



# **INTELLECTUAL PROPERTY RIGHTS**

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# OUTLINE

- Introduction
- Confidential Information
- Patents
- Copyright
- Acts permitted to copyright
- Remedies for breach of Copyright
- Plagiarism

# INTRODUCTION

- Intellectual property rights are often the most valuable assets owned, used and developed by a software house.
- Intellectual property rights include:
  - Confidential information
  - Patents
  - trade marks
  - Designs
  - Copyrights protecting computer programs

## INTRODUCTION (conti...)

- They protect information stored by electronic means and all of the paperwork that accompanies a program, such as the user manual, plus any multimedia packages and most items on the Web.
- Great care should be taken to protect, exploit, and enforce intellectual property.

## INTRODUCTION (conti...)

- The name under which a product is sold may be registered as a **trademark**
- the hardware or a process used in its manufacture may be protected by a **patent**
- the look of the product may be registered in the **Designs Registry**
- software can be protected by **copyright**
- the know-how which goes into the development of the product may be protected as **confidential information**

# INTRODUCTION (conti...)

- Unauthorized use of intellectual property can be stopped by injunction and damages may be sought for infringement of these rights
- The law is constantly changing with technological advances.
- General Agreement on Tariffs and Trade (GATT) concerned the protection of intellectual property rights in the face of widespread piracy of software products

# CONFIDENTIAL INFORMATION

- Information "which is not public property and public knowledge"
- Any category of information, from personal confidences, to trade secrets and sensitive government information, any or all of which a computer scientist might handle in the course of his or her work, or all or any of which a firm may want to protect against unauthorized use or disclosure by others.
- Information will be protected only if it is confidential. Non-confidential information, unless protected, e.g. by copyright or a patent is deemed to be in the public domain and can be used by anyone.

# CONFIDENTIAL INFORMATION

Three conditions must be satisfied before an action for breach of confidence can succeed:

- the information must be confidential
- the information must have been disclosed in circumstances which gives rise to an obligation of confidence
- there must be an actual or anticipated unauthorized use or disclosure of the information

# PATENT

- A government authority conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention.
- A patent gives an inventor a monopoly on an invention. This means that the inventor is given the exclusive right to use or exploit the invention for a defined period.

# PATENT

- The monopoly granted by patent law is so strong, that the owner of a patent may even exclude independent inventors from the market
- The better the patent and the more commercially desirable the breakthrough, the more likely it is to be challenged.
- For example, if competitors can produce a similar product or process, that is not covered by the patent, they will be free to market it and to erode the commercial advantage of the patentee. If they can prove that the subject matter of the patent has been used or disclosed before, they can invalidate the patent.

# PATENT

- Patent Act merely sets out a number of criteria which must be satisfied before an invention can be patented
- a patent may only be granted if:
  - the invention is new
  - it involves an inventive step
  - it is capable of industrial application
  - the subject matter of the invention does not fall within an excluded class

# PATENT

- It is possible to patent something which is more than just a program something that can be called, for simplicity, a "program plus"
- A computer program is not excluded from patentability if it produced, or is capable of producing, a further technical effect beyond the normal physical interaction between software and hardware, i.e. it is potentially patentable if it makes something else do something.

# COPYRIGHT

- The exclusive legal right, given to an originator or an assignee to print, publish, perform material, and to authorize others to do the same
- Copyright protects more items generated by businesses or by individuals than any other aspect of intellectual property law
- It can protect business letters, manuals, diagrams, computer programs
- Copyright owners face the specter of unlimited piracy through uncontrolled copying with the advent of the internet

# COPYRIGHT

- What we will probably see over the next few years are stronger laws, more rights for copyright owners, widespread licensing schemes and greater use of technical anti-piracy or copy-monitoring devices and electronic rights management systems
- Copyright law gives six exclusive rights to the owner of copyright:
  - copy the work
  - issue copies to the public

# COPYRIGHT

- rent or lend the work to the public
- perform, play, or show the work in public
- broadcast the work or include it in a cable-programmed service
- adapt the work or to do any of the above with an adaptation
- The rights apply equally to published and unpublished works.

# Acts permitted to copyright

Some acts are permitted under the 1988 Act, even though they would otherwise amount to breach of copyright.

- Fair dealing
- Making backup copies of computer programs
- Transfers of works in electronic form
- De-compilation for the purpose of interoperability
- Error correction
- Databases

# Remedies for breach of Copyright

- A copyright owner has all the usual civil remedies of search, injunction, damages, and an action for an account of profits made in breach of copyright
- If it is shown that at the time of the infringement of copyright, the defendant did not know and had no reason to believe that copyright subsisted in the work, then the plaintiff is not entitled to damages against the defendant

# Remedies for breach of Copyright

- A copyright owner is also given an important power to enter premises without using force in order to seize infringing copies, or articles specifically designed or adapted for making copies

# PLAGIARISM

- the practice of taking someone else's work or ideas and passing them off as one's own.
- All of the following are considered plagiarism:
  - turning in someone else's work as your own
  - copying words or ideas from someone else without giving credit
  - failing to put a quotation in quotation marks

# PLAGIARISM (conti...)

- giving incorrect information about the source of a quotation
- changing words but copying the sentence structure of a source without giving credit
- for a computer program changing variable names only, or not changing the structure or flow of a program



**THANK YOU!**