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FACT SHEET
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⭐ Piracy and IP Enforcement

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.

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- 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

These sources are a good place to start in understanding piracy and enforcement issues: In "In Defense of Piracy," Lawrence Lessig argues that copyright enforcement should not hinder free speech. In "Economists' Topsy-Turvy View of Piracy," Stan Liebowitz critiques the argument that piracy helps creators sell more works. In "The Magnificence of the Disaster: Reconstructing the Sony BMG Rootkit Incident," Deirdre Mulligan and Aaron Perzanowski assess problems with technology intended to hinder piracy. In "Impacts of Entry by Counterfeiters," Yi Qian looks at how producers respond to the problem of counterfeiting. In "Digital Rights Management and the Pricing of Digital Products," Suzanne Scotchmer and Yooki Park study the effect of DRM on prices. In "A Model of Piracy" Jay Pil Choi and Sang-Hoo Bae explore how software piracy affects software development and users.

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