

“The Ethics of Information Distribution Systems” Proposal

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Abstract

In November 2010, Wikileaks.org began slowly releasing 251,287 diplomatic cables from the United States of America. [4] Since then some companies and governments have attacked the organization because they are sharing this information. Wikileaks uses BitTorrent, a protocol written by Bram Cohen in 2001, to make sure their information is distributed internationally.

On the 17th of April, 2009, Peter Sunde, Fredrik Neij, Gottfrid Svartholm and Carl Lundstrm of The Pirate Bay were all found guilty “for promoting the copyright infringement of others” and sentenced to serve one year in prison and pay a fine of \$3.5 million. [5] Their website, the Pirate Bay, uses software they wrote to collect “torrent files” for a wide variety of content.

Since 2004, BitTorrent Inc., a company formed by Cohen, has maintained the BitTorrent protocol, built BitTorrent client software and promoted individuals and businesses to use their system. Is the building of BitTorrent (and other information distribution systems), an ethical pursuit?

1 Facts

1. BitTorrent Inc. is a company founded by Brian Cohen and maintains the BitTorrent Protocol and an associated client. [7]
2. The BitTorrent Protocol was initially created to share files and distribute information. [7]
3. In a few countries, people have been prosecuted for using BitTorrent for sharing illegal files and promoting copyright infringement. [5]
4. In the United States of America, copyright holders have the exclusive right to reproduce their copyrighted work. [11]
5. uTorrent's EULA does not restrict what content their users can distribute. [8]
6. BitTorrent itself does not have a EULA. [8]

2 Research Question

Is the building and maintenance of BitTorrent (and other information distribution systems), an ethical pursuit?

3 Extant arguments

It is ethical to develop software to distribute information:

- “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” [3, 414]
- “At the heart of the First Amendment is the recognition of the fundamental importance of the free flow of ideas and opinions on matters of public interest and concern.” [2, 51]

It is unethical to develop software to distribute information:

- According to the Software Engineering Code of Ethics, all professional developers are supposed to “work to develop software and related documents that respect the privacy of those who will be affected by that software.” [12, 3.12]
- “Publishers have a responsibility to the public” according to publisher Steven Schragls, and if your content is offensive it isn't helping the public. [13, 46]

4 Applicable analytic principles

- Software professionals should “obey all laws governing their work, unless, in exceptional circumstances, such compliance is inconsistent with the public interest.” [12, 6.06]
- Software professionals should “identify, define and address ethical, economic, cultural, legal and environmental issues related to work projects.” [12, 3.03]
- People should act so that their actions are motivated by “good willed” intentions, according to Kant. [9]
- People should act to promote the greatest amount of “happiness” for the largest number people, according to Utilitarianism. [1]
- The dissemination of information makes all individuals equal, which provides the “greatest benefit” to the least advantaged members of society, which Rawls’ claims is necessary. [10]
- According to Deontological Ethics, it is an individuals duty to make sure they are following the law. [6]

5 Abstract of Expected Analysis

- What is BitTorrent?
- Who does BitTorrent help and harm?
 - Initial argument for those who could not obtain information normally
 - Harms classic content distributors, those who wish to remove content (for any reason).
 - The benefits of having a system to distribute your information
 - * State Wikileaks and iFixit examples.
 - * Argue that if information is made free once, it should be kept free and available.
 - Talk about MPAA and RIAA, not the legality of their complaints but the list how they think they have been wronged.
 - Blizzard and BitTorrent DNA: The future of content distribution.
- Compare those being helped and hurt. Talk about how Rawls believes that if there is an inequality, the poor should be the advantageous.
- Are those who create exempt from ethics?

- I am trying to find cases in other countries where freedom of speech is not the case that would attack this
 - Otherwise, cite a few cases on the First Amendment.
 - Is code protected under freedom of speech?
 - “Obey all laws governing their work, unless, in exceptional circumstances, such compliance is inconsistent with the public interest.” [12, 6.06]
 - “Identify, define and address ethical, economic, cultural, legal and environmental issues related to work projects.” [12, 3.03]
 - Keep looking for an early spec of BitTorrent. Did Cohen know?
 - What laws protect tool manufacturers?
- Conclusion: Yes, BitTorrent is ethical.

References

- [1] “Utilitarianism.” [Online]. Available: http://www.qcc.cuny.edu/socialsciences/ppecorino/intro_text/Chapter%208%20Ethics/Utilitarianism.htm

An explanation of Utilitarian ethics. Useful in analysing problems like the one this paper deals with.

- [2] “Hustler Magazine, Inc. v. Falwell,” p. 46, 1988.

Landmark case on the First Amendment in relation to publishers.

- [3] “Texas v. Johnson,” p. 397, 1989.

First Amendment case claiming the difference between societies morals and the law.

- [4] J. Assange, “Wikileaks cablegate press release,” November 2010. [Online]. Available: <http://wikileaks.ch/cablegate.html>

A press release by WikiLeaks, “Wikileaks began on Sunday November 28th publishing 251,287 leaked United States embassy cables, the largest set of confidential documents ever to be released into the public domain.”

- [5] enigmax, “Torrentfreak’s coverage of the pirate bay verdict,” April 2009. [Online]. Available: <http://torrentfreak.com/the-pirate-bay-trial-the-verdict-090417/>

TorrentFreak is a blog, and they did a meticulous job of covering every day of the Pirate Bay Trial, it’s verdict and the Appeals. This is their article from the day of the verdict.

- [6] R. Hursthouse, “Virtue ethics.” [Online]. Available: <http://plato.stanford.edu/entries/ethics-virtue/>

Explains Deontology and other rule based ethic systems.

- [7] B. Inc., “Bittorrent - management team.” [Online]. Available: <http://www.bittorrent.com/company/management>

A little history about BitTorrent Inc. and their management team.

- [8] —, “utorrent’s end user license agreement.” [Online]. Available: <http://www.utorrent.com/legal/eula>

- [9] R. Johnson, “Kant’s moral philosophy.” [Online]. Available: <http://plato.stanford.edu/entries/kant-moral/>

A good guide to Kant’s moral philosophy, explaining the principles therein.

- [10] J. Lamont, “Distributive justice.” [Online]. Available: <http://plato.stanford.edu/archives/spr2007/entries/justice-distributive/>

the Stanford Encyclopedia of Philosophy’s article on Rawlsian Justice.

- [11] U. S. of America, “United states copyright law: Title 17, chapter 1, section 106.” [Online]. Available: <http://www.copyright.gov/title17/92chap1.html#103>

Describes the exclusive rights of copyright holders in the USA.

- [12] A. of Computing Machinery, “Software engineering code of ethics.” [Online]. Available: <http://www.acm.org/about/se-code>

The Software Engineering Code of Ethics, co-written by ACM and IEEE.

- [13] D. Smith, “The happy hawker,” *New York Magazine*, vol. 25, January 1992.

An interview with a large book publisher in the early ninties who showed little remorse in publishing the obscene and the offensive but then decided not to publish *The Ancharchists Cookbook*.