

Ownership of Computer Software

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INTRODUCTION: COMING TO NOTICE THE ETHICAL PROBLEM

If a friend has the software needed for the task, you borrow it, install it on your computers, and run it as needed.

The fact is, of course, that this use of software is often against the law.

Would there be a moral duty to respect the work of others, even if there were no legal protections?

For many users, the use of pirated software on a personal computer is a minor offense, no worse than driving a few miles an hour over the posted speed limit.

Or is it more like shoplifting?

Should we accept the fact that software piracy is common as a sign that we should simply accept it, or should we view this as a mark of moral laxity and promote programs that help us to live up to the ideals written into the law?

DISTINGUISHING THE ETHICAL, THE SOCIAL, AND THE LEGAL ISSUES.

Everyone agrees that it is illegal to duplicate copyrighted code line by line into a “new” program.

Software ownership – belongs to a broader philosophical inquiry into the definition and significance of the notion of “property.” It is, for instance, not obvious that what we call “intellectual property” protections for software should really be called “property” in the first place.

There are also debates over the basic philosophical justification for our legal recognition of software property. It is usually claimed that patent and copyright protection for software is ultimately justified by a societal interest in promoting the “practical sciences.”

Even if we accept the usual view that patents and copyrights promote technological progress, it is far from clear how the law should be written to best achieve this end.

The issue is never simply what the law says. But also what the law should say.

AN OUTLINE OF SOME OF THE ISSUES

Patents traditionally protect industrial processes

Copyrights traditionally protect documents written on paper

Computer software can both be read as a document and used to run industrial processes, and it is not initially clear which form is appropriate.

Copyright only protects the manner in which an algorithm is written, and a competitor can (at least in theory) get around a programmer's copyright by independently rewriting the algorithm.

A major advantage to patents is that they do indeed protect the very algorithm itself, regardless of how it is written down.

Disputes of "fair use" – may I keep a copy of my word processor on both my home machine and my vacation home machine (on condition that both machines are never used at once)?

WHY INTELLECTUAL PROPERTY IS A SPECIAL ETHICAL ISSUE WHEN APPLIED TO SOFTWARE

Computer software is easy to reproduce and distribute. Unlike traditionally copyrighted books that (before the photocopier) could only be reproduced with effort by competing publishers, software is pirated with ease by individuals.

Computer software is tied to computer hardware. The hardware is itself protected by separate patents, but remains useless without the software that it calls upon.

Computer software has made possible a huge acceleration in the rate of innovation. At one time, innovative modifications of machine processes had to be built into new machine prototypes and tested at great expense. But today, this can be a trivial exercise.

Computer software can be produced by groups of more or less independent authors working over extended networks. It is often impossible to identify the authors of a text that grows from the contributions of many residents in the "cyberspace" of lists and bulletin boards.

Computer software can be used by several people at one time. Unlike machines and books that could be passed on from person to person for use at different times, software can be accessed simultaneously by many interacting users in local networks.