Ethics in Information Technology, Fourth Edition

Intellectual Property

Objectives

- As you read this chapter, consider the following questions:
    - What does the term intellectual property encompass, and why are organizations so concerned about protecting intellectual property?
    - What are the strengths and limitations of using copyrights, patents, and trade secret laws to protect intellectual property?
    - What is plagiarism, and what can be done to combat it?

Objectives (cont'd.)

- What is reverse engineering, and what issues are associated with applying it to create a look-alike of a competitor's software program?

- What is open-source code, and what is the fundamental premise behind its use?

- What is the essential difference between competitive intelligence and industrial espionage, and how is competitive intelligence gathered?

- What is cybersquatting, and what strategy should be used to protect an organization from it?

What Is Intellectual Property?

- Term used to describe works of the mind
  - Distinct and "owned" or created by a person or group
  - Books-film-formulas-inventions-music-process
- Copyright law
  - Protects authored works
- Patent law
  - Protects inventions
- Trade secret law
  - Helps safeguard information critical to an organization's success

What Is Intellectual Property?

- Together, copyright, patent, and trade secret legislation forms a complex body of law that addresses the ownership of intellectual property.

- Potential ethical problems with such laws
  - Stifle creativity
  - While inventors want to control and get compensation

- Million-dollar question
  - Should the need for ongoing innovation or the rights of property owners govern how intellectual property is used?

What Is Intellectual Property?

- Defining and controlling levels of access to IP are complex tasks

- Incase of software

  - Sometimes an expression, which is protected under copyright

  - Sometimes process of changing computer's internal structure, protected under patent law

Copyrights

- Established in the U.S. Constitution
  - Article I, Section 8, Clause 8
- Grants creators of original works the exclusive right to:
  - Distribute
  - Display
  - Perform
  - Reproduce work
  - Prepare derivative works based upon the work
- Author may grant exclusive right to others

Copyrights (cont'd.)

- Copyright protection is granted to the creators of "original works of authorship in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device."
- The author may grant this exclusive right to others.

Copyrights (cont'd.)

- Copyright infringement
  - is a violation of the rights secured by the owner of a copyright.
  - Infringement occurs when someone copies a substantial and material part of another's copyrighted work without permission.
  - Piracy?

Copyrights (cont'd.)

- Copyright term
  - Copyright law guarantees developers the rights to their works for a certain amount of time
- Sonny Bono Copyright Term Extension Act
  - Created after 1/1/78, life of the author plus 70 years
  - Created but not published or registered before 1/1/78, life of the author plus 70 years; no expiration before 12/31/2004
  - Created before 1978 still in original or renewable term of copyright, 95 years from the date the copyright was originally secured

Copyrights (cont'd.)

- Types of work that can be copyrighted
  - Architecture
  - Art
  - Audiovisual works
  - Choreography
  - Drama
  - Graphics
  - Literature
  - Motion pictures

Copyrights (cont'd.)

- Types of work that can be copyrighted (cont'd.)
  - Music
  - Pictures
  - Sculptures
  - Sound recordings
  - Other intellectual works:
    - As described in Title 17 of U.S. Code
- Copyright laws flexible for new technologies
  - Software, games, multimedia, web pages etc

Copyrights (cont'd.)

- Must fall within one of the preceding categories
- Must be original
  - Evaluating originality can cause problems
- Works not eligible for copyright
  - Not fixed in tangible form
  - Common terms, no original authorship

Copyrights (cont'd.)

- Fair use doctrine
  - Allows portions of copyrighted materials to be used without permission under certain circumstances
  - Maintains balance between protecting an author's rights and enabling public access to copyrighted works
  - Factors to consider when evaluating the use of copyrighted material

Copyrights (cont'd.)

- Fair use doctrine factors include:
  - Purpose and character of the use
  - Nature of the copyrighted work
  - Portion of the copyrighted work used
  - Effect of the use upon the value of the copyrighted work
  - Key concept: an idea cannot be copyrighted, but the expression of an idea can be
- No copyright infringement if two parties develop similar work

Copyrights (cont'd.)

- The Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008
  - Increased enforcement and substantially increased penalties for infringement
- General Agreement on Tariffs and Trade (GATT)
  - Trade agreement between 117 countries
  - Created World Trade Organization (WTO)
  - Despite GATT, copyright protection varies greatly from country to country

Copyrights (cont'd.)

- The WTO and the WTO TRIPS Agreement (1994)
  - Many nations recognize that intellectual property has become increasingly important in world trade
  - Established minimum levels of protection that each government must provide to the intellectual property of members
  - Covers copyright, patents, and trade secrets

Copyrights (cont'd.)

TABLE 6-1 Summary of the WTO TRIPS Agreement

Form of intellectual property	Key terms of agreement
Copyright	Computer programs are protected as literary works. Authors of computer programs and producers of sound recordings have the right to prohibit the commercial rental of their works to the public.
Patent	Patent protection is available for any invention—whether a product or process—in all fields of technology without discrimination, subject to the normal tests of novelty, inventiveness, and industrial applicability. It is also required that patents be available and patent rights enjoyable without discrimination as to the place of invention and whether products are imported or locally produced.
Trade secret	Trade secrets and other types of undisclosed information that have commercial value must be protected against breach of confidence and other acts that are contrary to honest commercial practices. However, reasonable steps must have been taken to keep the information secret.

Activate Wind

Copyrights (cont'd.)

- World Intellectual Property Organization (WIPO)
  - Agency of the United Nations
  - Advocates for the interests of intellectual property owners
  - WIPO Copyright Treaty provides additional copyright protections for electronic media

Copyrights (cont'd.)

- Digital Millennium Copyright Act (DMCA)
  - Implementation of WIPO treaty
  - Civil and criminal penalties included
  - Governs distribution of tools and software that can be used to circumvent technological measures used to protect copyrighted works
  - Provides safe harbors for ISPs whose customers/subscribers may be breaking copyright laws
    - ISP must comply with "notice and takedown procedures" that grant copyright holders a process to halt access to alleged infringing content

Copyrights (cont'd.)

- Digital Millennium Copyright Act (DMCA)
  - The DMCA added new provisions, making it an offense to do the following:
    - Circumvent a technical protection
    - Develop and provide tools that allow others to access a technologically protected work
    - Manufacture, import, provide, or traffic in tools that enable others to circumvent protection and copy a protected work
    - Example to follow

Copyrights (cont'd.)

Several cases brought under the DMCA have dealt with the use of software to enable the copying of DVD movies. For example, motion picture companies supported the development and worldwide licensing of the Content Scramble System (CSS), which enables a DVD player (shown in Figure 6-1) or a computer drive to decrypt, unscramble, and play back motion pictures on DVDs, but not copy them. However, a software program called DeCSS can break the encryption code and enable users to copy DVDs. The posting of this software on the Web in January 2000 led to a lawsuit by major movie studios against its author. After a series of cases, courts finally ruled that the use of DeCSS violated the DMCA's anticircumvention provisions.

Copyrights (cont'd.)

- Digital Millennium Copyright Act (DMCA)
  - Opponents of DMCA say that it gives holders of intellectual property so much power that it actually restricts the free flow of information.
  - For example, under DMCA, Internet service providers (ISPs) are required to remove access to Web sites that allegedly break copyright law—even before infringement has been proven.
  - Companies that provide Internet access to music and videos face legal action and the failure of their businesses if they do not gain approval to publish content from the music and movie industries.

Patents

- Grant of property right to inventors
- Issued by the U.S. Patent and Trademark Office (USPTO)
- Permits an owner to exclude the public from making, using, or selling the protected invention
- Allows legal action against violators
- Prevents independent creation as well as copying
- Extends only to the United States and its territories and possessions

Patents (cont'd.)

- Applicant must file with the USPTO
  - USPTO searches prior art
  - Takes an average of 35.3 months from filing an application until application is issued as a patent or abandoned
- Prior art
  - Existing body of knowledge

Patents (cont'd.)

- An invention must pass four tests
  - Must be in one of the five statutory classes of items
  - Must be useful
  - Must be novel
  - Must not be obvious to a person having ordinary skill in the same field
- Items cannot be patented if they are:
  - Abstract ideas
  - Laws of nature
  - Natural phenomena

Patents (cont'd.)

- Patent infringement
  - Making unauthorized use of another's patent
  - No specified limit to the monetary penalty
  - Most common defense is counterattack
  - Plaintiff must still prove that every element of the claim was infringed
  - Infringement caused some kind of financial loss

Patents (cont'd.)

- Software patent
  - Protects feature, function, or process embodied in instructions executed on a computer
- 20,000 software-related patents per year have been issued since the early 1980s
- Some experts think the number of software patents being granted inhibits new software development

Patents (cont'd.)

- Software patent
  - Prior to 1981, the courts regularly turned down requests for such patents, giving the impression that software could not be patented.
  - In the 1981 Diamond v. Diehr case, the Supreme Court granted a patent to Diehr, who had developed a process control computer and sensors to monitor the temperature inside a rubber mold.
  - The USPTO interpreted the court's reasoning to mean that just because an invention used software did not mean that the invention could not be patented.

Patents (cont'd.)

- Software patent
  - Since the early 1980s, the USPTO has granted as many as 20,000 software-related patents per year.
  - Applications software, business software, expert systems, and system software have been patented, as well as such software processes as compilation routines, editing and control functions, and operating system techniques.
  - Even electronic font types and icons have been patented

Patents (cont'd.)

- Before obtaining a software patent, do a patent search

- Software Patent Institute is building a database of information

- Too many software patents inhibiting new software development

  - Example to follow

Patents (cont'd.)

– In October 1999, Amazon.com sued Barnes & Noble for allegedly infringing this patent with its Express Lane feature.

– The filing of the suit prompted many complaints about the issuing of patents to business methods, which critics deride as overly broad and unoriginal concepts that do not merit patents.

– Some critics considered one-click shopping little more than a simple combination of existing Web technologies.

– Following preliminary court hearings and the discovery that others had used the one-click technology before Amazon.com even began business, Amazon.com and Barnes & Noble settled out of court in March 2002.

Patents (cont'd.)

- Software engineers rarely take the time to search patent databases for new inventions
that could benefit their projects,
  - partly because software patents are described in obscure language
  - partly because engineers risk paying triple damages for knowingly infringing one.
  - As a result, many software patent infringements are for independent inventions—example to follow

Patents (cont'd.)

- Software engineers rarely take the time to search patent databases for new inventions
  - Cygnus Systems alleged in late 2008 that Apple, Google, and Microsoft infringed a patent that Cygnus filed for in 2001.
  - Cygnus says that the three firms violated its patent on use of document-preview icons, or thumbnails.
  - Cygnus alleges that Apple's iPhone, Safari Internet browser, and Mac OS X Leopard operating systems; Google's Chrome browser; and Microsoft's Vista OS operating system and Internet Explorer 8 all employ this technology.
  - Because this is such a commonly used technology, many more companies may be sued for patent infringement.

Patents (cont'd.)

- ## Software cross-licensing agreements
  - Large software companies agree not to sue each other over patent infringements
    - For example, Microsoft is working to put in place 100 or more agreements with firms such as IBM 2010
    - This strategy to obtain the rights to technologies that it might use in its products provides a tremendous amount of development freedom to Microsoft without risk of expensive litigation
  - Small businesses have no choice but to license patents if they use them

Patents (cont'd.)

- **Defensive publishing**
  - Alternative to filing for patents
  - Company publishes a description of the innovation
  - Establishes the idea's legal existence as prior art
  - Costs mere hundreds of dollars
  - No lawyers
  - Fast
- **Patent troll firm**
  - Acquires patents with no intention of manufacturing anything; instead, licensing the patents to others

Patents (cont'd.)

- Patent troll firm
  - Intellectual Ventures is an example of such a firm; it has built a portfolio of more than 20,000 patents, most for IT-related technology.
  - Google, Intel, eBay, NVIDIA, SAP, Sony, Microsoft, Nokia, and other IT firms invested money in Intellectual Ventures in exchange for licenses to patents in the portfolio.
  - Some IT organizations pay large amounts of money for the right to use one or more of these patents

Patents (cont'd.)

- **Standard is a definition or format**
  - Approved by recognized standards organization or accepted as a de facto standard by the industry
  - Enables hardware and software from different manufacturers to work together

Patents (cont'd.)

- Submarine patent
  - Patented process/invention hidden within a standard
    - Standards exist for communication protocols, programming languages, operating systems, data formats, and electrical interfaces
    - Standards are extremely useful because they enable hardware and software from different manufacturers to work together
  - Does not surface until standard is broadly adopted

Patents (cont'd.)

- Patent farming involves:
  - Influencing a standards organization to make use of a patented item without revealing the existence of the patent
  - Demanding royalties from all parties that use the standard
  - Example

Patents (cont'd.)

- Patent farming involves:
    - One possible example of a submarine patent used in patent farming could be U.S. Patent 5,838,906, which is owned by the University of California and licensed exclusively to a small software company called Eolas Technologies.
    - The patent describes how a Web browser can use external applications.
    - The University of California did not make the patent known for years and then sued Microsoft for use of the principle detailed in the patent.

Patents (cont'd.)

- Patent farming involves:

  - The university and Eolas received a $520 million award in August 2003 after a federal jury found that Microsoft's Internet Explorer browser infringed the patent.

  - In November 2003, the patent office began a review of the patent based on a request from world-renowned Tim BernersLee, father of the World Wide Web and director of the World Wide Web Consortium. He argued that the 1998 patent should be invalidated because of the existence of prior art, or previous examples of the technology's use. In January 2004, a federal judge upheld the original decision, requiring Microsoft to pay $520 million on grounds that Internet Explorer infringed the patent.

Patents (cont'd.)

Another possible example of patent farming involved Rambus, a designer and manufacturer of computer memory technology. Rambus allegedly influenced a standards organization to adopt its technology as part of an industry standard, without disclosing that it had a patent application in process. By 2000, Rambus was enmeshed in a series of lawsuits with many of the world's leading memory chip makers, including Infineon in Germany, Micron

Technology in the United States, and Hynix Semiconductor in South Korea. Rambus claimed that rival producers of dynamic RAM chips (shown in Figure 6-2) infringed its patents. Collectively, the penalties for patent infringement could have been worth hundreds of millions of dollars. Infineon and Rambus reached a settlement in March 2005 that required Infineon to pay Rambus $47 million for a global license to all existing and future Rambus patents for use in Infineon products until 2007.[32] In January 2009, a U.S. district court ruled that Rambus had destroyed documents pertinent to the Micron patent infringement lawsuit and barred it from enforcing patents against Micron.[33] In May 2009, the court ruled in favor of Rambus in its case against Hynix and ordered Hynix to raise money to pay Rambus $397 million for patent violations.[34]

Trade Secrets

- Trade secret
  - Business information
  - Represents something of economic value
  - Requires an effort or cost to develop
  - Some degree of uniqueness or novelty
  - Generally unknown to the public
  - Kept confidential
- Information is only considered a trade secret if the company takes steps to protect it

Trade Secrets (cont'd.)

- Trade secret law has a few key advantages over patents and copyrights
  - No time limitations
  - No need to file an application
  - Patents can be ruled invalid by courts
  - No filing or application fees
- Law doesn't prevent someone from using the same idea if it is developed independently
- Trade secret law varies greatly from country to country

Trade Secret Laws

- Uniform Trade Secrets Act (UTSA)
    - Established uniformity across the states in area of trade secret law
    - Computer hardware and software can qualify for trade secret protection
- The Economic Espionage Act (EEA) of 1996
    - Penalties of up to $10 million and 15 years in prison for the theft of trade secrets

Employees and Trade Secrets

- Employees are the greatest threat to trade secrets
- Unauthorized use of an employer's customer list
  - Customer list is not automatically considered a trade secret
  - Educate workers about the confidentiality of lists
- Nondisclosure clauses in employee's contract
  - Enforcement can be difficult
  - Confidentiality issues are reviewed at the exit interview

Employees and Trade Secrets

- Defining reasonable nondisclosure agreements can be difficult, as seen in the following example involving Apple.
  - In addition to filing hundreds of patents on iPhone technology, the firm put into place a restrictive nondisclosure agreement to provide an extra layer of protection.
  - Many iPhone developers complained bitterly about the tough restrictions, which prohibited them from talking about their coding work with anyone not on the project team and even prohibited them from talking about the restrictions themselves.
  - Eventually, Apple admitted that its nondisclosure terms were overly restrictive and loosened them for iPhone software that was already released

Employees and Trade Secrets

For example, the Ohio State
   Supreme Court upheld a verdict against a man who
   left a financial services firm and recruited former
   clients to start his own firm. His former employer
   sued him, even though the former employee had not
   stolen a client list. "This ruling says, it doesn't matter
   if the confidential list is on paper or in your memory if
   it qualifies as a trade secret

Employees and Trade Secrets (cont'd.)

- Noncompete agreements
  - Protect intellectual property from being used by competitors when key employees leave
  - Require employees not to work for competitors for a period of time
  - Wide range of treatment on noncompete agreements among the various states
  - Examples

Employees and Trade Secrets (cont'd.)

- Noncompete agreements
    - The employee agrees as a condition of employment that in the event of termination for any reason, he or she will not engage in a similar or competitive business for a period of two years, nor will he or she contact or solicit any customer with whom Employer conducted business during his or her employment. This restrictive covenant shall be for a term of two years from termination, and shall encompass the geographic area within a 100-mile radius of Employer's place of business.

Employees and Trade Secrets (cont'd.)

- Noncompete agreements
  - IBM sued Mark Papermaster, a microchip expert, for violating a noncompete agreement when he announced that he intended to leave the company to join Apple as its head of device hardware engineering. The lawsuit was settled when Papermaster agreed to report to IBM should he suspect that any breakthroughs he develops at Apple infringe on proprietary or confidential information he learned while working at IBM. Papermaster must also twice submit to IBM a written declaration that states he is not using confidential IBM material in his role at Apple

Key Intellectual Property Issues

- Issues that apply to intellectual property and information technology
  - Plagiarism
  - Reverse engineering
  - Open source code
  - Competitive intelligence
  - Trademark infringement
  - Cybersquatting

Plagiarism

- Stealing someone's ideas or words and passing them off as one's own
- Many students:
  - Do not understand what constitutes plagiarism
  - Believe that all electronic content is in the public domain
- Plagiarism is also common outside academia
- Plagiarism detection systems
  - Check submitted material against databases of electronic content

Plagiarism Examples

Reporter Jayson Blair resigned from the *New York Times* after he was accused of plagiarism and fabricating quotes and other information in news stories. Executive Editor Howell Raines and Managing Editor Gerald Boyd also resigned in the fallout from the scandal.[41]

Science fiction writer Harlan Ellison successfully sued movie director James Cameron for taking key elements from two different episodes of the TV series *The Outer Limits*—written by Ellison—and using them in the 1984 classic movie *The Terminator*.[42]

Plagiarism (cont'd.)

TABLE 6-3 Partial list of plagiarism detection services and software

Name of service	Web site	Provider
iThenticate	www.ithenticate.com	iParadigms
Turnitin	www.turnitin.com	iParadigms
SafeAssign	www.safeassign.com	Blackboard
Glatt Plagiarism Services	www.plagiarism.com	Glatt Plagiarism Services
EVE Plagiarism Detection	www.canexus.com/eve	CaNexus

Source Line: Course Technology/Cengage Learning.

Plagiarism (cont'd.)

- Steps to combat student plagiarism
  - Help students understand what constitutes plagiarism and why they need to cite sources
  - Show students how to document Web pages
  - Schedule major writing assignments in portions due over the course of the term
  - Tell students that instructors are aware of Internet paper mills and plagiarism detection services
  - Incorporate detection into an antiplagiarism program

Reverse Engineering

- Process of taking something apart in order to:
  - Understand it
  - Build a copy of it
  - Improve it
- Applied to computer:
  - Hardware
  - Software
- Convert a program code to a higher-level design

Reverse Engineering

- Convert an application that ran on one vendor's database to run on another's
  - Reverse engineering – Forward engineering
- No issue doing this in-house
- Unethical if done outside
  - Licensed, copyright, patent issues maybe raised
- Not illegal if
  - Interoperability
  - Not protected

Reverse Engineering (cont'd.)

- Compiler
  - Language translator
  - Converts computer program statements expressed in a source language to machine language
- Software manufacturer
  - Provides software in machine language form
- Decompiler
  - Reads machine language
  - Produces source code
- Gain access to information copyrighted or trade secrete

Reverse Engineering (cont'd.)

- Courts have ruled in favor of reverse engineering:
  - To enable interoperability
- Example
  - Sega Enterprises Ltd. v. Accolade, Inc
  - An appeals court ultimately ruled that if someone lacks access to the unprotected elements of an original work and has a "legitimate reason" for gaining access to those elements, disassembly of a copyrighted work is considered to be a fair use under section 107 of the Copyright Act
  - To restrict manufacturer monopoly

Reverse Engineering (cont'd.)

- Software license agreements forbid reverse engineering in USA
- Ethics of using reverse engineering are debated
  - Fair use if it provides useful function/interoperability
  - Especially when documentation is not provided
  - Can uncover designs that someone else has developed at great cost and taken care to protect

Open Source Code

- Program source code made available for use or modification:

  – As users or other developers see fit

- Basic premise

  – Many programmers can help software improve

  – Can be adapted to meet new needs

  – Bugs rapidly identified and fixed

  – High reliability

Open Source Code

- Reasons why source code is created
  - Some people share code to earn respect for solving a common problem in an elegant way.
  - Some people have used open source code that was developed by others and feel the need to pay back
  - A firm may be required to develop software as part of an agreement to address a client's problem. If firm is paid for the employees' time spent to develop software rather than for the software itself, it may decide to license the code as open source and use it either to promote firm's expertise or as an incentive to attract other potential clients with similar problem

Open Source Code

- Reasons why source code is created
  - A firm may develop open source code in the hope of earning software maintenance fees if end users need changes in the future.
  - A firm may develop useful code but may be reluctant to license and market it, and so might donate the code to the general public.
- Open source license
- Bob Jacobsen vs Matthew A. Katzer case

Open Source Code

Bob Jacobsen is a physics professor at UC Berkeley and—through the JMRI project—the developer of model railroad software called LocoNet, for model railroaders who want to control their layouts from a computer. Jacobsen develops his software as open source and gives it away with the full source code. Matthew A. Katzer owns KAM Industries, a firm that sells model railroad software. Katzer claims that he filed a patent covering the transmission of model railroad commands between multiple devices in 2002. In August 2005, Katzer's firm began sending Jacobsen a monthly invoice for royalties for using his patent—initially $19 and then $29 for every copy of JMRI Jacobsen gave away. The total invoice was for over $200,000. In August 2006, Jacobsen filed a declaratory judgment in federal court to get a legal determination of his rights in this matter. His complaint alleged acts of unfair competition, libel, patent fraud, and misrepresentation against Katzer, and asked the court to issue an injunction against Katzer to prevent him from continuing his actions. One thing escalated to another, and in February 2009, Katzer sued Jacobsen for copyright infringement of software manuals and asked for damages in excess of $6 million. The software development community is watching to see how all this is settled as the case may set several legal precedents for open source software.[47]

Competitive Intelligence

- Gathering of legally obtainable information

  – To help a company gain an advantage over rivals

- Often integrated into a company's strategic plans and decision making

- Not the same as **industrial espionage**, which uses illegal means to obtain business information not available to the general public

- Without proper management safeguards, it can cross over to industrial espionage

  – Dirty tricks ?

Competitive Intelligence

- Without proper management safeguards, it can cross over to industrial espionage
  - One frequent trick is to enter a bar near a competitor's plant or headquarters, strike up a conversation, and ply people for information after their inhibitions have been weakened by alcohol
- Competitive intelligence analysts must avoid unethical or illegal actions, such as lying, misrepresentation, theft, bribery, or eavesdropping with illegal devices
- P&G vs Uniliver case – page 218

Competitive Intelligence (cont'd.)

TABLE 6-5 A manager's checklist for running an ethical competitive intelligence operation

Question	Yes	No
Has the competitive intelligence organization developed a mission statement, objectives, goals, and a code of ethics?		
Has the company's legal department approved the mission statement, objectives, goals, and code of ethics?		
Do analysts understand the need to abide by their organization's code of ethics and corporate policies?		
Is there a rigorous training and certification process for analysts?		
Do analysts understand all applicable laws—domestic and international—including the Uniform Trade Secrets Act and the Economic Espionage Act, and do they understand the critical importance of abiding by them?		
Do analysts disclose their true identity as well as the name of their organization prior to any interviews?		

(Continued)

Competitive Intelligence (cont'd.)

TABLE 6-5 A manager's checklist for running an ethical competitive intelligence operation *(Continued)*

Question	Yes	No
Do analysts understand that everything their firm learns about the competition must be obtained legally?		
Do analysts respect all requests for anonymity and confidentiality of information?		
Has the company's legal department approved the processes for gathering data?		
Do analysts provide honest recommendations and conclusions?		
Is the use of third parties to gather competitive intelligence carefully reviewed and managed?		

Source Line: Course Technology/Cengage Learning.

Trademark Infringement

- Trademark is logo, package design, phrase, sound, or word that enables consumer to differentiate one company's product from another's
- Trademark owner can prevent others from using the same mark or a confusingly similar mark on a product's label
- Organizations frequently sue one another over the use of a trademark in a Web site or domain name
- Nominative fair use is defense often employed by defendant in trademark infringement case

Cybersquatting

- Cybersquatters
  - Register domain names for famous trademarks or company names
  - Hope the trademark's owner will buy the domain name for a large sum of money
- To curb cybersquatting, register all possible domain names
  - .org, .com, .info

Cybersquatting (cont'd.)

- Internet Corporation for Assigned Names and Numbers (ICANN)
  - Several top-level domains (.com, .edu, edu., .gov, .int, .mil, .net, .org, aero, .biz, .coop, .info, .museum, .name, .pro, .asis, .cat, .mobi, .tel, and .travel)
  - Current trademark holders are given time to assert their rights in the new top-level domains before registrations are opened to the general public
  - Anticybersquatting Consumer Protection Act allows trademark owners to challenge foreign cybersquatters

Cybersquatting (cont'd.)

- OnlineNIC was one of the very first domain registrars licensed by ICANN. During 2008, Verizon Communications, Microsoft, and Yahoo! each filed separate lawsuits against OnlineNIC because that firm registered hundreds of domain names identical or similar to their trademark names (e.g., verizon-cellular.com, encarta.com, and yahoozone.com). In December 2008, Verizon was awarded damages of $31.15 million. OnlineNIC was prohibited from registering any additional names containingVerizon trademarks, and it was ordered to transfer the disputed domain names to Verizon

Summary

- Intellectual property is protected by laws for:
  - Copyrights
  - Patents
  - Trademarks
  - Trade secrets
- Plagiarism is stealing and passing off the ideas and words of another as one's own
- Reverse engineering
  - Process of breaking something down in order to understand, build a copy of, or improve it

Summary (cont'd.)

- Open source code
  - Made available for use or modification as users or other developers see fit
- Competitive intelligence
  - Uses legal means and public information
- Trademark infringement
  - Use of other's trademark in a Web site can lead to issues
- Cybersquatting
  - Registration of a domain name by an unaffiliated party