Property in Cyberspace

1. What is “Intellectual Property”?

Intellectual Property Is:
- Intangible creative work—not necessarily the physical form on which it is stored or delivered.
- Given legal protection in the form of copyright (U.S. Code Title 17), patent (U.S. Code Title 35), registered trademark, and trade secret laws.

Q: Does it make sense to call intangible work “property”? Why and why not?

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- High-quality copying.
- High-quantity distribution.
- Easier to use.
- Less expensive.

Refer to the Evolution of Culture powerpoint for a review of the memetic science behind distribution issues regarding ideas.

Q: Many argue that since the technology exists to make copies, it must be all right to do so. Why is this flawed reasoning?

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3. A Brief History of Intellectual Property Law

- 1790: First U.S. copyright law; covered printed material. Later, newer technologies (photography, sound recordings, etc.) were added.
- 1909: Definition of unauthorized copy formed.
- 1960s: Some software and databases receive protection.
- 1992: Making copies for personal gain became a felony.
- 1997: Illegal to make copies regardless of financial gain (the No Electronic Theft (NET) Act).
- 1998: Illegal to circumvent copy protection schemes (Digital Millennium Copyright Act (DMCA)).
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4. Fair-Use Doctrine

- Permission to use the work is not required.
- Allows uses of copyrighted material that contribute to the creation of new work and do not significantly affect sales of the material, thus depriving copyright holders of their income.
- Allows some research and educational uses as well as news reporting and quoting.
- Guidelines for determining Fair Use are found in law.

Legal Cases:
- Sony v. Universal City Studios, 1984
  - U.S. Supreme Court ruled that non-commercial copying (recording) of a movie for viewing at a later time was fair use.
  - Court ruled that copying devices (in this case, Betamax VCR) should not be banned if they have significant legal uses.
- Sega Enterprises, Ltd. v. Accolade, Inc., 1992
  - Reverse engineering a complete program in order to produce new, creative work was ruled fair use.

Q: How does the Fair-Use Doctrine distinguish between photocopies made by students and those made by workers in a corporation?

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5. What Property is “At Risk”?  
a. Music

- Entrepreneurs create businesses to facilitate storing and sharing of music files (Shareaza, EDonkey, Gnutella, etc.). Many individuals set up free sites for music sharing, too.
- The Recording Industry Association of America (RIAA) continues to fight unauthorized copying of music.
- The EFF opposes the harsh tactics of the RIAA.
- P2P services are not necessarily illegal.

Q: What is the current status of music file-sharing on the Web?

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b. Movies and TV Programs

- Businesses such as RecordTV.com and Scour provided free services to facilitate copying of broadcast intellectual material.
- The Motion Picture Association of America (MPAA) and other entertainment companies continue to fight unauthorized copying of their intellectual property.

Q: What is the current status of movie/TV file-sharing on the Web?
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5. What Property is “At Risk”?  
c. Software  
- Individuals and whole businesses, here and overseas, continue to produce, transport, and sell (or give away) copies of software, manuals and supporting material.  
- Software Information Industry Association (SIIA) as well as other software industry organizations and companies battle software piracy in the U.S. and abroad.

Q: What is the current status of software copying?

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6. Are there Solutions?  
   a. Technological Solutions:  
- Expiration date encoded.  
- Hardware dongle required.  
- Copy-protection schemes.  
- “Activation” features.  
- Encryption schemes; digital-rights management (DRM).

Q: From whose point of view are technological solutions good?  
   Bad?

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   b. Market Solutions:  
- Subscribe to services.  
- Collect fees from users and large organizations.  
- Meter usage of intellectual property on a network.  
- Offer discounts to educational users.  
- Educate the public about the value of intellectual property belonging to creators and publishers.

Q: From whose point of view are market solutions good?  
   Bad?
6. Are there Solutions?

**c. Legal Solutions:**
- The Digital Millennium Copyright Act (DMCA) and other laws.
- Identify abusers and shut them down in high-publicity raids.
- Monitor abuses.
- Enforce current laws and punish abusers.

Q: From whose point of view are legal solutions good? Bad?