

Intellectual Property

- What is intellectual property?
- IP rights protection for creative works
- IP rights protection for industrial property
- Assignment
- Source:
 - Spinello, *CyberEthics: Morality and Law in Cyberspace*, 5/e, 2014

What is Intellectual Property (IP)?

- World Intellectual Property Organization (<http://www.wipo.int/about-ip/en/index.html>)
- Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

What is Intellectual Property (IP)?

- Property is equated with ownership
 - "I own this house"
 - "This house is my property"
- Ownership implies certain rights and liabilities for the owner
 - Blackstonian Bundle: right to exclude access, to use it as he or she sees fit, to receive derived income, or to transfer property to new owner.

What is Intellectual Property (IP)?

- Intellectual property differs from real property
 - Many people may use it simultaneously
 - Use by some people does not preclude use by others
 - Cost of making copies usually is negligible

What is Intellectual Property (IP)?

- IP rights must balance
 - Creators need to access common culture in creating works of cultural progress
 - Creators rights to control use of their works
- Digital technology exacerbates the issue
 - Increases opportunity for creativity
 - Eliminates dependency on established channels of distribution and production

IP Rights Protection for Creative Works

- ***Copyright*** - gives the creator of an original work exclusive rights to it, usually for a limited time.
 - Does not protect ideas, concepts, facts, generic plots/characters, algorithms, etc.
 - Rights related to copyright include those of performing artists in their performances, producers of recordings, and those of broadcasters in their radio and television programs.

Types of IP Rights Protection for Creative Works

- Copyright has certain limitations related to the public interest. E.g., fair use provision:
 - small portions may be reproduced for limited purposes, e.g. criticism, research, classroom instruction, news reporting
 - parodies are allowed
 - making private copies for the purposes of viewing at a later time (aka “VCR rule”)

Lawrence Lessig TED Talk

- Link to video on the course webpage. Some questions to think about while you watch it:
 - What is the difference between a read-write culture and a read-only culture?
 - Why is most user-generated content on the Internet considered to be illegal?

Lawrence Lessig TED Talk

- Lessig briefly alludes to the Creative Commons License as a way of allowing derivative works like remixes without giving up complete control.
 - Link to Wikipedia page on CCL on the course webpage
- Have you heard about the Creative Commons License? Have you ever used one for your own creative work?

Types of IP Rights Protection for Industrial Property

- **Patent** - grants an inventor exclusive rights to make, use, sell, and import a novel invention for a limited period of time, in exchange for the public disclosure of the invention, which may be a product or a process
 - Invention must be "non-obvious" and must be useful in some way. It cannot have been described in print previously by others.

Types of IP Rights Protection for Industrial Property

- ***Industrial design right*** - protects the visual design of objects that are not purely utilitarian.
- ***Trademark*** - a recognizable sign, design or expression which identifies products or services of a particular source from those of others. Infringement is based on the likelihood of consumer confusion.

Open Source Software (OSS)

- Software is a special form of IP that does not fit neatly into the existing legal framework
 - Source code is a literary creation, implying that **copyright** protection is most suitable
 - Executable program is functional (machine-like), implying that **patent** protection is most suitable
- Both have been used to protect software

Open Source Software (OSS)

- Open Source Initiative (<http://opensource.org>)
- **Open source** denotes software for which the original source code is made freely available and may be redistributed and modified.
- **Copyleft** license allows user to redistribute open source code with modifications and enhancements under the same license. Most common is GNU GPL (General Public License)

Open Source Software (OSS)

- What are the promoted benefits of OSS?
 - Transparency – can see there are no "backdoors"
 - Technical superiority – collective wisdom will create better quality software than an individual or small group. Raymond's essay "The Cathedral and the Bazaar" (link available on course webpage)

Open Source Software (OSS)

- Some issues for OSS
 - Is this a sustainable business model? Will programmers continue to contribute for altruistic or social-psychological reasons?
 - Projects must be modular to allow many to contribute.
 - There must be authoritative leadership to determine which contributions will be accepted/rejected and to keep project up-to-date.

Assignment 8

- Choose **one** (and only one!) of the following topics:
 - Copyright/Patent
 - Open Source Software
- See next slides for requirements for each

Assignment 8 – Software Copyright/Patent

- Find a software product that has been protected by either copyright or patent.
- Write a 1-2 page essay discussing the following about this products:
 - Explain how copyright or patent is applied to protect the software
 - Any legal or business actions taken by the copyright/patent holder in defending their rights
 - Your own viewpoint on whether software should be protected under copyright, patent, or not at all.

Assignment 8 – Open Source Software

- Find an open-source product, preferably one that you use.
- Write a 1-2 page essay discussing the following about this product:
 - The proprietary competitors of this product
 - The state of the marketplace for these products
 - Any legal or business actions taken by the proprietary competitors in response to open-source competition
 - Your own viewpoint on whether this competition has created a better product (for either product).

Assignment 8

- Research your topic and bring notes to class for a discussion on Thursday, March 2.
- Submit your essay in **PDF format** via LiveText by 11:59pm on **Thursday, March 16** (week after spring break).