

# LIS-3353

## Freely Available Art, Knowledge and Culture

read all the FSU rules and follow them...

--or maybe not..

Morals, Ethics, Law?

# Morals, Ethics, Law?

I start here because, in this realm, there's a very very huge disjoint...

# Morals, Ethics, Law?

Ideally: *Morals* → *Ethics* → *Law*.

Really, it's all over the place.

# Morals, Ethics, Law?

“The Lambchop Machine”

# Morals, Ethics, Law?

“The Lambchop Machine”

When X is free, when is it appropriate, if ever, to deny X to someone?

# Property!

- Simple, intuitively; 3 year olds understand it.
- law; often more complex:  
“Bundle of rights and responsibilities”

# Property!

STILL, fundamentally about **exclusion**.

Which makes sense for “limited” stuff; but  
could be likened to a state-sponsored  
**monopoly**



# Influencers (there may be more)

- Law
- Code
- Etiquette/Norms
- Economics

# Article I, Section 8, Clause 8

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

# “Intellectual” “Property”

Rewarding creators is a means to an end, not the end itself.

# (Sort of) Intellectual Property

- Copyright
- Patent
- ~~Trademark~~
- ~~Trade Secret~~

The weirdos  
(not governed by the IP clause)

Trade Secret

Trademark

# Trade Secret

- *“Privately held info that confers economic advantage or benefit”*
- Different from the others because ITS A SECRET. (think about it, the others are PUBLICLY KNOWN)
- Must “make efforts to protect”
- Perpetual
- Something like a corporate right of privacy

# Trademark

- Different from the others in that it's not (theoretically) inherently valuable, but only symbolically
- “Source of Origin”
- Potentially perpetual
- Can be a very wide range of “things”  
(names, phrases, logos, even sounds, smells and colors)

# Trademark

Mostly not too controversial, except:

- Unfairly scoped and/or wielded (e.g. Sam Bucks Coffee?)
- Weirdly Deceptive? (Famous Amos Cookies?)
- And wait – what is FSU doing?



# Definitely Intellectual Property

- Copyright
- Patent

# Patent (theory)

Protects inventions and ideas

Must be:

- Novel (new)
- Non-obvious
- Useful

# Theoretically Non-patentable

Naturally occurring things like – plants and algorithms.

BUT

Simply patent the “process”

# Reverse Engineering v. Stealing?

Patent don't care.

This is why a lot of people oppose them  
**CATEGORICALLY**

# Design Patent?

Weird, and you'll see them more soon,  
because of a shift from

- Deep descriptions
- to
- General perception

# Patent in Practice (re software)

## CHAOS AND WAR!

- Difficult to get if you're a little guy
- If you're big they're “easy”--  
(the joke is, just add “on a computer” to anything)
- So, just buy up tons of them and point them at other companies as needed.
- (yeah, a lot of people think this is pretty ugly. e.g. “Patent Trolls”)

# Copyright

- Automatic (Berne Convention)
  - but, must be registered to sue
- “Expression of an idea”
- Not infinite, but almost-- (70+life)

# Fair Use

- Purpose/Character
- Nature of copied work
- Amount of copied work
- Effect on “value”



# Fair Use (is weird)

- (not a right, but a defense)
  - Purpose/Character of copying work
  - Nature of copied work
  - Amount of copied work
    - (weird b/c “parody/satire”)
  - Effect on “value”
    - + The “5th” measure. Is it icky or weird?

# Consumer v. Creator Issues?

# “Piracy”

- Extremely widespread
- Law-related responses:
  - Massive suits (RIAA)
  - Proposed Legislation (SOPA/PIPA)

## PSA campaigns

- “You wouldn't download a car?”

# DRM

- Digital Rights/Restrictions Management

(An attempt to make code do what other influencers don't/can't?)

# DRM from an encryption POV.

- “Send a message from A to B, without C being able to intercept.”

**BUT B AND C ARE THE SAME PERSON!**

# “Soft” DRM?

Added services + few restrictions

Steam

Netflix

Spotify?

# Modern Responses

- Creator Issues

# Copyrighting what you make, practically...

- Weird, because “instapublishing”
- Technically automatic
- Probably better ways to protect
- Also, probably no one cares (yet)
- Also, watch where you got your starter stuff



# “Copyleft”

(GPL/Creative Commons)

- Remember, in the US
  - Broad freedom of contract and
  - Broad freedom of licensing
  -
- Derivative works are copyrightable, so public domain is too weak for some.

Copyleft is **not not** copyright.

That is...

Copyleft IS copyright, with a different license

Broadly...as we're all "prosumers.."

To what extent does  
"copyright/intellectual property"  
become marginal?

# General Public License

- - You may copy
- - You may sell
- - You may modify
- - You may keep in house
- - But, you may NOT put out a copy that resitricts the above.

# Third Party Beneficiaries?

- Re: Copyright and content?
- Who benefits re:
  - Music
  - Code
  - Crowdsourcing/ Social media content?
    - (ha, what terrible phrases)

# Advertising and Information

Social Contract?

Many complaints/responses about  
adblocking?

(but again, this is code trying where law  
failed?)