IP, FREE SOFTWARE, DRM, JAILBREAKING

// CLASS 18

FALL 2015 / SECTION 02 / HOLLY BUCK

TODAY'S CLASS…

- Final paper assignment is up on schedule
- Two News Items
- Debate: Free Software

NEWS ITEM #1: CISA

- Possible amendment in Senate today: CISA (Cybersecurity Information Sharing Act of 2015, S.754)

- Sponsored by Burr (R-NC) and Feinstein (D-CA) – Senate Intelligence Committee

- Opposed by Apple, Google, privacy orgs
- Supported by US Chamber of Commerce

- Gives tech companies incentives to "voluntarily" share "cyber threat indicators" with DHS

NEWS ITEM #2: DMCA REVIEW

- This week Library of Congress will rule on possible exemptions to the DMCA, as part of triennial review

- In 2006 and 2010 rulings, the librarian granted exemptions for cellphone unlocking; in 2012 the old restriction reinstated (for phones made after Jan. 1, 2013) – Congress temporarily reversed this; must be revisited again

- 25 exemptions on the table, including allowing users to tweak medical devices

DMCA

Section 1201: (1) ban on acts of circumvention
(2) ban on distribution of tools and technologies used for circumvention

- Challenges for libraries, higher education
- Effects on research?
- Fair use exceptions?
- A threat to innovation and competition?

2007: Fair Use Act – introduced but not passed. Would have permitted circumvention for (1) access to public domain works, (2) access to works of public interest for criticism, scholarship, reporting or research, (3) compilations of educational film clips and (4) preservation in libraries. (Kaprowski, 2010)

FREE SPEECH NOT FREE BEER

- Roots in computer science: in science, research needs to be shared so it can be verified / explored by other scientists

- **"Free software" does not mean noncommercial – can be for purchase or donation-based**

- **"Free speech" not "free beer"**
  - Variety of business models
  - Dual-use licensing (e.g. MySQL), crowdfunding, service-based
- "Open source" vs. "free software"
- Examples: LAMP stack (Linux, Apache, MySQL, and PHP)

FREE SOFTWARE

GNU project (GNU's Not Unix) dates from 1970s
Free Software Foundation (FSF): founded in 1985

"At the core of the free software movement is the ethical conviction that if software can be shared easily then everyone should be free to do so.

To the FSF, free software is not just about the practical benefits of open source code, but of a right to four basic freedoms: (1) freedom to run the program, (2) freedom to study and improve the program, (3) freedom to make and share copies of the program, (4) freedom to share modified versions of the program." (Kaprowski, 2010)

RE-USE AND MODIFICIATION /
FREE SOFTWARE AS CULTURE OR MOVEMENT

"Since about 1998, the practices and ideas of Free Software have extended into new realms of life and creativity: from software to music and film to science, engineering, and education; from national politics of intellectual property to global debates about civil society; from UNIX to Mac OS X and Windows; from medical records and databases to international disease monitoring and synthetic biology; from Open Source to open access**. Free Software is no longer only about software—it exemplifies a more general reorientation of power and knowledge**. …

Coding, hacking, patching, sharing, compiling, and modifying of software are forms of political action that now routinely accompany familiar political forms of expression like free speech, assembly, petition, and a free press. Such activities are expressive in ways that conventional political theory and social science do not recognize: they can both express and "implement" ideas about the social and moral order of society. Software and networks can express ideas in the conventional written sense as well as create (express) infrastructures that allow ideas to circulate in novel and unexpected ways.

- The practices of free software are important / "Collective technical experimentation system"
— Christopher Kelty, *Two Bits: The Cultural Significance of Free Software* (2008)

DEBATE PREPARATION (15 MINS)

- What is the distinction between "free software" and "software that doesn't cost anything"?

- What *is* the "open source model/philosophy?

- Does Apple's dominance of the market equate to a monopoly?
- What are government's interests in regulating or preventing monopolies, and when are these restrictions justified?

- Do people's right to software and Internet access always, or even sometimes, outweigh other people's rights to benefit from their labor/intellectual property?

- Suppose through a legal or cultural process, for-profit software ended and the software world became completely dominated by the open-source model. What would be the potential benefits and disadvantages to end users? Do you think this would be a better world in the long run?

- FOCUS ON ETHICAL PRINCIPLES

POINTS

Free Enterprise Point (5 minutes): Developers should be free to place any restrictions on their platforms and software, and to charge what the market will bear.

Open Source Counterpoint *(must respond to the points raised by the first team)* **(5 minutes)**

Open Source Point (5 minutes): All software should be open-source

Free Enterprise Counterpoint *(must respond to the points raised by the first team)* **(5 minutes)**

Judges (5 minutes) Declare (and justify) who won the Free Enterprise debate and the Open Source debate in terms of who made the most convincing argument or counterargument.

MORE QUESTIONS

(From Baase textbook)

1. You are a teacher. You would like your students to use a software package, but the school's budget doesn't include enough money to buy copies for all students. Your school is in a poor neighborhood, and you know most of the parents cannot afford to buy the software for their children.
(a) List some ways you could try to obtain the software without making unauthorized copies.
(b) Suppose the methods you try do not work. Will you copy the software or decide not to use it? Give some arguments for and against your position. Explain why you think the arguments on your side are stronger.

2. In the 1990s, two writers suggested that software is a "public good" (like public schools and national defense), that we should allow anyone to copy it, and that the federal government should subsidize it. Suppose this proposal had been adopted then. How well do you think it would have worked? How would it have affected the quantity and quality of software produced? Give reasons.