

**Legal Impacts of Open Source and Free
Software Licenses/
Software Development Using OSS/FS Licenses**

Week 11

Team Homework Assignments

- #1: SRS
 - Sept. 29th
- #2 : SDD
 - Oct. 27th
- #3: Use case diagram & implementation plan
 - Oct. 20th
- #4: the snapshot(s) of the user interface
 - Oct. 27th
- #5: Inspect other team's SRS document and fill out the review form
 - Oct. 13th
- #6: Inspect other team's documents and fill out the review form
 - Oct. 27th
- #7: Summarize three articles/papers on open source software development process
 - Nov. 10th
- #8: Summarize three articles/papers on software development process using open source software
 - Nov. 17th

Extra Team Homework Assignment

- 1) Survey and summarize open source software tools based on the SWEBOK key areas (except the last key area). In other words, list software engineering tools available for each key area. The SWEBOK key areas are available at http://www.csun.edu/~twang/595OSE/HomeworkAssignments/SWEBOK_Guide_2004.pdf, at pages 1-8 (Figure 2) and 1-9 (Figure 3).
- 2) Explain open source software technologies (or tools) which you use for your group project.
 - Prepare for the slides for both 1) and 2).
 - Due date
 - The beginning of the Nov. 17th lecture

Intellectual Property

- Copyright
- Patent
- Trademarks

True of False?

- Art is said to be the product of our right brain, the right hemisphere of our cerebral cortex that supposedly controls feelings and emotions. Scientific creations, it is said, are the product of our left brain, the left hemisphere that uses logic.

True of False?

- Our right brain creations are in the nature of expression , most often found in painting, music, fiction, and poetry. Our left brain creations are in the nature of Idea , found in our scientific and technical innovations. Expressions are subject to copyright law; ideas are subject to patent law. (A third form of intellectual property is trademark.)

True or False

- The boundary line between expression and idea is very fuzzy in computer software. There may be two hemispheres, but there is one brain, and ultimately the software products of our creative intellect are simultaneously art and science, simultaneously expression and idea.

True of False?

- Donald Knuth's program ("The Art of Computer Programming") are truly works of art in ways sometimes unrelated to the functions they performed. The way Knuth expressed a particular algorithm became an object of beauty. Only someone who has written a tight computer program that does something well can appreciate how much expression goes into writing a piece of software and how emotionally rewarding that creative process can be simply because of the elegance and precision of the code.

True of False?

- A drawing of a dog made on a café napkin is copyrighted simultaneously with its creation and is the sole property—barring any contractual abrogation of the copyright—of its creator.

True of False?

- Truth be known, both perspectives are correct. When we create software, we create both copyrightable expressions and patentable ideas. The best functioning software is often the best-written software.

True of False?

- Under the laws of the United States (and of European countries, through the Berne Convention, and of members of the World Trade Organization through the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights), copyright is automatically attached to every novel expression of an idea, whether through text, sounds, or imagery.

True of False?

- United States, the period protected by copyright is very long indeed: the life of the creator plus 70 years, or in the case of works made “for hire” or by creators who are not identified, 95 years from the date of publication or 120 years from the date of creation, whichever is shorter.

True or False?

- The creator of this drawing has a monopoly on the depiction of dogs. Copyright law does not protect any particular idea. Rather, copyright protects only the expression of that idea.

True of False?

- A copyright does not need to be registered to be legally effective. As already noted, a copyright comes into force when the protected work is created. While registration of the work with the United States Copyright Office has some effect on the rights of the copyright holder, it is not required.

True of False?

- Works currently in the public domain include thousands of songs and musical works, novels, poems, stories, and histories written before the twentieth century. Anyone is free to commercially exploit such works by selling copies of those works, creating derivative works based upon them, and by distributing or displaying the work publicly.

True of False?

- Creators rarely take advantage of these rights by themselves. The production and distribution of works on a large scale has historically been capital-intensive, so creators of works have generally relied on others to produce the physical copies of their works and distribute them.

True of False?

- The creator, naturally, wishes to retain both control over the use of the work and the income stream derived from commercial exploitation of the work. The publisher, whether a book company, a record label, or a film studio similarly wishes to retain exactly those same things: control over and income from the work. Because publishing is a capital intensive business, the dynamic tends to strongly favor the publisher over the creator of the work, except in the exceptional case of creators who have both a proven track record of generating income from their work.

True or False?

- The most typical trade made between creators and publishers is the licensing of the work in exchange for payments, known as royalties. In the case of books, authors are generally entitled to royalties on every copy sold by the publisher. Music royalties are more complicated because there are more venues in which music can be sold or publicly performed, but the principle is the same. Royalties are generally owed to the songwriter for every copy of an album sold (mechanical royalties), for play on jukeboxes or on the radio (performance royalties), and for use on television or in films (synchronization royalties).

True of False?

- Software publishing, the subject with which this book is primarily concerned, generally does not involve the payment of royalties to individuals. Because commercial software is made, as a general matter, by large teams of people and requires the substantial expenditure of capital, the resulting work is “work for hire.” As already discussed, the copyright of such works belongs to the employer, which, in the case of software, is usually also the publisher and the distributor of the software itself.

True of False?

- Patents, however, present more complicated issues. It is more difficult to obtain and retain a patent in the first place, and there is always a risk of possible, and possibly unknowing, infringement of a patented process by the licensor, and, accordingly, by his or her licensees.

True of False?

- Unlike copyright protection, which does not even require filing or a formal notice on the copyrighted work, obtaining a patent from the Office of Patent and Trademark requires filing of relatively complex and laborious paperwork, including, most importantly, some explanation of the novelty of the patent in question and how it differs from processes or mechanisms already known. This generally requires the participation of an experienced patent lawyer.

True of False?

- But obtaining the patent is not even half the struggle. Because of the profitability of patent royalties, patent holders tend to be very jealous of their rights and patrol the boundaries of their patents vigorously, attempting through the courts to extend the boundaries of their patents as much as possible and at the same time to narrow the scope of patents held by others. This can be, as you may imagine, an extremely expensive and time-consuming ordeal.

True or False?

- A trademark is designated by the following symbols:
 - TM (for an unregistered trade mark, that is, a mark used to promote or brand goods)
 - SM (for an unregistered service mark, that is, a mark used to promote or brand services)
 - [®] (for a registered trademark)

True of False?

- A trademark is typically a name, word, phrase, logo, symbol, design, image, or a combination of these elements. There is also a range of non-conventional trademarks comprising marks which do not fall into these standard categories, such as those based on color, smell, or sound.

True of False?

- The owner of a registered trademark may commence legal proceedings for trademark infringement to prevent unauthorized use of that trademark. However, registration is not required. The owner of a common law trademark may also file suit, but an unregistered mark may be protectable only within the geographical area within which it has been used or in geographical areas into which it may be reasonably expected to expand.

True of False?

- The term trademark is also used informally to refer to any distinguishing attribute by which an individual is readily identified, such as the well known characteristics of celebrities. When a trademark is used in relation to services rather than products, it may sometimes be called a service mark, particularly in the United States.

True of False?

- Unlike other forms of intellectual property (e.g., patents and copyrights) a registered trademark can, theoretically, last forever. So long as a trademark's use is continuous a trademark holder may keep the mark registered with the U.S. Patent and Trademark Office by filing Section 8 Affidavit(s) of Continuous Use as well as Section 9 Applications for renewal, as required.

Lab Activities

- Work on team homework assignments
- Implement the group project
- Submit a weekly project progress report, addressing