

LIS-3353

Freely Available Art, Knowledge and Culture

read all the FSU rules and follow them...

--or maybe not..

Morals, Ethics, Law?

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I start here because, in this realm, there's a very very huge disjoint...

Morals, Ethics, Law?

Ideally: *Morals* → *Ethics* → *Law*.

Really, it's all over the place.

Morals, Ethics, Law?

“The Lambchop Machine”

Morals, Ethics, Law?

“The Lambchop Machine”

When X is free, when is it appropriate, if ever,
to deny X to someone?

Property!

- Simple, intuitively; 3 year olds understand it.
- law; often more complex:
“Bundle of rights and responsibilities”

Property!

STILL, fundamentally about **exclusion**.

Which makes sense for “limited” stuff; but
could be likened to a state-sponsored
monopoly

Influencers (there may be more)

- Law
- Code
- Etiquette/Norms
- Economics

Article I, Section 8, Clause 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.

“Intellectual” “Property”

Rewarding creators is a means to an end, not the end itself.

(Sort of) Intellectual Property

- Copyright
- Patent
- ~~Trademark~~
- ~~Trade Secret~~

The weirdos
(not governed by the IP clause)

Trade Secret

Trademark

Trade Secret

- *“Privately held info that confers economic advantage or benefit”*
- Different from the others because ITS A SECRET. (think about it, the others are PUBLICLY KNOWN)
- Must “make efforts to protect”
- Perpetual
- Something like a corporate right of privacy

Trademark

- Different from the others in that it's not (theoretically) inherently valuable, but only symbolically
- “Source of Origin”
- Potentially perpetual
- Can be a very wide range of “things”
(names, phrases, logos, even sounds, smells and colors)

Trademark

Mostly not too controversial, except:

- Unfairly scoped and/or wielded (e.g. Sam Bucks Coffee?)
- Weirdly Deceptive? (Famous Amos Cookies?)
- And wait – what is FSU doing?

Definitely Intellectual Property

- Copyright
- Patent

Patent (theory)

Protects inventions and ideas

Must be:

- Novel (new)
- Non-obvious
- Useful

Theoretically Non-patentable

Naturally occurring things like – plants and algorithms.

BUT

Simply patent the “process”

Reverse Engineering v. Stealing?

Patent don't care.

This is why a lot of people oppose them
CATEGORICALLY

Design Patent?

Weird, and you'll see them more soon,
because of a shift from

- Deep descriptions
- to
- General perception

Patent in Practice (re software)

CHAOS AND WAR!

- Difficult to get if you're a little guy
- If you're big they're “easy”--
(the joke is, just add “on a computer” to anything)
- So, just buy up tons of them and point them at other companies as needed.
- (yeah, a lot of people think this is pretty ugly. e.g. “Patent Trolls”)

Copyright

- Automatic (Berne Convention)
 - but, must be registered to sue
- “Expression of an idea”
- Not infinite, but almost-- (70+life)

Fair Use

- Purpose/Character
- Nature of copied work
- Amount of copied work
- Effect on “value”

Fair Use (is weird)

- (not a right, but a defense)
 - Purpose/Character of copying work
 - Nature of copied work
 - Amount of copied work
 - (weird b/c “parody/satire”)
 - Effect on “value”
- + The “5th” measure. Is it icky or weird?