

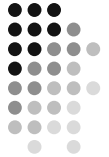
Intellectual Property Issues I: Software Ownership

Chapter 3
Cases 3.1 through 3.5
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Second Edition



Case 3.1 – Piracy on the Internet

Overview and Study Questions



Case 3.1 – Piracy on the Internet

- Overview
 - This case chronicles a well-publicized event about an MIT student accused of acting like Robin Hood on the wild frontier of the Internet. David Plante allegedly made software available at no charge, presumably because of his belief that such information-based assets should be "free."



Case 3.1 – Study Questions

- Can Mr. Plante's actions be justified in any way? Can it be justified, for example, as a form of civil disobedience?
- Do you agree with Professor Tribe's comments at the end of the case?



Case 3.1 – Study Questions



- What do you think of the notion that software and related information assets should be free? Does this idea have any merit in a capitalist, free market economy?

Case 3.2 – “It’s Never Right to Copy Software”

Overview and Study Questions



Case 3.2 – “It’s Never Right to Copy Software”



- Overview
 - This case, based on an actual set of events, finds a young teacher, Roger Gleason, who must decide whether or not to follow the suggestion of his principal to copy the software program MATHTUTOR. Roger knows that this is akin to stealing, but there seems to be mitigating circumstances: the school is quite poor and the software company, though quite prosperous, refuses to donate or significantly discount its software.

Case 3.2 – Study Questions



- Analyze the conflicting sides of Roger's painful dilemma.
- Are intellectual property rights absolute, or can a case be made for exceptions under certain circumstances? How do we determine what those exceptions might be?

Case 3.2 – Study Questions



- If you were in Gleason's shoes, what decision would you make? What would you say to the principal?

Case 3.3 – Whose Program Is This?

Overview and Study Questions



Case 3.3 – Whose Program Is This?



- Overview
 - This case study is even more complex than the first two cases since issues of right and wrong are murky and the issue of property ownership becomes much more ambiguous. Do employees have *any* sort of ownership rights when they develop a program? This is the ethical problem Ellen Pedersen must grapple with as she prepares to take new job. She must decide whether or not to take some disks with her that include the U-PAY program of her former employer.

Case – Study Questions



- Do you agree with the course of action Ellen is contemplating? Defend your position from an ethical and practical standpoint.
- How do you evaluate the behavior of the company that is recruiting Ellen?
- Does work on a computer software program engender some sort of de facto property right?

Case 3.4 – Doric Conversion Technologies, Inc.

Overview and Study Questions



Case 3.4 – Doric Conversion Technologies, Inc.



- Overview
 - As we have noted earlier, the cases in this chapter become increasing more complicated. In this situation a decision has to be made about the propriety of using software that has essentially been discarded by one's employer. If Doric is going to discontinue DBP why can't Peter Johnson market the product himself? The product was not protected by patent or copyright, so there was a good chance that there would not be any legal repercussions. But of course there may be moral implications that Johnson needs to consider more carefully.

Case – Study Questions



- What is your diagnosis of the problem(s) facing Peter Johnson at the end of this case?
- What is your assessment of Johnson's course of action? What would you do in his place?
- Does it really matter if a property owner is not using the software in question?

Case 3.5 – Note on Software Compatibility and Reverse Engineering

Overview and Study Questions



Case 3.5 – Note on Software Compatibility and Reverse Engineering



- Overview
 - In the previous cases we have been considering individuals coming to terms with intellectual property decisions. In the next two cases we consider this issue on the corporate level and the corporation's responsibility in this regard.

Case 3.5 – Note on Software Compatibility and Reverse Engineering



- This essay provides some background data on the problem of compatible or look-alike software and reverse engineering. This discussion is followed by two brief case studies: the acrimonious dispute between Lotus and Borland and the dispute about reverse engineering between Sega and Accolade. At the heart of both cases is a critical ethical question: what right to companies have to copy the innovative work of others?

Case 3.5 – Study Questions



- How important is compatibility in the software industry? What are the negative repercussions of incompatible products?
- Where do you side in the Lotus v. Borland case? Do you agree with Lotus' boastful claim after its initial victory: "Lotus innovated. Borland copied?"

Case 3.5 – Study Questions



- Do companies have a right to reverse engineer one another's products. How do you evaluate Accolade's behavior? Do you agree with Sega's claim that Accolade took a "free ride" on its "research and development efforts?"