials have been removed, even as the student judicial process proceeds in adjudicating a claim. UCLA believes this procedure preserves due process for Housing clients while fully complying with the letter and spirit of the copyright laws.

Resident of UCLA Housing  
April 12, 2004  
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Please understand that illegal file sharing is a violation of Federal law and is prohibited by the Student Conduct Code. The Office of the Dean of Students can sanction students who have, in fact, violated University policy with penalties ranging up to Dismissal from the University.

Questions about the student judicial process and sanctions should be addressed to Christine J. Coons, ORL Judicial Affairs Coordinator/Assistant Dean of Students, at [dmca@orl.ucla.edu](mailto:dmca@orl.ucla.edu).

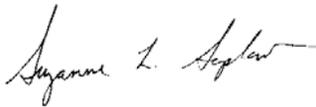
Questions about the general process may be addressed to the UCLA DMCA Designated Agent at [ucladmca@ucla.edu](mailto:ucladmca@ucla.edu).

Finally, if you would like technical assistance in removing files/software from your computer, please contact the Student Technology Center at [techctr@stc.resnet.ucla.edu](mailto:techctr@stc.resnet.ucla.edu); (310) 825-3400.

Sincerely,



Michael Foraker  
Director  
Housing & Hospitality Services



Suzanne Seplow  
Director  
Office of Residential Life



Kent Wada  
Director, IT Policy  
Office of Information Technology

Attachment:

*Online Copyright Infringement Claims – Procedure for UCLA Housing Residents*



## Online Copyright Infringement Claims Procedure for UCLA Housing Residents

April 19, 2004

1. A copyright holder notifies UCLA that, on a certain date and time, a computer identified by a specific Internet address (IP address) made available copyrighted music, movies, software or other material to others without appropriate permission.
2. If within UCLA Housing, the IP address is then mapped to the corresponding port in the building, floor and room number using the unique network card identifier (MAC address).
3. The identified computer (using IP- and MAC-based network controls and monitoring) will have its network access impacted as follows:
  - Connectivity to the identified computer and any other devices connected to the same port will be momentarily disrupted, and connectivity lost.
  - The identified computer will be moved to a MAC-based restricted network in which:
    - Traffic to other ResNet sites is *disallowed*
    - Traffic to campus VPN services is *disallowed*.
    - Traffic to off-campus locations is *disallowed*
    - Traffic to campus sites is *allowed* (e.g., my.ucla, Library, URSA online, BOL, class web sites).
  - Any other devices sharing the same port as the identified computer, but not identified in the claim notice, will be allowed to immediately reconnect to the Housing network without restrictions.
4. For the identified computer/MAC address, an email to the corresponding client (faculty, student or staff member) is sent from the Judicial Affairs Coordinator/Assistant Dean of Students indicating that notice of a claim of copyright infringement relating to the client has been received and that his or her computer has had its network access restricted.

# Online Copyright Infringement Claims Procedure for UCLA Housing Residents

April 19, 2004

(Step 4, continued)

- **If this is the first notice** of a claim of copyright infringement relating to the client, the email gives the details of the claim and indicates that network access is being restricted and a record of the claim will be kept should a second incident arise. The client is told to follow these steps *within 24 hours*:
  - Remove the allegedly infringing material.
  - Go to a specific web page and log on using his or her UCLA ID (UID) and PIN, or Bruin OnLine account and password. The web page will display an acceptable use agreement.
  - Carefully read the acceptable use agreement and click "I agree," which acknowledges the agreement and that the client has removed the allegedly infringing material, and sends the information to the Judicial Affairs Coordinator/Assistant Dean of Students, with a copy to the client.

By following these steps, the client's computer will have normal network access restored within one business day.

*If a client does not respond to the email notice within one business day, network access to his or her computer will be blocked completely within the following 24 hours. If the client does not respond within three calendar days, the Judicial Affairs Coordinator/Assistant Dean of Students will put a hold on the client's records if a student; other action may be taken in the case of a faculty or staff member.*

- **If this is not the first notice** of a claim of copyright infringement relating to the client, the email gives the details of the claim received and indicates that a previous claim has been recorded and that he or she will be summoned by the Dean of Students or others as appropriate.

The client is still required to follow the instructions given above for a first notice of claim. By responding within one business day, the client can keep his or her computer in restricted access so as to be able to continue to do academic work until the judicial/administrative process is completed, rather than having all network access blocked.

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## **UCLA Implements Quarantine Approach in the Residence Halls to Make Its Policy on Illegal File Sharing Explicit**

<http://www.newsroom.ucla.edu/page.asp?RelNum=5137>

Date: April 26, 2004

Contact: Letisia Marquez ( [Imarquez@support.ucla.edu](mailto:Imarquez@support.ucla.edu) )

Phone: 310-206-3986

UCLA has implemented a "quarantine" approach in the residence halls, making the campus policies explicit when responding to notices of claims of online copyright infringement. UCLA developed the approach internally with a particular focus on balancing its respect for privacy and due process with its clear intent to comply with copyright laws.

"As a creator of intellectual property, UCLA respects copyright protections and does not condone the illegal or inappropriate use of copyrighted materials, whether through online means or otherwise," said Jim Davis, associate vice chancellor of information technology. "At the same time, UCLA respects due process and the student disciplinary process, and is striving to balance this respect with UCLA's intention to comply and promote compliance with copyright laws."

The approach affects approximately 7,500 students and some faculty and staff living in the university's residence halls.

UCLA has developed a quarantine system reflecting the underlying design principle of Universal Music Group and Universal Studios' Automated Copyright Notification System. In particular, UCLA's quarantine approach is specifically designed to use a standardized format for copyright notifications. By streamlining this part of the process, the campus can focus its efforts on areas that will continue to require human judgment: due process, privacy, education and policy development. UCLA and Universal continue to be engaged in discussions on respective issues regarding digital copyright infringement.

"We have chosen some select parts of the procedure to automate," Davis said. "For instance, once we have identified the machine, we notify a student by e-mail and automate the process by which the student accepts the conditions under which full services can be restored. We do, however, still review notifications manually because of the importance of ensuring that appropriate university administrators are advised where appropriate.

"There is nothing automated when it comes to the university's disciplinary process," Davis said. "We are very concerned about the administrative process and privacy of our students."

UCLA believes its quarantine procedure preserves due process for the individual while fully complying with the letter and spirit of the copyright laws.

The procedure works as follows when UCLA is notified by a copyright holder that a computer in the residence halls made available copyrighted music, movies, software or other material to others without appropriate permission:

- The computer is put in "quarantine" by having access disallowed to other ResNet sites and off-campus locations. Traffic to campus sites remains available so that much education-related work can continue.
- An e-mail is sent to the computer's owner, giving details of the claim and indicating that network access is being restricted. He or she is told to remove the allegedly infringing material and sign an agreement, which acknowledges the client has removed the material but is not an admission of guilt. This must be done within one business day; otherwise, all network access is blocked.
- By following these steps, the computer will have normal network access restored within one business day if this is the first notice of a claim of copyright infringement related to this person.
- If, however, there has been a previous claim involving the same person, he or she will be summoned by the dean of students, or others as appropriate, and the computer will remain in quarantine, allowing academic work to continue while the disciplinary process proceeds. The disciplinary process may result in sanctions.

The procedure, while imposing network restrictions to block access to the alleged infringing materials, also recognizes that an individual needs to continue to function in his or her educational capacity. Thus, education-related work will still be possible after a student provides appropriate assurances that the reported materials have been removed, even as the student disciplinary process proceeds with adjudicating a claim.

-UCLA-

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