

# **COMP 516**

## **Research Methods in Computer Science**

**Dominik Wojtczak**

**Department of Computer Science  
University of Liverpool**

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### **Lecture 20: Legal, Social, Ethical and Professional Issues (3)**

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with material from Ullrich Hustadt and Rahul Savani

- Copyright, Designs and Patents Act, 1988
- The Copyright and Related Rights Regulations, 2003
- Electronic Commerce (EC Directive) Regulations, 2002
- The Privacy and Electronic Communications (EC Directive) (Amendment) Regulations, 2011
- Conspiracy to Defraud
- Computer Misuse Act, 1990
- Data Protection Act, 1984, 1998
- Equality Act, 2010
- Freedom of Information Act, 2001

# Intellectual Property

## Intellectual Property (Oxford Dictionaries Online)

A **work** or **invention** that is the result of **creativity**, such as a manuscript or a design, to which one has **rights** and for which one may apply for a patent, copyright, trademark, etc

## Intellectual Property (Wikipedia)

A term referring to a number of distinct types of **creations of the mind** for which a set of **exclusive rights** are recognised—and the corresponding fields of law.

Common types of intellectual property rights include

- copyrights
- patents
- industrial design rights
- trade marks

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# Intellectual Property

	Patents	Trade marks	Designs	Copyright
What is protected	Inventions	Brand identity, including words, logos, and other signs	What a product looks like	Music, art, film, literary works and broadcasts
Protects against	invention being used, sold, manufactured	use of trade mark by others without permission	product being manufactured, sold or improved	work being copied or reproduced in communication or performance
Term	Up to 20 years (annual renewal)	Rights can last forever (renewal every 10 years)	Up to 25 years	Life plus 70 years



# Copyright, Designs and Patents Act, 1988

Copyright is a **property right** which applies to

- original literary, dramatic, musical or artistic works

literary work covers **computer programs**, song lyrics

dramatic work covers work of dance or mime

musical work covers music exclusive of lyrics, dance, mime

- sound recordings, films, broadcasts or cable programmes

sound recording is a recording of sounds, from which the sounds may be reproduced, regardless of the medium

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# Duration of copyright

## ■ literary, dramatic, musical or artistic works

- 70 years from the end of the calendar year in which the **last remaining known author** of the work dies, or
- 70 years from the end of the calendar year in which **a work was created or made public**, whichever occurred later, if none of the authors is unknown

But, if the work is **computer-generated** copyright expires at the end of the period of 50 years from the end of the calendar year in which the work was made

An author is **unknown** if it is not possible for a person to ascertain his identity by **reasonable inquiry**

Note: These rules also apply if the **owner** of the copyright is the employer of the authors

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# Duration of copyright

## ■ sound recordings, broadcasts, or cable programmes

- 50 years from the end of the calendar year in which the work was created, or,
- 50 years from the end of the calendar year in which the work was first released, if the work is released within 50 years of being created

## ■ films

- 70 years from the end of the calendar year in which the last known principal director, author or composer dies, or
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## ■ typographical arrangement of published editions

- 25 years from the end of the calendar year in which the work was first published



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# The Copyright, Designs and Patents Act, 1988

- Copyright restrictions what actions one might perform with copyrighted work
- The owner of the copyright in a work has the exclusive right
  - (a) to copy the work
  - (b) to issue copies of the work to the public
  - (c) to rent or lend the work to the public
  - (d) to perform, show or play the work in public
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# What is a copy? What is copying?

- In most cases, **copying** does **not** mean the production of a **facsimile**
- In most cases, **copying** does **not** mean the reuse of **ideas** or **information**
- **Copying** in relation to
  - a literary, dramatic, musical or artistic work  
means reproducing the work in any material form,  
including storing the work in any medium by electronic means
  - a film or broadcast  
includes making a photograph of the whole or any substantial part  
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*The owner of the copyright has exclusive right to copy the work*

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  - the source of the quoted material is acknowledged and the quotations and excerpts are used
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(e.g., **web cache**)  
are also allowed

# Copyright, Designs and Patents Act, 1988

## States

*The owner of the copyright has exclusive right to copy the work*

It follows that it is illegal to

- copy or distribute software or its documentation without the permission or licence of the copyright owner
- run purchased software on two or more computer simultaneously unless the licence specifically allows it
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Translation includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code
- In relation to a database, adaptation means an arrangement or altered version of the database or a translation of it

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- to **make backup copies** (only as necessary)
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Other stipulation of the act deals with copyright work which has an electronic form of is copy-protection.

## ■ devices designed to circumvent copy-protection – illegal

The person issuing the copies to the public has the same rights against a person who, knowing or having reason to believe that it will be used to make infringing copies

- (a) makes, imports, sells or lets for hire, offers or exposes for sale or hire, or advertises for sale or hire, any device or means specifically designed or adapted to circumvent the form of copy-protection employed, or
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- More than 40k software patents are issued each year in the USA
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- Typically used as a **marketing tool** so that customers can recognise your products or services
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# Designs: Apple iPad versus Samsung Galaxy Tab 10.1



A rectangular handheld mobile digital electronic device

with rounded corners

with colours grey, silver, and black

the colour grey appears as rectangle at the front, centre of the device (the screen)

substantial black borders on all sides of the grey rectangle being roughly equal in width

the colour silver appears as the outer border and sides of the device

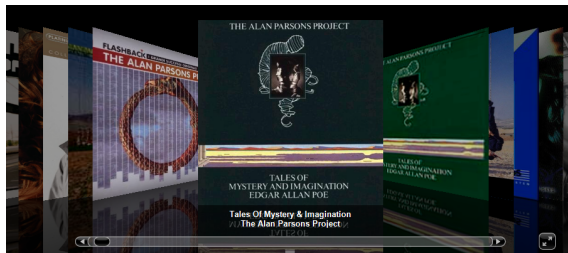
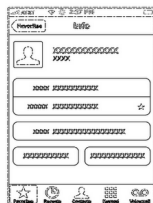
a display of a grid of colorful square icons with uniformly rounded corners

a bottom row of square icons set off from the other icons and that do not change as the other pages of the user interface are viewed



# Designs: Examples

Not only the design of devices can be protected, but also **graphical user interfaces** (GUIs) and their **elements** (e.g. icons)



# Copyright and Related Rights Regulations, 2003

- Makes a whole series of amendments to the **Copyright, Designs and Patents Act, 1988**
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- The notion of a **technical device** (for copyright protection) is introduced
- **circumvention of a technical device** – **illegal**
  - manufacturing for sale or hire, importation, sale or distribution of devices or products which are primarily designed or adapted for the purpose of the circumvention of a technical device
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  - distribution of a copyright work from which **electronic rights management information** has been removed – **illegal**
    - also covers import for distribution or communication to the public copies of a copyright work from which **electronic rights management information** has been removed or altered
  - An **injunction** can be granted against a **service provider**, where that service provider has **actual knowledge** of another person using their service to infringe copyright
    - **actual knowledge** may come about by receiving a notice of the copyright infringement under related regulations
- see 'Injunctions Against Service Providers' (later)

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- An injunction can be granted against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright
  - actual knowledge may come about by receiving a notice of the copyright infringement under related regulations
  - see 'Injunctions Against Service Providers' (later)

# Copyright and Related Rights Regulations, 2003

- removal or alteration of **electronic rights management information** – **illegal**
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# Copyright and Related Rights Regulations, 2003

- The Copyright, Designs and Patents Act, 1988 states that

*The owner of the copyright has exclusive right to communicate the work to the public*

- The Copyright and Related Rights Regulations, 2003 clarifies the notions of communication to the public (and of a broadcast)

## Communication to the public

### Includes

- (a) the broadcasting of a work by any means, whether by wire or otherwise;
- (b) the making available by any means of a work by electronic means in such a way that members of the public may access it from a place and at a time chosen by them.

Item (b) covers YouTube, BBC iPlayer, and similar services

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## Broadcast

an electronic transmission of visual images, sounds or other information which

- (a) is transmitted for **simultaneous reception** by members of the public and is capable of being lawfully received by them, or
- (b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public and is not **internet transmission** unless that transmission
  - (a) a transmission taking place simultaneously on the internet and by other means
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# Copyright and Rights in Databases Regulations, 1997

- **Databases** are also **literary works** under the Copyright, Designs and Patents Act
- Additional protection is offered by the Copyright and Rights in Databases Regulations of 1997
- Applies to **databases** where a substantial amount of work was required to create the contents of the database
- **Rights** last for 15 years from the last substantial change
- **Rights** are infringed if
  - most or all of a database is extracted and reused without the consent of the owner, or
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# Electronic Commerce (EC Directive) Regulations 2002

## Information society service (ISS)

Any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service

## Service Provider

A person (company) providing an information society service

# Electronic Commerce (EC Directive) Regulations 2002

- Regulations 6 to 16 deal with **e-commerce activities** of an ISS provider
- Regulations 17 to 18 limit the liability of an ISS provider in case they act
  - as mere conduit
  - in a caching role
  - as host
- **Successful defense:** David M. Rock and David P. Overton — TV-Links  
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# Electronic Commerce Regulations 2002: Mere Conduit

A **service provider** acts as **mere conduit** for a **transmission** if it

- did not initiate the transmission
- did not select the receiver of the transmission
- did not select or modify the information contained in the transmission

The **transmission** may include the automatic, intermediate and transient storage of the information transmitted where

- this takes place for the sole purpose of carrying out the transmission in the communication network
- the information is not stored for any period longer than is reasonably necessary for the transmission

A **mere conduit** is **not liable** for damages or for any other pecuniary remedy or for any criminal sanction as a result of that **transmission**

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# Electronic Commerce Regulations 2002: Caching

A **service provider** acts in a **caching role** if

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  - does not modify the information
  - expeditiously removes cached information once the original information becomes unavailable
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- it provides a service which consists of the storage of information provided by a recipient of the service, and
- the recipient does not act under the authority of the service provider
- the service provide
  - does not have actual knowledge of unlawful activity or information and, where a claim for damages is made, is not aware of facts or circumstances from which it would have been apparent to the service provider that the activity or information was unlawful; or
  - upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information

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  - **does not have actual knowledge of unlawful activity or information** and, where a claim for damages is made, is not aware of facts or circumstances from which it would have been apparent to the service provider that the activity or information was unlawful; or
  - upon obtaining such knowledge or awareness, **acts expeditiously to remove**  
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A **service provider** acting as **host** is **not liable** for damages or for any other pecuniary remedy or for any criminal sanction as a result of that **storage**



# Electronic Commerce Regulations 2002: Host

A service provide acts as host if

- it provides a service which consists of the storage of information provided by a recipient of the service, and
- the recipient does not act under the authority of the service provider
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# The 'Cookie Law'

- Officially called 'The Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011'  
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- HTTP is a state-less protocol
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  - ~> cookies are a means to realise sessions with HTTP, but can also be used for long-term user observation/surveillance
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# Injunctions Against Service Providers

## Copyright, Designs and Patents Act 1988, Section 97A

The High Court (in Scotland, the Court of Session) shall have power to grant an **injunction against a service provider**, where that service provider has **actual knowledge of another person using their service to infringe copyright**

- 'Service provider' has the meaning given to it in the Electronic Commerce (EC Directive) Regulations 2002
- 'Actual knowledge' is also defined in terms of the provisions of the Electronic Commerce (EC Directive) Regulations 2002

### Example:

Used by copyright holders to shut down sites or to force UK ISPs to block access to a site (e.g., Newzbin and The Pirate Bay)

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# Conspiracy to Defraud

Conspiracy to Defraud is a common law criminal offence

A person is guilty of conspiring to defraud if

- (a) that person agrees with any other person or persons that a course of conduct shall be pursued and
- (b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions

**Example:** A car mechanic helps a car dealer to reduce the mileage on a used car in order to obtain a better prize for it

**Contention:** Someone maintaining a link farm with links to copyrighted material is guilty of conspiracy to defraud

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# Private prosecution

- In England and Wales, the **Crown Prosecution Service (CPS)** is the primary prosecuting authority
- However, **private prosecutions**, initiated by an individual or private organization, are possible even where the CPS declines to prosecute
- The **Federation Against Copyright Theft (FACT)** is an organisation actively pursuing alleged cases of copyright infringement
- FACT will hire private investigators or use the police to gain access to information and computer hardware
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# Software Audit: Accountability

- In mid-size and large business and organisation **copyright law** and **license terms** can inadvertently be violated
- To ensure that this does not occur, **software audits** are a common approach

## Software audits

- are a regular investigation of the software installed on all computers in an organisation
- ensure that it is authorised or licensed
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# Computer Misuse Act, 1990

Defines three offences:

(1) **Unauthorised access to computer material**

Occurs if

- (a) someone causes a computer to perform any function with intent to secure access to any program or data held in any computer,
- (b) the access he intends to secure is unauthorised, and
- (c) he knows at the time when he causes the computer to perform the function that this is the case

(2) **Unauthorised access with intent to commit or facilitate commission of further offences**

Like (1) but with the intent to commit an offence or to facilitate the commission of such an offence

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Defines three offences:

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Occurs if

- (a) someone performs any act which causes an unauthorised modification of the contents of any computer; and
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# Data Protection Act, 1998

- Repeals an earlier 1984 act

- Defines

  - data is information which can be electronically processed or is recorded as part of a relevant filing system

  - personal data means data which relate to a living individual who can be identified from that data (possibly together with other information)

  - sensitive personal data is personal data relating to race, ethnicity, political opinions, etc.

- Regulates who may keep it, how, and who as access, especially the data subject

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# Eight Principles of Data Protection

- 1 Personal data shall be **processed fairly and lawfully**
- 2 Personal data shall be **obtained only for one or more specified and lawful purposes**, and **shall not be further processed** in any manner incompatible with that purpose or those purposes
- 3 Personal data shall be **adequate, relevant and not excessive** in relation to the purpose or purposes for which they are processed
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# Eight Principles of Data Protection

- 6 Personal data shall be processed in accordance with the rights of data subjects under this Act
- 7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data
- 8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data

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# OECD Recommendations for Data Protection

## 1 Notice:

data subjects should be given notice when their data is being collected

## 2 Purpose:

data should only be used for the purpose stated and not for any other purposes

## 3 Consent:

data should not be disclosed without the data subject's consent

## 4 Security:

collected data should be kept secure from any potential abuses

# OECD Recommendations for Data Protection

## 5 Disclosure:

data subjects should be informed as to who is collecting their data

## 6 Access:

data subjects should be allowed to access their data and make corrections to any inaccurate data

## 7 Accountability:

data subjects should have a method available to them to hold data collectors accountable for following the above principles

Add to that

## 8 Minimality: only relevant and required data should be collected

# Equality Act, 2010

## The protected characteristics:

age; disability; gender reassignment;  
marriage and civil partnership; pregnancy and maternity;  
race; religion or belief; sex; sexual orientation.

- A service-provider (A) must not, in providing the service, discriminate against a person (B)
  - as to the terms on which A provides the service to B
  - as to the way in which A provides the service to B
  - by subjecting B to any other detriment
- Where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

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  - through a Publication Scheme
  - in response to requests made under the general right of access
- A publication scheme is a public commitment to make certain information available and a guide to how that information can be obtained
- Any person making a request for information to a public authority or publicly-owned company is entitled
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- multiple choice test
- 15 questions, 30 minutes
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