

Date: April 30, 2007

To: Michigan State University students

From: David Gift, Vice Provost for Libraries, Computing, & Technology at MSU

Re: "Settlement letters" and litigation from RIAA relating to illegal downloading of music

The Recording Industry Association of America (RIAA) has announced a new strategy in its efforts to stop illegal music downloading. The RIAA will notify alleged violators that they will be sued and give them the option to pay a settlement sum before a lawsuit is filed. Alleged violators who do not settle will face a lawsuit and the risk of a substantial court judgment or a costlier settlement. It is in your interest to understand what the RIAA is doing.

Attorneys for record companies who are the RIAA members will be sending campus Internet Service Providers (ISPs), such as MSU, "pre-litigation settlement letters", along with the alleged offenders' Internet protocol addresses and a request that the ISP forward the letters to the alleged copyright infringers. These pre-litigation settlement letters instruct the recipient to contact a "Settlement Information Line" if the user wants to avoid facing a lawsuit and an even greater monetary risk. The RIAA says that the record companies' pre-litigation settlement offer will be more favorable than any later settlement offer.

The University normally has no role in disputes between its students and third parties. MSU already acts on notices of alleged copyright violations that it receives under a federal law known as the Digital Millennium Copyright Act (DMCA); see <http://www.msu.edu/policy/dmca.html>. Should MSU receive a pre-litigation settlement letter, it will forward it to the user and treat it as a DMCA notice. Please note that MSU does NOT release the name of a user to the content owner upon receipt of a DMCA notice. (MSU will release the name if MSU is served with a court subpoena, but only after trying to notify the student that it will do so.)

The record company attorneys may also send MSU a "preservation letter", asking that MSU hold contact information for a user. If such a letter includes the information that would be contained in a DMCA violation notice, MSU will treat it as a DMCA notice. If such a letter does not include the information that would be contained in a DMCA notice, MSU will forward the letter to the user so that the user will know that the record companies have identified his or her network activity as potentially infringing on their copyrights.

If a student receives a pre-litigation settlement letter or a preservation letter, it is the student who must decide how to handle the matter. Students who receive such letters would be well advised to consult an attorney promptly. The allegations in these letters and the pre-litigation settlement offer are serious matters which deserve careful consideration.

It is illegal to violate the rights of a copyright owner. (The University receives DMCA violation notices regarding improper downloading of videos, movies, games and software, as well as sound recordings.) Students who infringe copyrights need to take account of the pervasive monitoring of file sharing that content owners do on the Internet. Regard for others' rights is the surest way to avoid being pursued by the RIAA or other content owners for copyright infringement.