

Define copyright, trade secrecy, and patents as they relate to software.

Software patent is a “patent intended to prevent others from using some programming technique”. Every year, several software techniques are patented. Some of them are truly significant for an experienced programmer while some others are insignificant. For programmers, spread of software patents is unfavorable as they have to consider the patents while designing or selecting algorithms. The definition of trade secret as found in the Economic Espionage Act of 1996 can be summarized as ‘all types of information of any tangible or intangible forms stored and compiled in whatever forms is a trade secret if the owner has taken reasonable measures to maintain the information as secret. The same definition is applicable to trade secrecy of software as it pertains to scientific or technical information stored or compiled both in tangible and intangible forms. Copyright protection of software, facilitates the use of both the copyright and trade secret protections. Copyright of software protects the expression in the program such as source code or object code screen displays.

The owner of a copyright has five (5) principle rights. What are they?

The U.S. Copyright Act grants five exclusive rights to the owner of a copyright. They are the right to reproduce the copyrighted work, the right to prepare derivative works, the right to distribute copies of the work, the right to perform the copyrighted work and the right to display the work publicly.

Under the reproduction right of Copyright Act, any acts of making reproductions or copies of the work by anybody other than the owner of the work, is prohibited. An owner of a

computer software program gets protection under this right against unauthorized copying of his software. The right to make derivative works give protection for all derivative works based on one or more existing works of the owner of the copyright. With regard to a computer software program, the second version of software can be considered as a derivative work of the earlier work. Hence, the later versions of copyrighted software also are in the protection of the Copyright Act under this right. The distribution right of the Act allows the owner of the copyrighted product to distribute his work to the public. The copyright holder has the exclusive right to sale, rent, lend or lease the work to make it available to the public. The distribution right also permits the copyright holder to stop the distribution of unauthorized copies of his copyrighted work. The public performance right permits the copyright owner to regulate the public performance of specific copyrighted works. It means the owner of the work is allowed to control the copyrighted work when it is performed publicly. Under the Copyright Act, computer software is considered as a literary work and the public performance right covers the copyright protected software program.

Discuss the legal protections related to copyright, trade secrecy, and patents. Include an example for each where legal protection has been enforced.

The legal protection related to copyright is enabled by the U.S Copyright Act. This law grants the copyright holder the rights of reproduction, revision, distribution, display, and public performance of the original copyrighted work. The present copyright law ensures copyright protection for both unpublished and published works. Semiconductor Chip Protection Act (SCPA) is a sub division of the copyright law that extends legal protection to semiconductor chip mask works. The recent law suit of Apple computers against Microsoft is an example of

copyright law enforcement. Trade secret law in the United States protects the information in a patent until the sanction of its patent. An example of trade secret law enforcement is the protection of the formula for Coca-Cola. In computer software programs, trade secret law is extensively used for legal protection of intellectual property. In the US, under the patent law government offers the grant of a property right to the inventor of the product. Three categories of patents come under the law which is utility patent, design patent, and plant patent. The case of *Diamond v. Diehr* in the year 1981 is an example of enforcement of patent law.



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