

CCT490: Week 8

Intellectual Property, Software, and the Free Software Movement

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Practically Speaking

Patents:

for devices

Copyright:

for books

Baker v. Selden (1879)

Patents:

ideas (for building things)

Copyright:

(embodied) expression

Software

Patents:

USPTO: “not really” (1960s)

Copyright:

A text? Maybe... (US: 1964–)

Trade Secrecy:

An open secret?

Why in 1960s?

“Five Worlds”

1. Shrinkwrap
2. Internal
3. Embedded
4. Games
5. Throwaway

“Five Worlds”

2. Internal

5. Throwaway

1. Shrinkwrap

4. Games

3. Embedded

CONTU

“computer programs, to the extent that they embody an author’s original creation, are proper subject matters of copyright”

Implementation (US)

Computer Software Copyright
Act of 1980:

- Added “computer programs”
to the 1976 Copyright Act
- Applies to *binary* software too

Nuts and Bolts

Reverse engineering

- ok (exceptions apply)

Protection for user interface

- generally ok to copy
(“virtual identity” standard)

Canada

Implemented as one of the 1988 amendments to Copyright Act

covers “computer programs”, defined as “a set of instructions or statements, expressed, fixed, embodied, or stored in any manner, that is to be used directly or indirectly by a computer to bring about a specific result”

Special 301 Reports

Possible US trade sanctions against countries not offering IP protection

WIPO and TRIPS (1990s)

“harmonization”

Both require copyright
protection for software

Software Patents

(those are not exactly patents
on *software* per se)

the boundaries are a bit blurry

“machine-or-transformation test”

Bayh-Dole Act (US, 1980)

IP for publicly funded research

Questions?

Richard Stallman



the GNU Project

Two Questions

1. Why?

2. How?

Collective Action Problem

Stallman's Three Part Answer

a social movement
with “ideology”





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