PRIVACY AND INTELLECTUAL PROPERTY RIGHTS

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Privacy

The Privacy right was initially advocated in 1890 when Warren and Brandeis wrote an article titled "*The right to Privacy*", here privacy was defined as the right to be let alone. Privacy was a product of the bill of rights, even though not explicitly defined or mentioned. Since the bill was part of the constitution the Supreme Court recognized it as a basic right. From court decisions the right to privacy could be violated in various ways: appropriation of someone else identity, false light in the public eyes, publications of private facts and physical intrusion within someone's boundaries. We can clearly see that in the US privacy was born from the collaboration between legal scholars and judges without intervention of the legislative power. Starting from the mid-90s, Europe started seeing the creation of new regulations regarding privacy, at first in the form of directives. Primary problems were the difficulty of defining privacy and the balance between privacy and free speech. In Italy privacy is composed by several rights (diritto al nome, immagine, ritratto, reputazione, etc.). A transition between the right to be let alone to a right to control personal data started. The legal basis for adoption of privacy regulation was the creation of a single market for personal information otherwise firms working in a country with a low level of privacy would have a competitive advantage over the others. Since directives don't create rules immediately binding, each state must translate them in national regulations, while in the case of EU regulations such as the GDPR the rules defined are automatically applied.

Software as a Service

SaaS is created to resolve the main problems generated by the traditional IT services management, since it was done in-house it was subjected by high initial costs, maintenance costs, sw and hw obsolescence, the need of disaster management and service breakdown costs. The first solution was the outsourcing of some of the services, which means hiring some external agencies to handle them. There are different financial models that can be applied to do so, for example via subscription, freemium or free. Using SaaS, a company is guaranteed to have more stable costs, updated infrastructure, and service stability, on the other hand there could be some problems related to connectivity, endpoint security, control of data and exit costs.

Software patents

Patent is a legal tool granting exclusive rights to an inventor, this way promoting innovation and invention. They are defined over territorial and temporal constraints and requires disclosure of the invention. Patent Offices oversee the management and creation of patents and demand a yearly payment of a fee, the offices can't regulate or enforce rules against patent violations, in fact this can only be done by judges. Since the more patents they approve the more they get paid, Patent offices are often working under a conflict of interests and are biased on approving as much patents as possible. The main source of regulations about patents are the European patent convention, the title 35 of the US code and international agreements. Regarding software patents is important to remember that they are not patentable until 1990s after some iterations over the rules. Another aspect to keep in mind is that software patentability might be used to stop free software development.

GDPR

GDPR stands for *General Data Protection Regulation,* it is an European regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. The basic principle is that processing of personal data must always be based on consent. Legal scholars tried to think of a way to license personal data similar to the way software licensing works. The main problem is the fact that very few people are able to read policies, and usually individuals can't see the value of their

personal information. The GDPR art5 defines what falls under the definition of "Personal data", and art9 states what can't be processed, obviously it's important to keep in mind that every data can be processed as long as the individual providing it has given their consent.

Digital Right Management System and Trusted Computing

The main articles examined are the art11 stating that contracting parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures used by the authors, and art12 expressing obligations concerning rights management information. In Europe these are implemented through an EU directive. Trusted Computing is not a DRMS, it is an essential requirement for DRMS, a way of certifying applications compliance with the legal system.