

Intellectual Property Intro

Kate Darling – Media Lab IP Policy

- Intro
- Patents
- Copyright
- Other
- Criticism
- MIT and Media Lab IP policies
- Q & A

“Rights to creations of the mind”



Patents

IP Theory

“The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

(United States Constitution, Article I, Section 8)

IP Theory

“The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

(United States Constitution, Article I, Section 8)

-> Exchange of (limited) exclusive rights for investment in, and disclosure of, inventions and creative works.

- Incentive to **create**
- Incentive to **share**

Patents

Limited monopoly on an original invention

Patents

Limited monopoly on an **original invention**

- Something novel and inventive.
- Patent given in exchange for: *teaching* to the public *all necessary knowledge* to build or apply.

Patents

Limited **monopoly** on an original invention

- *Right to exclude* others from making, using, offering for sale or selling an invention.

Patents

Limited monopoly on an original invention

- 20 year term from date of *filing*.
- Not date of issue!
- 14 years for “design patents”
- You normally have 1 year after public “disclosure” to file a patent
 - New US patent law favors “first inventor to file”
 - All foreign rights forfeit after public disclosure if patent not filed then.

How to Read a Patent

How to Read a Patent: Claims

- The Claims at the end of a patent define what it covers.

1. A method of inducing aerobic exercise in an unrestrained cat comprising the steps of:

- (a) directing an intense coherent beam of invisible light produced by a hand-held laser apparatus to produce a bright highly-focused pattern of light at the intersection of the beam and an opaque surface, said pattern being of visual interest to a cat; and
- (b) selectively redirecting said beam out of the cat's immediate reach to induce said cat to run and chase said beam and pattern of light around an exercise area.

2. The method of claim 1 wherein said bright pattern of light is small in area relative to a paw of the cat.

3. The method of claim 1 wherein said beam remains invisible between said laser and said opaque surface until impinging on said opaque surface.

4. The method of claim 1 wherein step (b) includes sweeping said beam at an angular speed to cause said pattern to move along said opaque surface at a speed in the range of five to twenty-five feet per second.



How to Read a Patent: Status

United States Patent [19]

Amiss et al.

[54] METHOD OF EXERCISING A CAT

**[76] Inventors: Kevin T. Amiss, 255 S. Pickett St.,
#301, Alexandria, Va. 22304; Martin
H. Abbott, 10549 Assembly Dr.,
Fairfax, Va. 22030**

[21] Appl. No.: 144,473

[22] Filed: Nov. 2, 1993

[51] Int. Cl.⁶ A01K 29/00

[52] U.S. Cl. 119/707

**[58] Field of Search 119/702, 707, 174, 905;
446/485**

How to Read a Patent: Status

- The face of the patent states the claimed priority date
- Additional info on Public PAIR (patent application information retrieval)
 - Google Patents is useful but not always up-to-date

Public PAIR

08/144,473 METHOD OF EXERCISING A CAT ABB931.APP 

Select New Case Application Data Transaction History Fees Published Documents Address & Attorney/Agent

Bibliographic Data

Application Number:	08/144,473	Customer Number:	-
Filing or 371 (c) Date:	11-02-1993	Status:	Patent Expired Due to NonPayment of Maintenance Fees Under 37 CFR 1.362
Application Type:	Utility	Status Date:	09-17-2007
Examiner Name:	MANAHAN, TODD E	Location: 	FILE REPOSITORY (FRANCONIA)
Group Art Unit:	3303	Location Date:	10-18-2013
Confirmation Number:	2118	Earliest Publication No:	-
Attorney Docket Number:	ABB931.APP	Earliest Publication Date:	-
Class / Subclass:	119/707	Patent Number:	5,443,036
First Named Inventor:	KEVIN T. AMISS , ALEXANDRIA, VA (US) all Inventors	Issue Date of Patent:	08-22-1995
First Named Applicant:	-	AIA (First Inventor to File):	No
Entity Status:	Small		

How to Read a Patent: Don't

- Willful infringement
- Not terribly informative
- Massive numbers of vague, overly broad patents make lawsuits a cost of doing business

Copyright

Copyright

Right to prevent reproducing, adapting, displaying, performing, ... **original work of authorship.**

- Difference to patents: idea vs. expression
- Duration: Life of author + 70 years.
- Automatically given when: fixed in tangible medium.
- Software!

Software

- Software is copyrighted (automatic).
- Some software can arguably be patented.

Both often not in the interest of anyone involved.

- Solution: OSS licenses.

Software Licensing

- Can the user redistribute the code?
- Can the user modify the code?
- Must the user share back their modifications?

MIT License

The MIT License (MIT)

Copyright (c) <year> <copyright holders>

Permission is hereby granted, free of charge, to any person obtaining a copy of this software and associated documentation files (the "Software"), to deal in the Software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the Software, and to permit persons to whom the Software is furnished to do so, subject to the following conditions:

The above copyright notice and this permission notice shall be included in all copies or substantial portions of the Software.

THE SOFTWARE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IN NO EVENT SHALL THE AUTHORS OR COPYRIGHT HOLDERS BE LIABLE FOR ANY CLAIM, DAMAGES OR OTHER LIABILITY, WHETHER IN AN ACTION OF CONTRACT, TORT OR OTHERWISE, ARISING FROM, OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THE USE OR OTHER DEALINGS IN THE SOFTWARE.

Other

- Trademarks

(recognizable sign, design, expression that identifies products or services)

-> Prevents consumer confusion

- Trade secrets

(Formula, practice, process, design, instrument, pattern, or general information kept secret by a business to gain an economic advantage over competitors)

-> Public value?

Criticism of IP

- Economic tradeoff: monopoly (price and distribution)
- Imperfect system: one-size-fits-all (pharma vs. software), abuse (Smucker's, Amazon 1-click, Formlabs, trolls, patent thickets), copyright vs. the Internet, etc.
- **Social costs!**
- IP is a **tradeoff** – important to consider the goals and downsides.

MIT Policy

- Educational institution
- Should people at MIT get patents?
- IPIA

MIT Policy

- IPIA: In exchange for the education you receive, the work you do here and all of the IP you generate (patentable inventions, software) is **owned by MIT**. You own your know-how and skills.

Ps. MIT ownership of copyrights ambiguous.

- Music, books, etc. Not software.

Patents at Media Lab

- We are not a patent-focused institution
 - File 20-30 patents per year (less in future).
 - Patents are small part of our picture.
- Why do we patent at all?
 - Still valued in some industries
 - (Real or perceived) value for some Members.
 - Can aid startups.
 - Patent examiners only look at other patents.
 - Others (including sponsors) patent our work.

ML Philosophy

- “Open” philosophy: **We want to create awesome stuff and share it with the world**, not lock it down and hoard it. We believe that we can gain more by collaborating & sharing information.
- We **do not** force anyone to patent their work. We **do** try to provide patents/proprietary protection where needed.

ML Philosophy

- We encourage:
 - publication of inventions (automatically public domain).
 - open-sourcing software (license necessary).
 - creative-commons licenses for other copyrighted work.
- Students get **free licenses to their own work** after they leave the Lab. +licensing possibility

Patents ML vs. MIT

- We do not give completely exclusive licenses
 - Members have free & perpetual access to IP developed during their tenure.
 - Licensees have the option to purchase a “but-for” license, meaning they can license to exclude public, but never other Members.
 - The rest of MIT offers exclusive option to research funders.
- Inventors at the ML get free licenses to their inventions after leaving the Lab.
- We pay for our own patents (legal fees, filing).

ML Process

ALWAYS TALK TO YOUR PI, FIRST!

Patents:

- File disclosure (Media Lab has a webform)
- IPCOM
- Appeal process

Open-source software:

- MIT Software Code Disclosure Form
- Send to ML IPCOM for approval (basically pro forma).

Questions

Feel free to contact me at **kdarling@media.mit.edu**