LIS-3353

Freely Available Art, Knowledge and Culture

read all the FSU rules and follow them...

--or maybe not..

Plan for today

- Quick review

- Fair Use

- Patent v Copyright (with software)

- "Old School" Consumption

- We are all creators

- Once again, Linux saves the day?

"Intellectual" "Property"

Rewarding creators is a <u>means to an end</u>, not the end itself.

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)

Patent (theory)

Protects inventions and ideas

Must be:
- Novel (new)
- Non-obvious
- Useful

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?

Patent v. Copyright

PATENT:

Shorter but broader. Covers the IDEA, does not require "copying."

Therefore, easier to infringe.

COPYRIGHT:

Covers the EXPRESSION OF THE IDEA, technically requires copying (even though this doesn't always happen in practice)

Easy example in practice

Microsoft owns and controls "Internet Explorer" code,

Apple owns and controls "Safari"

Google owns but then licences "Chrome"

Mozilla has freed "Firefox"

But NO ONE has any ownership over the "browser," though it would be theoretically *patentable*

Tech Patents in Practice

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")

Possible and Actual Examples

- THEORETICAL: Matrix Multiplication for death and love

Possible and Actual Examples

ACTUAL

- Nintendos "cross" d-pad

- Amazon's 1 click to buy

- Apple v Samsung. i.e. RECTANGLES.

CONSUMING MEDIA

Aka You wouldn't download a car, would you?

(hell yeah, I would)

CONSUMING MEDIA

The ugly truth (to the companies is settled)

It's not "Pirates v Honest People"

It's "People who like stuff get it however they can, so convenience wins"

DRM

Old school: Silly because, (encryption wise)

B and C are the same person.

Also

The "Analog hole"

DRM

BUT – if you add on loads of convenience (and surveillance)

You get, Steam, Netflix, Spotify, etc.

See earlier point about convenience.

NEW SCHOOL:
WE ARE ALL CREATORS

What is copyright LAW doing for us now?

As always, what roles do the middlemen play?

YouTube

Last week – Youtube felt the need to restate a fact that was always true:

Youtube is not obligated to host or keep up ANY video.

(also, Youtube is obligated to at least give lip service to "copyright." What effect has THAT had?)

THE RESPONSES:

- Librarianship (which is sometimes called piracy?)

- Reform

- Clever licenses

THE RESPONSES:

Homebrew Librarianship: The "Good"

- Archive.org
- Wikipedia

THE RESPONSES:

Homebrew Librarianship: The "Scary"

- Sci-hub
- Library Genesis

THE RESPONSES:

Homebrew Librarianship: The "Really Scary"

- Napster
- Bittorrent

Reform

e.g.

Orphan Works

(How to solve Happy Birthday, in theory)

Clever Licenses (GPL)

Linux and the GPL

Stallman and Linus wanted to keep Linux free for everyone. The "natural solution" (and what was used before) was

Freeware

or

Public Domain

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...but lets consider Shakespeare.

Microsoft: the EULA

- You can't sell it

- You can't do anything, blah blah blah

The Linux people figured out how to use these evil powers for good :)

GPL

It's NOT NOT copyright! (i.e. yep, it's copyrighted – but with a very permissive license)

- You can copy

- You can give away (or keep)

- You can (technically) sell

- When it comes to **you**, you can basically do what you want:

GPL

The ONE thing you can't do (and this what distinguishes it from other open source, MIT, Apache, etc)

IF you give a copy, modified or not, to someone else, you MUST give them all the free rights that you got. You cannot lock it back down again.

Creative Commons

Idea based on the GPL, but with more possibilities. Less precise, but perhaps of use: with ideas like

- Attribution

- Commercial

- Etc.