

COM6655 Professional Issues Autumn 2021

Tutorial for week 4 (18th October): Software Copyright

Indicate whether infringement of copyright has occurred in each of the following scenarios. Each scenario concerns two software companies, Pear and MicroSpam. Remember that in each case, a line has to be drawn between what are the ideas in the software (unprotectable by copyright) and what is expression in the software (protectable by copyright).

Pear have developed a program to record and monitor drug dosages to hospital patients. Shortly afterwards, MicroSpam brought out a similar program. Indicate whether infringement of copyright (i) has not occurred (ii) has possibly occurred or (iii) has definitely occurred.

For each scenario, who owns the copyright in the software concerned?

Give reasons for your answers.

Scenario I. MicroSpam did not know of the existence of Pear's program.

Scenario II. MicroSpam knew of the existence of Pear's program, but had not seen it in use.

Scenario III. MicroSpam had seen Pear's program in use and decided to write a program to fulfil the same purpose, i.e. to monitor drug dosages. MicroSpam did not refer to Pear's program any further than this, and MicroSpam developed its own means of performing the function of the software.

Scenario IV. MicroSpam buys a copy of Pear's program. MicroSpam cannot see the source code because the copy is compiled (i.e. object code), but by using the program extensively, MicroSpam gets a good into the workings and structure of Pear's program. Based on this insight, MicroSpam writes its own program.

Scenario V. MicroSpam decompiles Pear's program and re-writes parts of it to make its program, using a different computer language.

Scenario VI. MicroSpam employs an ex-programmer of Pear who is familiar with the program. This person writes a program for MicroSpam using copies of listings and flowcharts that he retained. Qualitatively substantial parts of the program code are incorporated in the new program.

Scenario VII. As in Scenario VI, but the ex-programmer of Pear has not retained any materials from his previous employment. He simply uses what he can remember.

In your breakout groups

- One member of your breakout group should be given the role of rapporteur – they should take notes and be prepared to speak on behalf of the group at the end of the tutorial.

Adapted from Bainbridge, Introduction to Computer Law.