




# AN OUNCE OF PREVENTION

## Strategies to Counter the RIAA's Spring Offensive

Kenneth C. Green  
The Campus Computing Project




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## Strategies to Address the RIAA's "Spring Offensive"

**Kenneth C. Green**  
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## Overview

- ◆ Context
- ◆ RIAA Spring Offensive
- ◆ Campus Strategies



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### Do You Know Me?

#### FACTS OF THE CASE

- ◆ Publishers went to the courts to stop what they deemed to be the illegal distribution of copyrighted content.
- ◆ College students were a strategic market for this content and these publishers.
- ◆ The technology enabling distribution was readily and widely available.
- ◆ The defendant, claiming fair use, responded that it had done nothing illegal in assisting with the distribution of content.
- ◆ **COURT DECISION:** cease and desist.



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**Basic Books vs.  
Kinkos Graphics Corp, 1991**



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### The Day After a Legal Decision

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#### THE DAY AFTER

- ◆ Legal resolution is not a substitute for marketplace remedy.
  - Kinkos (1991)
  - Napster (2001)
  - Grokster (2005)



### Real Federal Threats

- ◆ Higher Ed Act Reauthorization
- ◆ Congressional Action on Science & Technology Funding

“We're spending a good deal of federal resources in terms of helping universities with their technological improvements, directly and indirectly.... Is it responsible for a Congress that wants to protect intellectual property rights to continue to fund network enhancements for universities if some of those enhancements are indirectly being used in fact to promote intellectual property theft?”



Rep. Tom Feeney  
R-FL



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### Timeline

- 1950s: 3M introduces consumer market tape recorder
- 1962: Philips introduces cassette recorders
- 1984: Supreme Court Betamax Decision
- 1991: Kinkos decision on coursepacks
- 1997: First RIAA Lawsuit against MP3 sites
- 2001: Federal Court rules against Napster
- 2005: Supreme Court rules against Grokster
- 2006: Congressional hearings
- 2007: RIAA Spring Offensive begins



### 2007 Spring Offensive

- ◆ Chapter 1: "The Spring Offensive"
  - Feb Letter to 2000 college presidents
  - New DMCA filings
  - March Congressional hearing
- ◆ Chapter 2: Star Wars Meets the DMCA
  - June Congressional hearing
- ◆ Chapter 3: ???



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### What Do We Know About P2P Piracy

- ◆ **LA STUDY:** Piracy costs the media industries real dollars & real jobs
- ◆ **RIAA DATA:** P2P piracy is a consumer market issue, not just a campus problem
- ◆ **STUDENT MONITOR:** College students don't understand (or care about) copyright
- ◆ **CONGRESS:** Focused on campuses and not interested in the role of consumer ISPs in P2P piracy



### RIAA: What Do We Know

- ◆ "The Drunk under the Streetlight"
- ◆ 94 pct of John Doe cases in 2004-2005 were NOT college students
- ◆ Focuses on college students and campuses, not consumer ISPs
- ◆ PAC contributions to political parties and politicians



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### Sidebar: Does Money Matter?

#### '06 Election Campaign Contributions

- \$255K:** RIAA contributions to DEM and GOP state & federal campaign committees
- \$62.3K** MPAA Contributions to DEM and GOP state & federal campaign committees
- \$116K:** RIAA contributions to individual members (House & Senate)

Source: PoliticalMoneyLine / Congressional Quarterly



### The Role of Consumer ISPs



- Who's "music, movies and more" may I download?
- How (& who) do I pay for the "music, movies and more"?



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### The RIAA's PR Offensive

#### RIAA CLAIM

"while many schools have worked with [the RIAA] to recognize the [P2P] problem, and address it effectively ... a far greater number of schools ... have done little or nothing at all."

college students are the primary source of P2P piracy

"college students are the most avid music fans"

#### FACT

Data from The Campus Computing Project reveal that more than 80 pct of 4-year colleges and universities have explicit campus policies to inform students about copyright and to address P2P violations.

College students accounted for just 4 percent (329 cases) of the more than 8400 "John Doe" lawsuits filed by the RIAA between Jan 04-June 05

Consumers aged 18-24 (including college students) account for a sixth (15-17 pct) of the music buying population. Consumers ages 25 and older purchase two-thirds of all recorded music.

*Star Wars Meets the DMCA*

### House Science and Technology Committee Hearing • 5 June 07

#### THE "STAR WARS" STRATEGY WILL FAIL

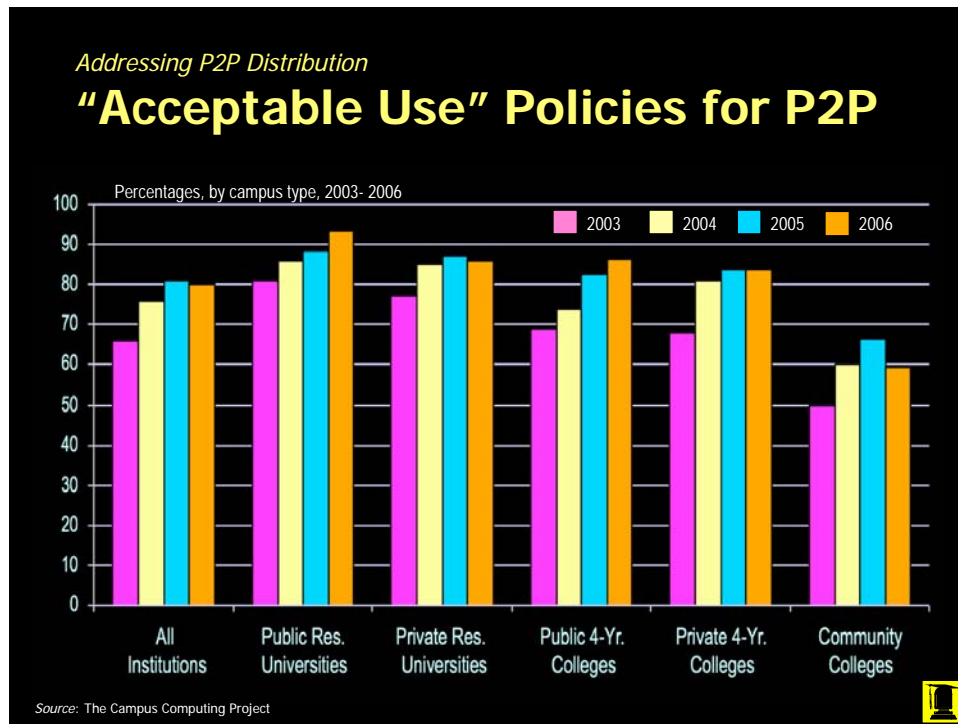
- ◆ **CHAIRMAN GORDON:** "Technology will be the first line of defense [against P2P piracy on campus]."
- ◆ **ADRIAN SANNIER (ASU):** We spent \$250k on Packeteer over 5 years; spending \$200k on CopySense this year. P2P is an "arms race."
- ◆ **GREG JACKSON (U-CHICAGO):** "Network based anti-infringement technologies fail within high performance networks, and eventually they will fail more generally."
- ◆ **VANCE IKEZOYE (AUDIBLE MAGIC):** "Technology will never be the entire solution [to P2P piracy]...just one of the tools"



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## Data Questions

- ◆ Campuses that have received DMCA notices
- ◆ Campuses deploying technology against P2P
- ◆ Campuses licensing music services
- ◆ Student sanctions: type, frequency, control
- ◆ Range and scope of user education programs
- ◆ Cost of "compliance"



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### Institutional Options

- ◆ Benign Neglect
- ◆ Kill all P2P on the campus network
- ◆ RIAA: Buy a music service
- ◆ RIAA: License a technology to stem P2P
- ◆ RIAA: Engage in user education
- ◆ RIAA: Take action against students
- ◆ RIAA: Forward DMCA warning letters



### Recommendations

- ◆ Mandatory user education as a requirement for network access
- ◆ Public floggings
- ◆ Internal and external marketing
- ◆ Fight back!



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### Chapter 3: Higher Ed's Fall '07 Counter Attack

#### *COMBAT THE RIAA'S SPRING OFFENSIVE*

- ◆ Aggressive campus promotion about P2P
- ◆ College presidents should contact Congressional representatives
- ◆ PR counteroffensive



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