What is Copyright?

- From: http://www.copyright.com

“Copyright protection exists from the time the work is created in a fixed, tangible form of expression. The copyright in the work of authorship immediately becomes the property of the author who created the work.”
What is Fair Use?

From:

4 factors help determine fair use:
- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit, educational purposes.
- The nature of the copyrighted work.
  Use of a purely factual work is more likely to be considered fair use than use of someone's creative work.
- The amount and substantiality of the portion used in relation to the copyright protected work as a whole.
- The effect of the use on the potential market for or value of the copyright protected work.

What is the DMCA & Why do we care?

- UH operates network for research & education
- UH role is “Internet Service Provider”
- Digital Millennium Copyright Act (1998):
- Determines role, responsibility & liability of ISP
  “Safe Harbor”
- http://www.hawaii.edu/askus/813
Current Climate

- Culture
- Attitudes
- Awareness or lack thereof
- UH “Takedown” notice statistics
  - 2006: 15
  - 2008 to date: 68

US Congressional Actions

- Perception: Universities are breeding grounds for illegal downloading
- University officials testified at Congressional hearing on June 5, 2007
- Universities are the target of a concentrated RIAA focus
- Looking to mandate technical solutions to block illegal copyright activities
**US H.R. 4137**

- It says higher-education institutions participating in federal financial aid programs "shall" devise plans for "alternative" offerings to unlawful downloading--such as subscription-based services--or "technology-based deterrents to prevent such illegal activity."

**Industry Notifications**

- Sent to “dmca-agent”
- Three Types:
  - “Takedown” Notice
    - Sent by numerous agencies
  - “Preservation” Notice - RIAA
  - “Pre-settlement” Letter - RIAA
**Takedown Notice**

- Provides:
  - IP Number
  - Date & time of incident
  - Material being infringed upon

- ITS Response
  - Block IP
  - Notify network administrator
  - If user is identified, user must sign a “Copyright Notification” Letter
  - If 2nd offense, grievance will be filed with appropriate University officials

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**Preservation Notice**

- From RIAA
- Preservation Notice notifies UH of their intent to subpoena UH for documents for subscriber information associated with an IP at a given time
Pre-Settlement Letter
- From RIAA
- Follow-up to the Preservation letter
- Asks to forward letter to user however…
- Evaluating on case-by-case basis
- UH will NOT provide any information to the RIAA unless presented with a VALID subpoena

Legal Issues
- UH will not provide any information to the RIAA unless presented with a valid subpoena
- UH must comply with all legal obligations
- If a user receives an “early settlement letter”, matter is between RIAA and user
Questions?

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