Open Source, Copyright, Copyleft

From IP to IP via copyright

● **Intellectual Property**

> **What does this mean? Can we own it?**

when Jefferson and his fellow creatures of the Enlightenment designed the system that became American copyright law, their primary objective was assuring the widespread distribution of thought, not profit. Profit was the fuel that would carry ideas into the libraries and minds of their new republic. Libraries would purchase books, thus rewarding the authors for their work in assembling ideas; these ideas, otherwise "incapable of confinement," would then become freely available to the public. But what is the role of libraries in the absence of books? How does society now pay for the distribution of ideas if not by charging for the ideas themselves? Economy of Ideas

Article I, Section 8

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

> **Copyright and patent**

● **Original works, tangible expression**

> **Can't copyright ideas**

> **Is this class copyrighted? Notes? Lecture?**

> **Who "owns" the rights, does it matter?**

Software, Copyright, Open Source

● **Software the code v. software the program**

> **Competitor's viewpoint, user's viewpoint**

> **Tangible medium when written**

• **What about when running on a machine?**

● **What a program does, rather than the code**

> **Whelan v Jaslow 1985/6**

> **Lotus v Borland (1995)**

• **Supreme Court goes 4/4, look and feel not copyrighted**

Copyrights and Licensing

- **Most software is licensed rather than sold**
  - ➤ **Why isn't it sold? First-sale doctrine**
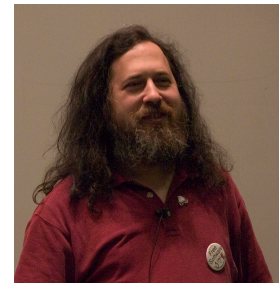 - ➤ **Are EULAs valid? According to whom?**
  - ➤ **Can I back up my software? DVD/CD?**

- **Tale of three logos**
  - ➤ **Linux**   **Windows**   **SQlite**

Nut, But?

- **Richard Stallman**
  - ➤ rms' web page

- **Eric Raymond**
  - ➤ esr's web page

Toward Open Source

- http://tinyurl.com/yqfcq **(Groklaw)**

- **Copyright law, guarantees protections**
  - ➤ **Exclusive right to copy**
  - ➤ **Exclusive right to create derivative works**
  - ➤ **Exclusive right to distribute work**
  - ➤ **Exclusive right to perform/display work**
- **Fair use exceptions, First Amendment tension, facts and ideas vs their expression**

Fair use, face-to-face education

- **Educational Exceptions**
  - ➤ **What's fair use here?**
- **Consider 538.com and Nate Silver's work**
  - ➤ **Comedy Central website, navigate to clip**
  - ➤ **Snapz Pro, tape and create Quicktime**
  - ➤ **Like using DVR/Tivo for time-shifting?**
    - • **Sony v Universal, 1976, 1979, 1984**
- **Legal to show clip? Repercussions?**
  - ➤ **What if I upload it?**

FOSS: Free and Open Source Software

- **What does free mean?**
  - **Speech and beer**
  - **Grounded in ethics, social responsibility**

- **Open Source**
  - **Development method**
  - **Appeals to "Fortune 500" more than free**

- **About reliability, performance, security, ...**

fsf.org: Four Essential Freedoms

- **The freedom to run the program, for any purpose (freedom 0).**
- **The freedom to study how the program works, and change it to make it do what you wish (freedom 1).**
- **The freedom to redistribute copies so you can help your neighbor (freedom 2).**
- **The freedom to improve the program, and release your improvements to the public, so the whole community benefits (freedom 3).**

http://www.gnu.org/copyleft/

- **To copyleft a program, we first state that it is copyrighted;** then we add distribution terms, which are a legal instrument that gives everyone the rights to use, modify, and redistribute the program's code or any program derived from it but only if the distribution terms are unchanged. **Thus, the code and the freedoms become legally inseparable. Proprietary software developers use copyright to take away the users' freedom; we use copyright to guarantee their freedom. That's why we reverse the name, changing "copyright" into "copyleft."**

Open Source, www.opensource.org

1. **Free Redistribution: can't force, can't prevent sale**
2. **Source code: must be available, cheap or free**
3. **License to modify, redistribution with same terms**
4. **Integrity of author's source (patchable, versioning)**
5. **No discrimination against persons or groups**

Open Source, www.opensource.org

6. **No discrimination against fields of endeavor**

7. **Distribution "no strings", no further licensing**

8. **License not bound to whole, part redistribution ok**

9. **No further restrictions, e.g., cannot require open**

10. **Technology neutral**

Open Source licenses

- **Copyleft licenses compared to free licenses**
  - **Copyleft is "viral", requires redistribution to be the same or similar**
  - **Free licenses have no downstream restrictions**
- **GPL is the Gnu Public License**
  - **Currently v3, complex, legal license**
- **X11 or BSD or Apache**
  - **All are free/open, but not viral, e.g., permit commercial, proprietary products**

Freedom, Ethics, Law

- **What does Stallman want?**
  - Freedom B1
  - Freedom B2
  - Freedom RMS

- **http://mp3licensing.com/royalty/**
  - **Apparently not enforced for FOSS codecs**
  - **Pragmatics v principles in Ogg Vorbis**

License and Royalty

- **http://mp3licensing.com/royalty/**
  - **Why is mp3 subject to licensing?**
  - **100 Million euros in 2005 (Wikipedia)**
  - **Patent grants license**

- **Why isn't this a copyright issue?**
  - **What is copyrightable?**
  - **What is patentable?**