

Chairman Keller, Congressman Kildee, and Members of the Committee:

Good morning. I am Cheryl Elzy, Illinois State University's Dean of University Libraries and our designated agent for notification of claims of infringement under Section 512(c) of the Copyright Act, also known as the DMCA agent on campus. Thank you for the invitation to appear today to share with you our plans to combat illegal piracy on our campus. I will

- briefly describe our Digital Citizen Project, as we now call it;**
- outline for you why we feel our approach has been unique;**
- and share how we feel this Committee can help.**

Illinois State University is an institution of about 20,000 students and 700 faculty offering a small-school feeling with the opportunities of a large university. Founded 150 years ago as a teacher education school, Illinois State now ranks among the top five producers of K-12 classroom teachers in the nation and still has more alums teaching in classrooms than any other university in the country. Located in the great corn desert of Middle America, we attract first-generation college students; urban students who want to get away from home – but not TOO far; and downstate learners from large and small communities. We are a typical campus – great students, great faculty, never enough money or space or time.

Like every other campus across the country, we know our students, faculty, and staff are not bad. But dozens of studies in recent years have shown time and again that people on college campuses everywhere share digital music – a good deal of it without copyright permission. Add to that movies, videos, TV programs. And games. And software.

As the DMCA agent at Illinois State, I get the copyright complaints – sometimes 20 to 30 in a day. Back in 2005, for example, we received nearly

500. When we'd notify students to remove all copyrighted materials from their accounts, responses ranged from threats to tears, but pretty much always compliance. A pivotal moment for me personally came when we received four subpoenas for information on some of our Illinois State students who were going to be sued for copyright infringements. I think I felt the situation more deeply because I myself have a son attending Illinois State University. What would I think or how would I react if this was my child? The truth is I'd be raising hell with the university for not protecting my son! Why did they let him do this? Why wasn't someone watching?

We knew we needed to stop reacting and get out in front of this problem. What could we do to protect our students and police ourselves while still complying with the law? The rather simple solution seemed to us to be, literally and in the exact words I used back 18 months ago. "Why don't we go ask them what they want us to do?" "Them" in this case was the Recording Industry Association of America. So we did. Luckily RIAA was willing to talk to us, even if they were a bit surprised by our direct approach kind of out of the blue. Later the Motion Picture Association of America joined the conversations, adding even more scope, depth, and encouragement to the discussions.

In initial discussions the associations suggested the metaphor of a three-legged stool with a program of policing and enforcement, of a legal online media service, and of education. What ultimately emerged at Illinois State University after 18 months of long discussions and hard work is more of a six-legged bench. While the first three legs are essential to the integrity and balance of our bench and our program, we added three more legs to give the bench – or rather the program – much more foundation and strength. Education expanded into plans for an extensive public relations campaign. Enforcement blessedly evolved into a self-monitoring software system with

accompanying educational screens. And the idea of a legal digital media service grew to incorporating 3-5 legal sources of media covering all portable player platforms. Beyond that, the ISU program now includes components tackling easier and more definitive guidance on educational fair use in classrooms coupled with easier avenues to copyright permissions; development of a menu of teachable moments on copyright and legal use of media for the K-12 audience; and – knowing that a carrot is nearly always more effective than a stick in getting attention – we’re exploring a system of rewards for those who participate in Illinois State’s Digital Citizen Project. Those rewards might be discounts subscriptions or tracks from the legal downloading services, movie tickets, workshops with artists and actors, or even concerts with a message on staying legal from major performers.

We’re envisioning a program of legal downloading services that we are calling “Bird Trax”, a name derived our Illinois State athletic teams’ name, the Redbirds. Students, faculty and staff may elect to opt into this legal option for downloading. It’s important to remember that all participants and non-participants will be subject to the monitoring and enforcement of copyright protections. There won’t be an avenue on the Illinois State network for illegal downloads. We won’t be able to capture every incident, but we hope to identify most. By offering an opt-in program, if the network user is not someone who downloads, he or she doesn’t have to participate. However, if a user tries to download a signed electronic file, the activity will be stopped.

Managing copyright complaints, reacting to the problems is costing college campuses tens of thousands of dollars each year – perhaps hundreds of thousands in staff costs and infrastructure. Starting any program like ours isn’t cheap either. But Bird Trax won’t be financed by tuition or student fees. It won’t be free, either. In today’s market economy we feel users need to be

conditioned to pay for what they use, so there will be charges attached to participation. The program's revenue stream will come from modest participation charges. We're modeling this on our school's athletic participation card program where students purchase a card to enter any number and types of athletic events. Students participating in the Bird Trax program will have access to the legal downloading services we're providing if they choose.

Long-range, our hope at Illinois State is that we really will serve as a kind of "consumer's reports" on the digital media scene, testing, reviewing, and implementing new services as they emerge in the market while serving as a resource to higher education on the education side of this equation. We absolutely know that we very well may provide evidence of what DOES NOT work as much as what does. Illegal downloading will need far more effort and much broader approaches than we can bring to bear on the problem as a single institution, a single university.

Beyond the unusual multi-dimensional program itself, though, is the truly unique fact that we are working productively and positively with so many agencies, associations, and vendors who are engaged in this sometimes contentious area. I've already talked about working well and productively with RIAA and MPAA, but we've also had some amazing conversations in person and electronically with EDUCAUSE and the American Council on Education who have been very generous with their time. And certainly building partnerships and programs with some of the leading vendors in this field such as Audible Magic, Red Lambda, Ruckus, Cdigix, Pass Along Networks, and Apple has been and will be an incredible experience. We've been both embraced and ignored by some of the best and biggest in the industry.

CONCLUSION

As we prepare for full launch of our Digital Citizen Project and Bird Trax later this fall, we know we've come a long way and have far to go. Downloading music, movies, and games is a symptom. It is not THE problem. Nor is technology THE answer. The problem is changing behavior, almost changing a culture.

Illinois State University can have a significant impact on peer-to-peer behaviors in another, more subtle way. As was said very early in this paper, Illinois State's teacher education graduates number in the top five in the nation. 800 new teachers walk out our doors each year, and each teacher will influence the lives of at least 20-30 children each year. If Illinois State's graduates can learn good Digital Citizen behaviors while on campus, they may imprint that legal and ethical perspective on perhaps 20,000 children annually. ISU's program can be the pebble in the pond with its impact having a dramatic ripple effect in classrooms around the state and nation.

That is not to say that Illinois State has all the answers. We certainly do not. And we absolutely know that there is no one-size-fits-all institutional solution. Overall, the long-term goal of ISU's Digital Citizen Project is to create a nationally recognized program that could be cost-effective, that is based on comparison and research of the products currently available, and that is replicable on other college campuses. We are far from there yet, but we're laying a solid foundation. Not at all. But if a central place for education, conversation, trial, and admittedly error can get a foothold, then all of higher education benefits. Your assistance in providing funding for the kind of practical research and open-book results we suggest can have a dramatic impact on making illegal piracy real and immediate to campuses across the country. Your help is essential in emphasizing development of even more

practical materials for K-12 classroom. Your support is crucial in insisting on a national conversation on and understanding of practical fair use and copyright permissions. Your philosophical and financial support for comprehensive efforts like our Digital Citizen Project will be invaluable.