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FOR ENGINEERING AND SCIENCE

## Trial Dates Set in LaMacchia Case

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### Description

An article about LaMacchia's indictment and the split within the tech community on whether file-sharing is illegal and whether or not it should be punishable by fines and jail time.

### Body

Dates for a trial and for pre-trial motions were set for David M. LaMacchia '95 in the U.S. District Court in Boston yesterday, according to U.S. Attorney's Office spokeswoman Joyce Allen. LaMacchia was indicted on a charge of conspiracy to commit wire fraud on April 7.

Prosecutors charge that LaMacchia used two workstations in the Student Center Athena cluster to "permit and facilitate, on an international scale, the illegal copying and distribution of copyrighted software," according to the indictment.

Using a server running on the two workstations, Internet users could exchange copyrighted software, like Microsoft Excel and Wordperfect.

The trial date was set for Nov. 28 at 9 a.m.

At yesterday's conference, a timetable was also set for considering motions by LaMacchia's defense to dismiss the case. Motions from the defense are due Sept. 30.

Prosecutors will have two weeks to respond to the defense motions, and the defense will have another week for a final response. Oral arguments on the motions will be heard in a public court session on Oct. 28, Allen said.

LaMacchia's lawyers will challenge the conspiracy charge on two separate issues, according to Harvey A. Silverglate, LaMacchia's lawyer.

One motion for dismissal questions the relevance of the wire fraud laws LaMacchia was charged under. "This case, if it is to be prosecuted, can only be prosecuted under the copyright laws and not under these amorphous wire fraud laws that were developed before there was such a thing as a computer bulletin board," Silverglate said.

The wire fraud charge suggests that the government may have had trouble finding a specific law that applied to the case, according to Mike Godwin, staff counsel to the Electronic Frontier Foundation, a civil liberties group.

Silverglate will also argue that LaMacchia should not be charged because he did not personally copy or upload any of the copyrighted software on the server. "Free speech protects the system operator who doesn't himself upload or copy the software," Silverglate said.

The LaMacchia case will involve relatively uncharted legal waters. Because there have been few cases involving the responsibilities of computer bulletin board operators, courts have not studied how current laws apply to cases like this one.

In an interview earlier this year, Professor Randall Davis, associate director of the Artificial Intelligence Laboratory, said, "Fast-moving technology drives the legal system a bit batty. If you ask, 'What are the formal legal rights and responsibilities of a computer bulletin board operator?' No one knows."

Silverglate said that LaMacchia has received a lot of support from the community of computer users, but "the electronic community is somewhat divided on the issue. They are divided on the policy questions."

## **Notes**

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