Notes

- Midterms not graded
- Denbigh giving Turing lecture next Thursday (probably)
Review

• What’s rms mean?

• What does mean?

• What does refer to?
Patents, Trademarks, and Copyright

**COPYRIGHT**: is a legal right that grants the creator of an original work exclusive rights to its use and distribution.

**Trademark**: protects names, terms and symbols that are used to identify the source of goods and/or services on the market.

**Patent**: is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office.
COPYRIGHT: is a legal right that grants the creator of an original work exclusive rights to its use and distribution

- **Who/What:** Books, plays, music, software, artwork, architectural drawings, maps and similar works
  - Authors, Architects, Artists, Software Engineers – Creative Professionals

- **How long:** Author’s lifetime + 70 years. Cannot be renewed.

- **Note:** An idea cannot be Copyrighted, the work must be tangible
COPYRIGHT: is a legal right that grants the creator of an original work exclusive rights to its use and distribution

- **Fair Use:** Exceptions to copyright, copying for a limited and “transformative” purpose, such as to comment upon, criticize, or parody a copyrighted work without author’s permission.

- **Some Fair Use examples:**
  - commentary
  - search engines
  - criticism
  - parody
  - news reporting
  - research
  - teaching
  - library archiving
COPYRIGHT: is a legal right that grants the creator of an original work exclusive rights to its use and distribution

• **Fair Use:** Exceptions to copyright, copying for a limited and “transformative” purpose, such as to comment upon, criticize, or parody a copyrighted work without author’s permission.

• **Congress asks:**
  1. what is the purpose and character of that use (is it transformative)?
  2. What is the nature of the copyrighted work?
  3. How much – amount and substantiality – of the copyrighted work is used?
  4. And what effect will that use have on actual and potential markets for the work?
Copyright Infringement

http://99designs.com/designer-blog/2013/04/19/5-famous-copyright-infringement-cases/

Issue: Artist made sculptures resembling the image. The sculptor claimed it was a parody, and thus fell under “Fair Use”

Outcome: Judge ruled too specific to be a parody, and the “typical person” would recognize it.
Copyright Infringement

http://99designs.com/designer-blog/2013/04/19/5-famous-copyright-infringement-cases/

**Issue:** Street artist based poster off of freelance photographer’s photo. Street artist claimed fair use, saying it did not diminish the original work’s value.

**Outcome:** The photographer and the street artist settled privately.
Copyright Infringement

http://99designs.com/designer-blog/2013/04/19/5-famous-copyright-infringement-cases/

**Issue:** Artist took several images from a photography book and transformed them – claimed he was giving the new meaning and thus fell under “Fair Use”.

**Outcome:** Originally the courts sided with the photographer, but was later overturned and decided they were in fact “Fair Use” exceptions.
Copyright Infringement

http://99designs.com/designer-blog/2013/04/19/5-famous-copyright-infringement-cases/

**Issue:** Vanilla Ice (Ice Ice Baby) vs David Bowie and Queen (Under Pressure)
Copyright Infringement

_Warner Bros. Entertainment, Inc. and J. K. Rowling v. RDR Books_

**Issue:** RDR Books published an unofficial guide to Harry Potter Universe.

**Outcome:** Courts sided with WB and Rowling. In 2009, RDR released an edited version with quotes removed.
Penalties for Copyright Infringement

- Damages and Revenue lost by copyright owner
- $200 - $150,000 for each work infringed upon
- Infringer pays all court and legal fees
- Infringer can go to jail
- Other bad things...
Copyleft

- an arrangement whereby software or artistic work may be used, modified, and distributed freely on condition that anything derived from it is bound by the same condition.
Patents, Trademarks, and Copyright

**Trademark:** protects names, terms and symbols that are used to identify the source of goods and/or services on the market.
Trademark Infringement

Gucci v Guess

Issue: Guess and Gucci go back and forth about stolen designs / logos.
https://www.youtube.com/watch?v=3bxcc3SM_KA
Patents, Trademarks, and Copyright

**Patent:** is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office (USPTO)

- **Who/What:** Inventors and Designers
- **How long:** 14 ~ 20 years.
- **Covers:** Any new, original, and ornamental design

Read more at: [https://www.legalzoom.com/business/intellectual-property/compare.html](https://www.legalzoom.com/business/intellectual-property/compare.html)
Patents, Trademarks, and Copyright

**Patent:** is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office (USPTO)

- **Utility Patent:** Protects Function
- **Design Patent:** Protects Appearance
- **Plant Patent:** Protects invented or discovered and asexually reproduced a distinct and new variety of plants
Giving credit where credit is due:

Patent Wars:

Apple v Samsung Galaxy

• Patent 5,946,647: “System and method for performing an action on a structure in computer-generated data”
Giving credit where credit is due:

Patent Wars:

Apple v Samsung Galaxy

- Patent 6,847,959: “Universal interface for retrieval of information in a computer system”
Giving credit where credit is due:

**Patent Wars:**

**Apple v Samsung Galaxy**

- **Patent 7,761,414:** “Synchronous data synchronization among devices”
Giving credit where credit is due:

Patent Wars:

Apple v Samsung Galaxy

- Patent 8,046,721: "Unlocking a device by performing gestures on an unlock image"
Giving credit where credit is due:

**Patent Wars:**

**Apple v Samsung Galaxy**

- **Patent 8,074,172:** “Method, system and graphical user interface for providing word recommendations”
Giving Credit where Credit is Due

• Other patent wars between tech giants:
  • **1988 Apple v Microsoft and Xerox v Apple – Who invented the GUI?**
    • Mid 80’s Microsoft released a GUI. It was a pretty big “meh” in the PC world. At the time, people were comfortable using DOS.
    • Apple sued Microsoft for having look and feel of Macintosh Computer
    • Jobs toured Xerox, and allegedly saw their window-type prototype, so Xerox sued Apple
Giving Credit where Credit is Due

• Other patent wars between tech giants:
  • 2003 SCO V IMB, Novel, Red Hat and Chrysler – UNIX code in Linux?
    • SCO, which wasn’t involved with UNIX code, refused to identify the specific segments of the software, claiming that it was a secret which they would reveal only to the court.
    • Fear that users of Linux would be liable
    • Cases fell apart
Giving Credit where Credit is Due

• Other patent wars between tech giants:
  • 2000 NTP v RIM (Blackberry) – Wall Street panic
    • Originally awarded: $53 million
    • Later settled for: $615 million
Break – Coming up, Licenses (!!)
Work in the public domain are those whose intellectual property rights have expired, have been forfeited, or are inapplicable.

- **How to get into the public domain:**
  - it was created before copyright laws
    - example: the Bible
  - its copyright protection has expired
    - example: Moby Dick
  - it never had copyright protection or its protection was lost
    - example: a work published before March 1, 1989 and did not carry a copyright notice
  - it was dedicated to the public domain.
License: Creative Commons

Creative Commons is an organization that gives free, easy-to-use copyright to give the public permission to share and use your creative work — on conditions of your choice.

https://creativecommons.org
Creative Commons

- Attribution
- Attribution – Share Alike
- Attribution – Non Commercial
- Attribution - NoDerivs
License - GPL

**GPL** = GNU’s General Public License

- **COPYLEFT**: Work done under a GPL, MUST stay under the GPL
License - Others

**Apache:**

**MIT License:**

Essentially places work in Public Domain

Gives permission without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sub license, and/or sell copies of the Software.

**BSD License**

Name of the original copyright owner cannot be used to endorse any derivative work without prior permission.
License - Others

Apache - MIT License - BSD License

-Similar to GPL, except does not require work to remain under same license
-Comparison tables of Licenses for Open Source Software:


How then to choose what is right for me?

- Licenses illustrate the protection the creator values most
-If you’re concerned your name will be drug through the mud, a BSD license is for you
-If you want to make sure your software remains free software, GPL is the license for you
How do software companies like YouTube catch copyright infringement?
http://www.ted.com/talks/margaret_stewart_how_youtube_thinks_about_copyright
SOPA and ACTA

• **Stop Online Piracy Act**
  • Introduced in 2011
  • Tabled in 2012 by the House
  • Proposes automatically taking down any website that infringes on copyrighted material, make any person/business that did trade with that website liable, make it a felony to stream pirated material, with a potential jail terms
  • **PIPA (Protect IP Act)** Senate’s version of SOPA, also tabled

• **Anti-Counterfeiting Trade Agreement (International agreement)**
  • Aims to prevent the stealing of copyrighted ideas and material via any medium
  • Several claim it is an infringement on rights and privacy of citizens,
    • Doctors without Borders face new issues
  • At first, full text was not public due to “national security”
File Sharing

- Recording Industry Association of America
- RIAA® members create, manufacture and/or distribute approximately 85% of all legitimate recorded music produced and sold in the United States
- In 2003, RIAA sued 261 Americans for P2P file sharing.
- In the following 5 years over 30,000 Americans have had legal action brought against them (More every month)
- Law suits have resulted in no royalties to artists
- [https://www.eff.org/wp/riaa-v-people-five-years-later](https://www.eff.org/wp/riaa-v-people-five-years-later)
File Sharing

First went after technologies

• As a side note, **P2P is not in itself illegal**
File Sharing

- 1999 – Napster Released
- 2001 – Napster declares bankruptcy, shuts down after bitter battle with RIAA, reopens as legal service
File Sharing

• 2000 – LimeWire Opens
  • Mark Gorton, a former Wall Street trader with degrees from Harvard, Yale, and Stanford

• 2010 – LimeWire closes as instructed by New York Federal court
File Sharing

• 2001 – BitTorrent

• 2003 Pirate Bay

• Numerous court injunctions, still survives
Next, go after users

• First, college students: Settled between $12,000 - $17,500
• Then a little more widespread:
  • Force ISP providers to give names/addresses of users who are illegally downloaded materials.
  • Digital Millennium Copyright Act (DMCA) in 1998 - copyright owner is entitled to issue a subpoena to an ISP seeking the identity of a subscriber accused of copyright infringement
  • Courts overturned
  • Now issue “John Doe” Lawsuits – determine IP of uploaders, go to the court to obtain name from ISP and either settle or update lawsuit from “John Doe” to uploader’s name.
Clean Slate Program: How about Amnesty?
• RIAA offered amnesty if you voluntarily turned yourself in, deleted all illegal content, and signed a waiver to not do it again – the RIAA will not go after you
• BUT, could not protect against civil lawsuits since it does not own copyrights, and does not apply to individuals previously or currently being investigated.
• Program only lasted one year, with only a little over 1100 people opting for this
Economics of Pirates

- Spending on music has declined since 1997, largely because of P2P programs according to the RIAA
- BUT, many studies indicate that more money going into the industry comes from pirates than non-pirates
  - This article claims that pirates buy 10X the music
Economics of Pirates

Discussion

• Is it the P2P (peer 2 peer) programs responsibility to police the content being shared?
• Do you think ACTA is an invasion of privacy?
• Does it matter if pirates also are the people who pay the most? Should it?
• What is a “fair” punishment for those who illegally download media?