

# 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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