

Copyright Law and Peer-to-Peer File Sharing

What is Peer-to-Peer?

Peer-to-Peer (“P2P”) file sharing is a way of exchanging or transferring files over the Internet. 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. Below is a partial list of various P2P programs that allow users to exchange and share files, this list is not exhaustive:

- Ares
- Azuereus
- BitComet
- BitLord
- Bit Tornado
- BitTorrent
- FlashGet
- Gnutella
- KaZaA
- Limewire
- Morpheus
- uTorrent

What is wrong with Peer-to-Peer file sharing?

Copyrights help to ensure that authors of creative works can control how those works are used and prevent others from capitalizing on, or using or distributing, the works without permission. While P2P file sharing programs may be used for legitimate reasons, these programs are overwhelmingly used for the illegal distribution of copyrighted works such as music, movies, software, books, images, and TV programs without permission from the copyright owner. Sharing any file of a work that you did not create yourself as an original work, is not in the public domain, or for which you do not have permission to share can have serious consequences. Not only are there substantial legal risks, using P2P programs degrade the speed of the College-Institute’s network, may contain spy-ware, viruses, or exploits that may allow unauthorized access to the machine as well as the network hosting the program. The laws that govern copyright are not specific to any one technology; you can violate the rights of a copyright holder using many different types of technology. Both uploading and downloading of copyrighted files can violate copyright law.

What is the College-Institute's policy on Peer- to-Peer file sharing?

Most, if not all, of the P2P programs listed above threaten or disrupt the integrity of the College-Institute's computing services and its network. The College-Institute respects the intellectual property of others, regardless of the medium in which the material is transmitted as this is a cornerstone of academic integrity. Access to the College-Institute's technology is a privilege granted to students, faculty, staff, and approved guests. Everyone using these resources is responsible for using them in an effective, ethical and lawful manner. We prohibit the use of unauthorized distribution of copyrighted material.

What is the College-Institute doing to combat Peer-to-Peer File Sharing?

The College-Institute currently employs bandwidth-shaping technology to prioritize network traffic. We also block known Peer-to-Peer software.

What will happen if I am caught using these programs?

If you use the HUC-JIR wireless network to download or use file sharing software like Bit Torrent, or LimeWire, etc. and use that program to share copyright material or violate College-Institute policies, the College-Institute may terminate your campus computer connection.

Continued use of file sharing software or services will require the College-Institute to impose additional sanctions. Sanctions may include, but are not limited to, revocation of access rights and/or other sanctions up to and including suspension or expulsion for students, and termination for employees.

In addition to HUC-JIR sanctions, there are 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. 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.

If you have questions about this policy, please contact the College-Institute's Chief Technology Officer at CTO@huc.edu