In the context of technology, “piracy” is a colloquial term for the illegal copying of copyrighted works. At one time “piracy” referred mostly to the copying of work for resale. Now non-commercial copying is sometimes considered piracy as well, especially if it affects the market for a product. The related problem of counterfeiting is the illegal reproduction of patented or trademarked products. Sectors affected by piracy include music, software, movies, photography, books, and video games. Counterfeiting involves a wide array of goods, including consumer products, designer fashions, and medicines.

With the invention of the camera, the photocopy machine, sound and video recorders, and the personal computer – and more recently, the evolution of the Internet and peer-to-peer networks (P2P) – it has become increasingly easy to make and distribute illegal copies. Traditionally, piracy was deterred by the threat of criminal prosecutions and by civil lawsuits brought by copyright owners. These methods are less effective against copying on a massive scale, or against pirates operating in other countries. The use of technological protection measures (including digital rights management, or DRM) to make copying harder has become more important. 1998’s Digital Millennium Copyright Act (DMCA) was a significant step toward addressing piracy issues related to these new technologies.

**Overview**

**These issues arise in discussions of piracy and counterfeiting:**

- The cost to the economy of piracy and counterfeiting, including lost sales revenue and jobs. Increasingly, this cost is being seen in terms of unfair competition that companies that pirate have over those that abide by the law.
- The danger to consumers from counterfeited goods like fake medicines.
- Whether some illegal copying is good for creators, because it serves as a kind of advertising.
- Whether stronger penalties will deter piracy.
- Whether more resources should go to the FBI and other public-sector authorities to fight piracy.
- Whether providers of services and software that are useful to pirates (especially P2P software) should be liable for piracy; in particular, if some online service providers ought to be held responsible if they fail to filter out illegal works.
- Whether sanctions should be brought against countries where piracy is rampant, such as China.
- The need for copyright law to be “balanced” in protecting consumers and producers.
- The fairness of lawsuits against ordinary consumers who make illegal copies for their own use.
- The fairness of “notice and take-down” statutes that give copyright and trademark owners the right to ask web sites to remove works they believe are illegal copies.
- The effectiveness of technological copy-protection measures.
- Whether it unfairly harms innovation that the DMCA bans the circumvention of copy-protection measures, regardless of actual piracy.
• How technological protection measures affect consumers, fair use, privacy, and prices.

Piracy and IP Enforcement Sources


Recent Developments

In November 2012, the major Internet service providers (ISPs) – AT&T, Cablevision, Comcast, Time Warner Cable and Verizon – planned to employ a monitoring system by the Center for Copyright Information (CCI). CCI will alert ISPs of IP addresses engaged in peer-to-peer or torrent downloading of copyrighted material. The system will only catch the unskilled pirate, as those using TOR or VPN systems will evade detection. However, CCI hopes to curb the culture of piracy acceptance that has become prevalent.

Also in November, a memo appeared on the Republican Study Committee’s website titled “Three Myths about Copyright Law and Where to Start to Fix It.” The memo pushed for aggressive copyright reform, eviscerating the talking points of those pushing for stricter laws. While the memo was quickly deleted from the website, it created buzz about the issue and U.S. Rep. Darrell Issa (R-Calif.) called for a start to a new copyright reform debate. The copyright debate had been relatively quiet in Congress since January 2012 when the House’s Stop Online Piracy Act (SOPA) and the Senate’s Protect IP Act (PIPA) were defeated. Introduced in 2011, these bills addressed law enforcement of international websites that contain pirated content (software, music, film, etc.) originally created by U.S. companies. Some opponents state that these bills would limit Internet freedom and could weaken the Digital Millennium Copyright Act (DMCA).

In October 2012, the Copyright Office issued its latest triennial review of exemptions from anti-circumvention provisions of the Copyright Act. The review determined that it is not fair use for consumers to burn a purchased DVD or CD for use on a media device. The report was ridiculed for condemning a common practice.

Upcoming Events

To see a calendar of events of relevance to TAP academic work, please see the TAP Events page.

Please note that all links on this fact sheet are accessible from the online version at www.techpolicy.com/piracy.aspx.

Key Legislation

• In September 2012, H.R. 6480 and S. 3609 – the Internet Radio Fairness Act of 2012 – was introduced in the House and Senate. This bill proposes adopting fair standards and procedures by which Copyright Royalty Judges are made with respect to webcasting. The two versions of the bill were referred to the House Committee on the Judiciary and the Senate Committee on the Judiciary.

• In January 2012, H.R. 3782, the Online Protection and Enforcement of Digital Trade Act (aka, or the “OPEN Act”) was introduced as an alternative to the Stop Online Piracy Act (SOPA) and Protect IP Act (PIPA). The legislation was referred to the Subcommittee on Intellectual Property, Competition and the Internet.

• In 2011, H.R. 3261, SOPA and S. 968, PIPA were introduced to combat copyright infringement on foreign websites. Both were defeated in January 2012.

The TAP website (www.techpolicy.com/) is facilitated by Microsoft. Microsoft respects academic freedom, and is working to enable the dialogue on the most critical technology policy issues being debated.