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# Professional Issues: Intellectual Property Rights

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# Overview

- Introduction to the main types of intellectual property rights
- Understanding how these rights can be used to protect software
- Awareness of the limitations of this protection
- Understanding the main issues in the continuing debate about software patents

## Intellectual Property Rights

- Tangible properties are protected by laws relating to theft and damage
- Intangible property such as software, i.e. *intellectual property*, is governed by different laws concerned with *intellectual property rights*
- Intellectual property crosses national borders

## Different Types of Intellectual Property Rights

- **Copyright** is concerned with the right to copy something
- **Patents** are primary intended to protect inventions (inventors have the right to exploit inventions for a certain period)
- **Confidential information** is concerned with information obtained in particular situations and that cannot be passed on
- **Trade marks** identify the product of a particular manufacturer or supplier

# Copyright

- The rights of the copyright owner
  - The right to make copies of the work
  - The right to issue copies of the work to the public
  - The right to adapt the work
- What you can do to a copyright work (e.g. backup, decompile)
- Databases, copyright subsists in a database if its content constitute the author's own intellectual creation
- Copyright infringement
- Ownership and licencing
- Where does copyright law come from?
  - in UK, Design and Patents Act 1988, Copyright Regulations 1992

# Patents

- A patent is a *temporary* right, granted by the state, enabling an inventor to prevent other people from exploiting his/her invention without his/her permission
- What can be patented?
  - is new
  - involves an inventive step
  - is capable of industrial application
  - is not in an area specifically excluded

## Patents

- Following the European Patent Convention, the Patent Act 1977 excludes the followings:
  - Scientific theories
  - Mathematical methods
  - A literary, dramatic, musical or artistic work
  - The presentation of information
  - A scheme, rule or method for performing a mental act, playing a game or doing business
- Enforcing a patent
- Software Patents — in USA, software can be patented if:
  - it is part of a product that is itself eligible to be patented
  - it controls a process that has some physical effect
  - it processes data that arises from the physical world

## Confidential Information

- Obligation of confidence
- Non-disclosure agreements are agreements that are specifically intended to set up obligations of confidence
- A 'qualifying disclosure' means any disclosure of information which the person making the disclosure reasonably believes that one or more of the following has occurred or about to occur:
  - a criminal offence
  - failure to comply with a legal obligation
  - a miscarriage of justice
  - danger to health and safety
  - environmental damage
  - information showing that any of these has been concealed



## Trade Marks and Passing Off

In UK, the Trade Marks Act 1994 makes it an offence to:

- apply to an unauthorised registered trade mark to goods
- sell or offer for sale (or hire), goods or packing that bear an unauthorised trade mark
- import or export goods that bear an unauthorised trade mark
- have in the course of business, goods for sale or hire goods that bear an unauthorised trade mark

## Domain Names

- Internet domain names are ultimately managed by the Internet Corporation for Assigned Names and Numbers
- The potential for conflict between trade marks and domain names is inherent in the two systems

## Activity 13

- Read the IP in the Digital Age case studies
- As you read the document, identify issues that are mentioned in the case studies that involve Intellectual Property — identify the issue and how it is related to Intellectual Property.
- Discuss or question any relevant aspect in the course wiki

## Required Readings

- Textbook (Bott)
  - Chapter 13 on Intellectual Property Rights