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CHAPTER 6: THE PROBLEM OF PIRACY

What is Intellectual Property?

◎ History

- Patent: Statute of Monopolies, 1624
- Copyright: Statute of Anne, 1710
- Thomas Jefferson and utilitarianism

◎ Intellectual property rights

- Moral rights v. economic rights
- Licensing agreements
- Fair Use laws

What is Piracy?

- ◎ Piracy concerns the transmittal of information
 - Piracy rate: percentage of software acquired illegally
 - Costs \$12.5 billion/year in US
 - Criminal activity that violates copyright laws
 - UN Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The Ethics of Ownership

- ◎ Tangible v. intangible assets
 - Does ownership apply to both?
 - John Locke's taking/working paradigm
 - Limitations on ownership

Applying Property Ethics to Cyberspace

- ◎ Can one “mix” labor with “code”?
 - Physical objects and boundaries
 - Can code be taken?
- ◎ IP theft
 - Hoarding and copyright restrictions
 - Internet as ‘information commons’
 - Philosophy of technology

Virtue Ethics

- ⊙ IP violations expose people to risk
- ⊙ Integrity: Correlation between actions/values
 - Complicity
- ⊙ Non-Western virtue
 - Asian virtue of family/community
 - Virtuous 'pirate' ("Sharing is caring")

Utilitarianism

- ◎ Gains accrued outweighed the collective damage
 - IP theft/plagiarism disincentivizes new discovery
 - IP restriction secures free trade/capitalism
 - IP theft costs consumers more money
 - IP cyber attacks short of cyber war
- ◎ Critique: open source code

Deontology

- ◎ Cyber ‘categorical imperative’
 - Principle of reciprocity
- ◎ Equal access
 - Internet without pay walls or fees
 - E.G. “Socially Awkward Penguin” meme

Arguments Against IP Protection

- ◎ Authorship argument
 - Foucault and 'no one author'
 - Recycle internet content
 - New art forms: memes/mash-ups
 - Creative Commons licensing

Building an International Norm Against Piracy

- ◎ No universal agreement on 'property'
 - Differing cultural values
 - Ethics of Western democratic societies
 - No history of respecting IP
- ◎ International Center for Information Ethics paradigms
 - European approach
 - Anglo-American approach
 - Asian approach

Legal Measures Against Piracy

◎ US Laws

- Copyright Act of 1976
- Communications Act of 1984
- Piracy Deterrence and Education Act of 2003

◎ International Laws

- UN World Intellectual Property Organization (WIPO)
- International Federal of the Phonographic Industry (IFPI)
- International Anti-Counterfeiting Coalition (IACC)

Application: The Ethics of BitTorrent

- ◎ Peer to peer (P2P) file sharing
- ◎ Attempting to police BitTorrent
 - Comcast
- ◎ Applying the frameworks
 - Utilitarian – unwarranted trust
 - Deontologist – ‘free riding’
 - Virtue – virtue of respect
- ◎ Ethical arguments in favor of BitTorrent
 - P2P ‘friendship’
 - Digital Robin Hood
 - Evolving laws/norms

Application: The Ethics of Spam

- ◎ Spam – unsolicited emails and texts
- ◎ Is spam unethical?
 - Not economically free
 - “postage due” fees
 - Wasted disc space
 - ISP costs
 - Cyber weapon delivery
 - Trojans
 - Spyware
 - Malware

Critical Issues: Do You Own Your Genetic Data?

- ◎ Does genetic information belong to you or the medical community?
 - Is it selfish to not share it?
 - Genetic exceptionalism
 - Duty to individuals benefiting from therapy
 - Gene patents

Critical Issues: Bulletproof Hosting

- ⊙ Hosting firms that allow leniency in uploaded content
 - Countries of limited jurisdiction
 - Russia, Lebanon, Ukraine, Iran
- ⊙ Why is bulletproof hosting unethical?
 - Not inherently unethical
 - Issue of complicity
 - Venue for criminal activity

Discussion

- ⦿ Can a universal norm against IP theft be established?
- ⦿ Should government software be 'classified'?
- ⦿ How can the public be educated on the ethics of piracy?
- ⦿ Is ownership, theft and sharing the same for physical and intellectual property?