11/03: Intellectual Property

The Capstone Experience

Dr. Wayne Dyksen
Department of Computer Science and Engineering
Michigan State University
Fall 2014
What’s ahead?

- Week 11
  - 11/03: Intellectual Property
  - 11/05: Ethics and Professionalism
- Weeks 12, 13
  - 11/10, 11/12, 11/17, 11/19
  - Beta Presentations
- Week 14
  - 11/24: Project Video Status Reports
  - 11/26: Status Reports
What’s ahead?

• Week 15
  ▪ 12/01: Project Videos
    o Due by 1:00 p.m.
    o Via USB Stick to Dr. D.
  ▪ 12/03: Project Videos and All Deliverables
    o Due by 1:00 p.m.
    o Via USB Stick to Dr. D.
  ▪ 12/04: Design Day Setup
    o 3:00 p.m. –
      o Meet in Capstone Lab
  ▪ 12/04: Team Evaluation Form
    o Due by 5:00 p.m. Via Email
    o Read submission instructions.
What’s ahead?  

(3 of 3)

• Week 15
  ▪ 12/05: Design Day
    o 6:30 a.m. – 2:30 p.m.
    o 6:30 a.m.: Setup and All-Hands Photo
    o 9:00 a.m. – Noon: Project Exhibitions
    o 7:30 a.m. – 11:45 a.m.: Team Presentation to Judges
      ❖ See Design Day Schedule
      ❖ Room 3405 EB (Around Corner from Capstone Lab)
    o 1:15 p.m. – 2:15 p.m.: Awards Ceremony
    o 2:30 p.m. – 6:30 p.m.: Gathering

• Week 16
  ▪ 12/09: Project Videos
    o 3:00 p.m. – 5:00 p.m.
Caveat Emptor

• Opinions Expressed
  ▪ My Own
  ▪ Do Not Represent MSU
• Not an Attorney
• No Warranty

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Lots of Variables

• Who Your...
  – ...Employer Is
  – ...Customers Are

• Very Different Rules/Laws/Policies
  – Industry
    ▪ Privately Held
    ▪ Publicly Held
  – Government
  – Government Contractor
  – Educational Institution
  – Etc...
Intellectual Property

• “Ideas” Worth Money
  Must be able to “fix in a tangible medium”.
  ▪ How to Make Something
  ▪ How to Do Something
  ▪ Work of Art (Music, Movie, Photo, Painting, Novel, Etc.)
  ▪ Pharmaceutical
  ▪ Process
  ▪ Algorithm
  ▪ Etc...

• Types
  ▪ Copyrights
  ▪ Patents
  ▪ Trademarks
  ▪ Trade Secrets
  ▪ Etc..

• Must Protect
• Check with an IP attorney.
Patent vs Copyright

- Patent
  - Own “Idea” For 20 Years
  - Protect Via Patent Process
  - Harder to Obtain
  - Easier to Enforce Protection

- Copyright
  - Own “Text” For Life of Author + 50 Years
  - Protect Via Copyright
  - Easy to Obtain
    - Automatically
    - “© 2014 by Wayne Dyksen. All Rights Reserved.”
    - By Formally Registering
  - Harder to Enforce Protection

What’s the motivation for granting patents and copyrights?

Check with an IP attorney.

- Google
- Classic Books
- Happy Birthday
Patent vs Trade Secret

• Patent
  – Own “Idea” For 20 Years
  – Protect Via Patent Process
  – Easier to Enforce Protection

• Trade Secret
  – Own “Idea” Forever
  – Protect Via Non-Disclosure and Non-Compete
  – No Enforcement Protection if Secret Disclosed

Interesting Examples of Trade Secrets
• Coke Formula
• Houdini’s Escapes
IP Enforcement

• Laws
  – US State & National
  – Non-US National
  – International
• Big Problem
  – Counterfeiting Rampant
    ▪ Software
    ▪ Drugs
    ▪ Music, Movies, Etc.
    ▪ Clothing & Accessories
    ▪ Etc...
  – Stealing Rampant
  – Enforcement Non-Existent in Some Countries
  – Software Alone Big $$
Non-Disclosure Agreement (NDA)

- You agree not to misuse company information.
  - Trade Secrets
  - Copyrights
  - Confidential Information
    - Product Plans
    - Software
    - Schematics
    - Etc...
  - Etc..
- Misuse Includes...
  - ...Disclosing
  - ...Selling
  - ...Using for Your Startup Company
  - ...Using at Next Employer
  - Etc...
Intellectual Property Agreement (IPA)

• You agree to assign all IP created to your employer.
  ▪ Copyrights
  ▪ Patents
  ▪ Trade Secrets
  ▪ Etc...

• Agreements Vary in Scope
  ▪ Relationship of IP to Your Job
  ▪ Time

• What happens if you...
  ▪ ...create patented IP that earns your employer $1B?
  ▪ ...leave your employer to patent an idea on your own?
Non-Compete Agreements

• You agree not to compete with your employer.
• Agreements Vary in Scope
  ▪ Relationship of Employer Markets
  ▪ Position
  ▪ Time
• May Affect
  ▪ Moonlighting
  ▪ Career
• Can Be Very Restrictive
Employment Agreements

• Required as Condition of Employment
• Agreement May Cover
  ▪ Non-Disclosure
  ▪ Intellectual Property
  ▪ Non-Compete
  ▪ Etc..
• Agreements Vary
  ▪ Employer
  ▪ Position
• Probably Non-Negotiable for You
Remedies

• What happens if you violate an agreement?
• Agreements Vary
  ▪ Function of
    o Employer
    o Position
    o Etc.
  ▪ Can Be Severe
  ▪ Should Be Taken Seriously
• Often Monetary Damages Levied Against
  ▪ You Personally
  ▪ Your Startup Company
  ▪ Your New Employer
• Not to Be Taken Lightly

Typically pursued in civil courts vis-à-vis criminal courts.
Seek Professional Advice

• If your idea is valuable, protect it.
• Invest
  – Time
  – Money
• Consult
  – Trusted, Experienced Mentors
  – State and Local Development Authorities
  – IP Attorney
• In Advance