

**Slides to Accompany ECE/CPSC 352:
Copyrights/Software Licenses**

(Abbreviated Version)

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Background: Property and Legal Systems

Note:

1. Most legal systems convey rights to the holder of property. Almost no one wants to live in a world where 'if it's not nailed down, it's free'.
2. Legal systems vary from jurisdiction to jurisdiction, **especially** country to country.

Intellectual Property

1. Intellectual Property (IP) may be thought of as rights or ownership attached to 'the product of the mind or the intellect'. This includes software (from two viewpoints: copyright and patents; we only address copyright here).
2. Point of confusion: *the term 'intellectual property' refers to the legal rights IP holders may have or exercise*, not the (intellectual) work itself.

1. Intellectual Property (IP) law is a domain for various legal entitlements which attach to intellectual property.
2. The holder of this legal entitlement may exercise various 'exclusive' rights in relation to the IP.
3. 'Exclusive' means that the holder can control some aspects of the use of the property. Usually this is by 'excluding' certain practices involving the property.
4. For example, a copyrighted computer program license may allow the user to use the program for personal (non-business) use, but could exclude the user from selling or otherwise distributing copies of the program.

Jurisdiction, Enforcement and Harmony

1. The acquisition (often some form of registration) and enforcement of IP rights varies from jurisdiction to jurisdiction, *especially* country to country.
2. International treaties such as the 1994 World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) are an attempt to standardize the rights and broaden the jurisdiction.

3. **The potential holder of IP rights usually has responsibility for acquiring these rights under the laws of the jurisdiction.**

Fortunately, in the U.S., this is easy.

4. In addition, where necessary, *the initiation of enforcement falls on the holder.*

This is often a very significant and practical concern, especially when the cost of enforcement of the rights greatly exceeds any foreseeable financial return from the property to the holder.

Forms of Property and Associated Rights

For our purposes, the major items of interest are:

1. Copyright: applies to creative and artistic works (e.g. books, movies, music, paintings, photographs, *and software*). A copyright holder has the exclusive right to control reproduction or adaptation of these works for a certain period of time ^a. *We hereafter focus on copyright.*
2. Patent: granted for a new, useful, and *non-obvious* invention. A patent gives the holder an exclusive right to commercially exploit the invention for a certain period of time^b. Software patents are controversial.
3. Trademark: a distinctive sign which is used to distinguish the products or services of a business.
4. Trade secret: confidential or secret, non-public information concerning the commercial practices or proprietary knowledge of a business.

^aFor works created after January 1, 1978, the copyright term is the life of the author plus 70 years. In the case of a work 'Work for Hire, the term is be 95 years from the date of first publication or 120 years from the date of creation, whichever expires first.

^bThis is typically 20 years from the filing date of a patent application.

Software Licenses and Copyrighted Software

1. A software license grants a user permission to do things with copyrighted computer software. This is often necessary to allow actions related to the software which are prohibited by default by copyright law. For example, a software license could give permission to make and distribute copies of the software with restrictions or constraints.
2. These restrictions or constraints indicated in the software license often are stated as 'terms and conditions'. If these terms and conditions are not followed by the user, then the normal restrictions of copyright law hold.
3. Free software and open source software is usually distributed under the terms of a unilateral software license, meaning there is no negotiation or compromise.

How Do I Get Copyright Protection?

Assume we are primarily interested in protections in the U.S. jurisdiction.

Some of this information comes from the site for U.S. copyright law:

<http://www.copyright.gov/>

1. The securing of copyright protection on current (present-day) works in the U.S. is straightforward and frequently misunderstood.
 - **Copyright is secured automatically when the work is created.**
 - **No publication or registration or other action in the Copyright Office is required to secure copyright under U.S. law.**
 - In addition, under international agreements, such as the WTO's TRIPs Agreement, any software written is automatically covered by copyright.

Then Why All the Legalese?

1. While the use of a copyright notice is no longer required under U.S. law, it is often beneficial.
2. **The notice informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication.**
3. When a work is published, it may bear a notice of copyright to identify the year of publication and the name of the copyright owner and to inform the public that the work is protected by copyright^a.
4. To summarize: the notice for 'visually perceptible copies' should contain three elements:
 - (a) The symbol ©(the letter C in a circle), or the word 'Copyright'; and
 - (b) The year of first publication of the work.
 - (c) The name of the owner of copyright in the work.

^aCopies of works published before March 1, 1989, must bear the notice or risk loss of copyright protection.

The GPL

Source (checked 6/04/2013):

<http://www.gnu.org/licenses/>

- The Gnu Public License applies to any program which contains a notice placed by the copyright holder saying it may be distributed under the terms of the General Public License.
- The GPL applies to the program or 'a work based on the Program'^a.

^aAny derivative work under copyright law.

GPL Rights and Terms

A basic summary of the provisions and rights conveyed follows^a.

You may copy and distribute the Program (or a work based on it) in object code or executable form provided that you also do one of the following:

1. Accompany it with the complete corresponding machine-readable source code or;
2. Agree to provide a complete machine-readable copy of the corresponding source code; or
3. Accompany it with the information you received as to the offer to distribute corresponding source code.

^aThe licensee is addressed as 'you'.

How to Apply The GPL to New Programs

See: <http://www.gnu.org/licenses/gpl.html>

1. Attach the following notice to the program. Each file should have at least the 'copyright' line and a pointer to where the full notice is found.

```
one line to give the program's name and an idea of what it does.  
Copyright (C) yyyy  name of author
```

```
This program is free software; you can redistribute it and/or  
modify it under the terms of the GNU General Public License  
as published by the Free Software Foundation; either version 2  
of the License, or (at your option) any later version.
```

```
This program is distributed in the hope that it will be useful,  
but WITHOUT ANY WARRANTY; without even the implied warranty of  
MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE.  See the  
GNU General Public License for more details.
```

```
You should have received a copy of the GNU General Public License  
along with this program; if not, write to the Free Software  
Foundation, Inc., 51 Franklin Street, Fifth Floor, Boston, MA 02110-1301, USA.
```

2. Also add information on how to contact you by electronic and paper mail.
3. If the program is interactive, make it output a short notice when it starts in interactive mode. (You have seen this with `ocaml` and SWI-Prolog).
4. If the program is graphical, contact information and licensing information is often found in the 'Help' menu, often under 'About'.