

THE PIRACY PARADOX PERSISTS IN CYBER SPACE

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ABSTRACT

Business managers need to monitor several trends relating to the protection of a firm's intellectual property on the internet. On the one hand, the internet has presented many companies with the opportunity to explore markets, gather information, and sell through the web. On the other hand, this virtual marketplace has been a way for unscrupulous players in an intricate game of cyber crime to renounce a company's intellectual property rights and channel illicit goods by way of the internet piracy pyramid. The overall positive growth in global technology, such as internet penetration rates, has paradoxically created a lucrative distribution channel for the counterfeit trade. The Business Software Alliance forecasts that the increased use of the internet, the proliferation of peer-to-peer networks, and the growth of broadband access will increase software piracy rates, especially in emerging markets such as China, India and Russia. A recent study conducted for the Business Software Alliance by Harris Interactive, involving 1,644 youth, found that young people clearly viewed downloading music (60%), software (56%), and games (54%) without payment less harmful than stealing from a store (92%). In 2005, the Motion Picture Association (MPA), in their study on the cost of movie piracy, found that the typical consumer of fake goods was aged 16-24, male, and lived in an urban environment. Although this demographic profile does not yield detailed segmentation, it does show the bias of the younger generation, the so-called Generation Me, as a 'willing player' in the internet piracy game.

The augmentation of legislation designed to curb internet piracy, such as the Digital Millennium Copyright Act (DCMA) in the USA, has ignited controversy surrounding its enforcement, especially the 'safe harbor' provisions. The recent divergent outcomes of the litigation filed against EBay for selling counterfeit goods at its internet auction site by both Tiffany's in the USA and Louis Vuitton in France is testimony to the legal dilemma facing firms that products are sold in global markets by way of the internet. In July 2008, after 4 years in the U.S. court system, a U.S. judge declined the liability of EBay regarding counterfeit jewelry sold at its site. However, in June 2008, a French court awarded Louis Vuitton €38 million for failure to block the sale of this luxury goods manufacturers items on EBay. One can question how much enforcement is required to seriously demotivate the main actors in this virtual piracy, such as the Warez groups to stop supplying the internet piracy pyramid. Overall, these groups are releasing the illicit products on the web as a matter of pride in an elaborate art of cracking the code and subsequently engaging in a "digital war" with copyright holders.

This paper presents an overview of the growth of internet piracy in the international marketplace. The ethical perceptions (or lack of) of the younger generation is addressed, in terms of their willingness to consume counterfeit goods on the web. Firms face the task of educating the consumer that downloading music, software, movies and the like, without compensation, is *unethical*. This awareness is critical for decreasing the demand for counterfeit goods in the virtual marketplace, where a consumer can exhibit a rogue behavior with a limited fear of prosecution. We address the internet piracy pyramid, which encompasses sophisticated suppliers/facilitators such as the Warez group. Recent government-led sting operations, such as *Operation Buccaneer*, are also depicted to highlight successful tactical maneuvers of enforcement agencies. An overview of the Digital Millennium Copyright Act, the No Electronic Theft Act, and the College Opportunity and Affordability Act is included to debate the controversy surrounding this legislation. It can be concluded that firms face a battle that is really just beginning; one which is to be fought in a virtual war zone and thus requires awareness of measurable implications and managerial talent that understands the key players.

References are available upon request