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SOUTH PARK VS. METALLICA ... AND INJUSTICE FOR SOME

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Abstract: The aim of the following paper is that of revisiting the philosophical implications of the famous legal battle between Metallica and Napster starting from its depiction in one of South Park's most famous episode from the 7th season, "Christian Rock Hard". Taking place in the year 2000, at the brink of a new millennium and fueled by a revolution in information technology (i.e. peer-to-peer file sharing), this famous trial and its depiction represent one of the most iconic moments in the history of copyright infringement within pop culture and what I consider to be a necessary point of reference for scholars interested in the ethics of copyright and digital media piracy. I will begin with brief overview of the episode, followed by a short presentation of Metallica's ethical arguments against Napster and music piracy. The last part of the paper will be dedicated to an attempt at refuting those arguments and a vindication of South Park.

Keywords: South Park, Metallica, Napster, piracy, copyright, peer-to-peer file sharing.

SOUTH PARK VS. METALLICA ... ȘI NEDREPTATE PENTRU UNII

Rezumat: În acest articol îmi propun să analizez implicațiile filosofice ale celebrului proces dintre Metallica și Napster având drept punct de plecare unul dintre cele mai celebre episoade din cel de-al șaptelea sezon al South Park, "Christian Rock Hard". Petrecut în anul 2000, la trecerea către un nou mileniu și impulsionat de o revoluție în domeniul tehnologiei informației (împărtășirea de fișiere în regim peer-to-peer), procesul reprezintă unul dintre momentele cheie din istoria recentă a pirateriei în

cultura pop, fiind o referință obligatorie pentru cercetătorii interesați de etica drepturilor de autor și de pirateria media în epoca digitală. Voi începe printr-un rezumat al episodului în cauză, urmând ca, ulterior, să prezint argumentele etice pe care formația Metallica le-a invocat atât împotriva celor de la Napster, cât și împotriva pirateriei. În ultima parte a lucrării voi încerca să arunc o privire critică asupra acestora, cuplată cu o reevaluare a rolului jucat de celebra animație americană.

Cuvinte-cheie: South Park, Metallica, Napster, piraterie, drepturi de autor, împărtășire de fișiere în regim peer-to-peer.

1. Oh my god, Napster killed music!?

But why play if we're not gonna make millions of dollars?

Lars Ulrich in South Park.

Infuriated by a proposal to switch to Christian Rock (it worked for Creed though, right?), Stan, Kyle and Kenny, the remainder of the band Moop, decided to explore their musical influences even further in order to grow as a band, to stop sounding like a “group of Vietnamese people [who] were having their intestines pulled out through their mouths”¹ and defeat Cartman’s² new band, Faith + 1, in a \$10 bet on who would be the first to sell one million copies and receive a Platinum album. With not enough money to spare on buying expensive CDs, Stan, Kyle and Kenny decided to download for free a rather bizarre selection of albums from Metallica, Stevie Wonder and Judas Priest, only to be interrupted by FBI agents who took them into custody and interrogated them regarding the massive amount of harm that they had just inflicted on Lars Ulrich, Britney Spears and (the formerly famous rapper) Master P.

Little did the members of Moop knew about the fact that, far from being a victimless crime (or “not *that* of a big deal” in their words), downloading music for free was actually hurting recording artists, challenging them to make painful sacrifices: Ulrich, Metallica’s drummer, would have to wait a few more months before installing a gold-plated shark tank bar, Britney Spears had to travel with a smaller airplane without a surround DVD system (the Gulfstream III) instead of the more luxurious Gulfstream IV, while Master P’s son would have to live without fulfilling his dream of owning an island in French Polynesia.

As opposed to Cartman’s Faith + 1 project, which was on track to hit the one million threshold (only to be denied going Platinum and be awarded with a Myrrh album, since Christian record companies give out only Gold, Frankincense, and Myrrh), Moop decides to go on strike

to protest illegal downloading of music via the internet. Due to media coverage of the protest (there was apparently no other news to report on), other artists and bands like Metallica, Ozzy Osbourne, Blink 182 and Britney Spears join Stan, Kyle and Kenny in their fight against online piracy.

Following Cartman's commercial success and his invitation to a big parade celebrating hitting the one million mark, Kyle and the other members of Moop have an epiphany: "He beat us. Because all this time we've been so caught up with how to protect our music that we forgot to just play [...] People are always gonna find a way to copy our music and swap it for free. If we're real musicians, then we should just play and be stoked that so many people are listening [...] From now on, MOOP isn't about money. MOOP is about music! We're not striking anymore! Who's with us?!" Their plea for returning back to the roots of musical creativity leaves Metallica and Britney Spears unmoved: "...We're just about the money."

Released in 2003, the plot of "Christian Rock Hard", one of the best know episodes from the 7th season of South Park, can be traced back to the year 1999, when Shawn Fanning launched Napster, a pioneer of what was soon to become peer-to-peer (P2P) file sharing, a novel way of distributing, sharing and downloading music³. Soon enough, Napster, alongside its followers LimeWire, eMule and, most importantly, the BitTorrent protocol, left their mark not only on the face of the internet, but also on the face of the music industry as a whole. For example, according to research done by the Pew Center in the year 2000, 37% of American internet users either listened and downloaded music via the internet. Around 54% of them did so using Napster⁴. With Napster on the road of becoming an internet hit just as the dot.com bubble was slowly receding, they were soon under attack by record labels and artists alike. The most famous of them – and quite surprising for some – was Metallica. In 2000, they filed a lawsuit against Napster, charging the company with copyright infringement. Napster, Metallica argued in court, was killing the music industry and it had to be shut down. Which is what, one year later, actually happened, as Napster was forced to declare bankruptcy.

As the South Park episode pointed out, Metallica (and especially Lars Ulrich), care a lot about money. Moral philosophers debating the ethics of copyright (and Intellectual Property in general) would rephrase this a bit: incentives and social utility matters. It is now time to look at Metallica's case against piracy and in defense of copyright in a more systematic, philosophical way, to see whether their depiction in South Park was accurate.

2. Reload: Lars Ulrich and the ethics of copyright

While extensively covered in the media and portrayed in South Park, the legal and ethical conundrum of the *Metallica v. Napster, Inc.* case received quite a surprisingly low amount of attention within the philosophical debate on the ethics of copyright. In fact, the only extensive analysis I could find regarding the philosophical implications of Metallica's case against Napster belongs to an article written by Robert A. Delfino more than a decade ago⁵. While siding with Lars Ulrich, who was the most vocal member of Metallica involved in their legal battle against P2P file sharing, Delfino does a wonderful job in fleshing out the historical context and some of the necessary ethical coordinates of the debate.

At a first glance, Ulrich's moral and legal crusade against online piracy and Napster seems to be inconsistent with some of his habits before becoming a successful musician who got a chance to make a living playing drums for a popular metal band: home taping. Long before the advent of personal computers, digital storing devices and the internet, people would exchange music albums on vinyls or cassette tapes for others to make copies on their own devices. Was this any different from what people were doing while using Napster? Ulrich's claim was that they were different, mainly due to the fact that the quality of the music stored on the cassette tapes was suboptimal (especially with the passage of time) and that there was also a matter of scale (millions of people started to copy and share copyrighted music following the emergence of Napster and P2P file sharing). Delfino is unconvinced by these two arguments, and rightly so, in my

opinion. If copyright infringement is morally (and legally wrong), then the quality of the end product or the scale of the operation would not be two relevant differences between home taping and file sharing. It would just make file sharing worse as a matter of degree, but there would be no inherent difference between what Ulrich used to do as a teenager and what the members of the band Moop were doing when they downloaded Metallica songs from the internet. Regardless of such personal inconsistencies, Delfino still thinks that Ulrich's case against Napster and online piracy is warranted. But is it warranted based on what the creators of South Park alluded to in the episode? Did Metallica exclusively care about money, or should their legal plea be read in a different way?

One obvious answer would be to just go ahead and look at what the drummer had to say in the wake of their trial against Napster. The place to start is an interview which he gave in 2000 to a popular online outlet called *Slashdot*. Discussing the commodification of art, Ulrich tried to dissuade their fans from thinking that the case about Napster is simply about the fact that the band loses money in the wake of the advent of P2P file sharing technology: "this is not about a lot of money right now, because the money that's being lost right now is really pocket change, OK? It's about the principle of the thing and it's about what could happen if this kind of thing is allowed to exist and run as rampant and out of control"⁶. Contrary to the narrative which the creators of South Park were pushing for, Delfino argued that what Metallica cared the most about had to do with the moral implications of authorship. Being an author and owning your art did not matter for Metallica because of the monetary implications of copyright, but because ownership comes with a certain degree of control with regards to the distribution of your work. What Metallica was striving for, according to Delfino, was their autonomous right to decide "to sell their art, to control how it is sold, and to decide if they wish to give it away for free"⁷, since their art is a product of their labor.

While we have consensus on what copyrights are ("rights in ideal objects, which are distinguished from the material substrata in which they are instantiated"⁸), there is still an ongoing debate regarding what is the best way of grounding such rights, and whether the

arguments philosophers employ in their favor are as bulletproof as some tend to generally think they are. Both points of contention are relevant for our present discussion.

Firstly, we can distinguish between two main strategies for justifying copyrights. One of them relies heavily on consequentialist considerations and it can be dubbed as the utilitarian argument⁹ in favor of owning the ideas you create. The rules (either formal or informal) which society should adopt are those that manage to increase social utility and welfare. Since art is beneficial to society, we should look at what set of rules would increase creativity and cultural productivity, alongside the investment from media conglomerates in creating opportunities for artists and creators. What would count as an incentive for established bands like Metallica too keep on releasing albums, or for garage bands to dream big and keep working on developing their style, in order to provide artistic pleasure for their fans? Such an incentive, utilitarians argue, is the legal protection of their intellectual products in the face of people copying and distributing freely their music, i.e. in the face of piracy. Without a copyright, the argument goes, bands will not be able to make a living doing what they and their fans enjoy and thus social utility and overall happiness will decrease. Or, to put it differently, since the costs privately protecting your art would be too high (especially since the costs of copying are really low in the face of technological progress), and because ideas, as immaterial objects, look and behave a lot like public goods (once produced) we need a way to make sure that art is produced at an optimal level. A way of ensuring this happens is by granting authors and creators a monopoly on the process of copying the ideas they produce, a monopoly which would, in turn, guarantee that they can make a living out of what they enjoy doing¹⁰. To conclude, utilitarians argue, money matter because they are incentive for artistic work. Whether potential fortunes are spent on islands in French Polynesia or on expanding a swimming pool is besides the point.

While the utilitarian approach might be considered a hallmark of the US copyright system (especially if we look at the arguments employed in its creation by the Founding Fathers), it is not the only

theoretical framework in which it makes sense to talk about the ethics of copyright. There are also strong non-consequentialist considerations that we should take into account, the most famous being the Lockean (inspired) natural rights approach. While not writing specifically about immaterial goods like ideas, it is quite common for scholars to argue that there is no incompatibility in extending Locke's case for appropriating physical objects to immaterial ones, due to the fact that the core assumption seems to hold: people are entitled to the fruits of their labor due to the fact that they own their labor which is, in turn, an extension of their right to self-ownership. Long story short, as Locke puts it, "whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joyned to it something that is his own, and thereby makes it his *Property*"¹¹. Whether we talk about acorns or plots of land, as per Locke's original examples, or about ideas which artists produce by mixing their labor with other ideas from the public domain, the justification for the act of appropriation remains the same.

Applying the principle of charity, South Park's claim is that Metallica's case rested upon the idea that Metallica cared so much about losing money when their songs were copied and shared illegally via Napster because, as a result, they would lack the incentives to be creative and produce music. Analyzing the historical context and the claims that Metallica (specifically Ulrich) made, Delfino argued that what the metal band had in mind was something closer to the Lockean case in favor of copyright. Is Metallica's position stronger if we add Locke's name into the mix? Even if South Park was right and it would be better to analyze the situation within an utilitarian framework, would this make their case against Napster stronger?

3. Sad but true: piracy is a victimless crime

Delfino finds the Lockean argument in favor of copyright to be largely unproblematic and its strength almost self-evident. Metallica was right, Napster was wrong, and the only objection he briefly skims over is one raised by Tom Palmer¹². While Locke is, obviously, an

important and influential philosopher, simply flaunting his name without carefully paying attention to the objections that philosophers have raised¹³ against the Lockean approach to copyright is a fatal flaw in defending Metallica's case against Napster.

First and foremost, it is unclear whether applying the Lockean prerequisites for appropriation in the case of immaterial goods like ideas leads us necessarily towards recognizing the need for instituting a property right and not something simpler, like recognizing the moral status of artists and creators as authors. Recognizing someone as an author based on the labor she mixed with ideas from the public domain is not the same thing as saying that she deserves a property right with regards to a song she composed. It will surely forbid others from plagiarizing her song, but not necessarily from copying and distributing it online for free to their peers. The main reason why this is the case is that property rights do not mix well with immaterial objects. While ownership makes sense when we talk about material objects like plots of land due to the fact that material objects are scarce, ideas, as I previously alluded to, have an ontology which predisposes them to behave like public goods. It is improper to say that Napster users stole Metallica songs for the simple reason that Metallica still have all of their songs on their albums, be they in a digital form, or stored on vinyls, cassette tapes and CDs. We employ property rights as a device to decrease the conflict over the use of scarce goods and this is not the case when talking about art. If anything, owning ideas has a pernicious effect on the deployment of certain objects which belong to us. A copyright, as per its name, prohibits me from digitally copying the album that I bought from the record store and freely distributing the copy to the people of my choosing. Allowing Metallica to own an ideal type (i.e. the musical arrangement and the lyrics of a music album) gives them the right to control some of the things that we are allowed to do with our tokens.

Moreover, and more importantly, when people argue from a Lockean framework that authors should be granted a property right in relation to their creation, they actually employ a hidden assumption, namely that mixing your labor somehow grants you ownership of something that you did not create, namely the market value of the end

product. As Hettinger so eloquently put it, “the intuitive appeal behind the labor argument - ‘I made it, hence it’s mine’ - loses its force when it is used to try to justify owning something others are responsible for (namely, the market value). That claim that a laborer, in virtue of her labor, has a ‘natural right’ to this socially created phenomenon is problematic at best”¹⁴. While no one can deny that artists are generally hard workers, that putting out an album requires hours of work and dedication¹⁵, using Locke in order to argue that they are also entitled to the market value of their product is not warranted on strictly Lockean grounds. If we agree that Metallica, singing the same songs a century earlier, would not be as popular as they were in the ‘80’s and ‘90’s, even if they worked just as hard as they did while touring and recording albums like *Kill ‘Em All*, *Master of Puppets* or *...And Justice for All*, then Hettinger’s point becomes even clearer. The market value of artistic products is part of a more complex web and it is not only a result of our actions, but also of communities behaving and valuing something in a specific way, with other artists and market forces playing a significant part in how our work is valued.

P2P file sharing is often presented as a crime on par with theft. Since, as we are lead led to believe by Delfino and Ulrich, artists deserve copyrights based on the labor they put in their music, this should not be a surprise. Property rights and theft, however, make sense only when talking about material objects. Furthermore, even assuming that you should own an idea you created, this does not mean that you also have a legitimate claim towards something that you are not (at least fully) responsible for, namely the market value of that idea. While maybe not fully convincing, the two counterarguments which I previously sketched should at least make us skeptical of the intuitive power that this Lockean strategy seems to have on some philosophers writing on the ethics of copyright.

But the Lockean case against Napster, which Delfino argued that Metallica made, is not the only one available. Remember that, for the creators of South Park, bands rallied against Napster due to the fact that P2P file sharing was hurting them financially. Not motivated by purely aesthetic incentives, some artists might quit altogether

composing and playing music if more and more people choose to illegally download their songs online.

The utilitarian case in favor of copyright is also one with a lot of intuitive appeal. Similar to the special relation that we tend to think we have with what we create as a result of our own labor, we might also tend to agree that, without ownership or a limited monopoly on deciding who gets to copy and sell our work, we could end up bankrupt. Artists, obviously, need to earn a living doing what they love and what society enjoys. The tricky thing with the utilitarian case in favor of copyright is that, in comparison to the Lockean one, which rests upon what analytic philosophers call 'conceptual analysis', its defense should be an overwhelmingly empirical one. Therefore, we need to take a closer look at the real world and see whether artists are actually incentivized by owning the ideas they create (and by the promise of earning money through selling their intellectual property).

While the jury is still out and empirical work is still being done by economists who closely work on the topic, what we do know is that the utilitarian case in favor of copyright is not only significantly weaker than in the case of other intellectual property rights like patents¹⁶, but also that we have serious reasons to doubt that most artists actually behave in the way in which we imagine they do.

One reason to doubt the utilitarian narrative is simply to look at what happened before copyrights were first granted to authors and creators. As ownership of ideas is a brainchild of the European Enlightenment¹⁷, should we be puzzled that people still composed music, wrote books, painted or sculpted even without copyright protection and the monetary incentives that such a right provided starting from the late 18th century? Furthermore, shouldn't we expect that countries which first instituted copyright protection for composers ended up being the countries with the most composers per capita?

Reality, it seems, is a bit more complex than we might expect. Firstly, monetary incentives do explain, in part, why people are creative, but focusing only on the financial aspects is detrimental towards actually understanding the complex matrix of reasons why people produce art and exploring other ways in which artists can be

financially compensated for their effort. It stands to reason that the Medici approach of financing artists or, in more modern times, collectively crowdfunding¹⁸ artistic projects could work just as well as the artificial scarcity which copyrights produce. Last but not least, being the first country to offer copyright protection to your composers is not as safe a bet as some might think in order to increase the number of composers in your territory. For example, the introduction of copyrights for music in the UK in 1777 led to a swift decline in the number of composers per million of inhabitants. The same was true for other European countries as well, ranging from Germany and Austria to Italy¹⁹.

In more recent times, while piracy was rampant in the first decade of the new millennium, bands like Metallica, who had their songs copied and distributed illegally by millions of people, did not get poorer. On the contrary, one unintended consequence of P2P file sharing was actually a shift in band revenue from recorded albums to other sources of wealth, most notably concerts with more expensive tickets. Moreover, while getting their work pirated, bands and the recording music industry did not just stop altogether but, surprisingly, from the launch of Napster and other P2P file sharing technologies in 1999 up to 2009, the number of recorded albums released worldwide actually doubled²⁰.

Why would musicians still compose and record music, since the utilitarian theory would predict that, faced with the looming prospect of having their work pirated, they would sooner switch jobs than continue being creative? The reason, as Oberholzer-Gee and Strumpf put it, is that being economically successful while playing music is more a matter of a chance. Only a fraction of the albums released on a yearly basis get to sell over one million copies. Even more surprising, in 2007, only 950 albums managed to sell over 25.000 copies²¹. Taking into account that most recording artists and musicians have bleak economic perspectives, "musicians essentially consider their job to be a lottery. With some small chance they will become a star. In 2007, the top one percent of new releases accounted for 82% of new-release sales. In a superstar environment, file sharing has a muted effect on music output. Even if the new technology had a marked negative effect

on the returns to stardom, it is not likely to have big effect on the chances of becoming a star"²².

To conclude, the utilitarian case in favor of copyright, while intuitively plausible as well, is far from being bulletproof. It is not at all clear that, just like Moop, most bands actually compose, record and play only for the monetary incentives which come with copyright protection or whether creativity is spurred by the ownership of ideas.

4. You know, I learned something today

Heavily criticized (and not only in conservative outlets) for being the poster child of toilet humor, South Park actually manages to provide something of philosophical value to their viewers: an interesting, thoughtful and intelligent way of expanding their moral imagination on a wide variety of topics, ranging from free speech and economic freedom, to vaccine hesitancy, terrorism and, obviously, the ethics of copyright. It is, in fact, one of the few shows which treated P2P file sharing and media piracy in a balanced way, highlighting both the hypocrisy of some who make up the world of recording industry and the injustice that a robust protect for copyright might actually produce. Sure, chances are that you will not get raided by the FBI like Stan, Kyle and Kenny were, but you might end up like Jammie Thomas-Rasset, a mother of four from Minnesota, who was found guilty of copyright infringement in 2007 for downloading 24 songs and sentenced to pay, in 2012, \$220,000 in statutory damages²³.

What strong intellectual property protection leads to, contrary to what some might argue, is a significant change in the behavior of artists and, more importantly, of those who actually end up owning the copyrights for music albums: record labels. Artificial scarcity actually is conducive towards a rent seeking behavior on the behalf of elite musicians and the dominant companies on the market, who think that making music is not worth their time and effort if they are not going to make millions of dollars. But, besides unjust penalties inflicted upon online file sharers and spurring rent seeking behavior, there is one additional consequence that copyright leads to. Analyzing

some of the problematic consequences of the legal regime which grants ownership to ideas, Tom Palmer stated that one such implication could be that the owner of the copyright might end up restricting how other people use their bodies. If someone owns a musical composition, than that someone could, in theory, restrict the way in which others “blow air in certain sequences and in certain ways into musical instruments they own without obtaining the permission”²⁴ from that individual. Delfino is right in pointing out that this does not happen regularly, as, for example, there are so many people who learn to play guitar by trying their luck with *Nothing Else Matters*. Nevertheless, the reason why we are not restricted in playing Metallica songs in the comfort of our homes or while on vacation at the seaside has to do, first and foremost, with the costs associated with implementing something that is a natural consequence of owning a song. Secondly, the way in which the copyright system is build and implemented, especially in the digital environment, is actually detrimental to the moral right that bands have in playing the songs which are the result of their own labor.

In 2021, Metallica were invited to play at BlizzCon, a popular gaming convention organized by Blizzard²⁵. As the event took place during the Covid-19 pandemic, the concert was hosted by the popular live video streaming platform Twitch. Users who tried to listen to the concert on one of the main Twitch channels (Twitch Gaming) were surprised to hear generic 8-bit music instead of Metallica songs. Fearful of getting their channel taken down the DMCA, Twitch Gaming did what any rational actor would do in such a situation.

Back in 2000, Ulrich and Metallica argued that their case against Napster relied on the fact that they want control over the music they compose and record. Now, 21 years later, they cannot argue that P2P file sharing has hurt them financially (Ulrich’s net worth is estimated at around \$350 million), but they did play their part in building such a restrictive online infrastructure that they cannot actually control who gets to listen to their songs even if they wanted to.

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Notes:

¹ Those were Randy Marsh's words, not mine. While their sound was eclectic, I do not think that Moop was accurately portrayed by this harsh comparison. All quotes from the episode are taken from here:

https://southpark.fandom.com/wiki/Christian_Rock_Hard/Script.

² It should be no surprise that Cartman, the ex-member of Moop, was the one who proposed that the band transition into singing Christian Rock.

³ For a comprehensive look at the history of Napster and its impact on digital piracy and file sharing see Trevor Merridan, 2001, *Irresistible Forces. The Business Legacy of Napster and the Growth of the Underground Internet* (Oxford: Capstone).

⁴ Amanda Lenhar and Susannah Fox, 2000, "Downloading Free Music: Interent Music Lovers Don't Think It's Stealing", The Pew Internet & American Life Project's Online Music Report,

https://www.pewresearch.org/internet/pdfs/PIP_Online_Music_Report2.pdf.

⁵ Robert A. Delfino, 2007, "Justice for all? Metallica's Argument Against Napster and Internet File Sharing". In William Irwin (ed.), *Metallica and Philosophy. A Crash Course in Brain Surgery* (Oxford: Blackwell).

⁶ "At Last And At Length: Lars Speaks", *Slashdot*, May 26 2000, <https://news.slashdot.org/story/00/05/26/1251220/at-last-and-at-length-lars-speaks>.

⁷ Delfino, *op. cit.*, 237.

⁸ Tom Palmer, 1990, "Are Patents and Copyright morally justified? The Philosophy of Property Rights and Ideal objects", *Harvard Journal of Law & Public Policy*, Vol. 13, no. 3: 818.

⁹ As many people who make this argument come directly from economics or from law (specifically focused on the law & economics approach), it should be no surprise that it can also be called the "economic case in favor of Intellectual Property".

¹⁰ William M. Landes and Richard A. Posner, 2003, *The Economic Structure of Intellectual Property Law* (Cambridge, MA: Harvard University Press).

¹¹ John Locke, 1988, *Two Treatise of Government* (Cambridge: Cambridge University Press), 288; emphasis in original.

¹² More on this in the concluding part of the paper.

¹³ For an extensive systematization of the main arguments against the Lockean case in favor of Intellectual Property (applied to both copyrights and patents) see Mihail-Valentin Cernea and Radu Uszkai, 2012, "The Clash between Global Justice and Pharmaceutical Patents: A Critical Analysis", *Public Reason*, Vol. 4, no. 1-2, 216-218 and Radu Uszkai, 2016, "Pirateria online: un tip de infracțiune fără victime", *Revista de Filosofie*, LXIII, no. 5, 603-605.

¹⁴ Edwin C. Hettinger, 1989, "Justifying Intellectual Property", *Philosophy and Public Affairs*, Vol. 18, no. 1, 39.

¹⁵ This might be true even for *St. Anger*, Metallica's widely criticized 2003 album.

¹⁶ In order to understand why the utilitarian case in favor of patents is significantly stronger, we just need to look at the costs associated with the research and development of a new drug or a vaccine as compared to the costs of simply copying the formula of a drug once discovered. While there are still some economists who are skeptical that the pharmaceutical industry could not function without a robust intellectual property protection, a closer discussion on this topic would be besides the point of the present paper.

¹⁷ Carla Hesse, 2002, "The Rise of Intellectual Property, 700 B.C. - A.D. 2000: An Idea in the balance", *Daedalus*, Vol. 131, no. 2, 26-45.

¹⁸ For more details on crowdfunding as an alternative to copyright protection see Radu Uszkai, 2018, "The Use of Torrents in Society", *Libertarian Papers*, Vol. 10, no. 2, 343-371.

¹⁹ Michele Boldrin and David K. Levine, 2008, *Against Intellectual Monopoly* (New York: Cambridge University Press), 187-189. The only odd example was France, where the number increased.

²⁰ Felix Oberholzer-Gee and Koleman Strumpf, 2010, "File-Sharing and Copyright", *Innovation Policy and the Economy*, vol. 10, no. 1, 19.

²¹ *Idem.*, 47.

²² *Idem.*, 48.

²³ Radu Uszkai, 2014, "Are Copyrights compatible with Human Rights", *The Romanian Journal of Analytic Philosophy*, Vol. 8, no. 1, 16-18.

²⁴ Palmer, *op. cit.*, 77.

²⁵ Ryan Nagelhout, 2021, "Metallica's Twitch Concert Audio Was Apparently Replaced With 8-Bit Music To Avoid Copyright Issues", *Uproxx*, February 19, <https://uproxx.com/edge/metallica-twitch-blizzcon-copyright-music/>.

References:

Boldrin, Michele and Levine, David K. 2008. *Against Intellectual Monopoly* (New York: Cambridge University Press).

Cernea, Mihail-Valentin and Uszkai, Radu. 2012. "The Clash between Global Justice and Pharmaceutical Patents: A Critical Analysis", *Public Reason* 4: 1-2, 210-221.

Delfino, Robert A. 2007. "Justice for all? Metallica's Argument Against Napster and Internet File Sharing". In William Irwin (ed.), *Metallica and Philosophy. A Crash Course in Brain Surgery* (Oxford: Blackwell).

Hesse, Carla. 2002. "The Rise of Intellectual Property, 700 B.C. - A.D. 2000: An Idea in the balance", *Daedalus* 131: 2, 26-45.

Hettinger, Edwin C. 1989. "Justifying Intellectual Property", *Philosophy and Public Affairs* 18:1, 31-52.

Landes, William M. and Posner, Richard A. 2003. *The Economic Structure of Intellectual Property Law* (Cambridge, MA: Harvard University Press).

Lenhar, Amanda and Fox, Susannah. 2000. "Downloading Free Music: Interent Music Lovers Don't Think It's Stealing", *The Pew Internet & American Life Project's Online Music Report*, https://www.pewresearch.org/internet/pdfs/PIP_Online_Music_Report2.pdf.

Locke, John. 1988. *Two Treatise of Government* (Cambridge: Cambridge University Press).

Merridan, Trevor. 2001. *Irrestistible Forces. The Business Legacy of Napster and the Growth of the Underground Internet* (Oxford: Capstone).

Nagelhout, Ryan. 2021. "Metallica's Twitch Concert Audio Was Apparently Replaced With 8-Bit Music To Avoid Copyright Issues", *Uproxx*, February 19, <https://uproxx.com/edge/metallica-twitch-blizzcon-copyright-music/>.

Oberholzer-Gee, Felix and Strumpf, Koleman. 2010. "File-Sharing and Copyright", *Innovation Policy and the Economy* 10:1, 19 - 55.

Palmer, Tom. 1990. "Are Patents and Copyright morally justified? The Philosophy of Property Rights and Ideal objects", *Harvard Journal of Law & Public Policy* 13:3, 817-865.

Uszkai, Radu. 2014. "Are Copyrights compatible with Human Rights", *The Romanian Journal of Analytic Philosophy* 8:1, 5-20.

Uszkai, Radu. 2016. "Pirateria online: un tip de infracțiune fără victime", *Revista de Filosofie* LXIII: 5, 597-610.

Uszkai, Radu. 2018. "The Use of Torrents in Society", *Libertarian Papers* 10: 2, 343-372.