



## The Collector is the Pirate

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This article continues the tradition begun by Walter Benjamin (1931/1968) and Charles Tashiro (1996) of seeking to explain the phenomenon of media collecting through the experiences of an individual collector. By closely examining the habits of one person who collects films and TV series through illegal file sharing, I claim that the drive to engage in Internet piracy stems from the drive to collect. I compare digital-collecting piracy to earlier modes of collecting as practiced and/or theorized by Sigmund Freud, Walter Benjamin, and Jean Baudrillard. My conclusion is that Internet file sharers, for the most part, repeat the behaviors and psychological motivations of earlier collectors, and that Internet piracy differs from predigital collecting in only one significant way: Digital collector-pirates are at far greater risk for severe legal and financial punishment for their activities than their predecessors were.

### Introduction

In *The Contradictions of Video Collecting*, Charles Tashiro (1996) explains why he chose to investigate his experiences as a single media collector to explain the techniques and rationales of private media collecting in general:

Rereading Walter Benjamin's essay "Unpacking My Library," both the model and inspiration for my desire to write on the topic [of video collecting], I realized that his lyrical description of the book collection was the only legitimate approach to what remains a highly private process. . . . So this essay is written in a modest spirit, in the hope that by first understanding the reasons behind my own collecting habits, I might then be able to understand those of others. (pp. 11-12)

Tashiro's choice of words makes it seem as if one can only theorize about the mass leisure activity of collecting by closely inspecting one unique case at a time. For Tashiro, the study of the

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Date submitted: 2011-04-01

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individual collector is “the only legitimate approach” (p. 11) to the subject matter, perhaps because collecting is “a highly private process” (ibid.), and therefore the only door opening on to a deeply idiosyncratic occupation is the door of particular people’s idiosyncracies. Indeed, most studies of collecting focus on a single collector. In addition to Benjamin’s essay (1931/1968) on his own book collecting and Tashiro’s on his own video collecting, we have these other works: Charles Blanc’s 1871 study of art collector M. Thiers (to whom Benjamin [2004] refers multiple times in his notes for *The Arcades Project*); Kate Egan’s description, in her 2007 book *Trash or Treasure?*, of contemporary collectors of once-banned British horror films (“video nasties”) through one exemplar named John; William Davies King’s auto-ethnography (2008) of his own compulsions to collect cereal boxes, boulders, broken folding chairs, and other miscellany in *Collections of Nothing*; and Bruce Chatwin’s 1988 novel *Utz*, whose title character is a collector of Meissen porcelains who lives in communist Prague and refuses the opportunity to defect to the West because he cannot bear to leave behind his vast collection. In the influential anthology, *The Cultures of Collecting*, edited by Elsner and Cardinal (1994), eight of the 12 chapters concern a specific collector (Kurt Schwitters, Captain James Cook, Sigmund Freud, etc.).

This article follows the methodology laid out by earlier studies of collecting, and will describe and analyze one person’s methods of acquiring goods in order to try to understand a global collecting practice. My subject is a woman who collects digital files of films and television programs primarily through online peer-to-peer file sharing; the practice into which I seek insight is what media corporations call “piracy.” A number of individuals have been sued by rightsholders and threatened with legal action by Internet Service Providers (ISPs) for file sharing copyrighted media, so I feel compelled to protect the identity of the collector who is my subject. I shall refer to her as “Joan.”

Joan thinks of media piracy as a form of collecting. She knows that not all forms of collecting constitute piracy, but for her, all piracy is collecting. Joan’s description of herself as a “pirate-collector” calls for a conceptualization of digital piracy as driven by more than economics, that is, the prospect of acquiring goods for free. This article explores the relationship between Joan’s habitual media piracy and her urge to collect, and it compares Joan’s activities to older, predigital methods of collecting as described in the works of Freud, Benjamin, Baudrillard, and others to assess whether Joan is a type of collector who could only exist in an age of digital technology, or if Joan’s collecting activities can be viewed as new in medium, but traditional in motive.

### **Portrait of a Pirate**

Joan is an American female in her late 30s living in San Francisco. She has a PhD., a full-time job, and an annual household income, including her husband’s salary, of more than \$150,000. It is difficult to determine to what extent Joan is typical of media pirates. The only substantive report to date on the demographics of digital media piracy is Birgitte Andersen and Marion Frenz’s 2007 study of 2,100 Canadians’ music acquisition habits. It notes that “women appear less likely than men to download music from the web, copy MP3s or rip songs from CDs” (p. 47), and that people older than 20 are less likely to download music than are people 15 to 19 years old (pp. 48–49). So, if we assume that the gender and age characteristics of North American media pirates in 2011 mirror those of Canadian music pirates in 2007, the ideal representative of the pirate population would be a young male rather than someone like Joan, a

nearly 40-year-old woman. However, Joan's high household income, high education level, full-time employment, and urban location are all characteristic of people on the privileged side of the digital divide (Castells, 2001), and Andersen and Frenz posit that people with "high internet skills" probably constitute the majority of peer-to-peer file-sharers (p. 31). Therefore, while Joan is not the most emblematic file sharer, it is likely that she is not an extreme outlier among media downloaders.

It is also impossible to ascertain whether Joan's collection is large or small in relation to those of other pirates, as no published studies have stated the average or median size of private collections of pirated media, and Joan has never discussed the exact volume of her collection with other pirates of her acquaintance. While she lacks a point of comparison, Joan likes to think that her collection is impressive. As of this writing in September 2011, Joan has collected 2.5TB (terabytes) of digitally pirated video, of which 1.1TB is non-documentary serial (television programs), 982GB (gigabytes) is non-documentary film, and 275GB is documentary film and television. Given that a file size of 550MB (megabytes) usually translates into one hour of playing time, her collection would take approximately 4,500 hours to view in its entirety.

Joan's passion for media piracy inspired me to write about this topic. We are close friends, and from the time she began pirating films and television shows in 2006 to the present, she has been highly enthusiastic and articulate when speaking of her pastime. Her willingness to discuss her pirating-collecting activities led me to initiate a series of conversations with her on the subject of piracy-as-collecting during the first half of 2011. Those conversations form the basis of this article.

### **Collectors Have Always Been Thieves**

It may seem odd that Joan unequivocally equates the phenomenon of media piracy to that of home media collecting. After all, are there not Internet pirates who simply download the latest movie, music, television, software, game, and book releases to consume them, then delete them? Most people are casual consumers of media rather than dedicated fans and would this not also be true of people who illegally download content: that the majority regard media texts as disposable rather than as collectible?

In fact, almost every media pirate that Joan has met is an avid collector of media texts. She knows this because her discussions with them typically focus on concerns of storage, usually regarding the size and number of one's drives (which determine how much data one can keep at a given time) and the frequency and reliability of backup methods; these are markers of a collector's mindset. "Casual piracy" would not require the use of multiple terabyte drives, and just the fact that so many of the pirates she has encountered own network attached storage (NAS) tells Joan that pirates want to keep what they plunder. In fact, the only individuals Joan knows who illegally download media but do not store files are young people—typically teens or college students—who do not have complete control over the hard drives they use (because their parents own their children's computers or closely supervise their use of computers) or do not have the means to purchase costly drives for archiving data.

Although media piracy is free in the sense that pirates do not pay for the media they consume, it is not zero-cost: A pirate must spend money on ISP subscriptions and perhaps on subscriptions to private

dedicated servers called “seedboxes,” as well as on the aforementioned NAS drives. More crucially, a pirate must spend time searching for files through lists of torrents, many of which are “dead” (i.e., unseeded or otherwise nonfunctional), and downloading them, which, depending on the speed of one’s Internet connection and the size of the files being acquired, can take anywhere from a few minutes to a few days per file. Joan describes having a sense of “nursing” torrents along, watching over her downloads, making sure that they do not halt or stutter as they approach 100% completion. In other words, while illegal downloading is sometimes easy and quick, often it is neither. It requires a kind of attention similar to that described by Benjamin with respect to bidding for books at auction. The barriers to piracy put in place by rightsholders groups (i.e., populating torrent trackers with dead torrents), combined with the relative slowness of U.S. Internet connections, makes piracy—at least for American pirates—an effortful enterprise. The time and care that pirates invest in media acquisition makes them value their downloads and store them away, like treasure. Although Joan does download some files that she then deletes, for her, the point of piracy is to build a hoard of favored films and television programs.

Joan and contemporary Internet pirates are not the first consumers to use illegal means to forge a personal archive. Looking back at the history of videotape collecting, one also finds hoarding and pirating intertwined. As noted by scholars of the videotape era such as Joshua M. Greenberg (2008) and Kate Egan (2007), much of the trade of videocassettes involved making copies of others’ tapes, which in cases involving official cassettes issued by studios and networks, amounted to piracy. Even recording a program from a television broadcast in one’s home was threatened with the classification of piracy until the Supreme Court’s 1984 verdict in *Sony v. Universal* declared that using video recorders for home taping constituted fair use, not copyright infringement. One could say of video collectors that their felt need to grow their private media archives led them to flout copyright laws—in other words, that the drive to collect and the drive to pirate are not merely coincident but causal, the first being the cause of the second.

In fact, the literature on collecting contains a number of depictions of the collector as a thief or other criminal type. Benjamin connects book collecting to book stealing and cites the collector’s instinct as a cause for theft. “You have all heard of people whom the loss of their books has turned into invalids, or of those who in order to acquire them became criminals,” Benjamin writes (1931/1968, p. 60). He continues, “Of the customary modes of acquisition, the one most appropriate to a collector would be the borrowing of a book with its attendant non-returning,” and goes on to mention “the fervor with which [the book borrower] guards his borrowed treasures” and “the deaf ear which he turns to all reminders from the everyday world of legality” (p. 62).

Benjamin’s easy rationalization of book stealing for the purpose of increasing one’s own archive is echoed in the essay “Who Would Dare?” by Chilean novelist Roberto Bolaño (1998–2003/2011) in which the author declares, “The books that I remember best are the ones I stole in Mexico City (para. 1).” “[A]fter I stole [an edition of *The Fall* by Albert Camus] and read it, I went from being a prudent reader to a voracious reader and from being a book thief to a book hijacker (para. 5).”

Bolaño actually reversed the causal relationship I have tried to establish between hoarding and thieving: For him, stealing inspired collecting, not the other way around. Perhaps we can safely claim that there exists a link between illegal acquisition and the urge to collect, but that the direction of causality is flexible—either can bring the other into effect.

Even when not linked directly to theft, collecting has been associated with immorality. Brett Milano's 2003 book on record collectors, *Vinyl Junkies*, begins with a foreword by The Smithereens' Pat DiNizio in which the singer confesses to have lied to an RCA vice president about the potential revenue that could be made from *Having Fun with Elvis Onstage*, a scarce Elvis album recorded in 1974. DiNizio knew that the album would generate negligible sales if reissued for it was "a horrible record that featured no music, no songs, and no Elvis vocal performances at all," just some onstage chatter between a drugged-out Elvis and his audience (p. iv). Nevertheless, DiNizio, an avid collector of Elvis records who had unsuccessfully searched for *Having Fun* for years, knowingly misled the vice president so that he could at last obtain a personal copy. "[T]he vice president of RCA was not amused. He didn't get the joke, but I got the record. These are the lengths that vinyl junkies will go to. We will stop at nothing to get the records we need," writes DiNizio (p. iv). He goes on to characterize collectors as addicts who will transgress any moral boundary to satisfy their cravings. In a similar vein, Jean Baudrillard (1968/1994) draws a parallel between the collector's mentality and the adulterer's mentality. Baudrillard states,

[E]nthusiasts will insist that they are 'crazy about [an] object,' and without exception . . . they will maintain about their collection an aura of the clandestine, of confinement, secrecy and dissimulation, all of which give rise to the unmistakable impression of a guilty relationship. (p. 9)

Joan's declaration that all the media pirates of her acquaintance are inspired by an urge to collect is therefore preceded and anticipated by earlier writings about media (videotape, book, vinyl record) collectors. Associations between collecting and unethical behaviors were observed long before the advent of digital copying and file sharing.

### **Filling in the Gaps of Official Archives**

With respect to home video archivists, interest in piracy is at least partly attributable to the failures of official archives. As William Uricchio (1995) notes, most film and television archives are characterized by "structural absences." He adds, "In the case of film and television, far more material should be preserved than can be," and the need to be selective has led archives to establish criteria that "emerge from a historically specific configuration of the field of film studies," namely, 1960s film scholars' prioritization of movies that meet the "film as art" bar—primarily auteur, art house, and experimental films (p. 259). The trouble with the "film as art" criterion, argues Uricchio, is that it "precludes an emphasis upon 'film as culture,'" thereby leading institutional archivists to ignore audiovisual texts of potentially great historical significance, such as TV commercials and "industrial instructionals" (pp. 259–260), as well as scores of television programs.

I call for a wider application of Uricchio's critique of the "historical filtration" (p. 260) practiced by institutional collections. If we consider official home video editions that are authorized and sold by television networks and production companies as one type of legitimate, institutional collection, then these, too, must be judged to be radically incomplete, unacceptably so to masses of people interested in collecting media, particularly television series. Many TV programs are never issued on DVD. As television fans cannot acquire many of their favorite programs by legitimate means, they are incited to turn to piracy to fulfill their collecting desires. At the dawn of the videocassette recorder, Greenberg (2008) claims, what motivated early Betamax enthusiasts to "extend the reach of their recording devices beyond their local broadcast stations" and begin to trade tapes with other early adopters of home taping technology across the U.S.—in essence, forming "tape sharing" networks via newsletters and phone chains 20 years before the Web gave rise to file sharing networks—was that they "really, really wanted to see, say, 'that episode of *Mary Hartman, Mary Hartman* where she shows up at Sgt. Foley's house'" (p. 21). The incompleteness of institutionally authorized television archives has, for decades, spurred television collectors to forge unauthorized means of exchange.

Globalization has made the failings of official TV collections even more visible, as today more than ever before, people in every nation are interested in the television productions of other nations: American viewers want to watch Spanish historical dramas; Filipino audiences want to watch Irish reality shows; millions of serial drama fans across the globe want to watch telenovelas and soap operas from Latin America or Turkey or South Korea; diasporic peoples want to watch the shows being broadcast in their countries of origin (see Hamid Naficy, 1993); and people of different nations who occupy one linguistic sphere want access to each other's TV productions (e.g., Anglophone viewers in the UK, the United States, Canada, Australia, New Zealand, and all other former British and American colonies in Africa, Asia, and the Caribbean desire access to all English-language television). But there are no legal means by which to acquire, in a timely fashion (i.e., shortly after first airing), episodes of a TV show broadcast outside of one's country of residence. Indeed, even if a fan of a TV show from outside her nation's borders were willing to wait for the program to be globally syndicated, some shows never reach the syndication market, and are never released on DVD.

Joan has found that many older and nonmainstream films are also absent from the official archives constituted by studio-authorized home video editions. *Son of Sinbad* (1955), an Orientalist adventure that mashes up the Sinbad legend with that of Ali Baba and the Forty Thieves, was repeatedly aired by KTLA's *Family Film Festival* during Joan's youth, but has never had a DVD release. Joan's favorite Sherlock Holmes feature is *The Seven Per-Cent Solution* (1976) in which Holmes and Watson team up with Sigmund Freud in fin-de-siècle Vienna. The DVD of *Solution* went out of print long ago, driving its prices up to unreasonable levels: \$95.99 for a used copy and \$174.97 for a new copy from Amazon Marketplace sellers at the time of this writing.

Even television series and movies that would seem to warrant official DVD releases as part of Hollywood's marketing of "re-boots" and sequels are not made available when collectors, or even casual viewers, would feel a natural inclination to view them. Before the December 2010 premiere of Disney's blockbuster *Tron: Legacy*, the studio neglected to reissue the out-of-print DVD of the original 1982 *Tron* film, leaving potential audiences of the *Tron* sequel unable to (re-)educate themselves in the specifics of

the *Tron* universe before seeing the new installment of (what was about to become) the *Tron* franchise. This glaring lapse on Disney's part led the *Los Angeles Times* to run a story about the near impossibility of finding a DVD of the first *Tron* film (Keegan, 2010) and prompted noted media scholar Henry Jenkins (2010)—in the weeks immediately preceding *Tron: Legacy's* debut—to tweet “#disneyfail. Wanted to watch original *Tron* [italics added] before seeing the renewal of the franchise. Not rereleased on DVD!” (Disney finally released *Tron: The Original Classic* on DVD and Blu-Ray in April 2011, four months after *Tron: Legacy* opened).

Joan illegally downloaded the 1982 *Tron* just prior to seeing *Tron: Legacy* on opening day in December 2010. She acquires episodes of many television programs produced in other countries by pirating them just after their initial broadcasts. If she did not download these programs using file sharing networks, she would have to wait months for them to reach the U.S. syndication market or to be released in Region 1 DVD format, if indeed the shows ever reached the United States by legitimate flows. For many months, Joan searched for a rip of *The Seven Per-Cent Solution* to appear on a torrent tracker. At first, she found only a version dubbed in Spanish, but she finally acquired the film with the original English soundtrack. She also secured a copy of *Son of Sinbad* from a friend, who is a member of a notoriously restrictive private tracker that has a particular strength in Hollywood B-movies. (“Torrent trackers” are websites that facilitate file sharing; public trackers do not require membership and private trackers do).

#### **Pirate as Archivist**

Thus, one of the ways that Joan justifies defiance of copyright laws is by claiming for pirates the position of “media archivists.” The unauthorized networks of file sharing allow private individuals to preserve and circulate films and television shows that official institutions might ignore, allow to be lost, or keep out of circulation for a prolonged period of time or indefinitely. Joan's mistrust of museums and rightsholders to make correct decisions regarding media preservation and access, and her assertion that pirate-collectors are superior in these matters, are reminiscent of the porcelain collector Utz's insistence (in Chatwin's novel *Utz*) that his “collecting” is in fact “rescuing” (p. 19) and that private ownership honors objects better than does museum ownership. As a young man, Utz writes a treatise entitled “The Private Collector” in which he argues that

An object in a museum case must suffer the de-natured existence of an animal in the zoo. In any museum the object dies . . . whereas private ownership confers on the owner the right and the need to touch. . . . The collector's enemy is the museum curator. Ideally, museums should be looted every fifty years, and their collections returned to circulation. (p. 20)

In this passage, we see all of the identities that Joan accrues to herself—collector, archivist, and pirate (one who “loots”)—united, once again demonstrating that Joan's attitude toward collecting is not unique to the digital moment, but is a contemporary manifestation of an older collecting psychology.

In one respect, however, Joan feels that the pirate's archival activities are quite specific to digital media. By participating in a system of networked sharing, Joan says, she is helping to ensure the “life” of

media files through redundancy. In other words, even if she or any other single collector lost her entire collection in a disaster, the media files in the destroyed collection would survive because other collectors would possess exact copies of those files. (In fact, Joan hopes that in this “worst case scenario” she would be able to rebuild her collection from the seeds of other pirates). Joan’s concept of digital piracy as a nearly failsafe defense against the disappearance of media content calls to mind video artist Bill Viola’s statement:

In a world where the conditions are constantly changing as new systems replace the old (the consumer’s nightmare), where the material recorded on older formats may not be able to be played or recovered (the conservator’s nightmare), the key to survival seems to lie with an endless cycle of reproduction—*copying as preservation*. (Illes & Huldisch, 2005, p. 76)

Viola is referring to museums’ need to continually duplicate the film and video art in their collection, often transferring them to more current formats, but his dictum “copying as preservation” seems an even more apt description of pirate archiving, as pirates constantly increase the number of copies of media files in existence through their downloading and seeding efforts.

Examining Joan’s pirate-as-digital-archivist theory through the lens of new media curator Steve Dietz’s (2005) recommendations for the preservation of new media art, one can find points of alignment and of divergence. Dietz advises that museums and archives follow five steps to preserve their digital media works acquisitions: (1) refresh; (2) migrate; (3) print out all possible supporting materials such as artists’ statements and/or source code (Dietz’s argument is that “We know how to preserve paper” [p. 97]); (4) document the context in which the work was created and/or initially exhibited; and (5) participate in a network of new media archival institutions to share information and best practices (pp. 97–99). Joan does periodically refresh her files to new storage media (from NAS drive to NAS drive currently until a better storage technology becomes available); she does migrate her files from one physical storage medium to another; and she obviously participates in a network of collectors. But she does not collect or print documentation relating to her collection, and she wishes that more documentation relating to film and television were available on pirate networks.

However, Joan does not actively archive documentation, even for films and TV programs for which supplementary materials do exist, either in published form or as Web pages. Joan does not automatically buy the books pertaining to the media texts that she downloads, nor does she create Word documents into which she copies and pastes all the information and images on the Web that relate to the TV series she pirates. In this sense, Joan falls short of the bar that Dietz establishes for excellence in new media archiving, showing a weakness in her argument that pirates are motivated by the urge to be superior archivists of media. Joan may perceive herself as an archivist, and she may believe that digital piracy is the best means of preserving audiovisual media for future generations, but joining the identity of “pirate” to that of “archivist” may simply be a convenient rationalization for Joan’s regularly engaging in illicit practices.



### **Piracy, Not Rivalry**

The previous sections have described several ways that Joan's collecting is similar to older, analog modes of collecting, as well as one way in which her collecting seems particular to digital technology. This article turns now to the question of whether there are additional aspects of Joan's activities that are specific to the Internet and the digital and distinct from the practices of earlier generations of collectors.

One theme that comes across clearly in writings about collecting that predate digital piracy is that of jealousy. Baudrillard (1968/1994) states, "[T]he passion for objects climaxes in pure jealousy. Here possession derives its fullest satisfaction from the prestige the object enjoys in the eyes of other people, and the fact that they cannot have it" (p. 18). For Baudrillard, collecting, at its core, is a longing to prohibit any sharing of one's objects. He explains the collector's jealousy through psychoanalysis:

If it is true that one is hardly inclined to lend another person one's car, one's pen, one's wife, this is because these objects are, within the jealousy system, the narcissistic equivalent of oneself: and were such an object to be lost or damaged, this would mean symbolic castration. When all is said and done, one never lends out one's phallus. (ibid.)

Benjamin (2004) also defines collection as exclusivity. He quotes a 1936 work by Gutterman and Lefebvre, which states that "taboo is the primitive form of property. . . . [D]eclaring something taboo would have constituted a title. To appropriate to oneself an object is to render it sacred and redoubtable to others" (p. 210). Both Baudrillard and Benjamin relate stories of collectors seeking to destroy rivals of, or defeat rivals for, certain objects. Baudrillard (1968/1994) tells of a bibliophile who owned a book that he believed was unique and then discovered that another collector possessed a second copy of that book; the bibliophile purchased the duplicate and burned it before a notary to make official his possession's unrivaled status (p. 14). Benjamin (1931/1968) narrates his experience at an auction of bidding against a certain man for various books and being constantly outbid; finally, Benjamin realized that his expressions of interest were piquing the other man's desire, and so he refrained altogether from bidding on a much-desired book. As a result of Benjamin's strategy, the book received no bids, and he was able to purchase it without competition a week later (p. 66). Naomi Schor (1994) interprets Benjamin's auction tale as an Oedipal struggle: The auction story, she argues,

. . . sheds light on the workings of homosocial rivalry, on the mechanisms of mediated desire. . . . [T]he coveted book occupies the space of the female (maternal) object desired by two males. . . . Through self-control and cunning . . . Benjamin wrests the object away from the threatening rival. (pp. 253–254)

But as a collector, Joan takes a very different view of property and ownership than do Benjamin and Baudrillard. Digital piracy is constituted by the exchange of "anti-rival goods." As defined by Steven Weber (2004), an anti-rival good is one whose utility to its users increases with the number of users; the more people that share the good, the more each person benefits from that good. Writes Lawrence Lessig

(2005), "I am not only not harmed when you share an anti-rival good; I benefit" (para. 12). Examples of anti-rival goods are free software and open source software created by volunteer developers working together primarily online. About these development communities, Weber (2004) writes,

Under conditions of antirivalness, as the size of the Internet-connected group increases, and there is a heterogeneous distribution of motivations with people who have a high level of interest and some resources to invest, then the large group is *more* likely, all things being equal, to provide the good than is a small group. (p. 155)

Peer-to-peer file sharing operates under conditions of antirivalness just as free and open software communities do, for the more that pirates upload and download files, the more all pirates benefit. No collector's possession of a media file excludes any other collector's ability to acquire the same file; in fact, people who pirate frequently, like Joan, seed the collections of others at the same time they augment their own.

It is not precisely true that the larger the pirate network, the greater the network effect—that is, the benefit for all users—because large public trackers usually suffer from a "free-rider" problem (users who download files but do not seed in return), and also sometimes have a malicious user problem (when rightsholders or ISPs deliberately upload corrupted files to torrent trackers to try to damage their reputation and diminish their popularity). But as far as Joan can tell, sharing is always encouraged on pirate sites, with almost all private trackers requiring a minimum "share ratio" (meaning that all members must seed their media files or be banned from the site). In other words, even though not all media pirates do share, Joan believes that all media pirates know that they *should* share. Joan has set a policy for herself of seeding to a maximum share ratio of 10, meaning that she "gives" up to 10 copies to other collectors of every media file that she collects. For Joan, collecting is synonymous with sharing, and possessing is the same thing as giving. Digital files can be anti-rival goods to an extent that physical goods cannot. Joan's experience of collecting is marked not by the feeling of jealousy but by the feeling of simultaneous equal ownership, an ethos of "each of us gets one" rather than "don't touch what's mine."

However, I need only glance at Freud—whose theories of psychoanalysis provide the basis for Baudrillard's writing on collecting and Schor's reading of Benjamin's seminal essay on collecting—to begin to doubt my distinguishing between Joan's digital collecting and earlier modes of acquisition. For Freud was an avid collector of antiquities, and John Forrester (1994) argues that Freud's collecting

. . . always aspired to a public and social function. . . . The impulse to give friends and followers pieces from the collection came to him often. Even though his collection was a personal affair, it was not a hoard, not a sequestered treasure, jealously guarded. (pp. 242–243)

Forrester links Freud's impulse to treat his collection as "public" with the customs of mid-19<sup>th</sup> century scientific collectors:

[O]ne or two individuals would act as centralized exchanges, correspondence-network organizers, for collections of objects, such as butterflies, flowers, orchids, sea-fish. Participants would send in specimens collected locally, and would receive in return, via the central communication system, excess specimens from other collectors in other parts of the country. In order to acquire, one had to give. (p. 243)

Does not this natural science “correspondence-network” sound quite like a contemporary file-sharing network? Operating a century and a half ago, this correspondence-network was anti-rival just as Joan’s pirate communities are today; the more collectors who participated, the more all collectors benefited, and just as naturalists would give “excess specimens” away to others, so does Joan send exact copies of the files she has collected. Joan’s anti-rival digital collecting thus may be quite distinct from Benjamin’s jealous analog collecting, but Joan’s practices have a great deal in common with the protocols of mid-19<sup>th</sup> century scientific collecting that may have inspired Freud’s view of his collection as “public” and meant to be shared with others. Thus vanishes one difference between predigital and digital collecting that I had thought to establish.

### **The Law and the Cloud**

One way that Joan’s collecting definitely differs from 19th century scientific collecting, as well as from Freud’s and Benjamin’s collecting, is that Joan risks prosecution every time she engages in her pastime. Although Benjamin and Bolaño both associated book collecting with thievery and presumably would have been in some danger had their illegal acquisitions been discovered, the severity of their sentences for book stealing would likely not have matched that of the court rulings against pirate-collectors in the late 2000s. Three of the lawsuits filed by rightsholders against media pirates in the last decade—*BMG Music v. Gonzalez* (2005), *Capitol Records, Inc. v. Thomas* (2008), *Sony BMG v. Tenenbaum* (2009)—resulted in judgments against the defendants. Damages awarded to the plaintiffs amounted to \$22,500 in *BMG Music v. Gonzalez*, \$222,000 in *Capitol v. Thomas* (later reduced to \$54,000) and \$675,000 in *Sony BMG v. Tenenbaum*. Joan is aware of these lawsuits and their results, and she knows that her collection includes a vastly greater quantity of downloaded data than did the collections of any of the three defendants (Cecilia Gonzalez was found liable for 31 copyright-infringing music downloads, Jammie Thomas-Rasset for infringing 24 songs, and Joel Tenenbaum for infringing 31 songs). Joan has pirated far more than 31 media files, and film and television files are much larger than music files. The three lawsuits cited are only those with the highest profile of the tens of thousands of lawsuits filed by representatives of the recording industry against American file sharers. According to the Electronic Frontier Foundation, between 2003 and 2008, the recording industry “filed, settled, or threatened legal actions against at least 30,000 individuals” (2008, para. 1).

However, the possibility that her pirate activities may eventually lead to Joan’s being sued and having to pay an exorbitant sum to rightsholders does not dissuade Joan from collecting, via file sharing, as much media as she wishes on a daily basis. She takes as many measures as she can to disguise her pirating from her ISP, and she hopes that if her activities are ever detected by an ISP or a rightsholder, a warning of legal action will come before a lawsuit. If she receives such a warning, Joan thinks that she will

cease illegally downloading files at that point, but will probably continue to engage in other unauthorized copying techniques, such as "ripping" rented DVDs (translating the data on the disc into a digital file using software specifically made for the purpose). But as already noted, many of the media texts that Joan seeks to collect are never issued on DVD, or they are issued much later than their initial theatrical release or television broadcast. Joan anticipates that her ability to build her collection to her satisfaction will suffer mightily if she ever has to give up illegal downloading.

Joan knows that there are viable alternatives to pirate downloading. She has friends in other countries who used to pirate extensively via downloading and who now only view pirated files via streaming. After France, the UK, and South Korea enacted "graduated response" laws in 2009 and 2010 that deprive individuals of Internet access for a certain period after they are found to have infringed copyright laws a specified number of times (for example, the "three strikes" law in France results in a suspension of Internet access for an offender for two months to one year), pirate sites began offering both streaming and downloading options. Joan does enjoy watching movies and television programs as streaming video, and she thinks she could be convinced to use a cloud media service, such as Google's Music Beta, Amazon's Cloud Drive, or Apple's iCloud. However, all of these services have severe storage limitations at present: Google's Music Beta allows the user to store 20,000 songs; Amazon's Cloud Drive offers 5MB of free storage and up to 1,000GB of storage for a subscription fee of \$1,000 per year; Apple's iCloud offers 5MB of free storage and up to 55GB for a subscription fee of \$100 per year. None of these services offers close to the amount of storage space that a collector of Joan's ambition would deem sufficient. In addition, Joan prefers downloaded files to streamed files. One can only access streaming video as long as one has an active Internet connection, while Joan can play downloaded files when she is on a train going through an underground tunnel, on an airplane, or in any building that lacks Internet access.

Joan admits there is another reason, other than for simple utility, that she prefers downloaded files to streamed files: She feels that she does not truly "possess" files that are stored in the cloud and then streamed to her various viewing devices. Even though she is prepared to share all of her media files, she also desires the feeling of "keeping" all of her files safely in drives that reside where she does. Were she to relinquish all control over her collection to a cloud service, she fears that she would be in danger of losing all of her carefully accumulated data in the event of the service's technical or economic failure. Would she have enough time to migrate her entire video collection from Amazon, Apple or Google servers to those of another storage provider should those companies shut down their operations? In this respect, Joan resembles Benjamin and Baudrillard, who both emphasize the collector's need to lock his objects away. Benjamin (2004) claims that "It is the deepest enchantment of the collector to enclose the particular item within a magic circle" (p. 205). Baudrillard (1968/1994) writes,

Surrounded by the objects he possesses, the collector is pre-eminently the sultan of a secret seraglio....[T]here is a strong whiff of the harem about [collecting], in the sense that the whole charm of the harem lies in its being at once a series bounded by intimacy . . . and an intimacy bounded by seriality. (p. 10)

Joan is unlike Baudrillard's sultan in that she willingly shares her "harem"—the files that constitute her collection—with other collectors, but she is like the sultan in that wants to have her harem in her house and available to her at all times. She does not want to store her harem in "the cloud" (beyond her physical grasp), even if she had full confidence that she could call down any dancing boy from the cloud at any time with a simple command. No, Joan feels the need to keep her collection close at hand. For her, complete possession and control of her media files is the only wholly satisfactory storage solution, for only this arrangement assures her that she can be serially intimate with her collection's many items whenever she wishes.

Thus the possibility of the law's impingement on Joan's collecting habits seems to separate her from earlier generations of collectors, who, shy of being art thieves or actual pirates looting oceangoing galleons, were rarely in danger of being ordered by a court of law to pay tens or hundreds of thousands of dollars in damages for enlarging their collections. However, when Joan considers the likely alternative to piracy—storing her media collection on a legal cloud service—she finds herself regarding her collection in a way that is reminiscent of a much earlier type of collector. It is the same way that the sultan regarded his seraglio: as being utterly and completely his.

### **The Psychology of the Pirate-Collector**

Joan talks about her collecting as if it were a highly reasonable, logical enterprise. But collecting is rarely, if ever, rational. When pressed, Joan admits that her attachment to her collection is not devoid of madness. For example, one morning a few years ago, Joan's husband regretfully told her that he had accidentally lost his wedding ring down the drain of the bathroom sink and also, that while recently backing up their media archive, a number of files were accidentally deleted. Joan instantly fell into despair and made it clear to her husband that of his two errors, only one of them constituted a serious crime, and it was not the losing of the ring. Moments like these have given Joan cause to wonder about what psychological motives might be lingering in her unconscious, driving her to collect. I asked Joan to speculate about these motives, to try to raise them from her unconscious and air them out in our conversations.

She was able to recall that she started her first video collection, consisting of VHS videocassettes on which she recorded television shows and duped (duplicated) rented movie cassettes, when she was ten or eleven years old, which was about the time that the last of her five older siblings moved out of their parents' house to attend college. Joan remembers that she filled two large bookcases with her videotapes, shocking her family members with the speed and scale of her accumulation. Reflecting on this period of time in her childhood, Joan guesses that she may have been seeking to replace her five "lost" brothers and sisters with her tape collection. After all, the six siblings had themselves constituted a collection, and one by one, at least from Joan's vantage point, the pieces went "missing." Baudrillard (1968/1994), explaining that a collection must be a series, states, "Without the series, there would be no possibility of playing the game [of collecting]. . . . Indeed the truly unique object—absolutely, entirely without antecedent, incapable of being integrated into any sort of set—is unthinkable" (p. 14). And yet Joan became this unthinkable thing: the "only child" left in the house, the "truly unique object," after having been one of a series for all her life, at least up to that point. To compensate for her becoming this

unthinkable thing, the unique object outside of any series, Joan created a series, a collection that she could control, a series that would not be capable of leaving her.

Thus, Joan assembled not a harem but a family of objects. Thinking of Joan's media collection as a family, rather than using Baudrillard's concept of harem, makes sense in light of her memory of her siblings' departures. One's family is always one's own, but at the same time, one expects to have to share the group members with people outside the group. One expects family members to leave and return, like the ball in the *fort-da* game that Freud observes his grandson playing: "[I]n Freud's analysis, the child makes [the ball] vanish and re-appear in order to experience the alternating absence and presence of its mother—*fort / da / fort / da*— the anguish of lack being dispelled by the sustained cycle of re-appearances of the ball" (Baudrillard, 1968/1994, p. 17). Joan therefore originally grew up in a household populated by group members who frequently left but always returned, and then one day found herself in a space in which group members had left without returning—*fort* without *da*—and so felt compelled to inaugurate a new group, this time of objects rather than of people, whose members (videotapes) would occasionally disappear (into their cases, onto their shelves) and then reappear (when Joan chose to re-view one of them). Pirate networks enact a similar *fort-da* performance, for when Joan downloads files, they are "hers," but she also shares the data with others just as she was accustomed to sharing members of her family with the outside world.

Schor (1994) relates that "Freud started acquiring artistic objects just after his father's death in October 1896, and almost explicitly in response to that event, since he found them a 'source of exceptional renewal and comfort'" (p. 232). Although Joan's siblings did not die when they moved away to college, their prolonged absences from the parental house must have seemed like a series of deaths to the young Joan. Her turn to collecting videotapes as a means of consoling herself during this period of the multiple losses of her siblings has a precedent in Freud's beginning to collect antiquities as a way to comfort himself after the loss of his father. Baudrillard (1968/1994) also mentions this tie between collecting and the experience of death when he writes of

. . . the immense power of objects to regulate our lives. . . . In our era of faltering religious and ideological authorities, they are by way of becoming the consolation of consolations, an everyday myth capable of absorbing all our anxieties about time and death. (p. 17)

Many children start collections, perhaps all of them in response to their own unique experiences of loss, their own particular "anxieties about time and death." Baudrillard reads the adult collector's psychology as unhealthy reminiscent of that of the child collector, as if the adult who collects has not grown past the *fort-da* stage of childhood: "[T]he discourse voiced through [the] collection can never rise above a certain level of indigence and infantilism. . . . [He who collects] can never entirely shake off an air of impoverishment and depleted humanity" (p. 24). But another interpretation of the adult collector's affinity with the child collector is made possible by Roger Caillois (1942/2003). Here is Caillois' description of the child's joy in acquisition:

Chance, difficulty, and danger; these are the qualities that give prestige to the chosen objects. The child who makes them his treasure feels all the pride of possessing them: they serve him not just as fetishes and good luck pieces. They spirit him away to the world of adventure and distances . . . and introduce him at last to fabled fastnesses hidden from sight by the bulk of mountains. They appear as booty lifted from a universe compared to which the real is weak and pale. . . . It is as though the objects that the child treasures were able to retain within a small mass, ordinary enough in appearance, a beauty, a force, and a mystery that reside only in the essence of elements and at the limits of the habitable globe. (p. 257)

The language of high-seas piracy—"treasure," "booty," travel that reaches "the limits of the habitable globe," and "chance, difficulty, and danger"—suffuses Caillois' depiction of the child collector. What his language suggests is that all children are pirates in their collecting. So, while Joan may indeed be driven to collect by her underdeveloped psyche and narcissism, as Baudrillard says all adult collectors are, she may also be motivated to collect by the need to remind herself that when she was a child facing emotional crisis, she decided to embark on an intrepid quest for objects that she could hoard and treasure to ward off an anxiety that threatened to overwhelm her. Since every child, according to Caillois, takes pleasure in collecting in a pirate-like way, maybe what Joan and other mature collectors are trying to do is remember—enter into their personal archives—that when they were very young, they saved themselves, however they could, using whatever objects were discoverable as defenses against great dangers looming over their vulnerable psyches. Joan's contemporary piracy may not only be a continual compensation for the early loss of her siblings but also a method of reenacting her self-rescue, as a younger person, through collecting.

### Conclusion

Having reached the end of my investigation of Joan's pirate-collecting and of my comparison of her practices to older collecting modes, the only great distinction between digital and analog collecting that I can declare is that Joan takes on a far greater legal risk by regularly pirating media than did previous generations of private media collectors such as Benjamin, Bolaño, or Tashiro. All of Joan's philosophies, beliefs, and attitudes about pirate-collecting—her willingness to flout the law, her sense that private collectors are better archivists than are institutions, her lack of jealousy regarding her collectibles and her participation in an anti-rival collectors' network, her desire to keep her objects physically close to her, and her having turned to collecting as a young girl to deal with a series of losses—have precedents in the literature on collecting. Not all styles of collecting have been identical, but the example of Joan shows that many themes have recurred throughout the history of collecting, at least over the last 150 years, and that the tradition of the 19<sup>th</sup>- and 20<sup>th</sup>- century private collector did not end with the invention of digital media, but continues quite intact. What digital technologies have altered significantly are the individual's capacities for acquisition and the relationship of the collector vis-à-vis the law. For Joan can acquire media of a higher quality, at a faster rate, and in a greater volume than could any other generation of collectors before her, but at this moment in history, she is in constant danger of detection, persecution, and punishment, as neither copyright laws nor commercial enterprises have come to regard the desires of collectors like Joan as normal uses of new media. Like the book thieves Benjamin and Bolaño before her,

Joan feels no compunction at pirating media files, and she does not even greatly fear the possible legal consequences of her pirate-collecting. She only hopes that one day the law and the commodification schemes of the media industries will make legitimate the uses to which people like her put the network. For in Joan's view, any true collector will use digital technologies in the same ways and for the same ends that she does, whether their collecting is called piracy or consuming.



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