10/19: 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

What’s the motivation for granting patents and copyrights?

Check with an IP attorney.

• 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-Existential 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
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?

• Upcoming Meetings
  ▪ 10/19, Th: Intellectual Property (Luke)
  ▪ 10/24, Tu: Fall Break
  ▪ 10/26, Th: Design Day and Project Videos
  ▪ 10/31, Tu: Garret Gaw, VP Amazon
  ▪ 11/02, Th: Toby Hall, CEO Roosevelt Innovations
What’s ahead?

• Upcoming Meetings
  ▪ 11/14, Tu: Beta Presentations
  ▪ 11/16, Th: Beta Presentations
  ▪ 11/21, Tu: Beta Presentations
  ▪ 11/23, Th: Thanksgiving
  ▪ 12/03, Su: Project Videos Due
  ▪ 12/06, We: All-deliverables and TEF Due
  ▪ 12/08, Fr: Design Day
Notes on Alphas and Betas

• Alpha
  ▪ Prove that all of your risks are mitigated
  ▪ Live software demos
  ▪ Not integrated, buggy, doesn't look great, etc.

• Beta (November 14th)
  ▪ Feature complete software
  ▪ Every feature of your system needs to be complete and integrated
  ▪ Can look slightly ugly (not awful) and be slightly buggy (if it doesn't affect usage of the system)
  ▪ Stretch goals can be completed after Betas
    o Confirm with your TM if a feature is a stretch goal or requirement for Betas