

# Policy: Anti-Copyright Infringement

Effective Date: February 14, 2011

#### **PURPOSE**

The purpose of the Vatterott Educational Centers, Inc. ("Vatterott") Anti-Copyright Infringement Policy is to make all members of the Vatterott community aware of the serious consequences related to the unauthorized use of copyrighted material, and to explain the policies and procedures Vatterott follows in responding to notifications of alleged copyright infringements involving the Vatterott network.

This Policy supersedes all prior policies and guidance relating to Copyright Infringement.

#### **COVERED PERSONS**

All employees of Vatterott Educational Centers, Inc.

#### **ISSUING DEPARTMENTS**

Information Technology and Regulatory Affairs

#### THE LAW

Copyright is legal protection of intellectual property, in whatever medium, that is provided for by the laws of the United States to the owners of copyrights. According to the U.S. Copyright Office, a Copyright is a form of protection provided by the laws of the United States (Title 17, U.S. Code) to the authors of 'original works of authorship,' including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. The Copyright Act generally gives the owner of a copyright the exclusive right to do and to authorize others to do the following:

- To reproduce the work.
- To prepare derivative works.
- To distribute copies.
- To perform the work publically.
- To display the work publically.
- To perform the work publically.

Sections 107 through 121 of the 1976 Copyright Act establish limitations on some of the above rights.

The law permits "fair use" of copyrighted material without the copyright owner's permission in certain circumstances (see 17 U.S.C. § 107). Notably, however, the fair use doctrine favors non-profit entities. When determining whether the fair use doctrine applies, the following statutory criteria are taken into consideration:

- 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;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

Some works are not protected by copyright and fall into the "public domain." For example, works created by a United States government employee within the scope of employment, or works for which copyright has expired (generally, 70 years after the life of the author). Once a work is in the public domain, it may be used without obtaining copyright permission.

### Digital Copyright Law

The Digital Millennium Copyright Act (DMCA) recognizes that digital transmission of copyrighted works adds complexity to the law. This act amended the copyright law to provide regulations for works cited via the World Wide Web (the Internet). To review an on-line copy of this act, visit http://lcweb.loc.gov/copyright/legislation/hr2281.pdf.

## Penalty for Infringement

An infringement is a violation of law, regulation, or agreement. The unauthorized use of copyrighted material is an infringement of copyright law and illegal. Unauthorized use or distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject violators to civil and criminal liability.

Educational institutions and individuals can be subject to the imposition of *substantial* damages for copyright infringement incidents relating to the use of the institution's network services. In a civil action, the *individual infringer* may be liable for either actual damages or statutory damages of up to \$30,000 (which may be increased to up to \$150,000 if a court finds the infringement was willful). In addition, individual infringers may be subject to criminal prosecution. Criminal penalties include up to ten years imprisonment depending on the nature of the violation.

#### **POLICY**

Vatterott strictly prohibits any and all of the following, including on its computer systems or networks: copyright, trademark, patent, trade secret or other intellectual property infringement, including but not limited to using any copyrighted names, texts, or images, offering pirated computer programs or links to such programs, serial or registration numbers for software programs, copyrighted music, or similar content.

Vatterott users should not make unauthorized copies of copyrighted material on or using Vatterott's computer systems, networks or storage media. Further, Vatterott users should not store unauthorized copies of copyrighted works using Vatterott's systems, networks or storage media.

Vatterott users should not download, upload, transmit, make available or otherwise distribute copyrighted material without authorization using Vatterott's computer systems, networks, Internet access or storage media. This is inclusive of utilizing unlicensed/unauthorized peer-to-peer file services that would promote copyright infringement. Vatterott reserves the right to monitor its computer systems, networks and storage media for compliance with this policy, at any time, without notice, and with or without cause.

Additionally, Vatterott reserves the right to delete from its computer systems or storage media, or restrict access to, any seemingly unauthorized copies of copyrighted materials it may find, at any time and without notice.

If users utilize copyrighted material for educational, instructional, research, scholarship or like arenas, Vatterott will follow the legal doctrine of fair use, currently part of the copyright law.

Users who violate this policy are subject to disciplinary action as appropriate under the circumstances. Such disciplinary action may include termination, expulsion and other legal actions.

#### **NOTICE PROCEDURES**

It is expected that all members of the Vatterott community will comply with applicable copyright laws. However, if the institution is notified of claimed copyright infringement, or otherwise becomes aware of facts and circumstances from which infringement is apparent, it will respond expeditiously by removing, or disabling access to, the material that is claimed to be infringing or to be the subject of infringing activity.

Notice of Claimed Copyright Infringement

Violation of the above policy can expose the user (anyone with access to the campus systems and workstations) and Vatterott to severe civil and criminal liability under copyright law. Hence, users are required to adhere to the law and policy set out above. For questions or concerns related to copyright compliance and claimed copyright infringement, please contact the designated agent for Vatterott (see below).

If there is a belief that any Vatterott faculty, staff, or student has infringed the rights of a copyright owner, please contact the designated agent via written notification. A written notice of the claimed copyright infringement, in accordance with the specifications of the DMCA, should include the following information:

- 1. Contact Information including complete name, mailing address, email address, phone and fax numbers;
- 2. identification of the copyrighted work claimed to have been infringed;
- 3. statement that the information in the notice is accurate with electronic or physical signature of the copyright owner or authorized person acting on the behalf of the owner of work claimed to be infringed; and
- 4. any additional information supporting claim.

The College's designated agent for the resolution of copyright-related concerns is Vatterott's Chief Information Officer. If you have any questions regarding this policy, please do not hesitate to contact the CIO via mail at Vatterott Educational Centers, Inc., P.O. Box 28269, Olivette, Missouri 63132, or via email at copyright@vatterott.edu.