

Miller

EECE SEMINAR

FALL 2007

9/27/2007

The Ethics of End User License Agreements

People pirate music. People pirate movies and software, and people pirate and copy many other things. Music, movies and software all come on various types of discs, and are easily converted to electronic copies or transferred onto other discs to make hard copies. I wish to look into the idea of "fair use" and of attempts to control copying of digital material.

copyright
First, allow me to acknowledge that it is illegal to distribute material under copyrights or patents. In an attempt to control the copying of their material, companies have taken several different measures to stop a purchaser from reproducing the material that he or she just purchased. Are these measures ethical? Is it ethical to tell someone what may be done with something that he or she owns? This is the topic I wish to explore.

Since I am concerned with the ethics of a company's actions, and not the effectiveness of such a company's measures, I'll continue under the following assumption: That End User License Agreements (EULAs) are effective. I will assume that if measures are taken to prevent copying, they will be successful.

What I will consider to be the issue here is the ethics of a company limiting the way a consumer may use its product. A company could take steps to control what a user "can" do with its product, or it could limit what a consumer "may" do with the product.

Including “features” in a product to control the way it is used can be considered part of the design, and is not what I want to address. EULAs are not part of a product, they are a contract between the user and the company. Is it ethical to tell someone what he she or he may do with a product?

Both parties need to be considered. A user has the freedom to act as he or she wishes taken away, in a very limited way, by such an agreement. But, by doing so the company prevents illegal copying of its product. Not preventing copying affects both groups. If a company’s product is illegally copied, then that company experiences a loss in profits. This loss can eventually begin to affect the company’s ability to create new products. An argument can be made that the free access to the existing product can lead to increased sales of future products due to an increased customer base. The consumer, on the other hand, gets her or his product for free, though he or she might eventually lose the opportunity to have new products. Either way, positive and negative consequences exist.

If we are to really analyze the consequences, we must look at which action is most beneficial. Establishing ethics base solely on consequences is tricky, since we must consider the full consequences. Does the happiness created when a consumer gains free access to a product outweigh the monetary loss to the company and the unhappiness generated by that loss? The real issues here is the company telling you what you can do with the product. So, the question becomes: does the company’s protection of their product matter more then the consumer being able to use it as they wish? I really don’t know. In the case of copying it probably does. In a general sense I don’t think it does. The consumer paid for the product, not just a specific use of it, and does allowing a

customer to use a product as they want not promote the most possible happiness in the consequences?

Beyond the consequences of EULAs on each party, let us consider the duties and responsibilities held by the parties. The company clearly has a duty to its owners to generate profit. It has a duty to the product's creators (be they artists or software engineers) to protect their efforts in creating the product. Does the consumer have a duty to copy the product? Surely not. But, the absence of a duty to act in a certain way does not indicate a lack of ethics in that action. The consumer does have a duty to follow the laws of the land, and choosing not to be responsible for that duty is unethical. While the company does not have a duty to tell the customer how to act, they do have a duty to protect themselves ^(+ their artists) and that is far more significant than the customer's duty to protect his or her freedom of choice in how to use the product.

Considering what the virtuous person would do sheds a different light on the issue. Using the underlying law of "do unto others..." it becomes obligatory for the consumer to not copy the product. For the company it becomes unethical to tell the consumer how to use the product. So, while the ends will be achieved (an end to copying), virtuous behavior seems to forbid an EULA.

Here, I think that virtue tells us how we ideally should behave. It seems that EULAs are unethical. Furthermore, since the only action they should be preventing is copying, which is already prevented by legal means, it seems to me ineffective to use an EULA. One is to make a customer able to use a product as they wish, but maintain laws in place to prevent illegal copying. Perhaps End User License Suggestions would be more appropriate.



... by government is to allow EULAs. Under the assumption that they will work, they seem to be the most ethical to me. True, it seems wrong to tell someone how she or he may use a product, but the EULA serves to enforce a law. Many services come with use contracts, so it doesn't seem that foreign to allow EULAs. No one forces a customer to buy a product. They can either agree to the acceptable uses, or not purchase it.

making a product so that illegal use can be prevented w/o resort to police seems ethical to me.

19.5 / 21

↑ → answer
parties 3
consequences 3
duties 2.5
virtue 3
solution 3
miss rights / duties of creators
