

Intellectual Property in Computing: (How) Should Software Be Protected? An Industry Perspective

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Massachusetts Institute of Technology
Room 26-100
(Vassar Street between Main St. and Mass. Ave.)
7:30–9 PM, October 30, 1990

Recent legal developments may have a greater impact on the computer industry than technological ones. Some courts have ruled that copyright law can protect the “look and feel” of user interfaces, and patent law is increasingly being used to erect formidable barriers around software. Some analysts say that these developments will enfeeble an otherwise vibrant software industry, creating monopolies by providing protection where none is needed or desired. Others argue that the interpretations aren’t new and that they will provide the protection essential to promote innovation and disclosure.

Who’s right? And who’s arguing these questions, anyway?

The future of the software industry is today being shaped in the courtroom. Decisions in lawsuits are defining the nature of intellectual property for software and hence the character of the industry. While the views of computer professionals have at times been heard, the discussion is still being played out in the courts, argued by lawyers, and framed as fundamentally a legal question: “What does the existing law say should be done?”

An alternative view holds that the issue ought to be discussed by those in the software industry and that the crucial question is not what the current law is, but rather what it ought to be. The fundamental issue is what shape and character of the industry would be best for all concerned. After addressing that we can consider what laws would bring this about.

To begin addressing this question, the MIT Artificial Intelligence Laboratory, the Laboratory for Computer Science, and the Center for Coordination Science are hosting a panel discussion on October 30th. Panelists from industry will speak from their extensive experience, offering a variety of perspectives on what forms of protection would best serve both the software industry and society in general:

John Warnock (CEO and co-founder of Adobe Systems) has faced interesting and difficult decisions regarding what to keep proprietary and what to place in the public domain, in an attempt to balance the strategies of licensing proprietary technology and of providing open specifications that become widely used.

Frank Ingari (Lotus Development Corp., currently in charge of the Emerging Markets Business Group) had first-hand experience with a variety of intellectual property protection questions surrounding 1-2-3 while head of Lotus’ PC Spreadsheet Division.

Mitchell Kapor (Chairman, CEO and founder of On Technology, founder of Lotus Development Corp.) has extensive entrepreneurial experience in the software industry and has testified before Congress about appropriate protection for software.

John Landry (Chairman, CEO, and co-founder of Agility Systems and previously Executive Vice President of Development at Cullinet Software) has been involved in the creation and development of numerous software companies and is the Chairman of the ADAPSO computer virus committee.

Tom Lemberg (Chief Counsel, Lotus Development Corp.) is an expert on international law and international attitudes toward intellectual property; he will contribute a perspective on the ramifications for legal decisions and business practices in the US.

Randall Davis (Moderator; Professor of Management, Professor of Computer Science, Associate Director of the MIT AI Lab), has served as panelist in a National Academy of Science workshop on Intellectual Property and Software, and as the court's expert witness in a software copyright infringement case.

The panelists will make brief presentations, and ample time will be provided for audience participation. Some additional questions to be considered include:

- How should we balance the interests of established companies, start-ups, and users?
- How can we motivate innovation and iterative improvement, yet protect investment in software?
- Where is the value in software?
- What should be the bounds on intellectual property? Can (and should) an interface or language be owned?

The panel will offer information on all sides of this complex issue and encourage the software community to consider the consequences of various approaches. The discussion is intended to initiate thought about what kind of industry makes sense for software and how the legal system can be used to achieve it.

Additional sponsors of the panel are the Massachusetts Computer Software Council and the Boston Computer Society. The colloquium is free and open to the public.

For more information, contact:

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