03/28: Intellectual Property

The Capstone Experience

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Spring 2017
What’s ahead?

• Week 11
  ▪ Tu, 03/28: Intellectual Property
  ▪ Th, 03/30: Ethics and Professionalism

• Week 12
  ▪ Tu, 04/04: Beta Presentations
  ▪ Th, 04/06: Beta Presentations

• Week 13
  ▪ Tu, 04/04: Beta Presentations
  ▪ Th, 04/06: Beta Presentations

Email legitimate conflicts by March 28. If you’ve already emailed me a conflict, email it again.
What’s ahead?

• Week 14
  ▪ Tu, 04/18: Team Status Reports
  ▪ Th, 04/20: Team Status Reports

• Week 15
  ▪ M, 04/24: Deliver Project Videos
    o Due by 4:00 p.m.
    o To Dr. D. In Office on USB Stick
  ▪ Tu, 04/25: Watch Project Videos
    o All-Hands Meeting
    o 3:00-4:20 p.m.
  ▪ W, 04/26: All Deliverables
    o Software, Documents, Project Video
    o Software Checked Out of Repositories
    o Organized
    o Due by 4:00 p.m.
    o To Dr. D. In Office on USB Stick
  ▪ Th, 04/27: Design Day Setup
    o 1:00 p.m.
    o Meet in Capstone Lab
  ▪ Th, 04/27: Watch Project Videos
    o All-Hands Meeting
    o 3:00-4:20 p.m.
  ▪ Fr, 04/28: Design Day

• Week 16
  ▪ Th, 05/04: Project Videos
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 + 50 Years
  – Protect Via Copyright
  – Easy to Obtain
    ▪ Automatically
    ▪ “© 2017 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?

• 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
    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.
• Invest
  – Time
  – Money
• Consult
  – Trusted, Experienced Mentors
  – State and Local Development Authorities
  – IP Attorney
• In Advance