03/15: Intellectual Property

The Capstone Experience

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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
    ▪ Publically 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...

• Must Protect

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

• Check with an IP attorney.
Patent vs Copyright

• Patent
  – Own “Idea” For 20 Years
  – Protect Via Patent Process
  – Harder to Obtain
  – Easier (but not Easy) to Enforce Protection

• Copyright
  – Own “Text” For Life of Author + 70 Years
  – Protect Via Copyright
  – Easy to Obtain
    ▪ Automatically
    ▪ “© 2022 by Wayne Dyksen. All Rights Reserved.”
    ▪ By Formally Registering
  – Harder to Enforce Protection

Check with an IP attorney.

What’s the motivation for granting patents and copyrights?

• Happy Birthday Song
  Patty and Mildred Hill, 1893
• Google Books
• Software
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 $$
Aside: Patent Trolls

• AKA Patent Hoarders
• Shell Companies
• Buy “Unused” Patents
• File Frivolous Lawsuits
  ▪ Claim Defendant Violating Their Patent
  ▪ Hoping for Settlement
  ▪ Something Like Blackmail
• Google “patent troll”
Non-Disclosure Agreement (NDA)

• You agree not to misuse company information.
  ▪ Trade Secrets
  ▪ Copyrights
  ▪ Confidential Information
    o Product Plans
    o Software
    o Schematics
    o 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,
  – …in advance.

• Invest
  – Time
  – Money

• Consult
  – Trusted, Experienced Mentors
  – State and Local Development Authorities
  – Experienced IP Attorney

• In Advance
Questions?
What’s ahead?

- **All-Hands Meetings**
  - 03/15: Intellectual Property
  - 03/17: Design Day and the Project Videos
  - 03/22: Ethics and Professionalism
  - 03/24: Team Status Report Presentations
  - 03/29: Team Status Report Presentations
  - 03/31: Team Status Report Presentations
  - 04/05: Team Beta Presentations
  - 04/07: Team Beta Presentations
  - 04/12: Team Beta Presentations
  - 04/14: Team Beta Presentations
  - 04/19: Team Status Report Presentations
  - 04/21: Team Status Report Presentations
  - 04/25: Project Videos Due
  - 04/26: Project Videos
  - 04/27: All Deliverables Due
  - 04/28: Project Videos
  - 04/28: Design Day Setup
  - 04/29: Design Day
  - 05/06: Capstone Wrap Up

← split Hands/What’s left to do?

← 3 Weeks. Feature Complete.

← In Person In Engineering Building

← In Person In Engineering Building
What’s ahead?

• Design Day Booklet Content
  ▪ Proof Status
    o Proof PDF Round 01 Posted
    o Check everything carefully.
    o Email me corrections by midnight tonight.
      ❖ Very Specific Instructions
      ❖ Scanned Page?
    o If no Ack from me by noon tomorrow, resend.
  ▪ Updated Artwork
    o At Most Once Per Team
    o ASAP
    o Artwork Must Be Exact Same...
      ❖ Style (Web App, Mobile App, Etc...)
      ❖ Aspect Ratio
      ❖ Filename