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# Assignment Cover Sheet

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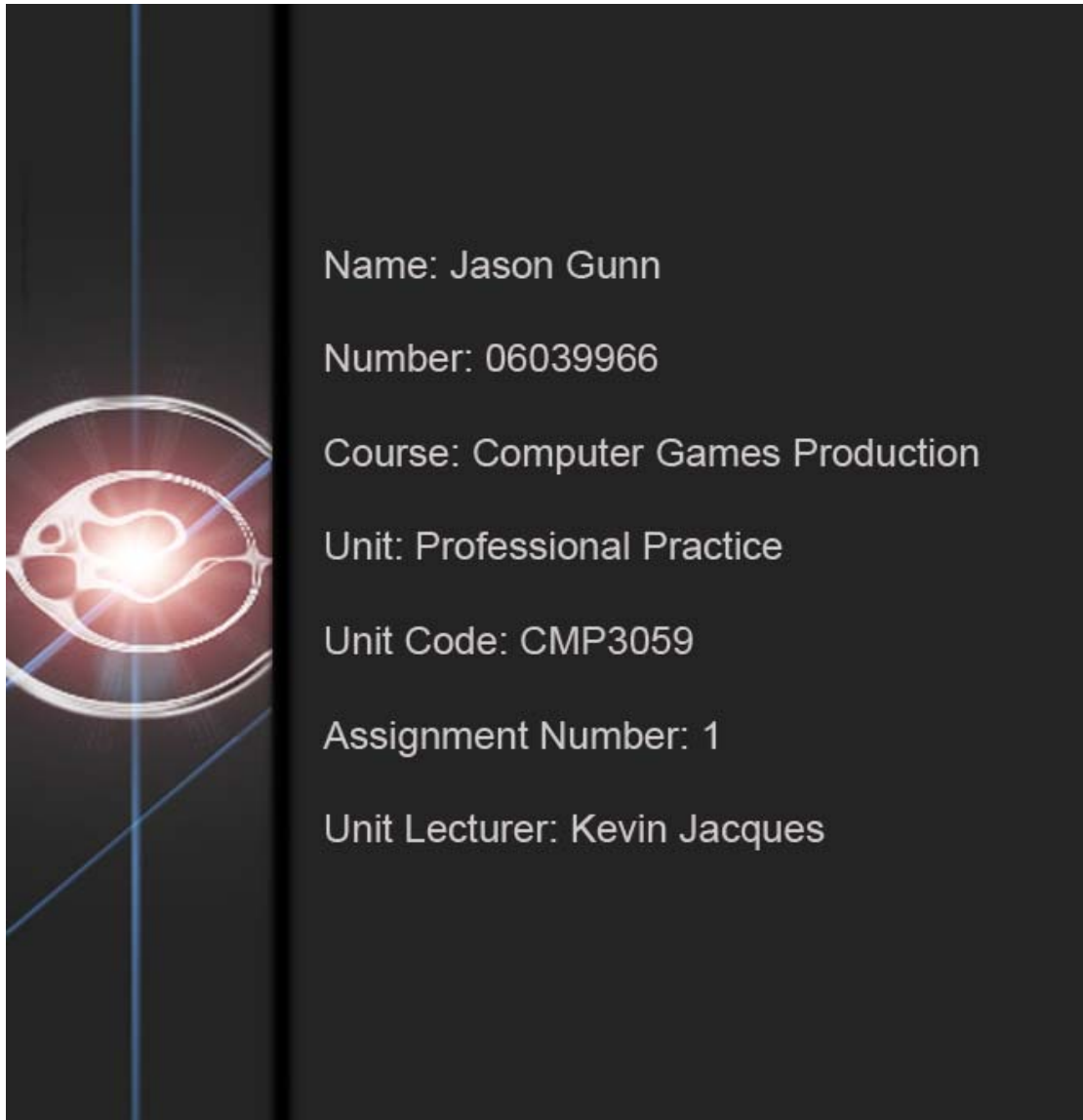
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Unit: Professional Practice

Unit Code: CMP3059

Assignment Number: 1

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**1.0 Précis:**

The case study to be studied is written by (Games<sup>TM</sup>, 2008), and concerns Digital Rights Management (DRM). The key actors involved with this case are Electronic Arts (EA), Other publishers, the Consumers and the Pirates.

DRM is continually evolving in an attempt to deal with piracy. However ensuring protection of software while still keeping the consumer happy can be challenging.

Other publishers such as Blizzard target individuals for illegal activities, however EA's latest attempt at DRM with the use of SecuROM has upset many consumers because it targets them all.

EA have used the software to limit how many times a consumer may legally install the game they have purchased. EA has still made a large number of sales, but some consumers have retaliated to the use of SecuROM by pirating the software.

If more information on this is required, then further reading of the original case study is recommended.

**2.0 Rationale:**

This case study relates to DRM for games, and as such is relevant to both the technology field and the Computer Games Production course. The case study is recent and raises a good selection of issues, and while these will not be looked at in depth during the rationale they will be investigated further during the course of the assignment.

From an ethical viewpoint, issues could be raised with the use of DRM by EA, and the fact that EA targets all consumers, and not individuals like other publishers. Then from both an ethical and legal perspective there are issues raised regarding piracy, software ownership, limitations of software installs and threats to other publishers.

It is not possible to determine if the case study states that the actors have behaved in a professional manner at this time. Without looking into professional standards, and codes of conduct any attempt to do so would be "Opinion" which is not a viable source of argument.

### **3.0 Professionalism:**

#### **3.1 Introduction to Professional Guidelines:**

The majority of professional issues relate solely to EA, as they are the organisation within the case study. It is not possible to look into any issues raised within the case study, without having something to compare EA's actions to. In this case professionalism will be evaluated via the use of codes of conduct.

Due to the limited information presented in the case study, it is not possible to determine if EA have acted in a professional manner for each point raised within the professionalism documents. However any points relating to the case study will be reviewed to determine if under these points EA have conducted themselves in a professional manner.

##### **3.1.1 Code of Conduct for BCS Members:**

The first code of conduct to be looked at will be the one provided by the British Computer Society (BCS, 2006). This is relevant as the case study was written in Britain, and because EA released Spore in Britain.

##### **3.1.2 ACM Code of Ethics and Professional Conduct:**

The Association for Computing Machinery (ACM) offers a code of conduct relevant to the USA (ACM,1992).

##### **3.1.3 IEEE Code of Ethics:**

The Institute of Electrical and Electronics Engineers (IEEE) does not provide a defined code of conduct, but instead a document relating to ethical and professional conduct (IEEE, 2006).

#### **3.2 Discussion of Professionalism:**

Underneath each evaluation the relevant point will be quoted.

##### **3.2.1 Code of Conduct for BCS Members:**

The first issue relevant to the case study in section 3, and while laws are not specifically mentioned, it is inferred that EA understand at least some legislation.

<http://www.bcs.org> “3 You shall ensure that within your professional field/s you have knowledge and understanding of relevant legislation, regulations and standards, and that you comply with such requirements.”

<http://www.bcs.org/server.php?show=conWebDoc.1588> [Date Accessed: 5<sup>th</sup> December]

The second relevant issue in section 4 is to regarding the consumer, and EA treating them without discrimination. EA has targeted everyone with the use of DRM, not just specific individuals, so have acted in a professional manner.

<http://www.bcs.org> “4 You shall conduct your professional activities without discrimination against clients or colleagues”  
<http://www.bcs.org/server.php?show=conWebDoc.1588> [Date Accessed: 5<sup>th</sup> December]

The next point as raised in section 9 is in regard to the misrepresentation of information. The case study talks about how actors have responded to the use of DRM. Suggesting that they are informed about its use, and thus EA have acted in a professional manner.

<http://www.bcs.org> “9 You shall not misrepresent or withhold information on the performance of products, systems or services, or take advantage of the lack of relevant knowledge or inexperience of others.”  
<http://www.bcs.org/server.php?show=conWebDoc.1588> [Date Accessed: 5<sup>th</sup> December]

### 3.2.2 ACM Code of Ethics and Professional Conduct:

By using DRM as a means to protect their software from piracy/copyright infringement, EA have behaved professionally within section 1.5.

<http://www.acm.org/> “1.5 Honor property rights including copyrights and patent  
<http://www.acm.org/about/code-of-ethics?searchterm=code+of+conduct> [Date Accessed: 9<sup>th</sup> December]

EA have attempted to protect their software from piracy with the use of DRM, and in accordance with the section 2.1 have acted in a professional manner. This is the case as while the use of DRM may according to the case study have caused complaints initially, EA are developing SecuROM further, thus aiming for a high quality product.

<http://www.acm.org/> “2.1 Strive to achieve the highest quality, effectiveness and dignity in both the process and products of professional work.”  
<http://www.acm.org/about/code-of-ethics?searchterm=code+of+conduct> [Date Accessed: 9<sup>th</sup> December]

In reviewing the use of DRM, and altering it EA have again acted professionally in regards to section 2.4.

<http://www.acm.org/> “2.4 Accept and provide appropriate professional review.”  
<http://www.acm.org/about/code-of-ethics?searchterm=code+of+conduct> [Date Accessed: 9<sup>th</sup> December]

### 3.2.3 IEEE Code of Ethics:

By developing further the DRM method used within software EA have been shown to have acted professionally for the point raised in section 7.

<http://www.ieee.org> “7. to seek, accept, and offer honest criticism of technical work, to acknowledge and correct errors, and to credit properly the contributions of others;”

<http://www.ieee.org/portal/pages/iportals/aboutus/ethics/code.html> [Date Accessed: 8<sup>th</sup> December]

By targeting all consumers with the use of DRM, EA have acted professionally in section 8.

<http://www.ieee.org> “8. to treat fairly all persons regardless of such factors as race, religion, gender, disability, age, or national origin;”

<http://www.ieee.org/portal/pages/iportals/aboutus/ethics/code.html> [Date Accessed: 8<sup>th</sup> December]

### **3.3 Professionalism Conclusion:**

Under three different codes of professionalism EA have been shown to have acted in a professional manner in regard to the issues raised within the case study.

### **4.0 Ethical:**

#### **4.1 Introduction to Frameworks:**

This section of the argument is simply used to introduce the chosen frameworks, for use in evaluating the ethical issues within the case study.

It must also be noted that all of the chosen frameworks require some opinion to be involved. Negative Utilitarianism requires judgement on the unhappiness of actors, Deontology on the Initial Intentions of some actors, and with Hedonism the pleasure achieved by actions must be judged.

##### 4.1.1 Negative Utilitarianism:

Utilitarianism has many variants and is itself a variant of Consequentialism. As can be seen in the below quote by (Sprigge, T.L.S, 1989) on Bentham’s Utilitarian views, the general aim of most types of utilitarianism is to make decisions which result in an outcome producing the greatest good/happiness. The outcome is calculated by assigning a numerical value to each related element, happiness, pain caused, etc and calculating the overall result.

T.L.S Sprigge *An Encyclopaedia of Philosophy - Utilitarianism* (1989) “As we have seen, he regards an action as right if its main tendency is to augment happiness, and wrong if its main tendency is the opposite”. (p.594)

While it may be accepted in some cases that pain must be caused to have an overall good effect, for example removing a limb to prevent death, Act Utilitarianism would view this as wrong, stating that if there is a way to accomplish this without causing as much pain then that is the only right course of action and in this example this may involve a medicated death.

This view must also take into account “Judgment”, in that the framework requires judgement with regard to the value of actors happiness and pain in order to calculate the produced results. While this is not perfect when conducting an argument, it does still produce some valid results.

However this view was deemed inappropriate for this case study, as the results were far to similar to that of other chosen frameworks (Hedonism), ergo would not have produced a objective line of reasoning. However Karl Popper’s notion of Negative Utilitarianism allows for a different view on the case study. As discussed in the extract taken from the book by (Warburtons, Nigel, 2004) below, It is an inverted form of Utilitarianism, seeking not the outcome with the greatest good, but the minimum pain/unhappiness produced.

Nigel Warburton **Philosophy: The Basics** (2004) *“The basic principle of negative utilitarianism is that the best action in any circumstances is not the one which produces the greatest balance of happiness over unhappiness for the greatest number of people, but the one which produces the least overall amount of unhappiness.”* (p.52)

#### 4.1.2 Deontology:

G Vesey, p Foulkes **Collinjs Dictionary Of Philosophy** (1990) *“Deontology, n (from Greek deon that which should be, DUTY), the science of DUTY, but now more specifically a form of ethical theory where duties are ABSOLUTE, no matter what the consequences. This view is opposed to the empirical insights that circumstances alter cases.”* (p.78)

As defined above by (Vesey, G et al, 1990) Unlike many frameworks, Deontology does not look at the outcome of an action, but at the motives/intentions of said action. If a motive is good, but an outcome is bad for example, then the overall outcome is that the action was good. However in reverse, if the motive was bad, but the outcome was good, then the outcome is still bad.

In basic terms, to apply this framework, the initial actions, and their motives must be determined in order to conclude if they are right, or wrong.

#### 4.1.3 Hedonism:

Hedonism, as discussed in the below quote from (Audi, Robert, 1999), is the belief that it is human to seek pleasure as a form of rationale. This view takes into account both initial and future pleasure produced.

Robert Audi **The Cambridge Dictionary of Philosophy** (1999) "*Hedonism, the view that pleasure (including the absence of pain) is the sole intrinsic good in life.*" (p.364)

Be the action good or bad, if the result is pleasurable then this theory states that it is correct.

It is also important to note, that while happiness is taken into consideration when determining what is pleasurable, it is not equal. Happiness for example can stem from pleasure, but at the same time an individual could obtain pleasure while still being unhappy.

Eudaimonism is a very similar view, which states that morals are based upon happiness/pleasure, however this theory again produced results to parallel to both that of utilitarianism and Hedonism so was not adopted as a framework to evaluate the case study.

#### **4.2 Identification of Ethical Issues:**

This section will include an in depth look at the ethical issues raised within the case study. It will also include references to said case study to evidence the discussion without causing the need to read the full case study. Each issue will be assigned a numerical value (I.E Ethical Issue 1 – 7) the issue will then be referred to as this for the remainder of the ethical section, in order to remove the need to redefine the issue each time it is mentioned.

##### 4.2.1 Issues relating to EA:

#### **Ethical Issue 1 – Targeting of all Consumers:**

As mentioned in the case study, EA chose to target all consumers with the use of DRM, rather than targeting only those who chose to pirate their product. The case study states that overall the average consumer was not motivated to complain as seen in the below sentence.

Games™ **Down Right Madness?** (2008) "*In the middle of it all, the average consumer just doesn't seem to care*" (p.11)

From the information available it is implied that other publishers have targeted individual consumers who wish to pirate software, rather than all consumers. While the specific details of the above claim are not available, the case study excerpt below expresses that the consumer prefers this approach to DRM.

Games™ **Down Right Madness?** (2008) “...because as far as consumers are concerned, that way wrongdoers are being punished and paying customers are not being treated like criminals.” (p.10)

EA have attempted to safeguard their software in a way they deem appropriate and this in turn denotes that they have tried. As can be seen in the case study, their future plans are to continue with this method.

Games™ **Down Right Madness?** (2008) “EA will continue to do what it does...” (p.11)

However as a repercussion, which will be talked about further in Ethical Issue 7, pirates have pirated the game in response to the DRM.

### **Ethical Issue 2 – Use of SecuROM to Protect Software:**

The case study says that DRM has been around for some time, but that EA have used a more recent method with SecuROM software to safeguard their software from piracy.

Games™ **Down Right Madness?** (2008) “The inclusion of SecuROM DRM software in Spore was the latest in a series of attempts by the publisher to crack down on piracy...” (p.10)

As seen below other companies feel that if they trust the consumer, the consumer will treat them well, and from this they will profit overall. However EA does not adopt this principle, feeling that they have too much to lose.

Games™ **Down Right Madness?** (2008) “...as the company believes that if you treat the consumer well, they will treat you well” (p.11)

While this method may be more consumer friendly, it cannot be taken into when applying the chosen frameworks. This is because there is no data to suggest that this theory does or does not work.

Games™ **Down Right Madness?** (2008) “...DRM doesn't hurt sales...” (p.10)

It can also be seen above that SecuROM does not affect sales.

### **Ethical Issue 3 – Consideration for Customers, and DRM:**

As well as being a form of software protection, SecuROM allows EA to limit the amount of times a product may be installed. This effectively means that the user purchases a limited use license for the product, as opposed to a permanent one. As shown below this limitation is aimed at further protecting the software from piracy.

Games™ **Down Right Madness?** (2008) “Publishers simply want to safeguard the products they license...” (p.10)

The case study goes on to talk about the fact that EA have tried to improve DRM and install limitations. They aim to improve this for example by increasing the install limit from 3 to 5, so that the consumer has more use from the software.

Games™ **Down Right Madness?** (2008) “Install limits have been increased from three to five...” (p.11)

EA are as mentioned going to continue with the use of DRM, however have shown that they are willing to compromise with the consumer.

#### 4.2.2 Issues relating to the Consumer:

##### **Ethical Issue 4 – Legal Purchases:**

As shown in the case study the average consumer is revealed to have legally purchased “Spore”, and accepted the use of DRM rather than pirating the software.

Games™ **Down Right Madness?** (2008) “...went on to sell over a million copies...” (p.11)

#### 4.2.3 Issues relating to the Pirates:

##### **Ethical Issue 5 – Piracy in response to DRM:**

As the case study discusses, some consumers (Now Pirates) upset with the use of DRM intentionally pirated the software.

Games™ **Down Right Madness?** (2008) “*Gamers have gone out of their way to pirate the game, again due to the presence of DRM*” (p.10)

### **4.3 Negative Utilitarianism:**

#### 4.3.1 Ethical Issue 1:

It must be taken into account that some of the consumers were unhappy with the use of DRM, and according to the case study that unhappiness could have been reduced by targeting individuals for piracy. EA are happy that they have tried to safeguard their software. But the protest of DRM which resulted in more piracy has brought a certain amount of unhappiness to EA.

Overall, happiness outweighs unhappiness in regards to this issue, however this is not enough to satisfy the argument as good. From a Negative Utilitarian perspective the case study discusses ways in which the consumer could have been happier, and this in turn shows that the unhappiness experienced could have been reduced. Ergo from this standpoint the fact that EA targeted all consumers with the use of DRM is wrong.

#### 4.3.2 Ethical Issue 2:

The fact that SecuROM does not affect sales, would in theory suggest that it could be removed without creating more unhappiness. However this is only the case in regard to the consumer. It is important to include the peace of mind of EA into the equation, as this in itself will reduce the amount of unhappiness experienced.

From the view of EA this issue is ethical correct, and while additional piracy in response to DRM must be taken into consideration, the case study suggests that the unhappiness experienced overall would be increased without the use of DRM, thus this issue is indeed ethically sound.

#### 4.3.3 Ethical Issue 3:

This can be seen as a method for reducing the overall unhappiness produced as a result of the use of DRM, EA will be able to continue using SecuROM, while the consumer will be able to enjoy the product more. While it is unknown if this will remove the issue of piracy, it would seem that this again is an ethically correct outcome.

#### 4.3.4 Ethical Issue 4:

As evidenced earlier EA have not had their sales affected negatively due to the use of DRM, nor is the average consumer unhappy with DRM. EA will benefit from legal sales, which as a good outcome will reduce overall unhappiness.

While pirates are unhappy with the use of DRM, the volume of happiness from both EA and the average consumer outweigh this. With the removal of DRM the overall level of unhappiness would be increased, showing that the outcome for this issue being ethically correct.

#### 4.3.5 Ethical Issue 5:

According to the case study, additional piracy has come about due to the unhappiness experienced in regards to the use of DRM. However while it is not possible to tell if the pirates would experience increased happiness due to their actions, the unhappiness of EA would increase due to further piracy. This in turn shows that overall unhappiness could have been reduced and makes the outcome of this issue ethically wrong

#### **4.4 Deontology:**

##### 4.4.1 Ethical Issue 1:

As can be see in the below quote, software piracy is a problem for companies such as EA.

Eric, Kin-Wai Lau **Factors motivating people toward pirated software** (2006)“*Software piracy has become a major problem for the software industry*” (p.404)

EA’s intention from a deontological point of view was to stop piracy of their software, which is a an ethically correct intention.

##### 4.4.2 Ethical Issue 2:

As deontology is based upon the intentions of an action, the outcome for this issue is again ethically correct, as EA were attempting to protect their software.

##### 4.4.3 Ethical Issue 3:

EA have tried to show consideration towards customers by trying to improve DRM, and remove some of the limitations imposed on the consumer. This is an ethically correct intention.

##### 4.4.4 Ethical Issue 4:

Consumers who legally purchased Spore, had the intent of upholding the law, and using the software in the intended fashion, this is an ethically correct intention.

##### 4.4.5 Ethical Issue 5:

From a deontological view, the most complicated issue talked about in the case study is piracy. It is not entirely possible to know the intention of the pirates when they pirated the software, they may for example have been thinking “Piracy will hurt EA” which is bad, or they may have been thinking “I get to enjoy a game” which is good.

Because of this issue it is necessary to look outside of deontology, to determine the potential intent of the pirates. As discussed briefly below, the outcome of conducted research claimed that normative moral beliefs affect what the intention of the pirate was.

Eric, Kin-Wai Lau, 2006, cited Banerjee et al, 1998 **Factors motivating people toward pirated software** ...*personal normative beliefs significantly affected respondents’ intentions to commit software piracy.*” (p.406)

Again this leaves the issue of not knowing what the pirate personally intended when pirating the software. However taking the normative view points of both the average consumer, and EA, piracy is deemed as bad. While the initial intent cannot be perfectly determined from the information presented in the case study, this adopted point suggests that the ethical intent of the pirates was incorrect.

#### **4.5 Hedonism:**

##### 4.5.1 Ethical Issue 1:

By targeting all consumers with DRM EA is able to pleasure in the fact that they have tried to stop any potential piracy. They can also take pleasure from the income gained due to legitimate sales. Overall this was a pleasurable, thus ethically correct outcome.

##### 4.5.2 Ethical Issue 2:

For this issue EA again gains pleasure from having secured their software via the use of SecuROM, and due to this the issue produces an overall ethically correct outcome.

##### 4.5.3 Ethical Issue 3:

By taking the consumer into consideration EA is able to take pleasure from the fact that they are improving their DRM to satisfy both themselves, and the consumer. This in theory leads to happier customers, and increased sales with future products. Overall the outcome is ethically correct.

##### 4.5.4 Ethical Issue 4:

The consumer is able to take pleasure from upholding the law and legally purchasing software. They will also be able to take pleasure from the experience of playing Spore. This outcome is again ethically correct.

##### 4.5.5 Ethical Issue 5:

Pirates are able to take pleasure from not having to pay for software, they are also able to gain the same pleasure from playing the game, that would be experienced by a consumer who legally purchased the software. Finally they would gain pleasure from pirating the software in retaliation to the use of DRM. Overall this outcome is once again ethically correct.

#### **4.6 Ethical Conclusion:**

From a Negative Utilitarian perspective the implementation of DRM by EA is seen as wrong, due to causing more unhappiness than was necessary. E.G the case study suggests that consumers are happier if individuals are targeting for piracy, as opposed to everyone having to use DRM, thus the overall unhappiness could have been reduced.

From this view the consumer has acted in an ethically good manner, purchasing the software legally which in turn causes less unhappiness overall.

The actions of pirates are also seen as wrong within this framework. The pirates caused a certain amount of unhappiness to EA, and while this was not as great as the happiness from legal sales, it shows that unhappiness could have been reduced with the removal of this conduct.

However looking at the same issues from a Deontological view shows EA's actions to be correct in their actions, their intentions were good, and therefore overall the outcome is good.

Consumer's actions are shown to be ethical good, having the intention of legally purchasing and using the software.

While some assumptions must be made as to the intentions of pirates within this framework, it is shown that their initial intentions were bad, and thus from this view their actions overall are ethically incorrect.

Then from a Hedonistic point of view EA's actions are seen as correct, they attempted to protect their software, and gain income both of which cause some form of pleasure.

The consumer is seen as performing ethically correct actions, seeking pleasure for themselves in purchasing and legally owning Spore.

Finally from this view the pirates have also performed actions that are ethically correct. They were able to experience the game, without spending money, and to show a sign of protest to EA, all of these actions being pleasurable to the pirates.

EA and the use of SecuROM is deemed as ethically correct by two of the frameworks, and while one framework does state it as ethically wrong as an overall case the frameworks point to EA's actions being ethically correct.

Throughout all three perspectives the consumer's actions remain ethically correct, having done nothing ethically wrong within the issues raised.

Finally, while one framework states that the Pirates have acted in an ethically correct manner, due to having attained self pleasure, the overbearing result is that the actions performed by them are ethically wrong.

To sum up these findings, EA are ethically correct in their use of SecuROM to protect their software. They are gaining legal sales from the average consumer. While the actions of pirates are deemed is incorrect, as both their intentions, and the unhappiness they cause in two frameworks were ethically wrong.

## **5.0 Legal:**

### **5.1 Legal Issues within the Cass Study:**

Because the case study talks about a product which is international it was deemed appropriate to research into both UK and US Laws. However upon further investigation it was found that a large portion of laws within the US are defined differently in each state. Because of this it was decided that only the major copyright law from the US would be discussed, and the remaining laws would be UK laws.

Because the case study covers issues relating to piracy, or copyright infringement it was necessary to view copyright laws. It was also seen as appropriate to research into the intellectual property rights documentation. Finally the computer misuse act was looked at in order to determine if any issues in the case study infringed upon it.

#### UK Copyright Law:

Under UK copyright laws computer software is defined under the Literary, dramatic and musical works section of the 1998 copyright Act (UK Government, 1988).

<http://www.statutelaw.gov.uk> “*“literary work” means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes— (a) a table or compilation [F1 other than a database], F2 . . . (b) a computer program;...*”

<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=Copyright%2c+Designs+and+Patents+Act+1988&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2250249&PageNumber=1&SortAlpha=0> [Date Accessed: 9<sup>h</sup> December]

The act itself is too vast to study during the lecture program of this site, however a brief overview does give some detail relevant to the case study.

The issues raised in the case study in regards to piracy are infringing on copyright laws. The copyright lasts for a period of 70 years, after the death of the creator. As EA is still a functional company, this states that any current acts that involve copying of software provided by EA are illegal refer to section below, unless EA authorise a specific party to do so.

<http://www.statutelaw.gov.uk> “(2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form. This includes storing the work in any medium by electronic means.”

<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=Copyright%2c+Designs+and+Patents+Act+1988&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2250249&PageNumber=1&SortAlpha=0> [Date Accessed: 9<sup>h</sup> December]

### US Copyright Law:

Chapter 1, Section 117 of the United States Copyright Law (United States Copyright Office, 1976) states that it is legal for the owner of a computer program to make a copy for archive purpose only.

<http://www.copyright.gov/> “(2) that such new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.” <http://www.copyright.gov/title17/92chap1.html#117> [Date Accessed: 9<sup>h</sup> December]

From this it can be inferred that the actions of the pirates in this case study are illegal, as they are distributing the game without original ownership, and copies are not for archival purpose

### Intellectual Property:

It is stated in the intellectual property regulations (Ministry of Justice, 2006) that the owner has legal grounds to take further, any theft of intellectual property or trademarks.

<http://www.statutelaw.gov.uk> “(1) An infringement of the right in a registered design is actionable by the registered proprietor.” <http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=Intellectual+Property&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&activeTextDocId=2494563> [Date Accessed: 9<sup>h</sup> December]

This would suggest that EA would also have grounds to prosecute any individual who illegally copies and/or distributes their product, under this act. EA even refer to their products as intellectual property in their terms of service.

<http://files.ea.com> “The license is limited to the intellectual property rights of EA...” <http://files.ea.com/downloads/commerce/eula/en/eula.pdf> [Date Accessed: 9<sup>h</sup> December]

### Computer Misuse Act:

As stated in the Computer Misuse act 1990 (Office of Public Sector Information, 1990), if a person knowingly alters computer related material, in an unauthorised manner, then they have broken the law.

<http://www.opsi.gov.uk> “(1) A person is guilty of an offence if— (a) he does any act which causes an unauthorised modification of the contents of any computer; and (b) at the time when he does the act he has the requisite intent and the requisite knowledge.” [http://www.opsi.gov.uk/acts/acts1990/ukpga\\_19900018\\_en\\_1](http://www.opsi.gov.uk/acts/acts1990/ukpga_19900018_en_1) [Date Accessed: 9<sup>h</sup> December]

Because of this the copying of EA's software is illegal, due the modifications used to circumvent the DRM used to protect the software.

EA End User License Agreement (EULA):

The EULA is an agreement which is entered into automatically with the installation of any EA software. While this is not itself mentioned within the case study, it is relevant as it covers software installation and copying.

EA state in this agreement (Electronic Arts, 2008) that software may not be shared upon a network which several users may access, as shown in the extract below.

<http://files.ea.com> *"You may not make the software available over a network where it could be downloaded by multiple users"*  
<http://files.ea.com/downloads/commerce/eula/en/eula.pdf> [Date Accessed: 9<sup>h</sup> December]

EA also specify that the product purchased is a license to use their product, and not the product itself.

<http://files.ea.com> *"This software is licensed, and not sold, to you for use only under the terms of this license."*  
<http://files.ea.com/downloads/commerce/eula/en/eula.pdf> [Date Accessed: 9<sup>h</sup> December]

In reference to this, any limitations of license usage imposed by EA with the use of DRM is legal.

#### **5.4 Legal Conclusion:**

From the legal perspective it can be seen that EA have conducted them selves in the correct manner. Attempting to protect their software from copyright infringement, and theft of intellectual property. They have also mentioned within their own EULA that the consumer purchases a license to use their software, not the software itself which allows them to legally limit the licenses use.

The pirates however have been shown to have acted in a legally incorrect manner. They have infringed on both the copyright acts of the UK and US, and upon the intellectual property regulations. They have also broken the EULA which is automatically agreed to with the installation of EA's software.

**6.0 Overall Conclusion:**

To conclude overall the arguments presented, this section has been included as a brief examination of the findings discussed within this document.

It has been shown via the use of several professional codes that EA have acted in a professional manner in regard to the use of DRM. It is also shown that they have acted in a legal manner. Finally the employed ethical views with the exception of Negative Utilitarianism, state overall that EA acted in a ethically correct manner.

In regard to the consumer, it has been found that they have acted with both good legal and ethical conduct within the case study.

It has also been shown that the pirates have broken several laws in copying the software supplied by EA, copyright infringement etc. It has also been proven that in accordance with the employed frameworks they have acted ethically incorrectly overall although the Hedonistic view disagrees with this.

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<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=Copyright%2c+Designs+and+Patents+Act+1988&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2250249&PageNumber=1&SortAlpha=0> [Date Accessed: 9<sup>h</sup> December]

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**United States Copyright Office**  
<http://www.copyright.gov/title17/92chap1.html#117> [Date Accessed: 9<sup>h</sup> December]

**Electronic Arts Electronic Arts Software End User License Agreement**  
<http://files.ea.com/downloads/commerce/eula/en/eula.pdf> [Date Accessed: 9<sup>h</sup> December]

#### 7.4 Other Sources:

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**8.0 Appendix 1 – Case Study:**

The following page contains a copy of the case study relevant to this assignment.

( THE WAR ON PIRACY )

# Down Right Madness?

→ Since *Spore's* release last month, digital rights management has been in the spotlight. The online community was outraged over what it called draconian methods, but is there method in EA's madness?

**D**igital rights management is no new concept, despite what some outlets might say. Methods of preventing copyright infringement have existed for as long as there's been media to copyright, but it's only in the last decade that this issue has become a real point of contention. Publishers simply want to safeguard the products they license while consumers just want to enjoy the rights they deserve.

Who's right? Well, it's easy to label a company like EA as the bad guy. The inclusion of SecuROM DRM software in *Spore* was the latest in a series of attempts by the publisher to crack down on piracy through its software. Despite the backlash from gamers and the general consumer base, Will Wright's latest title went on to sell over a million copies, and that's not counting the 500,000 illegally distributed by pirates. Despite the furor and outcries to the contrary, DRM doesn't hurt sales, but should it even be there in the first place?

**Below** *Mass Effect* was initially going to need authenticating every ten days, but the publisher backed down after a torrent of complaints. Compromise or capitulation? You decide.



Traditionally, DRM in games involved a simple string of numbers and letters that formed a serial key, which you type in when installing a game. While not the most complex of anti-piracy systems, it nevertheless kept most people happy. The publishers could sleep safe in the knowledge that they'd tried to combat piracy, and the consumers would jump through this simple hoop because they felt trusted, and understood why it was necessary. At some point, that all changed.

Starting at the turn of the century with StarForce and continuing today with SecuROM, publishers are increasingly experimenting with tougher methods of protecting their products. EA is not the only company to try this, but it's certainly one of the more infamous. Before *Spore*, there was *Mass Effect*, and before that there was *The Sims 2*. Even future titles like *Red Alert 3* will come with DRM software, and the basic message is that EA suspects its consumers of criminal behaviour, and guess what, consumers aren't happy.

EA isn't the only company to take a tough stance on piracy. 2K Games used the SecuROM software in *BioShock*, and before that publishers like Ubisoft used

the infamous StarForce protection, all amid claims of rootkits and malware. Activision Blizzard, arguably the largest publisher in the industry, has allegedly filed and won several lawsuits against individuals in the US for piracy-related offences, though the specific details have yet to be revealed. This could be considered a harsher and more direct approach, but it has been better received by the gaming community than a simple blanket approach through DRM, because as far as consumers are concerned, that way wrongdoers are being punished, and paying customers are not being treated like criminals.

**BUT ARE GAMERS** completely blameless? While the larger community has a tendency toward immaturity at times, the reaction to these DRM-ridden games by gamers has bordered on childish. Take Amazon, one of the many 'battlegrounds' for the anti-DRM movement. The amount of negative customer reviews for *Spore* purely based on its DRM issues were so numerous, Amazon staff, allegedly, had to delete some of them. Gamers have also gone out of their way to pirate the game, again due to the presence of DRM. This is hardly a constructive



response. If someone isn't happy with a product, they boycott it to make a point. You can't complain about your cake as a point of principle, but secretly eat the sugar-free version at the same time.

And this is not the only incident that can be called questionable. Speaking out last month, 2K Boston's Ken Levine told *PC Zone* about how he was threatened by consumers over the DRM included in the PC *BioShock*. "When the copy-protection issues came out, I was out there talking about the product, I didn't run away from that. And frankly I got some nasty fucking threats."

Is this the kind of response that publishers deserve? No matter how naive they may be in thinking that software like this actually works, this is a case of two wrongs not making a right. Furthermore, the fact that gamers turned to piracy just to teach publishers a lesson re-enforces a belief that gamers can't be trusted. That's not to say that all publishers are like this - Stardock's own Impulse distribution system is completely DRM-free, as the company believes that if you treat the consumer well, they will treat you well. A good ethos, and it appears to be serving Stardock well, but you could argue that it has a lot less to lose.

It all comes back to the serial code - whatever the publishers feel comfortable with, Stardock has decided that it can trust its customers, as it believes the revenue gained through happy consumers will outweigh the loss through piracy. EA, on the other hand, a much larger company feels as if software like SecuROM is the only way to go, for the moment at least. As has been shown, the software is next to useless at preventing piracy, and many people believe that SecuROM even breaches their privacy rights. Then again, cracked copies of the games don't strip out the software

- they just bypass it, so despite all of the morally outraged complaints, piracy will not guarantee a DRM-free existence.

**MEANWHILE, EA HAS** even tried to compromise with its consumers. While not going as far as to put their hands up and be counted, Electronic Arts execs have taken several steps to make coping with DRM as easy as possible. Install limits have been increased from three to five, de-authorisation methods are in the works, and it's said it will remove the DRM through a patch when the servers are no longer needed. This shows a level of cool-headed compromise that seems to be at odds with the idea that EA is evil incarnate.

There's no doubt that the issue is messy. It is probably safe to say that publishers haven't exactly been smart, and inappropriate actions by vocal minorities

**"When the copy-protection issues came out, I got some nasty fucking threats"**

**Ken Levine - 2K Boston**

- and it probably is just a minority - haven't helped things, either. In the middle of it all, the average consumer just doesn't seem to care. What is certain is that the actions of a few outspoken individuals can't change the corporate mentality. EA will continue to do what it does until a better way is found, and even though it could be argued that Stardock's method works, if it was that good, EA would have adopted it already. All we can do as consumers is either accept that life can be difficult, or simply boycott. There is no admirable middle ground.

**Above** Ubisoft's *Spinter Cell: Chaos Theory* used the StarForce DRM software. It lasted 422 days before it was cracked. And they said DRM was useless...



## FROM THE FORUM Your Views On DRM

Posted by: djants

It doesn't strike me as an attempt to combat piracy, more an attempt to eliminate the pre-owned market. But by doing so, it encourages piracy. If they really want to kill the trade-in market, simply drop game prices to that of DVDs... the market is big enough now.

Posted by: beemoh

US retailer Wal-Mart is switching off its music DRM server, meaning that people who bought DRM music from the store won't be able to play the music they've legally paid for after the switch-off. DRM punishes people who play the game and pay for things. Everyone who downloaded their music illegally gets to carry on enjoying it, while the people who paid are now out of pocket and have nothing but some useless data to show for it.

Posted by: Dynamite-Dan

I don't like it really, I have a friend who loves playing PC games in his spare time. However, he cannot get an internet connection. I'd love to be able to lend him my copies of games such as *Half-Life 2*, but he has no way of playing it. If I pay £40 for a game, I own it. I can do what I want with it, I can lend it to anyone I chose. It is my property.

Posted by: Miss Marvelous

I personally don't have much of an issue with it. However, I do have an issue with the fact that they didn't tell anyone about it. They should make it clear on the game disk what's on it and what it will install onto your machine.

Posted by: hazeyhaze

The ironic fact that you can get around this ludicrous state of affairs and get your infinite installs by pirating the games, the very thing this DRM is trying to combat, says it all really. DRM needs a full rethink in my opinion.

Posted by: marthagogo

It's just desserts for PC gamers and their big fat superiority complexes. But I can see it coming onto consoles soon enough - and only then will we be united in our bitching.

Posted by: DexteXs

We all are hypocrites who, on some level, deserve what we get. Any of you who say you have never downloaded a song, played a cracked game, torrented a TV series or watched a copied DVD, is likely a liar, or just ignorant of the channels available. The fact is, if we can get it for free we will, and although EA should have been open about what it was doing with DRM, we are the ones who pushed them to create something like SecuROM, we have nibbled away at companies almost since the beginning of the internet - no wonder they are battling tooth and nail to stop us.

your say [www.gamemtm.co.uk/forum](http://www.gamemtm.co.uk/forum)