Intellectual Property Issues

• Copyright
  - Assume everything on the web is copyrighted
    including text, images, sound, video.
    Requires permission from the copyright holder
to download, copy, distribute.

• Trademarks
  - All famous marks are registered and watched by web crawlers,
    including logos and design.
    Domain names that confuse origin or dilute the value of the mark
    will be challenged by owners.

• Patents
  - Obviously.
    But for the web might be confusing
  - Compton’s patent on a search method failed
    but many e-commerce patents are issued.

• Trade Secrets

“If nature has made any one thing
less susceptible than all others of exclusive property,
it is the action of the thinking power called an idea,
which an individual may exclusively possess
as long as he keeps it to himself;
but the moment it is divulged,
it forces itself into the possession of every one,
and the receiver cannot dispossess himself of it.
Its peculiar character, too, is that no one possesses the less,
because every other possesses the whole of it.
He who receives an idea from me,
receives instructions himself without lessening mine;
as he who lights his taper at mine, receives light without darkening me.
That ideas should be freely spread from one to another over the globe,
for the moral and mutual instruction of man,
and improvement of his condition,
seems to have been peculiarly and benevolently designed by nature…”

Thomas Jefferson

A Time-limited Monopoly

US Constitution, Article 1, §8:
“The Congress shall have the power ...
To promote the Progress of Science and the 
Useful Arts,
by securing for limited Times to authors and inventors 
the exclusive Right to their respective Writings and Discoveries.”
The 5 Rights of Copyright Holder

• To reproduce
  – Exemption for Libraries, archives, home recordings, temp copy from the web
• To prepare derivative works
  – Including abstracts, enhancements, translations, digitizing text
• To distribute
  – Exemptions for “face-to-face” instruction but not distance learning
• To display publicly
  – Exemption for instructional broadcasting
• To perform publicly

Fair Use

• The Right of the Public
  to reproduce and distribute without permission for:
    – Criticism and Parody
    – Commentary
    – News Reporting
    – Teaching, scholarship, Research
    – Home Use (off-air video and audio)
• But claiming “fair use” is not granted automatically!
• Determining “Fair Use” is Subject to a 4-Factor Test
  – Non-profit vs. Commercial Use
  – (Small) number of copies made
  – Amount of text copied
  – Effect of Market potential (dilution of value)

Insufficient originality

Sufficient originality
Copyright Basics

• What is Copyrightable
  - An original work of authorship [low threshold]
    that is fixed in a tangible form of medium [more than ephemeral].
  - Copyright is automatic (since 1974): No special filing is required
  - © symbol is advised but not required
  - Ignorance is no defense against copyright infringement.
  - Not Copyrightable:
    Facts, ideas, titles, short phrases, public domain information

• Who owns the Copyright
  - The Author
    unless “work for hire” or assigned to publisher

• How long does the Copyright lasts
  - By Author: Life plus 70 years
  - By Employer: 95 years from publication or 120 from creation

Increasing duration of copyright

<table>
<thead>
<tr>
<th>Year enacted</th>
<th>Max copyright term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1790</td>
<td>28 years (14 + 14 renewal)</td>
</tr>
<tr>
<td>1831</td>
<td>42 years</td>
</tr>
<tr>
<td>1909</td>
<td>56 years</td>
</tr>
<tr>
<td>1912</td>
<td>59 years</td>
</tr>
<tr>
<td>1965</td>
<td>61 years</td>
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<tr>
<td>1967</td>
<td>62 years</td>
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<tr>
<td>1968</td>
<td>63 years</td>
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<tr>
<td>1969</td>
<td>64 years</td>
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<tr>
<td>1980</td>
<td>66 years</td>
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<tr>
<td>1971</td>
<td>66 years</td>
</tr>
<tr>
<td>1972</td>
<td>68 years</td>
</tr>
<tr>
<td>1974</td>
<td>70 years</td>
</tr>
<tr>
<td>1986</td>
<td>96 + 50, or 75 (rev)</td>
</tr>
<tr>
<td>1998</td>
<td>96 + 70, or 96 (corp)</td>
</tr>
</tbody>
</table>
### Copyrighted on the Web

<table>
<thead>
<tr>
<th>Medium</th>
<th>Example</th>
<th>Holder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modern Text</td>
<td>Screenplays, books, poetry, quotes, journals, newspaper articles</td>
<td>Author or publisher</td>
</tr>
<tr>
<td>Images</td>
<td>Stills, video, artwork, logos</td>
<td>Photographer, object owner, artist, architect, trademark company</td>
</tr>
<tr>
<td>Sound</td>
<td>Performance rights, mechanical rights, synchronization rights</td>
<td>Lyricist, Performer, Studio, Composer</td>
</tr>
<tr>
<td>Software</td>
<td>Patents, university employees, trade secrets to 3rd party</td>
<td>Programmer, university, faculty, students, 3rd party</td>
</tr>
<tr>
<td>People (pictured or described)</td>
<td>Actors, Recognizable People, have rights of Publicity, of Privacy, against defamation</td>
<td>Individuals, agents, parents</td>
</tr>
</tbody>
</table>

### Trade secret

- **Definition**
  - Any information that
    - provides a competitive advantage
    - is kept secret
- **Limits**
  - Essentially none; unlimited lifetime
- **Abridged by**
  - Stealing the information
  - Unauthorized passing on
- **Legally avoided by**
  - Independent discovery
  - Emergence into the public domain
  - Reverse engineering

### Patent basics

- **Definition**
  - Application of an idea to create something novel, useful, and non-obvious (prior art)
  - Machines, processes, new forms of matter
  - Covers only the claims specified
  - Provides the right to exclude others from making, selling, using
  - Requires adequate disclosure
- **Limits**
  - 20 years from date of filing
  - Excludes: math formulas, natural laws, mental steps
- **Obtained by**
  - Application to US PTO; expensive, claims examined
  - Can be challenged later
- **Abridged by**
  - Any use of application
- **Avoided by**
  - Careful search
be resorted to, falling within the scope of the invention.

We claim:

1. A sealed crustless sandwich comprising:
   a first bread layer having a first perimeter surface coplanar to a contact surface;
   at least one filling of an edible food juxtaposed to said contact surface;
   a second bread layer juxtaposed to said at least one filling opposite of said first bread layer, wherein said second bread layer includes a second perimeter surface similar to said first perimeter surface;
   a crimped edge directly between said first perimeter surface and said second perimeter surface for sealing said at least one filling between said first bread layer and said second bread layer;
   wherein a crust portion of said first bread layer and said second bread layer has been removed.
2. The sealed crustless sandwich of claim 1, wherein said