Verizon vs. the RIAA: Implications for Privacy and Democracy

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Verizon Timeline

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  - U.S. District Court in Washington D.C. rules that Verizon must comply with the subpoena issued by the Recording Industry Association of America (RIAA) requesting the name of a subscriber who allegedly made available more than 600 copyrighted music files over the Internet.
  - subpoena power ... applies to all Internet service providers within the scope of the DMCA, not just to those service providers storing information on a system or network at the direction of a user.
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- the United States Court of Appeals for the District of Columbia overturned the lower court’s decision.
- the DMCA applied only to those sites hosting illegal content and not to those simply transmitting it. The Appeals Court also affirmed that while it was sympathetic to those who hold music copyrights, it was not in the court’s purview to rewrite the DMCA. Only Congress, the Court argued, could amend the DCMA.
Question: Are we advancing the interests of copyright owners at the expense of broader democratic values in cyberspace such as freedom of speech and privacy for individual users?

How can we sort out and evaluate arguments on both sides of the case from an ethical perspective in order to study implications that the outcome of this ruling may have for future activities in cyberspace?
Peer to Peer Infrastructure

- network of peer machines, each identified with an IP address. In this scheme, there are no fixed clients and servers. Thus all nodes on the network are equal and they can both send and receive packets.

- Unlike Napster, which used a centralized database, later P2P models sought to preserve node anonymity as much as possible by implementing a distributed network structure.

- Newer versions of P2P networks go one step further in trying to protect the privacy of the individual by not using identifiable IP addresses; instead, random address strings are used.
Peer to Peer Infrastructure

- P2P architecture is inherently democratic. It promotes democratic values by facilitating both open communication and freedom of speech.
- Privacy is preserved in these networks both by the ISPs that provide access to P2P networks, and by the networks themselves.
- We believe that the lawsuits advanced by the RIAA, which attempt to enforce copyright laws that are at best murky as they apply to sharing of music over the Internet, undermine democratic values by threatening privacy.
Privacy and Democracy

What is the relationship between privacy and democracy?
- Is the former essential for the latter?
- Why is privacy valued?

We examine the definition of privacy, show why privacy is a social value (as well as an individual good), and show why privacy is essential for democracy.
Defining Privacy

- Privacy is difficult to define
  - Associated with liberty and autonomy
  - In cyberspace, it is often associated with security and anonymity
  - Initially it concerned governmental intrusion (as expressed in the Fourth Amendment to the US Constitution),
  - It has evolved to worries about governmental interference involving one’s personal decisions (expressed in important court decisions in the 1960s), to current concerns about access to and control of personal information.
Defining Privacy

- Accessibility Privacy (non-intrusion)
- Decisional Privacy (non-interference)
- Informational Privacy (access and control)
- According to James Moor, an individual “has privacy in a situation if in that particular situation the individual is protected from intrusion, interference, and information access by others.”
- Having privacy vs. having a right to privacy
Privacy as a Social Value

- Privacy as an intrinsic value - valued for its own sake
- Privacy as an instrumental value – as a means to some further end or ends
- Arguments put forth by Charles Fried and James Moor put it somewhere in-between
Privacy as Essential for Democracy

- Does privacy have any “social capital,” or is it simply an individual good?
- Privacy should not be thought of as a value that simply benefits individuals.
- Privacy should be understood not solely as a value concerned with individual good but as a value contributing to the broader social good.
Because democratic values are at stake in the cyberspace policies we adopt, we should develop the Internet along democratic principles.

The infrastructure of cyberspace should support democratic principles. And we believe that the P2P architecture does this.
Conclusion

- We have chosen privacy and democracy as the key topics on which to focus in our discussion of the moral implications in the Verizon v. RIAA case.
- Several additional ethical issues also arise in this case – perhaps most notably among these are concerns having to do with intellectual property. However, we deliberately elected not to approach our analysis from the perspective of property rights.
Conclusion

- Presumption in favor of privacy balanced with the principle of protecting intellectual property rights
- We also presume in favor of the principle: *Information wants to be shared*
- When our presumptive principle – advocating the sharing of information as a default position – is combined with the interests at stake for protecting social values such as privacy and democracy in the current debate involving Verizon and the RIAA, we believe that a policy that tilts in favor of defending the position articulated by Verizon rather than the one advanced by the RIAA is justified.