CS155b: E-Commerce

Lecture 7: Jan. 30, 2001

A Computer Scientist’s View of
Copyright Law
Reading Assignment for this week:
Chapters 4 and 5 of The Digital Dilemma

Optional:
Chapter 4 of Information Rules
Three articles on class webpage by Mark Stefik ("Shifting the possible," "Trusted Systems," and "Letting Loose the light")
Revolution in Content-Related Technology

• Computers and digital documents radically change content creation.
• WWW radically changes content publication.
• Internet radically changes content distribution.
Revolution in Content-Related Business?

- Plenty not scarcity?
- Anyone can be a publisher?
- Disintermediation and reintermediation?

Discussion Point: How does this relate to last week’s discussion of “online identity”?
Article 1, sec. 8, cl. 8 of US Constitution

Empowers Congress “to promote the progress of science and [the] useful arts by securing to authors and inventors for limited times exclusive rights in their respective writings and discoveries.”

For information on copyright law, see http://www.loc.gov/copyright/
Copyright Owner has *Exclusive Rights* to do or authorize any of:

- To reproduce the copyrighted work or phonorecords
- To prepare derivative works based upon the copyrighted work
- To distribute copies or phonorecords of the copyrighted material to the public by sale or other transfer of ownership, or by rental, lease, or lending
- In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works to perform the copyrighted work publicly
Exclusive Rights, continued

- In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly, and
- In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission
Limitations on Exclusive Rights
(“4 factors” test for “Fair Use”)

- The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes
- The nature of the copyright work
- The amount and substantiality of the portion used in relation to the copyright work as a whole
- The effect of the use upon the potential market for or value of the copyrighted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.
(Excerpt from) First Sale Rule

Notwithstanding [exclusive right #3] the owner of a particular copy or phonorecord ..., or any person authorized by such owner, is entitled without the authority of the copyright owner, to sell or otherwise dispose of that copy or phonorecord.

(italics added)
Note “Copy-centric” Nature of the Law

Understandable in analog world, where:
- Copying is a good predictor of infringement.
- Control of copying does not imply control of access.

But copy-control is a *means*, not an *end*.
It is *not* in the Constitution!
Discussion Point: Copy-Centric law makes less sense in a digital world

- Copying is done all the time by computers and networks, and copies are often temporary. Not a good predictor of infringement.
- Access, e.g., viewing a web page, entails copying. Should rights holders be able to control all access?
- First-sale rule (if implemented digitally in a Stefik-style “trusted system”) would vitiate the essence of digital documents.
Other Relevant Issues

- “Fair Use is a Defense” ??
  (Could a good TPS render it moot?)
- “Private-use copying” may be harder to keep private in the digital world.
- “Private-use modification” needs to be considered. For example, do Linux users have the right to view DVDs for which they have paid full price?
Techies’ Viewpoint

• Use technology to do what comes naturally to it!
• Create a new business model if one is needed to exploit new technology.
• Internet Challenge: Your business should benefit from widespread copying and distribution!!!
Optional Assignment

- 1- or 2-page description of final project or paper, due Feb 22, 2001.

No grade, just feedback.