

109TH CONGRESS
2^D SESSION

S. RES. 438

Expressing the sense of Congress that institutions of higher education should adopt policies and educational programs on their campuses to help deter and eliminate illicit copyright infringement occurring on, and encourage educational uses of, their computer systems and networks.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. ALEXANDER (for himself, Mr. LEAHY, Mr. HATCH, and Mr. NELSON of Florida) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions

RESOLUTION

Expressing the sense of Congress that institutions of higher education should adopt policies and educational programs on their campuses to help deter and eliminate illicit copyright infringement occurring on, and encourage educational uses of, their computer systems and networks.

Whereas the colleges and universities of the United States play a critically important role in educating young people;

Whereas the colleges and universities of the United States are responsible for helping to build and shape the educational foundation of their students, as well as the values of their students;

Whereas the colleges and universities of the United States play an integral role in the development of a civil and ordered society founded on the rule of law;

Whereas the colleges and universities of the United States have been the origin of much of the creativity and innovation throughout the history of the United States;

Whereas much of the most valued intellectual property of the United States has been developed as a result of the colleges and universities of the United States;

Whereas the United States has, since its inception, realized the value and importance of intellectual property protection in encouraging creativity and innovation;

Whereas intellectual property is among the most valuable assets of the United States;

Whereas the importance of music, motion picture, software, and other intellectual property-based industries to the overall health of the economy of the United States is significant and well documented;

Whereas the colleges and universities of the United States are uniquely situated to advance the importance and need for strong intellectual property protection;

Whereas intellectual property-based industries are under increasing threat from all forms of global piracy, including hard goods and digital piracy;

Whereas the pervasive use of so-called peer-to-peer (P2P) file sharing networks has led to rampant illegal distribution and reproduction of copyrighted works;

Whereas the Supreme Court, in *MGM Studios Inc. v. Grokster, Ltd.*, reviewed evidence of users' conduct on just two peer-to-peer networks and noted that, "the prob-

able scope of copyright infringement is staggering” (125 S. Ct. 2764, 2772 (2005));

Whereas Justice Breyer, in his opinion in *MGM Studios Inc. v. Grokster, Ltd.*, wrote that “deliberate unlawful copying is no less an unlawful taking of property than garden-variety theft” (125 S. Ct. 2764, 2793 (2005));

Whereas many computer systems of the colleges and universities of the United States are illicitly utilized by students and employees to further unlawful copying;

Whereas throughout the course of the past few years, Federal law enforcement has repeatedly executed search warrants against computers and computer systems located at colleges and universities, and has convicted students and employees of colleges and universities for their role in criminal intellectual property crimes;

Whereas in addition to illicit activity, unauthorized peer-to-peer use has multiple negative impacts on college computer systems;

Whereas individuals engaged in illegal downloading on college computer systems use significant amounts of system bandwidth which exist for the use of the general student population in the pursuit of legitimate educational purposes;

Whereas peer-to-peer use on college computer systems potentially exposes those systems to a myriad of security concerns, including spyware, viruses, worms or other malicious code which can be easily transmitted throughout the system by peer-to-peer networks;

Whereas peer-to-peer use on college computer systems also exposes those systems to increased volumes of porno-

graphic or obscene material, including child pornography, which are readily available on peer-to-peer systems;

Whereas peer-to-peer systems have also been used to gain unauthorized access to personal and sensitive information, such as social security account numbers, medical information, tax returns, and bank statements;

Whereas colleges and universities must use valuable and finite resources in responding to requests from victims and law enforcement seeking to stop illegal downloading on college computer systems;

Whereas computer systems at colleges and universities exist for the use of all students and should be kept free of illicit activity;

Whereas college and university systems should continue to develop and to encourage respect for the importance of protecting intellectual property; the illegality and potential legal consequences of unauthorized downloading of copyrighted works; and the additional security risks associated with unauthorized peer-to-peer use; and

Whereas it should be clearly established that unauthorized peer-to-peer use is prohibited and violations punished consistent with upholding the rule of law: Now, therefore, be it

1 *Resolved*, That—

2 (1) colleges and universities should continue to
3 take a leadership role in educating students regard-
4 ing the detrimental consequences of online infringe-
5 ment of intellectual property rights; and

1 (2) colleges and universities should continue to
2 take all practicable steps to deter and eliminate un-
3 authorized peer-to-peer use on their computer sys-
4 tems by adopting or continuing policies to educate
5 and warn students about the risks of unauthorized
6 use, and educate students about the intrinsic value
7 of and need to protect intellectual property.

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