



A Brief Tour of Software Intellectual Property: Licenses, Patents, and Copyrights

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Software Intellectual Property

- Copyright © (IP)
- Software License (Contract)
- “Copyleft” / Open Source (Contract)
- Patent (IP)
 - Patent Litigation
 - Patent “Trolls”
 - 2011 Patent Law Reform

What is Intellectual Property?

- Bundle of property rights
 - Buy / sell / trade / inherit / use as collateral
 - Exclude others
 - Control
- Property itself is intangible

Copyright

- Literally: “right to copy” some protected work
- Right to be credited
- Comes from the US Constitution
 - Art. I, Sec. 8, Clause 8

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Copyright

- Duration
 - Originally 14 years, then work becomes public domain
 - Now 70 years after author's death (thank you Disney)
- Must be an original work
- Typically applied to source code
- Automatic protection
- Can register with the US Copyright Office
 - Required to enforce in court
- Subject to “first sale doctrine”

Software License

- Licensed, not sold -> avoids “first sale doctrine”
- Based on Contract Law
- End User License Agreement (EULA)
- Legally binding, even if you don't read it!
 - Within reason

Copyleft

- Protected work is non-restrictive
- Modified, extended work must also be non-restrictive
- Form of software license (i.e. contract)

GNU Public License (GPL)

- Latest GPLv3 released 2007
- Written by Richard Stallman
- FSF holds copyright to license text
- Key clause: **derivative** works must also be GPL
 - But what is a derivative work?
- LGPL: can link to other software under a different license

Open Source

- Free as in speech (open source)

vs

- Free as in beer (freeware)

- Common FOSS licenses:

- BSD

- Apache

- MIT

- WTFPL: Do What The F*ck You Want Public License

Patent

- Based on an “invention”
- Comes from US Constitution
- Gov’t grants a temporary monopoly
 - Prevent others from using
 - Can require license agreements (\$\$) for use
 - 20 years after filing
- After expiration, becomes public domain

Patent

- 35 U.S.C. §101

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- Invention must be non-obvious
- Invention must be novel
- Consider “prior art”

What's With All These Patent Suits?

- Apple vs Android OEMs

- Android a clone of iOS?

- Oracle vs Google

- Android violates Java patents?

- Microsoft vs Android OEMs

- Microsoft estimates it now gets a cut of the revenue of over half of Android smartphones.*

What US Patents Are Being Contested?

5,579,517 ('95) – short / long filenames

6,621,746 ('02) – erasing dirty segments of flash memory

6,826,762 ('01) – 3G Radio Interface Layer (API)

6,909,910 ('02) – Add a contact from your call log

7,644,376 ('04) – Notification system

5,664,133 ('96) – Context-sensitive pop-up menu

6,578,054 ('98) – File caching and reconciliation (e.g. Google Docs or Dropbox)

5,946,647 ('96) – A system and method causes a computer to detect and perform actions on structures identified in computer data.

Patent “Trolls”

- Non-practicing Entities
- Patent Holding Companies
- Nathan Myhrvold & Intellectual Ventures
- Marshall, TX ??



Patent Law Reform of 2011

- Leahy-Smith America Invents Act (AIA)
- First-inventor-to-file
- Post-grant review
- Prior use rules
- More patent examiners, more offices