

IP Strategy and Management

- Intro and Branding




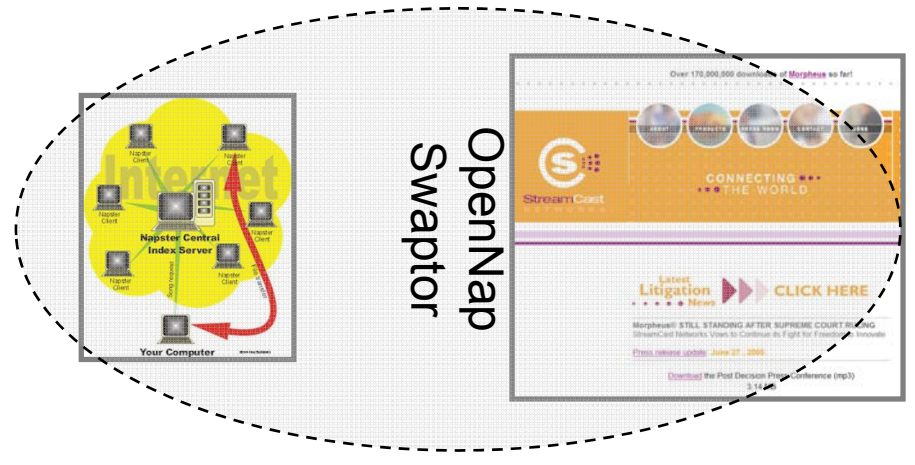
Theories of various types of IP

- Incentive to . . .
 - Create - ©
 - Invent – Patent
 - Productively keep, yet commercialize, secrets – Trade Secrecy (TS)
 - Incentive “needed” due to public goods problem of information
- Incentive to disclose – Patent overcoming TS
- Post-Invention innovation incentives
 - Prospect theory
- Build Brand or Corporate reputation – Trademark (TM)
- Employee concerns – TS
- Philosophical Approaches

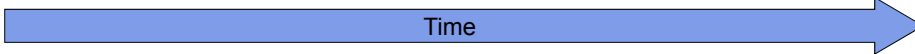
Influences on/from Technology and Law	
<ul style="list-style-type: none"> ● Production processes <ul style="list-style-type: none"> ● ↓ cost <ul style="list-style-type: none"> ● creation / copies ● distribute / publish ● everything . . . ? ● scale at ↓ cost 	<ul style="list-style-type: none"> ● Corporate leveraging <ul style="list-style-type: none"> ● network value <ul style="list-style-type: none"> ● first / standard / “killer app” ● platform w/ complements ● ↑ stickiness / lock-in
<ul style="list-style-type: none"> ● Opportunists <ul style="list-style-type: none"> ● spam ● fraud (e.g. click fraud) ● domain hoarding ● arbitrage 	<ul style="list-style-type: none"> ● Law <ul style="list-style-type: none"> ● responsive / vested interests <ul style="list-style-type: none"> ● e.g. DMCA ● ↑ functioning of new medium / market <ul style="list-style-type: none"> ● e.g. ACPA ● computer crime law ● Internet governance

Metro-Goldwyn-Mayer v. Grokster (2005)

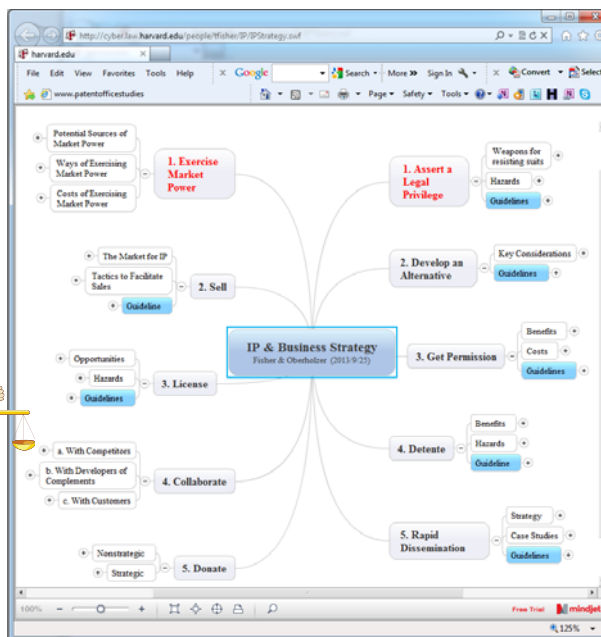




OpenNap Swaptor



Fisher & Oberholzer-Gee, Strategic Mgmt of IP – Integrated Approach



IP Strategy & Management, Spring 2014, Vetter

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Beating Global Monopolists at Their Own Marketing Game

- Brands as meaning systems
- Brand extensions
- Relationships to market power
 - “replace price with other bases for consumer choice”
- Connections to original purposes of trademark protection

five qualities of a great “brand:” (1) “a compelling idea;” (2) “a resolute core purpose and supporting values;” (3) “a central organizational principle;” (4) an American origin; and (5) use on commodities.

IP Survey, Fall 2013

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Trade Secret Misappropriation (UTSA)

- Trade – any type of **valuable information**, very broad
 - formula, pattern, compilation, program, device, method, technique, or process (UTSA §4[preamble])
- Secret – **held secret by reasonable precautions**
 - reasonable efforts under the circumstances to maintain secrecy (UTSA §4(ii))
 - has value from **not being generally known** or **[not] readily ascertainable** (UTSA §4(i))
- Misappropriation – take/use/disclose by . . .
 - **improper means** or against a **duty/promise/agreement**
 - improper means includes
 - various bad acts, or
 - **breach or inducement of a breach of duty**
 - espionage (electronic or other means)

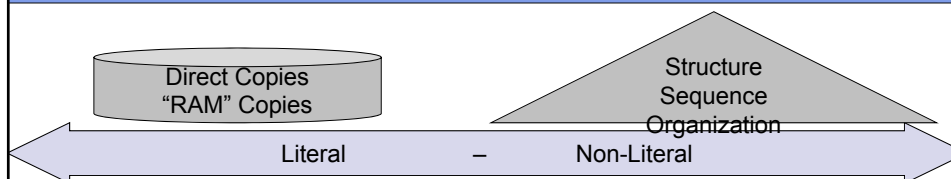
IP 7
Civitas

U.S. Software Protection via Copyright

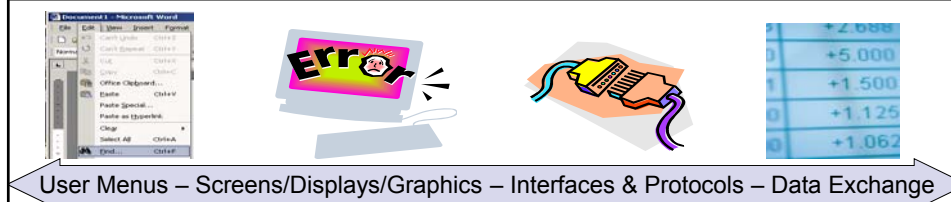
The limited right to exclude others from:

- Reproducing
- Distributing
- Creating derivative works
- Publicly performing or displaying

Rights available to a copyright holder



Code as a literary work

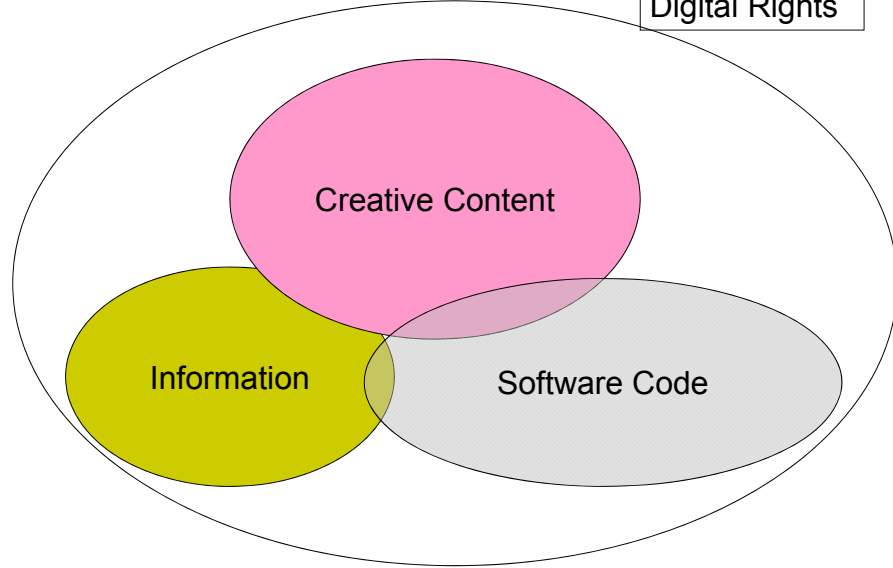


Interface(s) - Input/Output

IP 8
Civitas

U.S. Software Protection via Copyright

Digital Rights



IP 9
Creative

U.S. Software Protection via Contract & Transactions



Permissions – Blanket Licenses – Form Contracts – Negotiated Contracts

Intellectual Property
Rights

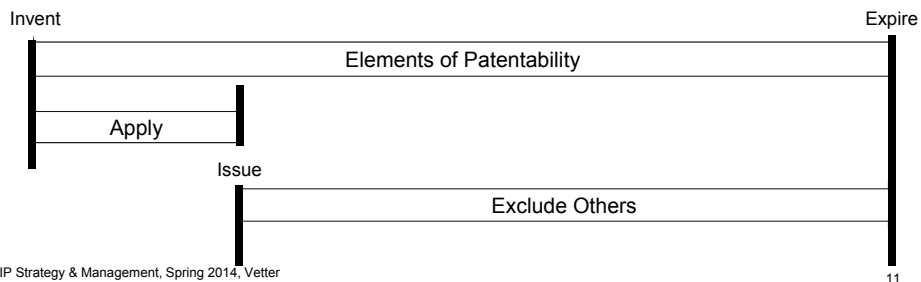
Conflict &
Preemption

Contract

IP 10
Creative

The elements of Patentability

- **Patentable subject matter**, i.e., patent eligibility
- **Useful/utility** (operable and provides a tangible benefit)
- **New** (novelty, anticipation)
- **Nonobvious** (not readily within the ordinary skills of a competent artisan at the time the invention was made)
- **Specification requirements / disclosure requirements** (enablement, written description, best mode, definiteness)



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Licensing Taxonomy

Business Models
Media (movies, music, etc.)
Manufacturing
Software/Information

Standardized Approaches

Grant: IP/Info + Conditions + Covenants

Assent
Use ReadMe Shrink Click SignedK

Grant: IP.Rights/Info + Conditions

Remedies:
© / K

Grant: Information

Scope

Grant: IP Rights

Intention