

EQUITABLE ACCESS TO ACADEMIC JOURNALS CASE

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by

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Some two decades ago, when I was starting to formulate cases concerning computer ethics, I received a case concerning equitable access to academic journals from Professor Henk van Setten of Nijmegen University in the Netherlands. Professor van Setten contributed this case while participating in a computer ethics class, conducted largely online, which I was teaching at the time at Eastern Illinois University.

Professor van Setten's case concerned access by students at various American universities to academic journal articles through an electronic archive operated by JSTOR¹ (short for "journal storage"). At the time, JSTOR described itself (and still describes itself) as a not-for-profit entity which supplied students at participating American universities with access to its archived journal articles in return for fees paid by participating universities. These fees were based, among other factors, on the number of students enrolled in the university.² It is my recollection that Professor van Setten felt that JSTOR was not acting equitably in charging American universities for their service based on the size of their enrollment and also in not allowing foreign, i.e., non-American, universities to participate in its service at all.³ He felt that students in less well-endowed American

universities and students in foreign universities were victims of economic discrimination as a result of JSTOR's rules.

Professor van Setten, who was a distinguished and multi-talented professor, maintained what was arguably the world's best website on the History of Education and Childhood. He has since retired from Nijmegen University. I have noted his concern about JSTOR here, which he made a couple of decades ago, because similar feelings about it, described below, are still evident today. Rather than try to do an exhaustive summary of the arguments on both sides of this issue, I refer the reader to one social discussion website,

<http://www.facebook.com/topic.php?uid=7220226626&topic=5594> and one academic discussion website,

<http://www.ancient-warfare.org/rat.html?func=view&catid=17&id=199551> , where arguments for both sides are articulated.

Before raising some ethical questions for discussion related to this case, I would like to briefly discuss a recent federal lawsuit which has arisen concerning this issue.

The case to which I refer concerns the actions of Aaron Swartz, a respected Harvard researcher, who was arrested in Boston on charges related to computer hacking. Swartz allegedly broke into the computer network of the Massachusetts Institute of Technology and downloaded 4.8 million articles and other documents from JSTOR. He faces a maximum of thirty-five years in prison and a million dollars in fines, if convicted.

Lawrence Lessig, the director of Harvard's Edmond J. Safra Center for Ethics, where Swartz completed a ten month fellowship, said: "Aaron has never done anything in this context for personal gain – this isn't a hacking case, in the sense of someone trying to steal credit cards."⁴ However,

Carmen M. Ortiz, a United States attorney, in announcing the charges, said: "Stealing is stealing, whether you use a computer command or a crowbar, and whether you take documents, data, or dollars. It is equally harmful to the victim whether you sell what you have stolen or give it away."⁵ For further details on this case, the reader may want to read the text of the entire federal indictment.⁶

Questions for discussion:

1. In considering the statements of Lawrence Lessig and Carmen Ortiz, immediately above, with which do you more concur? Why?
2. Do you think that the actions of Aaron Swartz should be categorized as ethical or unethical? Why?
3. In answering questions 1 and 2, with which of the following philosophies would you seem to be more in agreement, Idealism, Realism, Pragmatism, or Existentialism?

¹ <http://about.jstor.org/>

² <http://about.jstor.org/fees/13008>

³ JSTOR started allowing foreign universities to participate in its services in the 1990s.

⁴ <http://www.nytimes.com/2011/07/20/us/20compute.html?scp=2&sq=aaron%20swartz&st=cse>

⁵ Ibid.

⁶ <http://web.mit.edu/bitbucket/Swartz,%20Aaron%20Indictment.pdf>