

Issues in Copyright Management & File Sharing

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Copyright definition

Copyright is a legal right created by the law of a country that grants the creator of an original work **exclusive rights** to its use and distribution, usually for a limited time. The exclusive rights are not absolute; they are limited by **limitations and exceptions to copyright** law, including fair use. - wikipedia

1. What is work?

This only covers certain aspects (music, art, movies, performance, code etc.). Does not include ideas etc.

2. What is exclusive rights?

These rights frequently include reproduction, control over **derivative works**, distribution, **public performance**, and "**moral rights**" such as attribution

Understanding Copyright & Issues

<https://www.youtube.com/watch?v=suMza6Q8J08>

PROBLEM (Ambiguity)

Transformative Use (DMCA “Fair Use”)

1. commentary and criticism
2. parody
3. Educational

A. Youtube cover scenario

- Is the “sharing”/use of such material ethically wrong?
- Is the process of copyright resolution fair/arbitrary? - Youtube?

B. DMCA legislation absolves services from liability and transfers it to the user

A step in the right direction

1. Creative Commons

<https://www.youtube.com/watch?v=8YkbeycRa2A>

2. Inspired by FOSS! Why CC? – TED Talk

<https://www.youtube.com/watch?v=7Q25-S7jzgs>

- Why sharing and how law's stifle creativity
- It it our obligation/duty to inform ourselves about copyright?
- How can/should the awareness be spread? Are we doing enough?

P2P architecture - Distributed Service

<https://www.youtube.com/watch?v=hASBtrVamIU&list=PL6098A>

Centralized vs distributed servers

Different protocols

Why P2P

1. Intellectual Curiosity
2. Resilient
3. Distributed storage and search

P2P Ethics - Extreme view - say YES to p2p!

1. There is nothing wrong with the use of P2P networks for sharing copyrighted material.

Freenet's project leader, for example, has described copyright as “ economic censorship,” since it retards the free flow of information for purely economic reasons

2. Viewpoint can also be found in the writings of other information libertarians such as Barlow (1994):

. . . all the goods of the Information Age—all of the expressions once contained in books or film strips or newsletters—will exist as thought or something very much like thought: voltage conditions darting around the Net at the speed of light, in conditions that one might behold in effect, as glowing pixels or transmitted sounds, but never touch or claim to “own” in the old sense of the word.

P2P Ethics - Extreme view - say YES to p2p!

1. No Sharing == No Creativity – RO instead of RW – TED Talk!
2. Regulations can eventually stifle free speech – Vote against regulations!
- SOPA, PIPA, ACTA

<https://www.youtube.com/watch?v=EOVCJEzzC70>

3. Privacy Invasion for Copyright Enforcement

Australian Legislation?

Guilty until proven innocent vs Innocent until proven guilty??

Are regulations/ cultural impacts in the name of enforcing copyright morally/ethically justified? Should we totally outlaw copyright protection?

P2p Ethics - Conservative view - No p2p!!!

1. We should not focus on the nature and qualities of the product (tangible or intangible, excludable or nonexcludable), but on the value inherent in that product that is the result of labor and initiative

unfair use of another's intellectual property constitutes a form of theft

2. Don't overestimate the power of sharing. Information may “want to be shared,” but for the sake of the common good we must sometimes put restrictions on the sharing of information. Some information should not be shared.

“sharing” is a misnomer since what is really going on is the search for a digital file followed by its reproduction and distribution. The real question is whether or not an intellectual work, such as a movie created by Disney at considerable expense, should be shared with impunity against the will of the creator and rightful owner of this intellectual property?

3. Privacy Issues – Unintended sharing – p2p client settings

Business Model Issues - Artist First?

1. Compulsory licensing certainly has potential, and its benefits should not be discounted by policy makers. At the same time, advocates of compulsory licensing often gloss over the practical implementation problems.

2. How and by whom will a fair compensation plan be determined?

Model Examples

spotify – free subscription plan with adds

Apple vs spotify – Was apple correct to force record labels to go against spotify ?

P2p Ethics - Moderate view - hmmm p2p!?!

1. Legal scholars in this camp maintain that users who download files are not making copies of those files but simply “ sharing” digital information over a conduit.
2. They also argue that even if sharing digital copies over a network is equivalent to making an unauthorized reproduction of a copyrighted work, that action comes under the fair use exception.
3. Its not as easy if you want to switch from p2p filesharing
http://theoatmeal.com/comics/game_of_thrones
4. Piracy == Publicity
<http://www.ew.com/article/2013/03/31/hbo-thrones-piracy>

Where should we try and draw the line for copyright protection and enforcement? What is ethical and what is not?

Legal Issues

1. Laws don't keep up with technology - airspace trespassing example.
2. Personal Copying into harddrive from cd/ p2p - For/Against

it is generally an infringement to download large amounts of copyrighted material without permission; even if you already own the corresponding CD
? What constitutes ownership?

legitimate property right in such intellectual objects “ is still unsettled . . .
[and] it may yet be that the idea of property and exclusivity will prove
unable to withstand the popular will”

3. Geo-Blocking – Is legal for now? Is it really moral/ethical?

Secondary liability Issues

A. Sony vs Universal

- shown to be “capable” of “a significant number” of “potential uses” that are noninfringing and of “commercial” significance

B. MGM vs Grokster

- Liability for inducement with intent
- Limited use cases and business models for technology

<https://w2.eff.org/legal/cases/betamax/>

1. How do we assess the moral propriety of actions that appear to facilitate the wrongdoing of others?
2. Can secondary liability law itself be justified in social welfare terms? Who should take responsibility?
3. Is it justified to let copyright protection laws impact innovation?

References

- Chapter 23 – Handbook
- Pagallo, Ethics among peers: file sharing on the internet between openness and precaution, Journal of Inf. Ethics, 2008.
- Lee, The Ethics of Innovation, Journal of Business Ethics, 2005.
- Blogs, Youtube, TED etc.