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Writing II

Critique of “Is Music Piracy Stealing?”

18 October, 2008

Is Music Piracy Stealing?

In the essay written by Charles W. Moore entitled, “Is Music Piracy Stealing?” the author’s thesis states “under current copyright legislation, downloading music for free is definitely theft under letter of the law. But is the law just and fair?” (242). Moore confesses to be “a copyright pirate of sorts” (245) and presents a lopsided case that copyright laws should be annulled, because he believes they are unpopular, unenforceable, unjust and unfair.

Moore uses the Pew Internet and American Life Project survey results, the proposed Author, Consumer and Computer Owner Protection and Security Act, and an article published on CNET.com to justify his argument against copyright laws.

The Pew survey polled a cross section of Americans of all ages and education-levels about downloading music without paying for it. According to the findings, “roughly 35 million American adults use file-sharing software, about 29 percent of Internet users, and that 26 million share files online” (243). Among the majority in all demographics who were polled, and confessed to piracy, say “they don’t care” (242-243). Moore repeats “they don’t care” six times to hone in this point. He claims that copyright laws should be annulled because music piracy is rampant and the laws are unpopular and unobserved.

I disagree with Moore. Since when are laws changed to appease those who “don’t care” that they are breaking the law?

Moore brings up the Author, Consumer and Computer Owner Protection and Security Act which proposes to make it a felony for anyone who pirates music online. In response to this Act, Moore quotes from an article written by Eric Goldman and published on CNET.com to support his position about copyright law. Goldman's article claims that "Congress has been completely convinced that rampant copyright infringement threatens to destroy the American economy" and the only way Congress believes they can fix the problem is to "threaten ordinary citizens with jail" (245). Goldman concludes that copyright laws haven't stopped piracy so "making them tougher only compounds the initial policy failure" (245). Moore believes that suing those who pirate music will "further alienate and polarize a consuming public", and he makes the assumption that they are already "growing to despise the recording industry" (246).

Moore's essay is filled with emotion, strong language and opinions that are not supported with facts or credible sources. While reading it, I felt like I was leveled by a 130 mph hurricane of opinions that began in the third paragraph and remained relentless until the final two words of his essay: "dead meat" (249). Among the strong opinions, Moore writes: "Copyright laws are merely an arbitrary and mutable legislative construct, and do not necessarily carry any objective moral weight" (249), they "are rooted in monopolism and censorship" (247), and this fight is "ultimately about money and power and control—over what you will be able to see and read and watch and listen to, and how it will be delivered, and who will make money from it" (247). I couldn't help feeling consumed with agitation while reading this arsenal of lopsided, biased, sarcastic and opinionated commentary that lacks solid substantiation and sound logic.

Moore uses strong language throughout the essay by calling the enforcement of copyright laws "legal terrorism", "the litigation fascism drive" (243), and that "'theft' of intellectual property is tantamount to grand larceny of the highest order" (247). He describes copyright laws

as “draconian” (243). This strong language only reinforces his biased opinion rather than persuade readers, like me, to see his point.

Moore’s essay is dominated with first person opinions noted with the use of “I” 35 times. His opinions and assumptions make unbalanced and biased points. One such example is when he claims that people who feel copyright piracy is wrong are “confusing the distinction between ‘it’s against the law,’ and ‘it’s wrong’” (245). In addition, Moore makes preposterous presumptions about those who refrain from downloading music. He claims that those who refrain are purely motivated by fear (243). I disagree. What about the millions of people, like me, who are motivated by a God-revering conscience between right and wrong, a healthy respect for the law, and an obligation to pay those who are trying to earn a living by producing music?! Moore has no way of knowing how people with opposing views are motivated, and he doesn’t have any substantiation to support his bias.

Logic flaws weave together the opinion and strong language when Moore refers to music piracy as a “victimless crime” (244). He claims there is a difference between music piracy and stealing music cds from a store—one is ethical stealing and one is not. Moore recognizes lawbreaking when consumers are robbed of their cd collections, yet he remains ignorant to recording artists who lose billions to piracy. He claims that a cd is a tangible physical item which is taken versus “nebulous” (244) intellectual property where the person “is no worse off materially than he or she was prior to the piracy” (245).

I beg to differ.

Why would anyone pay for a song that they just downloaded for free? This is how copyright holders are being robbed; millions of Americans are stealing and enjoying an artist’s

music without paying for it. I think this is illegal and unethical and to further rationalize, minimize, and justify lawbreaking is immoral!

Another example where Moore's logic falls apart is in his analogy between genetically modified foodstuffs and music copyrights. Patents and copyrights are made to protect the originators. In his example it is clear that corporations are exploiting "indigenous farmers" (246) by stealing their ideas and then patenting them to reap the profit—none of which goes back to the farmer. Moore refers this as unethical. Then he compares this to musicians who sign with the recording industry to promote their work. Yet every time millions of "average Americans" (245) pirate and enjoy the benefits of an artist's work without paying for it, they are in the same camp as the corporations who steal ideas from farmers. Both GM corporations and pirating Americans gain the benefits of someone else's work and the originator loses in the end. To annul the copyright law would be just as unethical as turning our backs on the "indigenous farmers" and letting corporations benefit at their expense. I think this analogy is filled with logic flaws!

Throughout his essay, Moore minimizes those with opposing views and uses a sarcastic tone. He belittles the Recording Industry Association of America (RIAA) when he writes: "Listening to rhetoric from the RIAA, et al, you might infer that copyright laws had been handed down on stone tablets by the Almighty" (247). His sarcasm is evident in his response to the proposed Author, Consumer and Computer Owner Protection and Security Act. When people are caught stealing Moore writes "you're a felon. Hello jail! Post a newspaper article or copyrighted photo to your blogsite – whoops! – you're a felon too" (245).

Pushing the bias and strong opinion aside, Moore makes two valid points that I agree with: 1) Enforcing copyright laws will never make piracy disappear; and 2) suggesting that a felony be the penalty for piracy is extreme. While I agree that being convicted with a felony for

copying one song is far too strong of a correction to this problem, I don't think making piracy legal is a solution either. I believe piracy is ethically unlawful and enforcing the law will reduce lawbreaking. How would recording artists earn a living from their music if everyone legally copies it without paying for it? I think a better penalty for copyright infringers is to pay a fine where a portion of the proceeds are returned to the recording artist as restitution.

Finally, on the last page of his essay, Moore brings up the stakeholders who are most damaged by piracy. He writes, "The real conundrum is how to ensure that creators of intellectual property can be fairly compensated for their work given the technological realities of our time" (249). Sadly, he claims not to have an answer. I think if Moore did the math, an answer would become clear. With 26 million Americans who have confessed to pirating music, this translates into roughly 5.6 billion dollars in lost revenue for every song copied and cd not purchased. Just like corporations are exploiting "indigenous farmers" (246) and reaping the benefits, "average Americans" are enjoying the music of recording artists without paying for it. If musicians can't make money in the music business, then everyone loses in the end when they are forced to stop recording.

Moore concludes his essay with more emotional sarcasm: copyright law will "thrash and writhe for a while yet in its death throes, and cause a lot of collateral damage in the lives of certain individuals, but it is ultimately dead meat" (249).

Clearly Moore did not convince me that enforcing copyright laws is unethical and unfair or that the laws should be annulled to support the 26 million confessed infringers. On the contrary, Moore's highly sarcastic, belittling, and accusatory tone, riddled with strong language, logic flaws, and filled with unsubstantiated claims and outrageous assumptions did nothing but

close my mind from seeking to understand the point he was trying to make. For these reasons, Moore's essay is a poor example of persuasive writing.