

Intellectual Property Rights

1 Objectives

1. Become familiar with the main types of intellectual property rights
 2. Understand the way these rights can be used to protect software
 3. Have an awareness of the limitation of this protection
- You should use the videos & training material for Intellectual Properties on DUO:
 - <https://duo.dur.ac.uk/bbcswebdav/institution/E-tutorials/Intellectual%20Property%20Rights/index.html>

2 Intellectual Property

- An expression of ideas
 - Brand
 - Invention
 - Design
 - Song
 - Computer Program
- Governed by laws concerned with the control about:
 - who has *access* to your ideas
 - what they can *do* with your ideas

3 Intellectual Property Rights (IPR)

- Copyright, Designs and Patents Act 1988
 - <http://www.legislation.gov.uk/ukpga/1988/48/contents>
 - Copyright
 - Design rights
 - Patent (Next Lecture)
- Trade Marks Act 1994
 - <http://www.legislation.gov.uk/ukpga/1994/26/contents>
 - Trademarks registration (e.g. domain name issues)
 - A domain name can qualify as a trademark, if it is used in connection with a website that offers services to the public (yahoo.com, ebay.com, amazon.co.uk . . .)
 - * must be a *distinctive* name
 - * *not* “common” terms, as dictionary.com, healthanswers.com

4 Copyright

- Is concerned with the right to copy something
 - The ‘something’ is known as the ‘work’
 - * *literary works*, including novels, instruction manuals, computer programs, song lyrics, newspaper articles and some types of databases
 - * *dramatic works*, including dance / mime
 - * *musical works*
 - * *artistic works*, including paintings, engravings, photographs, sculptures, collages, architecture, technical drawings, diagrams, maps and logos
 - * *layouts / typographical arrangements* used to publish a work (e.g. a book)
 - * *recordings* of a work (e.g. sound / film)
 - * *broadcasts* of a work (e.g. radio show)

5 Copyright

- Automatic right
 - Best to be sure
 - * Copyright © <company / your name> <year it was written>
- Last for 70 years after the death of the last surviving author

6 Copyright

- It protects:
 - Code (including comments)
 - * large / small
 - * Full suite of programs
 - * Fix of a bug
 - * Stored on a disc / server
 - * Available for download
 - * Any language (high / low level)
 - Documentation
 - * Comments in the code
 - * Manuals
 - Packaging (may be covered by other rights as well)

7 Ownership

- Owner of the copyright
 - Initial author(s)
 - Employer (e.g. commissioned work)
- Licences (making money from your copyright)
 - Single user
 - Specified maximum number of users
 - Site licences (e.g. in the labs of the Engineering building)
 - Licence to sell
 - Licence to develop
 - * Interoperable products
 - * <https://msdn.microsoft.com/en-gb/openspecifications/dn646764>
- Transfer of copyright
 - Must be done in writing

8 Software Copyright

- Copyright Regulations:
 - EU Directive on the Protection of Computer Programs 1991
- What an individual (who has the program licence) can do:
 - Make copies / backup of a program
 - * only for own use
 - Alter the program if necessary
 - * e.g. to correct errors
 - Decompile if necessary
 - * to ensure it operates with another program
 - * the results of the de-compilation cannot be used for other purposes

9 Copyright infringement (software piracy)

- Primary Infringement of the Copyright
 - Also applies if done unintentionally
 - When an individual breaches the exclusive rights of the owner
 - * Do any of the following without the copyright owner's permission: copy / use / sell / adapt the program
 - Civil Court
 - * Compensation for damages
- Secondary Infringement of the Copyright
 - Only intentional infringement
 - When business breaches the exclusive rights of the owner
 - * Using / selling unlicensed copies of software products
 - Criminal Court
 - * Substantial fines, imprisonment, confiscation of copying equipment

10 Copyright infringement cases:

- Recent lawsuit against Spotify: <https://www.reuters.com/article/us-spotify-lawsuit/spotify-hit-with-1-6-billion-copyright-lawsuit-idUSKBN1ER1RX>
- Ed Sheeran may regret Photograph that led to \$20m copyright case: <https://www.theguardian.com/music/2017/apr/11/ed-sheeran-20m-dollar-copyright-claim-matt-cardle-x-factor>
- If a monkey takes a photo, who owns the copyright? https://en.wikipedia.org/wiki/Monkey_selfie_copyright_dispute

11 Special case for Databases

- Copyright applies when:
 - Contents are original
 - Money and effort were required
 - * geographical data
- Database Right (<http://www.legislation.gov.uk/ukxi/1997/3032/part/III/made>)
 - regulation introduced in 1997
 - if there has been "substantial" investment in obtaining / verifying / presenting the contents of the database
 - prevents the reuse / extraction of all / a substantial part of the database
 - lasts for up to 15 years

12 Registered Designs

- Gives exclusive rights to the *look and appearance* of a product
 - others cannot make / offer / market / import / export your design
 - in the UK up to 25 years
- Protects the overall visual appearance of an object (3-dimensional and 2-dimensional)
 - Lines, contours, colour, texture, patterns / ornamentation
- To be registered a design must be:
 - original: not already known
 - Unique: overall impression is that it is different from *any* other known design
- Protection is limited to a geographical region
 - UK, Europe

13 Design Rights

- The specific legal protection available to unregistered designs in the UK
- Internal and external shape of an original design
 - only its *3-dimensional* shape
 - no protection for any 2-dimensional parts (e.g. surface patterns)
- Protection will last
 - 10 years from when the product is first marketed or
 - 15 years from when it was created (whichever is earlier)
- Limited to the UK only
 - <https://www.gov.uk/search-registered-design>

14 Trademark

- Symbol distinguishing some company's goods and services from those of the competitors in a particular geographic area
 - But more recently will include a *word* rather than an icon
 - * Apple
 - * Microsoft, Windows, Office 365
- Must be:
 - Distinctive
 - Not descriptive of the goods or services

15 Trademark

- Protects your exclusive right to use the symbol in the UK
- A registered trademark must have an ® after it
 - Using the symbol if it is not registered is an offence!
- Associated with a Classification
 - Class 9 (computers & software)
 - Class 42 (sales and services of computers and software)
 - <https://www.gov.uk/guidance/how-to-classify-trade-marks>
 - https://www.wipo.int/classifications/nice/nclpub/en/fr/?explanatory_notes=show&lang=en&menulang=en¬ion=class_headings
- Registration renewed every 10 years

16 Trade marks may not be registered if they:

- describe your goods / services or any of their characteristics
- are not distinctive
- are 3 dimensional shapes
- are specially protected emblems
- are offensive
- are against the law, e.g. promoting illegal drugs
- are deceptive: there should be nothing in the mark which would lead the public to think that your goods and services have a quality which they do not

17 The 1994 Trade Marks Act makes it an offence to:

- apply an unauthorized registered trademark to goods
 - or the packaging of those goods
 - sell / offer for sale / hire goods that bear an unauthorised trademark
 - import / export goods that bear an unauthorised trademark
 - have in the course of business goods for sale / hire bearing unauthorized trademark
- infringement punishable (by the criminal office)
 - with fine or up to 2 years imprisonment
 - civil proceeding may also take place as plaintiff may want damages (compensation)
- Trade marks cases:
 - Apple Corps vs. Apple Inc: Who has the right to trademark the word “apple,” the Beatles or Apple Inc.? <https://www.business.com/articles/5-trademark-cases-and-what-you-should-learn-from-them/>

18 Domain names

- Internet Corporation for Assigned Names and Numbers (ICANN)
 - non-profit international organisation
 - responsible for ensuring the ‘universal resolvability’ of Internet addresses
 - <http://www.icann.org/en/system/files/files/participating-08nov13-en.pdf>
- Domain names are intended to be globally unique
- Potential conflicts between trademarks and domains lead to “cybersquatting”
- US academy vs. GoDaddy case
- <https://domainnamewire.com/2020/01/31/breaking-california-attorney-general-delays-org-sale/>