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ABSTRACT

Downloading information from the Internet is an incredibly popular activity. Some of the information is used for scholarly or educational purposes, some is used for entertainment, as well as all sorts of other purposes. Books, movies, video games, and music are being downloaded by an increasing number of Internet users. Some of these digital files contain information that is perfectly legal to use and share but a great majority of these files are illegal to download. Recent technological developments in digital and Internet technologies have made the downloading of both legal and illegal digital content very easy and very fast. These technological developments have brought about a tension between two conflicting interests among Internet users. One of these interests drives people to download content illegally and the other interest drives people to act in ways intended to stop such illegal downloading. Much legal attention has been given to this issue in the past few years, but little sustained philosophical attention. In this thesis I discuss the moral issues that come along with the illegal downloading of information via the Internet with a focus on music files.

I present the issue of illegal music downloading through the use of a scalar utilitarian theory with a focus on preference satisfaction. I conclude that the act of downloading is in aggregate morally permissible, and further, that the status quo bundle of intellectual property rights (copyright) that protect these files should be removed. Also, I provide a rough sketch of how all people concerned can satisfy both of the conflicting interests (mentioned above) through the use of *copyleft* protections.

ACKNOWLEDGMENTS

I would like to express my sincere gratitude to Professor Robert Hudson for his support and guidance throughout the process of producing this thesis. I owe very special thanks to Professors David Crossley and William Buschert for their valuable insights and for their helpful comments and suggestions. Professor Crossley's willingness to answer all of my many questions with patience and clarity was always helpful. Professor Buschert's knowledge of technology and ethical issues pertaining to it, helped me to contextualize and focus my thoughts throughout my research, writing and editing stages. I would also like to thank Professor Eric Dayton for engaging with me in lengthy conversations about issues of file sharing when these conversations were keeping him from the substantial stack of work that he had. On several occasions, I would answer Professor Emer O'Hagan's question "How are you today?" with a long rant about file sharing and for this I owe her a 'thank you' and an apology. I would also like to thank Will Robbins for his insight into the independent music scene and for putting on a great gig.

I would like to thank my mother. Her love and support through this process (and others, past and future) is more valuable than I could measure. I owe a great thanks to my father, as well. He has enthusiastically asked for (and actually read) nearly every philosophical word I have ever written and argued with me about it. I hope you enjoy this one, Dad, and I look forward to your critique.

TABLE OF CONTENTS

	<u>page</u>
PERMISSION TO USE	i
ABSTRACT	ii
ACKNOWLEDGMENTS	iii
TABLE OF CONTENTS	iv
LIST OF ABBREVIATIONS	v
INTRODUCTION	vii
CHAPTER 1	
Music Technologies and Intellectual Property.....	1
Introduction	1
History	2
Intellectual Property	8
Policy and the Current State of Affairs	12
Case Law	23
CHAPTER 2	
Ethical Theory.....	30
Introduction	30
Traditional Utilitarianism	31
Scalar Utilitarianism	34
Utilitarian Generalization	41
The Good	44
CHAPTER 3	
Is it Wrong to File Share Music?.....	57
Introduction	57
Who Counts?	59
What Do Those Concerned Really Want?	62
The 'Acts' of the File Sharer	64
The 'Acts' of the Recording Industry Supporter—Benefits?	71
Harms?	77
What of Copyright Protections?	83
CONCLUSION	95
BIBLIOGRAPHY	98

LIST OF ABBREVIATIONS

<u>Abbreviation</u>	<u>page</u>
1-1. LP (Long Play disc).....	1
1-2. CD (Compact Disc).....	1
1-3. OU(Ordinary User).....	1
1-4. RIS (Recording Industry Supporter).....	1
1-5. Codec (<u>C</u> ompression and <u>D</u> ecompression technologies).....	5
1-6. MP3 (MPEG-1 Audio Layer 3).....	6
1-7. P2P (Peer-to-peer).....	7
1-8. IPRs (Intellectual Property Rights).....	11
1-9. R&D (Research and Development).....	12
1-10. CTEA (Sonny Bono Copyright Term Extension Act).....	20
1-11. DMCA (Digital Millennium Copyright Act).....	21
1-12. DRM (Digital Rights Management).....	22
1-13. VCR (Video Cassette Recorder).....	23
1-14. RIAA (Recording Industry Association of America).....	26
1-15. ISP (Internet Service Provider).....	26
3-16. CRIA (Canadian Recording Industry Association).....	61
3-17. IFPI (International Federation of the Phonographic Industry).....	63
3-18. DVD (Digital Versatile (or Video) Disc).....	66
3-19. R&B (Rhythm and Blues).....	68
3-20. CPCC (Canadian Private Copying Collective).....	(footnote)-70
3-21. AHRA (Audio Home Recording Act).....	(footnote)-70

3-22. CD-R (<i>Write Once Read Many</i> Compact Disc).....	(footnote)-70
3-23. CD-RW (Compact Disc-ReWritable).....	(footnote)-70
3-24. NIN (Nine Inch Nails, Band).....	74
3-25. DTR (Digital Terrestrial Radio).....	(footnote)-81
3-26. GPL (General Public Licence).....	(footnote)-87
3-27. MTV (Music TeleVision).....	91

INTRODUCTION

In Henry Etzkowitz's book *The Triple Helix*, he explains how "[t]he interaction among university, industry and government is the key to innovation and growth in a knowledge-based economy." (Etzkowitz 2008, 1) The purpose of this paper, in part, speaks to this cooperative notion. The moral issues that surround acts of file sharing on one hand and acts of *stopping* acts of file sharing on the other are deeply engrained in industry, culture, and government policy. In practice, to a large extent, Intellectual Property Rights policy has come from these sources. Here, I hope to provide a modest contribution to what has been in the hands of industry and government.

I argue that, given the recent changes to digital and Internet technology, the interests of people who want free/cheap music is in direct conflict with the interests of those who want compensation for music produced—and vice versa. This results in a “good for me, bad for you” situation. The traditional utilitarian would suggest that we act in such a way as to maximize whichever side's interest would result in the highest aggregate utility. But this means that the interest of the ‘other side’ is necessarily sacrificed. In the current discussion, this means that file sharers (through acting in their interest in obtaining free/cheap music) undermine music producers' ability to sell the music they make. The contrary is true for music producers (through acting in their interest in gaining compensation for music produced) who lobby for policy designed to stop file sharing.

Due to a shift in collective consciousness that has developed on the back of technological change, people are becoming accustomed to the ability to file share and so gain access to free music online. This shift makes securing financial gain for the recording industry more difficult

than it has been previously. Accordingly, the recording industry (with occasional support from the government) is acting to strengthen copyright law and developing digital locks on recorded media.

This “good for me, bad for you” situation can be ameliorated if industry and government act not as traditional (maximizing) utilitarians but instead as scalar utilitarians. I argue that a scalar utilitarian model moves us from a “good for me, bad for you” situation to a “better for all” situation. This comes in the form of a removal of copyright protections in sound recordings with the replacement of ‘copyleft’ protections instead. Industry can (if they change both their business model and their actions toward their consumers) gain sufficient profits from music while file sharers have access to free/cheap music.