Understanding Software Piracy in Saudi Arabia and the Need for Change
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ABSTRACT
The cost of software piracy is a growing problem for companies throughout the world. The rise of technology in the Middle East has also brought on the rise of software piracy to extreme levels. Countries such as Saudi Arabia have found themselves listed as the top offenders of software piracy, not only regionally, but globally. Being on such lists can cause irrevocable damage to its role in global technology advancement, economic growth within specific industries, and reputation as protectors and promoters of intellectual property and fair enterprise. It is for these reasons that Saudi Arabia must take steps to intervene and deter software piracy in the nation. It is vital to understand the cultural view of intellectual property to understand how to proceed. Thus, this paper clarifies the cultural view of intellectual property, as well as how the Saudi government has the means to take action and what outcomes the actions can expect to have on the nation.

Keywords: Software piracy, intellectual property, Saudi Arabia, technology, online piracy

1. INTRODUCTION
Piracy continues to be a growing problem costing companies billions of dollars every year. Throughout the world pirated music, movies, games, and software are sold online and on the streets. Specifically, software piracy costs giants in the industry millions of dollars of potential revenue. In many countries buying market price software is unheard of as downloading pirated software is viewed as the norm. This paper is meant to delve deeper into the possible benefits of shifting both legal and cultural understanding of software piracy in Saudi Arabia from the lax stance it currently takes to a stricter view with the hope of increasing foreign investments and improving business.

As a result of the ease at which pirated software can be found and the disregard for its illegality, Saudi Arabia has put laws in place to deter possible theft. As another means to discourage software piracy amongst Muslims, the Grand Mufti, the highest religious scholar within Islam, issued a religious edict banning pirated intellectual property including software. Yet, the piracy continues despite legal ramifications and religious edicts throughout Saudi Arabia. In fact, the country has earned itself the ninth spot on the list of the top ten countries for online piracy [1]. Additionally, Saudi Arabia was returned to the United States Trade Representative’s (USTR) watch list in 2011 [2]. If Saudi Arabia has hopes erasing its name from these lists, it will have to do more than use the moral obligations of its Muslim population, rather it will have to enforce a strong legal obligation and incite cultural change. The benefits of making these moves will allow the country to reap the benefits of being categorized as a nation that respects intellectual property and abides by international law.

The first part of this paper discusses the phenomenon of software piracy throughout Saudi Arabia. Likewise, the cultural and moral aspects, as well as the legal ramifications of software piracy are examined in order to conclude how the country might move forward and begin to eliminate software piracy. Further suggestions based on countries that have striven to abolish software piracy will be provided. The last part of the paper discusses the possible benefits of making a more visible effort in the fight against online piracy will be enumerated.

2. THE COST OF SOFTWARE PIRACY
The cost of online piracy is a daunting figure. Every year companies lose billions of dollars in revenue. In spite of that, the loss of revenue is not always looked at as a negative issue. Oddly enough having one’s software stolen has a positive side to it. Bill Gates himself has acknowledged that software piracy does indeed hurt initial revenues, but also has the potential to create future customers as long as the culprits are stealing his software. The use of the software by the masses, whether legally or illegally obtained, creates familiarity with the products and sets a standard making it a household name in a company, educational institution, or even a country [3]. In essence, companies like Microsoft are hanging on the idea that once users become acquainted with their products or are required to use such products because everyone else does that they will become future customers and move from pirating the software to buying it. Whether this is actually the case is unclear. It seems unlikely that software users, who are able to safely and inexpensively obtain the software, would opt out the second time around and purchase the software at market price having successfully utilized the pirated version the first time.

Although Microsoft may be optimistic about gaining future customers, smaller companies and those in their infancy may not necessarily feel the same way. Either way, another prevailing thought on the cost of software piracy maintains that in fact the software industry did not truly lose the amount as claimed in the 2011 BSA Global Software Piracy Study. The companies could have only lost revenue if those who pirated the software would have otherwise purchased the software from the company at the unit price. Indeed, the software industry lost money due to piracy; however the figure claimed is based on an unreal assumption regarding the demand for software. Despite the inaccuracy of the total revenue loss of the software industry, piracy continues to be a growing concern amongst company executives and governments alike for that reason.
many organizations and governments strive to protect intellectual property rights.

According to the 2011 BSA Global Software Piracy Study, the commercial value of the software pirated in 2010 equaled $58.8 billion. This number rose to $63.4 billion in 2011, which was also a record high [4]. In other words, for every $100 spent on software another $69 was lost to piracy [5]. Revenue is not the only aspect of the industry that takes a hit. A 2007 report on the “true cost” of online piracy on the US economy found that in 2005 approximately 373,375 jobs were lost as a result of copyright piracy throughout the world. Furthermore, US employees, at both the production and retail level, lost 16.3 billion in earnings [6].

Taking a closer look at Saudi Arabia, the US Department of State estimated that in 1999 US industries lost $86.2 million as a result of software piracy [7]. Between 2003 and 2006, losses due to piracy rose from $125 million to about $175 million [8]. Software users acquired $449 million worth of unlicensed software in 2011. That number rose marginally from 2010 when the commercial value of unlicensed software totaled $414 million [4]. However, looking back to 2007 the value of unlicensed software was $170 million, which grew to $272 and $304 million in 2008 and 2009 respectively [4]. The large disparity between 2007 and 2011 may be attributed to a number of factors including the rise in the market value of software, the increase in the number of computer users, and the number of products available on the “black market”.

The increase in pirated software helped to return the country to the USTR’s watch list at the recommendation of the International Intellectual Property Alliance [2]. The countries on the watch list, and more so on its priority list, “fail to adequately or effectively protect IPR [intellectual property rights] or that do not afford creators with adequate market access” [9]. Thus, the increase in the value of pirated software coupled with the reassignment of the nation on the USTR’s watch list demonstrates a clear need for deeper insight into the legal side of software piracy in Saudi Arabia, as well as the cultural opinion of intellectual property.

3. LEGAL AND CULTURAL UNDERSTANDING OF INTELLECTUAL PROPERTY

Throughout the world the view and understanding of intellectual property varies greatly and is enforced under varying degrees of permissibility and concern by governments. The idea of what intellectual property encompasses and how it should be legal shared and protected are not standard. As technology infiltrates cultures that have once been able to evade or limit its influence, many governments have begun to shift their once laissez-faire attitude turning now toward enforcement and follow through.

A. Legal View of Intellectual Property

This shift has often been caused by deep interest in gaining entrance to international organizations and worldwide acceptance as a country of modernity and unity. International organizations such as the World Trade Organization (WTO) require acceptance of intellectual property protection laws prior to membership [10] [11]. Saudi Arabia seems to fall somewhere in the middle. While the government has documented laws regarding copyright and intellectual property, a variety of factors appear to influence its will to put the full force of the government behind foreign intellectual property rights in the country.

Saudi Arabia is an Islamic nation that adheres to traditional Shariah law, which derives its laws from the Qur’an and the Sunnah. Aside from religious law, the nation also employs international laws and policies within its borders. In regards to international software piracy laws, Saudi Arabia is party to the Trademark Law (1984), the Patent Law (1989), and the Copyright Law (1989) [10].

While the nation is party to the Patent Law, it takes six years for a patent in Saudi Arabia to be reviewed and issued if given approval [12]. As steps to gain entrance to the WTO, Saudi Arabia joined the Universal Copyright Convention and the World Intellectual Property Organization [7]. More recently, with the acceptance of the nation to the WTO in 2005, Saudi Arabia is now effect to the provisions of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs).

Despite the long history of the acceptance of international law protecting intellectual property, Saudi Arabian banks have been accused of utilizing pirated software alongside other reputable businesses [12]. Pressure from both the United States and Europe on the Gulf Cooperation Council has impacted Saudi Arabia, which has since made strides to improve the understanding of intellectual property. In 2001, the Department of State recognized the efforts of the government to deter piracy though publicized raids and the destruction of seized goods, which was noted at times exceeding 90 percent of the market share [7]. The Saudi Arabian Ministry of Information enacted the License Certification Program, in which businesses are required to prove that only legal software is used in order to keep or obtain a business license [13]. The nation took further steps to reduce software piracy throughout 2009 and 2010 to reduce software piracy by improving three areas as outlined by the IIPA: transparency, deterrence and legislation [14].

The actions that the government has taken to reduce software piracy are clearly visible, however software piracy continues and in record numbers. These record-high numbers is due in part to the lack of follow through on part
of the government, but is also due to the cultural understanding of intellectual property.

B. Cultural View of Intellectual Property

The government has done more than enact laws. The highest religious figures in the country have also attempted to reach the masses. The Muslim population of Saudi Arabia makes up 100 percent of the population. Religious scholars hold great importance and influence over the population. The Grand Mufti of Saudi Arabia is the highest religious authority in the country and has the capacity to issue religious edicts. The religious edicts convey laws to be followed regarding every aspect of life.

Despite the clear legal standards set in place by both the government and prominent religious figures, as of 2011, the software piracy rate in Saudi Arabia was 51 percent. This number decreased ever so slightly from the previous year which for the past four years has teetered around 50 percent [4]. This extreme rate conceivably demonstrates a sense of normalcy when obtaining unlicensed software. However, the questions remain whether software users in Saudi Arabia are unfamiliar with the notion of intellectual property or whether there is an established understanding of intellectual property, but one that does not resemble the Western idea of intellectual property.

While technology has been slow to permeate the nation, the notion of intellectual property is not a new one. Intellectual piracy has had a long standing notion in the Middle East with a deep-rooted history in poetry [16]. The idea of intellectual property, although long standing, differs greatly from the Western idea. To this day, fine poetry in most Middle Eastern societies is held with high regard and the poets praised for the beauty of their work. In pre-Islamic societies, poets who produced original work were highly respected whereas those who plagiarized their work in an attempt to garner admiration were denounced as societal outcasts [16]. However, this view of intellectual property fails to be applied to the use and pirating of software.

The West and the Middle East have long had a contentious relationship. This rocky history continues today and continues to have an effect on modern issues. As Carrol [12] states, “Trade is desired, but not if it requires the imposition of a new commercial colonialism, bolstered by Western intellectual property regimes” (p. 590). The modern interpretation of intellectual property regarding computer software is that companies and individuals have the right to solely purchase one copy of the software and then reproduce it at will [12]. Thus, the government will have to do more than

4. POSSIBLE RESULTS

The Saudi Arabian government has a clear understanding of intellectual property and history has demonstrated a long standing custom of protecting original work. Yet, despite precedent the government seems to loosely interpret its own religious and secular laws, as well as international law. It is vital that the Saudi Arabian government take a firmer stance on software piracy if it has hopes of further bolstering technological advances and rectifying its name as one of the top nations for digital piracy.

The protection of intellectual property does not merely benefit the software companies or the businesses that distribute the software. Abiding by copyright laws provides social and economic benefits, as demonstrated in the United States. The IT industry in the United States is robust thanks in part to the firm stance on software piracy taken on by the government. The strength of the IT industry in turn creates a viable market for both large and small to medium sized IT companies and more affordable software [15]. Therefore, it is feasible that new employment possibilities, business developments, and enhancing best practices in both the private and scholarly can blossom with the introduction and enforcement of strict software piracy laws.

As governments enact and carry out deeper concern for intellectual property rights, investors will begin to recognize the nation as one that values intellectual property, thus growing as a location for investors [10]. Governments that foster intellectual property rights will open more doors in terms of international trade and innovation [11]. Software piracy demonstrates a lack of credibility making investors and developers weary of conducting business with nations that do not support intellectual property and rights.

5. FURTHER ACTIONS

As previously stated, the cultural understanding of intellectual property differs from country to country. However, as the notion of intellectual property evolves with technological advances, so too must the world’s idea of intellectual property. The enforcement of software piracy laws must progress to become more apt at prevention and prosecution rather than having a mere declaration of legal consequences with sporadic follow through. Saudi Arabia has the means and the motive to take a firmer stance on software piracy.

It is clear that the government of Saudi Arabia must take actions to strengthen the laws surrounding software piracy. To combat against the physical pirating and sale of unlicensed software the government should not only continue the actions that have been put in place including raids and the authentication of software as part of the means to obtain a business license, but also strengthen these efforts. The government will need to continue the raids on known illegal software using companies and the businesses that supply both companies and individuals with pirated software. The raids, however, are not enough the government must also be committed to legal prosecuting the violators in order to deter repeated violations and future ones as well. Similarly, the government must continue to comply with international regulations that regulate software piracy.
Furthermore, in terms of the cyber sale of pirated software, the government currently censors the Internet comprehensively for immoral content. The infrastructure and personnel are already in place to take the censorship of the Internet another step further. All web traffic is routed to the Internet Services Unit at King Abdul-Aziz City for Science and Technology in Riyadh, which then passes through a server proxy. The proxy server filters the Internet request for content based on a list of addresses that are banned [17]. The list of banned websites is generated based on content searches as well on the recommendation of citizens who believe the websites to be contrary to the government’s Internet standards. Aside from the list of sites compiled by the filtering software, the Internet Services Unit receives hundreds of requests from citizens to block websites that they deem to be contrary to Islam or the government banned [18].

The citizens of Saudi Arabia have a deep interest in abiding by the moral standards as set in place by the government. The Internet Services Unit receives hundreds of requests to block websites that they feel violate the standards of the government. With the full weight of the government behind anti-software piracy laws, it stands to reason that the citizens would hold software piracy laws with the same regard if the government categorized software piracy among other grave Internet offenses. With the filtering software in place and all webpage requests directed to the Internet Services Unit in Riyadh, the government would merely need to add websites that permit the illegal purchase and download of pirated software to the black list of sites filtered out by the Internet Services Unit.

6. CONCLUSION

If the government hopes to reap the benefits of being viewed as a nation that supports intellectual property, it must take the necessary, and presently accessible, steps to curbing software piracy. The government clearly has the means and the know how to combat against software piracy. Despite this offense being viewed through different lenses by varying parties interested in the use and sale of software, software piracy laws must be enforced and the cultural understanding of software piracy must shift to coincide with the legal understanding that the government has adopted. With this Saudi Arabia will recognize the social, economic, and political advantages.

REFERENCES


