The role of ‘ancient’ regulation in the teaching of a copyright LLM course

James Griffin,
University of Exeter
Setting the scene

# digital technology
Judge in Java Hearings Suggests Sun Go to Trial

With a second day of hearings completed in Sun Microsystems’ lawsuit against Microsoft, a federal judge unexpectedly recommended that Sun to consider easing its complaint against the software giant and let the case go to trial. Though he didn't explain the comments further, Judge J. Frederick Motz said that Sun might consider dropping its preliminary injunction to force Microsoft to bundle Java with Windows, and set aside its claim for over $1 billion in damages. Sun said it would consider the advice. If Sun had been granted a preliminary injunction, Microsoft would have been forced to bundle Sun’s Java version with Windows immediately. But doing so would require Sun to show that Java will suffer immediate and irreparable damage because of Microsoft’s actions toward the Sun technology.

Legal experts believe that Motz is basically providing Sun with a way to fast track its case against Microsoft, since the damage claim would require lengthy hearings. Besides, as Motz noted in a previous decision, Microsoft’s liability was already established through the Findings of Fact in the software giant’s wider antitrust case, much of which Motz ruled is applicable in the Sun case.

In two short days of hearings, Motz has been decidedly friendly to Sun’s request that Microsoft be forced to bundle Sun Java with the monopoly Windows operating system. Tuesday, for example, Motz said the bundling plan was an "elegant solution."

In the Wednesday hearings, economist Dennis Carlton, a Sun witness, said that Microsoft was overstating Java usage in the market, because much of the installed base was Microsoft's outdated, incompatible version. Interjecting at this point, Motz said a decent
Figure 1: Historical evolution of the Darknet. We highlight the location of the search engine (if present) and the effective bandwidth (thicker lines represent higher bandwidth). Network latencies are not shown, but are much longer for the sneakernet than for the IP-based networks.
Top level content

APIs [Application Programming Interface]

Core OS code
Hur hur hur! I ... duh ... gotcha now you ... duh ... thief!
ELIMINATE DRM
DefectiveByDesign.org
DIGITAL RIGHTS MANAGEMENT

On-demand delivery of digital movies and television could produce enormous revenues for the entertainment industry. But fears of rampant piracy — and a lack of consensus on how to prevent it — are slowing the adoption of new technologies that could make it possible.

by Patrick Gregston
An example of a DRM measure
The example of DVDs:

**SUBTITLE TRACKS:**  
English* Deaf and Hard of Hearing  
German*  
Dutch*  

**SOUNDTRACK:**  
English  
German  

*Menu Screens available in these languages

Dolby Digital  
2.0/4.1  
16:9 Widescreen  
DVD Video  
Copy Protected Macrovision  
VPRC
The example of DVDs:

"DVD Licensing Authority" /CSS
void CSSdescramble(unsigned char *sec, unsigned char *key)
{
    unsigned int t1, t2, t3, t4, t5, t6;
    unsigned char *end = sec + 0x800;

    t1 = key[0] ^ sec[0x54] | 0x100;
    t2 = key[1] ^ sec[0x55];
    t3 = (*((unsigned int *)(key+2)))^(*((unsigned int *)(sec+0x56)));
    t4 = t3 & 7;
    t3 = t3*2 + 8 - t4;
    sec += 0x80;
    t5 = 0;
    while (sec != end)
    {
        t4 = CSStab2[t2] ^ CSStab3[t1];
        t2 = t1 >> 1;
        t1 = ((t1 & 1) << 8) ^ t4;
        t4 = CSStab5[t4];
        t6 = (((((t3 >> 3) ^ t3) >> 1) ^ t3) >> 8) ^ t3) >> 5) & 0xff;
        t3 = (t3 << 8) | t6;
    }
}
• Jon Johanssen
Options
1. Become as skilled in circumvention

2. Find a “hacked” copy

3. Find a circumvention program
What is all this about?
.... architecture
# “Traditional IP teaching”
Subsistence

Infringement

Defences

Licensing
But what about.....

... Architecture?
So, what is architecture all about?
Broader approach to the history of copyright regulation?
Concluding Comments:
*What constitutes copyright protection?*

*What is the breadth of protection?*

* In view of the above, is the view of copyright as traditionally taught sufficiently wide in scope?*
Not just the issue of the intangible content...

.... But the importance of the underlying building blocks