

LBAR Lesson XI: Ethics & Issues 1 (Intellectual Property - Piracy)

Keywords: property, intellect, piracy, copyright

Today we are going to explore an issue many of you are likely to face, if you haven't already come across it: the notion of intellectual property. We have been exploring the many ways in which Cyberspace creates a new venue where old problems take on new wrinkles, and no where is this clearer than with the issue of intellectual property. By creating this seemingly limitless realm for communication, Cyberspace not only removes physical limitations, but also other limitations that are legal if not ethical in character. Two such limitations with which you should be familiar are piracy and plagiarism. Let's start by taking a look at what intellectual property is, and hence what the prohibition against piracy and plagiarism were meant to limit. Then we can move the conversation into the realm of Cyberspace by asking what piracy and plagiarism mean to and for us today.

Intellectual property is a phrase that combines two words to designate a species: property comes in several forms, one of which is intellectual. But what is property? You can already begin to explore this creatively by listening to a related word – proper – and thinking about the relation of the words. What does it mean for something to be proper? It suggests immediately that it is fitting, especially related to manners (ex: it is proper for a young lady to . . .). What is proper for something is thus a property of that thing: you can think of properties like characteristics (dogs have certain properties like tails and barks not shared with humans, for instance). But we also use the word property to signify stuff: that bike is my property; your fence is on my property; Get off my property! We can feel that these words are related as if distant cousins, yet they seem to mean widely different things. Think again!

The root of our word for property is the Latin word *proprius*, meaning one as in one's self or one's own. Literally our property is ourselves, that which is proper (as a characteristic) to us as an individual. It is what makes you distinctive; you yourself in your distinctiveness is your property. This original sense is what underlies all the other senses that form our oddly related words: a property is something distinctive about an individual, or distinguishes this particular group from that one (it is a mark of distinction); to be proper is to act befitting who you are (your manners are thus that which shows best who you are, rather than when you are rude or impolite); your property is that which you acquire through your own efforts. This last notion is perhaps the one to focus on for a bit, as it is surely the most commonplace usage in a current vocabulary. Property as stuff is “ours” because we earn it, in a sense. It becomes ours because we labor to acquire it, that is, we exchange our energy and effort for this thing we deem valuable (it has value because we deem it worthy, which is then its “worth”). You have all heard the expression: “an honest day's work for an honest day's pay.” This is a proverb now because of the truth it expresses – you give your labor over, and in return are compensated appropriately. What if you work all day, but only get half of what you were promised? Or, what if you only work one-half of a day, yet want a full-day's pay? Neither of these would be honest, would they? And that is because of what is involved, specifically our labor, which is one of our properties. We want what is proper, i.e., fitting as compensation for us giving of ourselves. We have stuff – property – because we have control of ourselves, and can make use of our activities (labor) as we see fit (proper).

I bet you can see immediately how the issues involved with intellectual property are no different in Cyberspace than they are in the everyday world – we say they differ in degree (they are made harder or easier), but not in kind (they are not different types of problems). Intellectual properties are those characteristics we have that deal with the mind – our abilities to think, perceive, discern and judge. When we do so, that is, when we use our intellect, we discover or create intellectual things – thoughts

or ideas, images, sounds/songs, lyrics, etc. Our intellectual *property* thus creates *intellectual* properties, things which are ours because they originate in our distinctive activities. We can then dispose of these as we wish – we can keep them for ourselves, we can discard or forget about them, we can give them to others, or we can sell them to others for some of their property – money. We also have laws that protect our ownership of this form of property; specifically, we have what are called copyrights and patents. Why do you think we have more specific laws in this respect than we do with physical property, which is normally governed by laws dealing with stealing/theft.

Piracy – from the Greek *peirates* – is to attack or assault someone, often with the intention of taking their property. American law – copyright law – forbids piracy, which is understood as attacking someone's intellectual property by taking from them what is theirs. Now piracy has been around much longer than Cyberspace, but Cyberspace unfortunately makes piracy much easier because it removes some the physical limitations that once existed. For instance, when I was young, copying music involved recording onto tape cassettes, or dubbing one tape cassette onto another (copying without permission). Few people had multiple cassette recorders to make tape copies, and even if you did the process took quite some time. Thus the limitations of the technology did not make it easy to engage in piracy, and hence the issue of music piracy, for instance, was a non-issue only twenty years ago.

It is easy to see, however, that times have changed. You can literally copy a music file (mp3) in less than a minute, and you can make as many copies of that file as your hard drive can hold. Making one thousand copies of tape cassettes would take up enormous space; now, the notion of physical space is obsolete. In this instance, Cyberspace has again made things both easier and harder; it is now much easier if not also cheaper to get the music you want when you want it. That means it is also easier, cheaper and faster to make and produce music. But it also means it is easier, faster and cheaper to steal music. In fact, if you never thought about it at all – because it is so easy and fast – you might not even think of it as theft. Too often we refer to file-sharing, as if we are simply exchanging with each other one file for another. And should not this be fine? Someone did after all buy the original file, and can they not share it if they want? It is theirs, after all? You see how things get complicated very quickly. Nevertheless, you will want to think about these complications, and the different ways you could answer them:

Should the creator of the music be able to determine what becomes of the music file after he has sold it? Why might he want to make that determination? Why might he not be allowed to?

Should the buyer of the music be able to determine what becomes of the music file after he has bought it? Why might he want to make that determination? Why might he not be allowed to?

Is property really possessed if you cannot dispose of it as you will? [hint: this goes both ways]

What would be the consequences (both positive and negative) of prohibiting intellectual property piracy? What would be the consequences of allowing it?