On The Campus:
Campus Diversity and Moral Values in Public and Private Life*

Appendices

November 19th Campus Conversation, the first in a series of Carnegie Mellon Deliberative Polls®

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The Benefits of Diversity for Education at Carnegie Mellon

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This document reviews the research on the implications of a diverse university community for education, and articulates our values and beliefs about the impact of diversity on the education we provide. The Carnegie Mellon community believes that a more diverse campus is important because diversity broadens the educational experience for all our students. This review and analysis sets this priority in historical, psychological and social contexts.
Introduction

Over the past three decades Carnegie Mellon has risen from regional to international distinction because of our leading-edge research, innovative education and effective use of technology. As we have evolved and attracted students and faculty from across the nation and around the world, we have come to realize the important role that campus culture plays in supporting our standing as a prominent research university and as a citizen in a global society. A prominent feature of the culture we seek is diversity, because diversity broadens the educational experiences of all our students, furthers our competitive strengths, advances our university’s inclusiveness and positions us for influence in a global society. We believe that students who graduate from a university with a diverse population are better prepared for the social, cultural and technical demands of the workplace, and are better able to participate as citizens of local, national and international communities.

The campus culture that we aim to shape will welcome, value and support faculty and students of various ethnicities, religions, languages, colors and perspectives, and create an environment in which men and women can freely pursue their talents and callings in a climate that nurtures their full potential. This culture of diversity will not only celebrate the freedom and vitality to be found in a great American research university, but will allow us to demonstrate leadership both within our own nation and in the international arena. Only a diverse campus community can offer our students a model of the workplaces and polities in which we expect them to exercise leadership in the years after graduation. We need to prepare them for such environments by making Carnegie Mellon itself a model of inclusion and respect for differing perspectives and diverse ways of living, learning and flourishing. Furthermore, we expect our students to carry this model of inclusion forward to improve their own workplaces and life experiences.

Strategic planning has been key to our success as we have sought a comparative advantage through deliberate focus in fields that range from the fine arts, humanities and social sciences to engineering, the physical sciences, business and public policy. The focus on niche sub-disciplines that has made us a leader in many areas (e.g. Cognitive Neuroscience, Engineering and Public Policy, Bayesian Statistics, Computational Finance) has been balanced with our interdisciplinary approach to research and education. Educational planning has turned our comparative advantages within singular disciplinary "niches" into a wide-ranging multidisciplinary strength.

The same tenacity that has brought us this far is now further required as we engage in a process that takes our institution to a higher level of inclusion. The Board of Trustees, President, central administration and many faculty are committed to diversity as a strategic priority. Without this commitment, we cannot maintain our international influence or assure the greatest potential for success among our students.

The commitment to diversity has been renewed and deepened over the last decade, but the process began before the Second World War. Over the past 70 years, the Board of Trustees, the President and central administration—as stewards of the mission and interests of our university—have acted to advance the diversity of our population and develop the supportive base of our campus culture. In the 1930s we removed quotas against the admission of Jewish students, a generation ahead of our peer institutions. In the mid-1960s we joined other research universities in further diversifying our student population through an affirmative action program for underrepresented minorities, mainly African Americans. In the mid-1970s Carnegie Mellon...
developed and implemented a federally approved affirmative action plan for the employment of women and minorities. In the 1980s we began an effort to increase the recruitment of Asian, Asian American, Hispanic and African American faculty. In the 1990s we increased our international student population, instituted domestic partner benefits and, at the end of the same decade, began to increase significantly the number of women admitted in many fields of engineering and the sciences. This broadening of our population has itself become a catalyst for further diversity efforts.

Our resolute progress toward greater diversity over the past 70 years has, at times, been slow and uneven. Yet, through it all we have maintained our commitment to a culture that supports tolerance, mutual respect and inclusion. The success of our efforts to build and reinforce this culture of diversity will critically depend on our ability to recruit the kind of faculty, staff and students who can create and sustain such a diverse community, and who consider it a privilege to be part of a community that is international, diverse and demanding.

This document articulates our values and beliefs about the impact of diversity on the education we provide. We first describe the scope of the education we seek to provide and our goals for inclusiveness. We then describe the historical setting that places our institutional efforts in a national context. Finally, we discuss the scholarly literature that supports an investment in a diverse university community and culture.

I. Defining Education and Diversity at Carnegie Mellon

To prepare our students for life and leadership, our educational philosophy focuses on the total, or holistic, development of students as people. Students develop in many dimensions during their four years at Carnegie Mellon University: intellectually, cognitively, socially, emotionally, culturally and psychologically. To help them learn and grow in all these dimensions, we strive to immerse our students in an environment that is conducive to learning both inside and outside the classroom. Our responsibilities as educators include providing content and context, promoting professional and personal growth, supporting career planning and the development of skills, and fostering the ability to negotiate a complex and dynamic social world. We want our graduates to have the desire, confidence and skills to learn and grow throughout their lifetimes.

Building on our traditions of innovation, problem solving and interdisciplinary collaboration, we educate with an eye to the future, to help our students meet the changing needs of society. We are committed to an educational environment that fosters exploration, discovery, creativity, design and invention; we want our students to be at the forefront of enhancing the quality of life, whether through a work of art, a robotic arm or a better understanding of the human mind.

We hope to foster in our students a commitment to quality, ethical behavior, society and respect for one another. We have developed a curriculum with a focus on interdisciplinary and teamwork from our longstanding commitment to educate through familiarity with and understanding of real-world situations. This environment of authentic, collaborative problem solving helps students discover the value and benefit of observing the world from multiple perspectives. For those disciplines and activities where creative processes seemingly happen in a solitary way—such as writing poetry or designing a chair—we strongly believe that the broad education we offer, the open exchange of ideas we promote, our urban setting and the diversity
of the Carnegie Mellon community all contribute to an environment that produces results superior to those that would be created in an environment lacking these critical features.

We aim to prepare students for the complexity and diversity of our society—to recognize, value and learn from heterogeneous cultures, communities and perspectives. Our goal is to develop a fundamental respect for different ways of living, working and learning. Valuing diversity goes beyond a simple tolerance of different backgrounds and approaches: it recognizes, appreciates and facilitates the processes involved in the exploration and discovery of the unfamiliar, allowing for a variety of ways to think about and communicate ideas. Furthermore, valuing diversity makes for stronger affiliations within our community and enhances our ability to be effective in an increasingly complex and pluralistic society. Students must understand and respect people and ways of life that are different from their own, because this is the world in which they will live and work.

Diversity expands and enhances what we already do. By increasing our comfort levels with differences, we increase our flexibility to learn in different ways and to enrich our experiences, both educational and otherwise. Diversity encourages critical thinking and increases communication across cultural borders, and helps to forge relationships. Diversity of views and perspectives is important at any university, but especially at Carnegie Mellon, which relies so heavily on collaboration as a basis for innovation. Fostering mutual respect for our differences strengthens our university community.

Learning to navigate a rich array of diverse communities is a life skill needed for any person in a world brought together through technology and ease of travel and communication. True exchange of ideas—a key to innovation and progress—requires sensitivity to and understanding of others’ views, values and ideas. The diverse community at Carnegie Mellon provides an ideal setting to develop these skills.

**II. Diversity: A Historical Perspective**

As Carnegie Mellon further develops and articulates its diversity mission, we take heart in the progress that the nation and the university have made over time, but we must also confront and address the complex and stubborn persistence of inequality along the color line. Since the Revolutionary War, U.S. history has been characterized by two large, interrelated themes: 1) sharp internal ethnic, nationality and cultural conflicts and 2) the gradual mediation of such conflicts through the creation of a more inclusive multicultural and democratic nation. When the U.S. embarked upon its political career with the Declaration of Independence in 1776, it did so with huge gaps between its democratic promise and its reality as an elite, slaveholding, predominantly white male-dominated republic. Government by, for and of the people would take years to perfect. It remains imperfect, but it retains its promise as a model for a multicultural democracy. In less than two centuries, America expanded the franchise to landless white men, formerly enslaved African American men and to women of all ethnic and racial backgrounds. America’s ability to respond to ongoing social conflicts by broadening the base of democratic participation and civic engagement should inform Carnegie Mellon’s current effort to create a more inclusive multicultural university.
In the wake of the American Revolution, the nation did little to reverse the earlier system of inequality. The new nation continued the removal of Native Americans from their land, tightened the institution of slavery, subordinated women and disenfranchised the masses of landless white men by imposing property qualifications on the right to vote. It was during this period in the nation’s history that rising numbers of white workers adopted the term “white slavery” to describe their lot, but drew a careful distinction between themselves and enslaved blacks.

From the early years of the nation, white workers waged a relentless struggle to gain equal rights. By the 1820s and 1830s, the nation responded to their demands by removing property qualifications and enfranchising all white men. For their part, some four million enslaved blacks gained their freedom in the wake of the Civil War. Following passage of the 13th, 14th and 15th Amendments to the Constitution, for the first time in the nation’s history all black men were entitled to the right to vote in the North and South. The emergence of Jim Crow laws during the late 19th century undermined this process of democratization across the color line, but the emergence of the modern civil rights and black power movements of the post-World War II years dismantled the system of Jim Crow through passage of the Civil Rights Acts of 1964, 1965 and 1968.

Under the umbrella of the modern civil rights movement, women, Hispanics, Native Americans and gay rights activists also accelerated their assault against various forms of political, institutional and cultural injustice and inequality. Although women had gained the right to vote in 1920 and American workers had gained a New Deal during the 1930s, these movements failed to address the racial and gender divisions of American society. As such, they left unfinished the work of creating a multi-racial and gender-integrated democracy. By the late 20th century, however, the nation had made substantial progress toward incorporating diverse ethnic and nationality groups as well as women into the body politic. It was now not only necessary for citizens to avoid racial and gender discrimination but to take “affirmative action” to ensure equitable treatment of women and minorities in American society. In short, America had finally started to address its “unfinished revolution” of full citizenship rights for women, black Americans and a variety of other ethnic and racial groups.

As a result of our history, America is a diverse society. To succeed in its democratic promise, America needs to assure that qualified students can gain access to high quality education. We at Carnegie Mellon have been at the forefront of efforts to assure such access, and our current strategic priority continues our trajectory toward a more inclusive campus.

III. A Demographic Perspective

Addressing the issue of broadening inclusion is imperative given the country’s current population and future projections. Racial and ethnic diversity has increasingly characterized the U.S. population over the last century: in 1900 one in eight Americans was of a race other than white, while by 2000 the ratio was one in four (U.S. Census Bureau, November 2002). The past 30 years is largely responsible for this increased diversity, as the population of races other than White or Black grew by the year 2000 to be comparable in size to the Black population. Between 1980 and 2000, the aggregated Minority population (defined as people of races other than White and people of Hispanic origin) increased by 88%, and the Hispanic population doubled. By 1980,
Hawaii and the District of Columbia were more than 50% Minority, and by 2000 California and New Mexico reached that marker as well. Texas is close, with a 48% Minority population.

Carnegie Mellon’s demographics are not as striking as national demographics, yet we’ve made slow and steady progress over the years. In 1976 we had only 4.8% minority undergraduate students, and in 2003 we have 10.8%.\(^1\) Similarly, we’ve grown from 6% minority faculty in 1979 to 14% today.\(^2\) Staff positions don’t show much overall movement between 1979 and 1993 (178 and 183, respectively), although there has been a shift: a decrease in the number of minority service and maintenance workers and an increase in the number of minority staff in executive, administrative, professional and secretarial/clerical positions.\(^3\)

**IV. The Educational Benefits of Diversity**

On a scientific level, diversity carries significant value across a number of complex social and biological systems. For example, biodiversity within ecosystems, genetic diversity within species, and the diversity of holdings within economic portfolios all convey advantages that result in strength, breadth of resources, resilience to challenge and increased viability. While we strongly believe that diversity has *inherent* moral and social value on the college campus, we also recognize that like the benefits it delivers in other complex systems, diversity conveys a host of benefits in higher education. Indeed, research from the social sciences has identified a number of specific ways in which students who attend universities with a diverse student population benefit in comparison to students with homogeneous student bodies (for reviews see Hurtado et al., 1999; Milem, 2003; Milem and Hakuta, 2000; Orfield, 2001; Smith et al., 1997). In particular, the traditional one-sided view of promoting diversity through college admissions focuses on equal access to educational opportunities for minority students. This approach suggests a zero-sum gain such that for every minority student accepted for admission, there is a lost opportunity for an equally, or even more qualified, non-minority student. Arguments in favor of diversity from this perspective tend to rely on ethical considerations of equality and social justice. However, social psychological research suggests that the benefits of a diverse student body are realized not by just the minority population, but by all students.

As a starting point in examining the benefits of diversity to university students, it is useful to place the college years in the context of broader psychosocial development. Many educational scholars argue that the college years represent a distinctive developmental phase that lies at the interface between adolescence and young adulthood (Astin, 1977, 1993; Feldman and Newcomb, 1969; Pascarella and Terenzini, 1991; Perry, 1999). Of notable importance is the role of peers. A large body of research convincingly demonstrates the significant influence that a student’s peer group exerts on intellectual and social development (Astin 1993; Alwin et al., 1991; Kuhn, 1993;)

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1. These numbers represent African American, Hispanic and Native American students.

2. These numbers include Asian faculty as well as African American and Hispanic.

3 Between 1979 and 1993, the number of minorities in executive/administrative positions increased fromm 11 to 20; in professional positions from 5 to 15; and in secretarial/clerical positions from 26 to 65 (data from the files of the Office of Equal Employment Opportunity).
During this phase, substantial changes occur in personality, self-identity, social and academic self-concepts, self-esteem, values and attitudes (Alwin et al., 1991; Astin, 1977, 1993; Erikson, 1946, 1956; Newcomb, 1943; Newcomb et al., 1967; Pascarella and Terenzini, 1991). Critical to optimal development at this stage are what various theorists refer to as disequilibrium, dissonance, incongruity or periods of crisis (Coser, 1975; Langer, 1978; Marcia, 1980; Piaget, 1971, 1975/1985; Ruble, 1994). In essence, these periods represent exposure to experiences and ideas that differ from or challenge those previously experienced. As such, introductions to diverse people, new ideas, unexplored perspectives and unimagined experiences facilitate the development of a more genuine and authentic self. Without this experience, self-development defaults to an automatic adoption of the perspectives, values and social roles from which the student came.

As an institution of higher learning, Carnegie Mellon is committed not only to nurturing individual self-development but to providing an environment that delivers the highest quality academic experience among its graduates. Part of this mission is to guarantee that students are able to think clearly and critically about complex issues and to apply their knowledge to a rapidly changing world. To achieve this goal, students must move well beyond rote memorization of fixed knowledge within a particular domain and develop a deeper integrated understanding of complex interacting systems (Simon, 1980). Critical to this goal is the ability to think deeply, creatively and from different perspectives. As faculty, we encourage students to articulate and evaluate their views, to assimilate data from multiple sources and to consider evidence in novel and innovative ways. We create classroom situations that engage students, encourage discussion and facilitate debate to achieve multiple perspective taking. In doing so, we help our students learn to articulate their own positions and to view information and problems from multiple vantage points.

What is increasingly clear from psychological research is that interactions among students within a diverse student body promote this same type of learning experience. By interacting with students who have different backgrounds and life experiences, students are inevitably faced with new perspectives and views that differ from their own. This contact provides ongoing opportunities for students to question, articulate and expand their own beliefs. As a result, on average those students who interact with diverse others develop higher levels of critical thinking and active thinking skills (Gurin et al., 2002; Pascarella et al., 1996) and demonstrate greater engagement and motivation (Gurin, 1999; Gurin et al., 2002; Gurin et al., 2004). In addition, students on diverse campuses generally experience enhanced classroom discussions (Orfield and Whitla, 1999) and develop a greater ability to understand diverse perspectives (Gurin, 1999; Gurin et al., 2002; Gurin et al., 2004).

In addition to fostering critical thinking and providing opportunities to view problems from multiple perspectives, campus diversity may teach students to more effectively negotiate and function within complex social and occupational environments. Given the changing demographics of the United States, the increasing diversity in the American workforce, and the growing nature of the global marketplace, this is a critical skill that prepares students for life after graduation. In fact, global corporations like General Motors, 3M, E.I. Du Pont de Nemours & Co., Intel Corporation, Microsoft, Texaco, and Proctor and Gamble have clearly articulated that it is essential that students be educated in an environment in which they are exposed to diverse ideas, perspectives and interactions (Amici Brief Steelcase, Inc. et al., 2000; Amicus
Brief General Motors Corporation, 2003). These companies maintain that the diversity that universities provide contributes significantly to students’ abilities to live and work together and communicate across boundaries—a value they embrace given that “no one... can afford to think in purely local terms” anymore (Amici Brief MIT et al., 2003). Moreover, these companies believe that diversity within their workforces leads to more innovative ideas and products, as do William A. Wulf, President of the National Academy of Engineering (1999) and Neal Lane, former Director of the White House Office of Science and Technology Policy (1998).

The ability to skillfully navigate complex and diverse social environments requires more than simply identifying a set of rules or guiding principles from a textbook or lecture. Although classroom discussions and readings about different perspectives can enhance these social and interpersonal skills, they are developed, internalized and reinforced through implicit learning experiences that can occur within the context of direct exposure to a diverse social environment. What is critical here is not just diversity in a structural or demographic-sense, but interactions that facilitate the sharing of ideas, experiences and perspectives among diverse groups. Indeed, on average those students with greater exposure to this type of diversity have shown higher levels of racial and cultural awareness (Gurin, 1999), greater commitment to racial understanding (Milem, 1992, 1994) and more openness to diversity and challenges (Pascarella et al., 1996).

Social justice concerns and U.S. history alone are sufficient grounds to support diversity in university admissions processes. On ethical grounds, the alarming level of national and international violence and intergroup conflict, and the persistent levels of subtle racism underscore the need for a diverse campus population. Certainly, demographic data suggests that for most students in the United States, college provides the first experience of living and learning in a diverse community. As such, the university is uniquely positioned to promote contact among diverse groups under conditions that social science research has shown to reduce intergroup hostility, stereotyping and distrust (Amir, 1976; Cook, 1984; Pettigrew, 1991, 1998). By promoting equal status interactions that provide opportunities for group members to know each other as individuals, encouraging a common goal or identity among a diverse student body, and providing support for group equality from authorities, Carnegie Mellon actively facilitates the development of democratic ideals and tolerance for difference. Again, these important values are most likely to be internalized when they are the result of experience rather than through formal instruction. In support of this position, research from the social sciences demonstrates that students with greater cross-racial interactions are better able to identify common values among diverse groups, recognize that conflict can have value when handled appropriately (Gurin, 1999), and show greater commitment to the goal of promoting racial understanding (Astin, 1993; Milem 1994). Moreover, those with greater interracial interactions also demonstrate more involvement with community and volunteer services, show higher involvement in community action programs (Bowen and Bok, 1998), and are more likely to live and work in racially diverse environments (Gurin, 1999).

Consistent with the research on the educational benefits of diversity, research among a variety of organizations demonstrates that, under conditions that foster positive intergroup interactions, diversity may confer creative and functional advantages. Recent reviews of 40 years of research on demography and diversity in organizations (Williams and O’Reilly, 1998; Milliken and Martins, 1996) conclude that “diversity appears to be a double-edged sword, increasing the opportunity for creativity as well as the likelihood that group members will be dissatisfied and
fail to identify with the group (Milliken and Martins, 1996, p. 403).” Under ideal conditions, diversity can promote creativity and improve decision-making because it enhances knowledge, information, perspective, skills and abilities. These ideal conditions include the ability to manage the possible dysfunctional aspects of heterogeneity in groups (e.g., in-group/out-group effects, stereotyping, and less frequent communication). In other words, the advantages afforded by a diverse group can be negated by a view of “otherness” as a deficiency, resulting in stereotyping, polarization and anxiety. Therefore, because the demographic composition of work groups affects group process (e.g., conflict, cohesion and communication), which in turn affects group performance, effectively managing heterogeneous groups is vital to realizing better outcomes (e.g., more creative solutions or decisions).

IV. Conclusions

So, what does all of this mean, in concrete terms, for students and education at Carnegie Mellon? How does diversity enhance the education that distinguishes us from others? How does a diverse student population impact our goals of problem solving, innovation, collaboration, interdisciplinarity and leadership? We have tried to articulate the answers to these questions in this document. As a result of varied intellectual perspectives coming from our diverse student population, students may define problems in unique ways and entertain a broader array of alternative solutions/designs/decisions, leading to more innovative thinking. Furthermore, our diverse population and the resulting cross-racial and cross-cultural interactions will result in our students not only being comfortable working collaboratively with colleagues with distinctively different views due to their differences, but will also ensure that they carry forward with them the importance of diverse perspectives in achieving the best results. They will understand and respect difference and be able to lead effectively because they search for understanding beyond their own views, and value seeing the world from multiple perspectives.

All of these things do not happen simply because diverse students are thrown together to work and play. We must create the conditions that enable diversity to enhance—not hinder—intellectual and social growth among all students, both within and outside the classroom. The frequency and quality of interactions and the social milieu in which they take place are vital. Environments that foster equal status interactions, afford opportunities to explore the existence of common goals, provide occasion for informal one-on-one interactions, and espouse social norms that endorse equality and group interaction are the ones that are most likely to experience the immense benefit that diversity can offer. In other words, we can’t just throw students with vast differences together without any support; we need to teach them how to negotiate those differences and use them to the group’s advantage.

The university provides a variety of forums—structured with the necessary conditions for success—in which students confront diverse ways of thinking, doing and being, for example, through text (e.g., courses, the Multicultural Book Club), dialogue (e.g., courses, Community Collage, Speak Your Mind, Diversity Challenge), and public celebrations (e.g., International Festival, Native American Heritage Month). Through all these venues, we seek to create an environment where the values of diversity may be realized most fully.
We believe a high-quality education demands a diverse setting, and we are committed to encouraging and supporting its development. Because we define education broadly at Carnegie Mellon, and because we are committed to the holistic development of our students, we aspire for them to excel not only as professionals but also as human beings, devoted to the principles of a multicultural and democratic nation. Because we prepare our students to move through multiple communities in this increasingly complex and opportunity-rich world, we believe they will make a difference.

**Bibliography**


Appendix Item B:  
A Summary of Richard Spinello’s Work on File-Sharing  

One of the preeminent thinkers on intellectual property rights on the Internet is Richard A. Spinello. In Beyond Copyright: A Moral Investigation of Intellectual Property in Cyberspace, Spinello argues that while the idea and implications of copyright law are in need of some modification in order to be both reasonable and effective in the future, the real force behind the power of the law must be generated by the society that it governs. What follows is an outline of his major points.

The history of copyright law in the United States dates back to the drafting of the Constitution. The intent of the original law was to foster the creation of new technology and novel ideas. “Article 1 of the Constitution confers on Congress the power ‘to promote the Progress of Science and the useful Arts.’” However, this was never considered a ‘power’ with no limitation. In fact, this power is limited in two ways, by the ‘fair use provision’ and by the ‘first sale provision.’ The ‘fair use provision’ is in place to allow for referencing of copyrighted material in order to (among other things) write about or respond to another’s ideas. The ‘first sale provision’ is in place to allow the buyer of a piece of copyrighted work to lend or resell the work to another individual without first obtaining the creators permission. “These limits on copyright law are designed to balance the rights of the copyright holder with the public’s interest in the broad dissemination and availability of literary and artistic works.”

The rise of the Internet and digital media created the circumstances under which information could be transmitted from one user to another virtually instantaneously and with no loss of quality. This fact was responsible for heralding in a unique situation in the history of copyright law that revolved around the file-sharing service Napster. Napster was the first, and to-date, the only such service that has been sued due to its role in the facilitation of file-sharing copyrighted material. Stated the court, “Napster, by its conduct, knowingly encourages and assists the infringement of plaintiff’s copyrights.” [The Court] rejected… fair use claims [on the part of Napster], concluding that Napster had an adverse effect on the market for audio CDs, especially among college students. The scale of file sharing enabled by Napster meant that this sharing could not be considered a private affair. While file sharing is certainly not always infringing, by making music on their hard drives accessible to many other individuals over the Internet, Napster users were functioning as distributors of protected material. And although Napster itself was not yet reaping profits from this file-sharing, its users were achieving...

2. Cavalier 30.
an economic gain…. The fact that ‘Napster users get for free something they would ordinarily have to buy suggests that they reap economic advantages from Napster use.”

In this sense, the court ruled that the ‘public’s interest in the broad dissemination and availability of literary and artistic works’ was being advanced at the expense of the ‘rights of copyright holders’ to the extent that these two forces were not longer balanced.

However, the lynchpin in the Napster case was the fact that Napster employed a central server that indexed the files on its users’ computers. Because of this, the court was of the opinion that Napster had played a direct role in the file sharing that was occurring, and was thus liable for the actions of its users. Newer P2P networks such as KaZaA and i2hub operate in such a way that users’ computers communicate directly with other users, thus eliminating the liability of the software developers in being the targets of any civil suits.

One noted ethicist, Larry Lessig, suggests there are four limitations on one’s behavior. These four limitations are the law, norms, the market, and architecture. While the RIAA (The Recording Industry Association of America, an association that represents the interests of record labels), has begun targeting the individual users of software such as i2hub, the overall impact of these lawsuits on the general trend of downloading copyrighted material has yet to be determined. In this case, it is not yet clear whether ‘the law’ is effective in mitigating these downloads.

Social norms have also seemed to run counter to the interests of those who would like to be able to curb these downloads. “Community standards send mixed signals about the social acceptability of duplicating copyrighted material.” On one hand, a few entities (such as ‘content providers’ and other professional interests) seek to advance an understanding and respect for the law. However, the other hand approaches the issue from two, arguably more convenient standpoints. Some suggest that all content on the Internet should be free anyway, and some others suggest that, even if it is illegal, it’s not so bad. In fact, it’s really just a ‘minor and victimless crime.’ This ‘norm’ is far more pervasive, and thus overtakes many of the efforts of individuals and other entities to raise awareness and understanding of the legal and moral ramifications of illegally downloading copyrighted material. Moreover, as piracy becomes more socially acceptable, it becomes more difficult to change the viewpoints and habits of those acting in this fashion. So in this sense, it appears as if social norms as they are currently perceived do not aid in preventing the downloading of copyrighted material. But what about the market?

“Market forces are also not much of a constraint because the economics of digital technology make copies readily available and suggest that copyright is an archaic artifact from the pre-digital era…. Illicit file sharing on a massive scale can be accomplished without a physical distribution network or manufacturing facilities.” With digital media, there is no need to transfer the media

5. Cavalier 35.
6. Ibid.
onto a ‘real space’ medium. Because of this, the convenience of data transfer is thus greatly enhanced, and can occur at a much faster rate of dissemination than was ever possible before. Additionally, there is a simple, more primordial market mechanism in place, namely: all things being equal, if one had the choice between getting something for free or paying for it, one would choose the former option.

In ‘real space,’ architecture is manifest in obvious ways like buildings and security devices such as bars on windows. In cyberspace, architecture is expressed in code. Currently, code functions in such a way as to facilitate downloading of copyrighted material. Specifically, this is the case because each download is an exact copy of the original; there is never any loss in data quality. Secondly, P2P technology has facilitated file-sharing to a degree that far surpasses Napster. However, from another angle, code could represent a leap in a direction that not even ardent proponents of intellectual property rights would agree with. The technology exists to be able to track every move of a piece of data. In this sense, some argue that one could charge for every copy made. However, this all but flies in the face of the ‘fair use provision’ outlined in the Constitution, as the technology could eliminate the right of the user to determine how to use the work. Thus, we arrive at a ‘digital dilemma,’ in the sense that “digital technology can liberate content or enclose it.”7

Thus, it appears that Lessig’s framework does not have the same restrictive force in cyberspace that it does in real space, either that, or the restrictive force is overly controlling. So what other options are there?

First off, it is necessary to distinguish ‘norm’s’ from ethics, the former having a contextual force, the latter, a universal one. Regarding norms:

…Their validity is to some extent dependent on custom, prevalent attitudes, public opinion, and a myriad of other factors… the fundamental principles of ethics, however, are meta-norms, since they have universal instead of local validity.8

Ethics, however, “is about… intelligible human goods—hence the continuity of general ethical principles despite the diversity of cultures.”9 Thus, Lessig errs when he fails to distinguish between these two, fundamentally different types of guiding principles. In this sense, it is of value to assess file-sharing of copyrighted music in the context of morality.

Those who are not morally opposed to file-sharing of copyrighted material often have one of two justifications. On the one hand, “in this virtual world of digital products that can be duplicated and redistributed at no cost, traditional distribution structures that depend on ownership of content and an exclusive right to distribute seem anachronistic.”10 On the other hand, “strong intellectual property rights have certain negative consequences for society. They tend to

7. Cavalier 40.
8. Cavalier 34.
9. Cavalier 35.
10. Cavalier 36.
commercialize creativity and concentrate it in the hands of the major entertainment companies such as Disney.”

It is fair to suggest that both of these arguments have a certain merit, however the use of these arguments as a complete justification of the Internet as a ‘copyright-free zone’ seems far from correct. For one thing, there is a strong utilitarian argument in favor of copyright laws for the force they exert in the fostering of new artistic and creative material. “… The higher the cost to create something, the more critical the need for incentives such as intellectual property protection. Without such protection it would be impossible for innovators to recover their initial investment.”

One potential counter to this claim is the fact that intellectual property protection has a place in ‘real space,’ but not in cyberspace, where it is difficult to implement in the first place. But, “The fundamental problem is that the borders between real space and cyberspace are permeable—whatever information gets created in the real world will quickly become digitized and migrate to cyberspace. Lack of copyright protection in cyberspace will have a negative economic impact on sales of these goods in the real world.” Thus, because the economic implications of file-sharing copyrighted material permeate beyond cyberspace, the argument posed above is invalidated.

So, given that the arguments in favor of utilizing the Internet as a copyright-free zone hold little reflective force, what are the substantive moral elements that will govern constraint in the illegal downloading of copyrighted material? Other than the utilitarian argument outlined above, there are two other elements to note. First, “copyright infringement represents a violation of law, and law has moral authority unless it is unjust. Copyright laws in the United States are rooted in the Constitution and designed to promote the common good by stimulating creative and innovative works.” Second, “one cannot justify breaking a morally acceptable law unless ‘one would be willing to publicly allow any morally acceptable law to be violated,’ but no rational impartial person could possibly allow this.” The first rationale appeals to the notion that because copyright laws are part of a just system of laws rooted in the public good, they themselves have moral validity and thus should be adhered to. The second rationale appeals to the implications of breaking a just law and the ways in which that might establish the conditions under which other laws would be broken. In other words, once an individual breaks one law, it is easier for that individual to break other laws.

Logsdon, Thompson, and Reid conducted a study with a situation analogous to the illegal downloading of music. They asked college students about their views on ‘the unauthorized copying of computer software,’ and what they found was that college students, as a rule, did not view the practice as inherently immoral. Describing their findings in terms of ‘moral intensity.’

11. Cavalier 37.
12. Cavalier 37.
13. Cavalier 38.
14. Cavalier 42.
15. Cavalier 43.
they define this terminology as composed of four elements: “characteristics that tend to make it more intense and thereby connected to higher levels of moral decision making: magnitude of consequences; social consensus; probability of effect; temporal immediacy; proximity; and concentration of effect.” These researchers found that ‘the unauthorized copying of computer software’ was not considered a terrible thing because …Most individuals reasoned that this activity was inconsequential; they regarded the social consensus as mixed; they perceived the probability of causing harm as low; there was some length of time between the act of copying and any unfavorable consequences; the victims… were distant from the copier; and the negative consequences, if any, would be confined to a few companies or individuals. 

Thus, the researchers concluded that this issue exhibited ‘low moral intensity.’ It is a small step to the conclusion that a survey about the illegal downloading of copyrighted music would yield very similar results.

In terms of a viable solution, it appears as though code is the most feasible way of tackling this problem, so long as it is carried out in such a way that the rights of the user are not unfairly infringed upon. However, there is a place for Lessig’s other factors, specifically in the way that teaching can influence norms such that they adequately reflect a respect for the law. In teaching and practice, “emphasis must be placed on the corrosive effects of breaking the law.” This is specifically relevant at the pre-college level, as college is the venue where the majority of this illegal downloading is taking place.

Most of the piracy has taken place on college campuses. Yet most universities did little to discourage this activity by exhorting their students to act responsibly or intervening to stop this rampant downloading of MP3 files by disabling Napster technology. A more proactive and principled approach from university administrators along with a greater emphasis on piracy in ethics courses and symposia could go a long way to elevate the visibility of this issue.

16. Cavalier 43.
17. Ibid.
18. Cavalier 44.
Copyright Violation Guideline
Your Personal Legal Exposure to RIAA or MPAA Lawsuits

A Computing Services Publication

This document contains the following sections:

• Overview
• Purpose of the Guideline
• Copyright Guideline
• User Responsibilities

For information related to this topic refer to:

• Document Index: Policies, Guidelines and Support

Overview

Carnegie Mellon University policies prohibit the distribution of materials owned by anyone other than the person engaged in such distribution (whether officially copyrighted or not) without the permission of the owner. The distribution of copyright protected files without the permission of the copyright holder is illegal.

Recent developments lead us to address this issue and remind all users of the Carnegie Mellon network of our own policies and the laws. We also want to emphasize your own personal exposure if you are found to be in violation of copyright laws.

Purpose of the Guideline

The Carnegie Mellon Computing Policy, http://www.cmu.edu/policies/documents/Computing.htm, establishes a general policy for the use of computing, telephone and information resources. The purpose of this guideline is to establish acceptable practices that support the policy as it applies to copyright violations.

This guideline was established to ensure that the Carnegie Mellon community has a clear understanding of proper procedure and usage. Computing Services reserves the right to modify this guideline as necessary. Any changes to this guideline will be posted to official.computing-news and will be reflected on this web page.
Copyright Guideline

For anyone accessing the Internet through Carnegie Mellon’s network, using either an institutionally-owned or personally-owned computer, the University serves as their Internet Service Provider (ISP). The University is therefore bound by laws and policies that apply to ISPs. The University requires that all users of the Carnegie Mellon network learn and abide by relevant University policies which apply to such use as outlined in the The Carnegie Mellon Computing Policy.

As an ISP, the University is required to and has responded to complaints from copyright holders and organizations representing copyright holders, such as the Recording Industry Association of American (RIAA) and the Motion Picture Association of America (MPAA), regarding computers on campus illegally distributing copyrighted materials. When receiving a “cease and desist order” from these and other organizations with credible evidence of the abuse and sufficient identification of the computers involved, Computing Services investigates the situation, informs the member of the community responsible for the computer(s) at issue of the complaint, and may disable network access for the hardware involved until such time as the issue is resolved. In some cases, there may be a minimum time of lost access (see the Residence Hall and Dedicated Remote Network Access Guidelines, http://www.cmu.edu/computing/documentation/policies_reshall/reshall.html, for details). Most complaints received by the University are associated with peer-to-peer music and video distribution.

Recent developments suggest that if requested by representatives of copyright holders, Carnegie Mellon will be legally required to provide information about individual users who appear to be illegally distributing copyrighted materials on our internal network and/or to the Internet. These organizations (particularly the RIAA) have indicated or explicitly announced their intention to aggressively identify and bring suits against individual users for such distribution of copyrighted materials.

In such cases, it is the individual engaged in such distribution that will be legally liable and subject to possible fines (which according to the Digital Millennium Copyright Act can range from $750 to $150,000 per song if songs are the items being distributed illegally).

The RIAA recently won a legal case requiring Verizon, an ISP, to turn over the names of subscribers who, according to the RIAA, were engaging in illegal file sharing using their network. Furthermore, the RIAA recently sued four college students who were allegedly engaged in extensive sharing of copyrighted music on their colleges’ networks. These suits were settled, with the students involved agreeing to pay between $12,000 and $17,000 in compensation.

User Responsibilities

Because of our University’s standing policy and because of the announced intention by the RIAA to pursue personal suits as well as cease and desist orders to ISPs, we urge all members of the Carnegie Mellon community to strictly follow Carnegie Mellon’s policies on the distribution of copyrighted material.

Guideline Established: July 11, 2003
Appendix D: A Quick Guide to File-Sharing

• Basic concepts you need to know
• A brief history of file-sharing at Carnegie Mellon
• A causal model of file-sharing
• Thought questions

Basic Ideas

There are a few concepts you should be familiar with in order to have an informed discussion about file-sharing:

1. Purpose of copyright

Copyright law is supposed to balance the needs of the artist and they public by:

i. providing protection to artists so that they can benefit from their creations
ii. ensuring that the public has access to work works (by providing incentive to artists to produce them)

2. Types and tokens

Type ownership: The idea of “type ownership” is that the artist owns the rights to the “type” of musical piece they create. This means the artist can:

• make the work available to others or not
• transfer the ownership rights to others (e.g. to record company)

For example, if an architect designs a house, the architect owns the blueprint for that house.

Token ownership: The idea of “token ownership” is that the consumer owns only a copy of the musical piece created by the artist. The token owner does not have distribution rights (rights to make copies of the work or art). The token owner only has the right to:

• “multiple iterations” i.e. to play the token (CD) anytime they want, and even play the token for others
• make additional copies of the token for their personal use

For example, if someone buys the architect’s blueprints, they are allowed to make a house from the blueprints, but they aren’t allowed to reproduce the blueprints for others.
3. Lessig’s 4 constraining forces

There are four ways you can try to change people’s file-sharing behavior:

i. Laws. You can make a law against file-sharing and try to enforce it, e.g. the Digital Millennium Copyright act fines file-sharers.

ii. Norms (Ethics). You can teach people to act ethically, e.g. you can teach people how file-sharing affects artists.

iii. Market. You can create economic incentives or penalties, e.g. Apple’s music store makes it cheaper to buy just the songs you like if you don’t want the whole album.

iv. Architecture + Code. You can create physical or software constraints that make it possible to file-share with impunity (e.g. Gnutella) or make it impossible to share (e.g. SDMI).
A Brief History of File-Sharing

1790 U.S. Constitution, article 1, section 8, states that Congress has the power “to ... promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and In-ventors the exclusive Right to their respective Writings and Discoveries”. At the time, this protection extended only to publishers of maps, charts and books with a term of fourteen years. (Spinello, 200x, p. 29).

1976 Copyright Act of 1976 extends to literary, musical dramatic, artistic, architectural, audio, or audiovisual work fixed in some tangible medium of expression and gives the following rights to copyright holders:

- Exclusive rights to their works, especially reproduction and distribution
- The right to prepare derivative works based upon their copyrighted material
- Control over public performance and display.

There are however several safety valves created for the public interest including the:

- Fair use provision: small segments of video work can be displayed for limited purposes including criticism, research, education and reporting.
- First sale provision: purchaser can sell or lend the work without permission
- Limited term: copyrights expire after certain period, currently the life of the artist + 70 years, or ninety-five years for a company.

1999 Napster born

2001 RIAA injunction shuts down Napster

2001 Peer-to-peer Gnutella client LimeWire goes open source. Peer-to-peer software is harder to crack down on since files are not stored in a central location.

2002 Napster declares bankruptcy.


2005 US Supreme court decides that P2P software companies can be sued for inducing copy-right infringement, thus overcoming the physical difficulties of prosecuting individual file-sharers

2005 RIAA sues 25 Carnegie Mellon students at for fines up to $15,000 per song, settling most for $750.

2006 RIAA intends to repeat same process at Carnegie Mellon
The Argument

In the late 1990s, two artists affected by file-sharing came down on opposite sides of the issue:

Dr Dre was against file-sharing, and sued Napster.

Chuck D felt file-sharing gave artists more control and defended the service.

The diagram below shows some of the possible arguments that Dre and Chuck could have made for, and against, file-sharing. We’ll start with Dre’s position that file-sharing should not be allowed, and then show how Chuck could respond.
How to Read an Argument Map

Argument maps are diagrams that make it easier to understand arguments, but first you need to learn how to read them. Here’s an argument map describing a conversation between Matt and Nikki about where to get coffee.

Nikki proposes that “We should get coffee at Starbucks” and then gives a reason for her proposal: “We need caffeine.”

Matt agrees with Nikki that “We need caffeine,” but he doesn’t agree that they should get coffee at Starbucks, so he gives a reason against Nikki’s proposal: “We shouldn’t go to Starbucks.” The diagram shows that he disagrees with Nikki because there is an “x” on the line going from Matt’s statement to Nikki’s statement.

Matt has more to say however, and gives two reasons why they shouldn’t go to Starbucks:

* “We should support local businesses.”
* “The coffee at Starbucks isn’t good.”

Nikki doesn’t have anything to say about local businesses, but she disagrees with Matt’s statement about the coffee not being good. She points out that “Starbucks coffee is better than Kiva Han’s coffee.”
The causal model

The diagram below shows how copyright laws and file-sharing hypothetically affect the artist's incentive to create and the public's access to artworks. File-sharing might decrease the price of music and hurt artists incentives to create. On the other hand, by decreasing the price of music, more people have access to music.

solutions?

What could be done to solve the problem? Some of the current candidates are listed below along with how they affect the causal model.

1. The Digital Millennium Copyright Act would make file-sharing illegal.

2. Increase the moral intensity of file-sharing: maybe if people recognized how file-sharing affects artists, they might stop.

3. The Secure Digital Music Initiative (SDMI) would "require manufacturers of consumer electronics to adopt trusted system technology—hardware and software programmed to follow certain rules or usage rights about how and when a digital work can be used.

4. The Apple music store is a new business model for selling music that gives consumers more choice in the sense that they don't have to pay for songs they don't want. Other business models include a University-wide subscription to Napster.

5. Currently, copyright includes a number of safety valves that prevent draconian copyright measures. These include:
   - Fair use: the consumer can play music for others and make copies for personal use.
   - First sale: consumers can sell CDs they've bought.
   - Limited term: copyrights expire after the life of the artist + 70 years.
   - Solutions like SDM could effectively destroy some of these safety valves.
Questions

1. Is file-sharing a problem, should it be legal? What are the implications for artists? for the record industry? for the public?

2. What is the solution? Some of the options mentioned are:

   • (legal) making the internet be a copyright-free zone
   • (legal) enforcing existing copyright
   • (norm) convince people not to share
   • (market) create new business models like Apple’s music store or have universities buy a music subscription
   • (code) integrate SDMI architectures
   • (code) use P2P