

Downloading Copyrighted Works; Is It Legal and Ethical?

Have you ever downloaded music from the web without paying for it? I know I have before in the past. However, my opinion on committing this and similar acts has changed since my past actions. I used to think that it was a harmless act to download intellectual property off the internet. I didn't know the legality of downloading without paying nor did I find it unethical. I think the complete opposite today. My recent interpretation of this stems from the concept that if everyone did what I did, then creators would never be able to earn any money on their creations. My main concern is for small independent developers of music and other arts that may live off of their IP's. My least concern is for the large music or similar industries. However, I would find it unethical to treat them any differently just because it is less harmful to them. Either way, downloading content from the internet without paying is copyright infringement, thus it is illegal regardless if it is on a small developer or large corporation. As well, that act is unethical regardless if it does or doesn't significantly harm the owners of the pirated property.

As I said before, the downloading of files via the internet for free when you need to purchase them from their creator / distributor is copyright infringement, thus it is illegal to do. So how is the copying of these files infringing the holders copyright? Well, according to U.S. copyright law that we talked about within lecture, the copyright holder has the explicit rights to copy and distribute their own works. When someone downloads a creation such as music from the internet, they are creating a copy of that work without the explicit permission of the creator of the said work. This innately circumvents the copyright holders right to distribute their work, thus infringing upon the copyright. Wait, could this copying of files be protected by fair use for personal use because of the *Sony vs Universal* case? Not quite. That case allowed for the copying of television or movies for later personal use constitutes fair use. To loosely extend the ideas of the case, one would need to at least have legally obtained what they are copying first, so downloading via the internet is ok, if the distributor was first authorized by the copyright holder. These services that are permitted must normally pay for the privilege to send out that content and thus are not free services. The free services are normally file sharing services that have users infringe upon the creators copyright and distribute the creation via the internet service. This was confirmed in the *A&M vs Napster* Supreme Court case. Napster argued that the share was legal because of fair use as users put their copied music on the site for personal use. That idea was shot down as personal use does not apply when the music would be available for all to download. This means that an illegal source is being used and download on site is another infringement against the copyright holder.

As I talked about earlier, I find the act of pirating copyrighted works that are meant to be sold to others to be unethical even if all you are doing is downloading the content. My basis for this is the same as one of the main ideas of Kantianism that was talked about within our first lecture over ethics. This Kantian idea being that an act that I commit is ethical if it is acceptable for everyone else to do the exact same action. Circumventing copyright and obtaining someone's intellectual property without paying for it would not be an acceptable thing for everyone to do. However, why is it not acceptable? Well, I turn to the ideas of rule utilitarianism that we went through in lecture to depict that issue. In general, the act of pirating/ downloading someone's creation online will harm that creator monetarily but does benefit the downloader monetarily, which "evens it out". However, this unauthorized copying of intellectual property diminishes the value of creation to its owner and in a way steals value from the work. That creator could be some single person working out of a garage or a large institution developing the content. One single act of this won't cause a significant amount of harm to the creator, but, if

everyone or many people followed suit, then this would substantially impact the creator. This could range from business going bankrupt or laying off workers to a single man unable to fend for himself. In most cases, the act of collectively downloading without paying creates much greater harm, thus making the action generally unethical.

I will also note that earlier I said I find it unethical to differentiate between pirating a small developer or a large institution's works. Even though I have my own preconceived biases over the music industry and similar systems, it still is wrong to treat them differently. Using the idea of Rawls' veil of ignorance that our book goes over, in order to have a just system, we have to test each rule created to be fair to all by ignoring the difference of those that a rule will affect. From what I determined earlier, the act of piracy is unethical. That "rule" is universal and doesn't unfairly treat any kind of content creators. But what if I determined that piracy to a large institution is ethical but not to a small developer, or that it is ethical to pirate an institution that has unethical business practices. Either way, one could argue that it creates less overall harm to target X developer. This violates the ideas of the veil of ignorance by specifically targeting a certain creator based on their real life statuses. That would make it unjust to develop such a skewed ethical rule that protects certain acts of piracy.