Lecture 1 - Legal Perspectives on the Software Industry in a Surveillance Economy

**Key point 1: The legal system**

Legal systems are complex, being contextual to time and place, and are made up of many features.

**Key point 2: Rule of law**

**Key point 3: Professional liability**

**Key point 4: Concept of proportionality – COVIDSafe app**

Lecture 2 - Intellectual Property and Software Patents

**Key point 1: IP overview**

Intellectual property (IP) refers to a bunch of different aspects that are concerned with **legally protecting the right to the product of your mind**, i.e. the ownership of your own ideas, and are **an acknowledgement that mental effort is required to formulate an original idea**. These different aspects include **patents**, which are used to protect functionality via a set of specific claims and can last up to 20 years, **designs**, which are used to protect appearance and can last 10-25 years, **trademarks**, which protect brands’ identifiers indefinitely e.g. apple logo, **copyright**, which protects the expression of an idea automatically on materialization until 70 years after death, and **trade** **secrets**, which protect confidential information via confidences like NDA’s or other such obligations for as long as possible. Not only do they differ in what they protect and their duration, but they’re acquired and enforced differently.

**Key point 2: A closer look at patents**

Patents are **an agreement between the inventor and the government** that **prevent others from exploiting their invention** and so essentially **capture innovation as a property right**. Therefore, to be eligible for a patent, you **must show that your idea is new** (hasn’t been done before), **has utility** (is useful), and **is non-obvious** (intellectual, not trivial) i.e. it’s innovative. Furthermore, you **must fully disclose the invention** so that the patent alone could be used as a manual for replication. Patents have many **benefits**, including encouraging research and development, encouraging disclosure of inventions, attacking via royalties and cease and desists, defending via deterrence as a result from uncertain enforcement, and attracting investments/raising valuations. They are fairly **expensive** however, ranging from **$20-30 thousand** and so it’s often necessary to **prove your market** before obtaining a patent or **utilizing trade secrets instead**. Furthermore, specific relationships like employee-employer can effect who actually owns the patent, and licenses effect who has rights to use.

**Key point 3: Patent validity and infringement – chairs hypothetical**

This part of the lecture aimed to explore patent validity and infringement via following the process of getting a patent for a new type of chair. Chairs were assumed to only have 3 legs to begin with, and so the first suggested patent was for a chair with at least 4 legs that are secured to the seat such that it is substantially horizontal. This **generic wording** prevents patents being avoided on technicalities e.g. screwing vs nailing legs in. The patent office found a chair with 4 diagonal legs already exists and so the legs were specified to be vertical in the patent. This change may have been rejected in reality for being too obvious, but it’s assumed to have been granted. The important takeaway is that **our patent cannot be used to claim the diagonal legged chair, because if it could, then our patent shouldn’t have been granted because it already existed**. It was also discussed that If your patent and a competitors mutually barred one another, you could either agree to not sue one another, one buy the other out, or join forces to monopolize the chair industry.

**Key point 4: Software and business method patents**

Not only do patent requests have to be innovative, they must also be in an **eligible subject area**. Basically, there are **certain fields that patents will not be issued in, ever**, regardless of how innovative you are. These fields include a lot of biological areas, but business methods and computer implemented inventions are also excluded from patenting. Computer implemented inventions refers to using computer programs to provide a business process e.g. ebay. Programs must have a technical advantage, be it, processing speed, power consumption, improved communications or security, if they are to be patented. Examples of these include RSA key algorithms, WiFi, MP3 and PageRank.