Case Dismissal Will Set an Important Precedent

LaMacchia, from Page 1

"I'm of course very relieved," said Brian A. LaMacchia G, David's brother. For the time being, David is "just going to con- 

践ste and work towards gradua-

「tion," he said. 

"I want to make it clear that I 

don't want to be a celebrity," 

LaMacchia said. "I'm not happy 

about it, and I would like to return 

to anonymity like other MIT stu-

dents." 

LaMacchia comes away from 

his experience with advice for cau-

tion. "What's the message people 

should get from my experience?" he 

said. "I'd say if someone is consid-

ering doing something that a reason-

able person might be unsure if it's a 

violation of the law, either civil or 

criminal (or of MIT's rules), then 

don't do it without checking first."

Case raises larger questions 

Speculation over what kind of a 

precedent the case may set has won 

international attention.

"This case sets a precedent largely 

because it is the first report-

ed case dealing with an issue 

regarding Internet copyrighting and distribution of 

copyrighted software under the federal wire fraud statute," Silver-

gate said.

"It is important because it makes 

clear that the only conduct that is a 

federal crime is conduct that the 

Congress says is criminal," Silver-

gate said.

"It is not up to the government to decide 

what they want to make criminal, 

and then dictate people by reining 

in the very broad and general fed-

eral interstate fraud laws, including 

here the wire fraud laws.

Moreover, the case opens up dis-

cussion over how the federal gov-

ernment should regulate Internet 

traffic.

"I think that Congress should and 

will deal with the question of 

the transfer of copyrighted material 

over the Internet," Silvergate said.

"Mind you, it is already a copyright 
crime to infringe copyrighted mate-

rial for profit or commercial gain. 

The question to be resolved by Con-

gress is whether copying such mate-

rial without profit involved, should 

be a crime.

"My own personal view is that 

someone who does what David 

LaMacchia is alleged to have done

—that is, be a 'system operator' of a 

bulletin board system, and oper-

ate the system, but who does not 
himself or herself upload, down-

load, or copy software—should not 

be turned into a criminal by whatev-

er law Congress writes, because a 

law does not itself define what is 

lawful and what is right," Silver-

gate said.

Silvergate also said that from 

what he has seen, MIT did not treat 

LaMacchia fairly. "Rather than let 

LaMacchia know that his conduct 

apparently violated MIT's rules and 

as MIT then believed, federal crimi-

nal law, MIT worked with the [Fed-

eral Bureau of Investigation] in 

order to make a prosecution against 
one of its own students," he said.

"Students who run alsort of laws, 

rules, or interpretations of them, are 

totally to be educated as to what is 

lawful and what is right," Silver-

gate continued. "Instead, MIT col-

lated with the FBI to wreck 

LaMacchia's life. I hope that this 
case causes a lot of introspection on 

the part of MIT's administration.

Unfortunately, I doubt it will."

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