

# Noli IP Newsletter

NOLI IP Solutions, PC

6/15/2015

Copyright Edition, Vol. 2

## *Protecting Software: Patent vs. Copyright* By Raouf Rizk

Intellectual property rights are at the core of the software industry. Each intellectual property right is an asset. Copyrights and patents are but two types of intellectual property rights that provide crucial, yet different, methods of legal protection of software. As such, one must recognize

a software. In industry terms, a copyright protects the “source code” of a particular software. Copyright protection exists by virtue of creating or writing that source code, without the need to apply or register it with the copyright office. Generally, the copyright protection exists

*“...The protections provided by copyrights and patents differ in many ways: subject matter, duration, scope, exclusivity, and who could possess their ownership...”*

the scope of each of the two types to be able to utilize either to serve the purpose(s) at hand.

The protections provided by copyrights and patents differ in many ways: subject matter, duration, scope, exclusivity, and who could possess their ownership.

Copyright protection is related to a particular copy of

at the creation of the source code; and up to the author’s life plus seventy-five years (or ninety in some cases).

The owner of a copyright of the protected software has the right to copy it, create different versions of it, and distribute copies to the public. This exclusive right to manage duplication of the software protects against illegal competition that can result

## *Beyond National Boundaries*

By Judit Marai

Did you know that the U.S. is not a member of the Rome Convention? So why is this treaty still important for its citizens? The Rome Convention gives protection to performers, producers of phonograms, broadcasting organizations granting rights to their works as long as they take place in a Contracting State. When the performance does not take place in a Contracting State, then we have to focus on the sound recording or broadcasting of the performance; it will be protected if it was first fixed or published in a Contracting State; or it was subsequently published in a Contracting State within 30 days; or the producer is national of a Contracting State. For information, feel free you can contact me at [judit@noli-ipsolutions.com](mailto:judit@noli-ipsolutions.com).

from the verbatim copying of the source code of the software. Illegal duplication does not have to be intentional or with knowledge of the already existing copyright. Additionally, to be found guilty of violating a copyright one must duplicate the protected software in its entirety, i.e. one must copy the copyrighted software without missing any parts of it to be in violation.

On the other hand, a software patent protects the “new” ideas and concepts involved in a qualifying invention. Patent protection covers the design and features of a software. More specifically, a patent may protect the ideas, systems, methods, algorithms, or implemented functional features of a software program; such as user interface, operating system features, compiling methods, presentation, display, etc.

Software patent protection can only be obtained by filing an application with the patent office, which is generally, accompanied by the publication of the detailed description of the “invention.” To be patented, the software design(s) and/or feature(s) has to be new, unobvious, and useful. The patent applicant has to show the patent office that the software design(s) and/or feature(s) are unknown to the public before the filing of the patent application. The patent applicant must also show that the software will have a practical purpose and use, such as solving a problem or providing a utility.

A software patent is protected for a twenty-year period. During such period, the patent owner(s) will have the exclusive right to create, use, sell, and import the protected software. Additionally, the

patent owner(s) also will have the right to license the patent rights to others. However, anyone who creates, uses, sells, or imports the protected software without the owner’s authorization may be guilty of infringing the rights of the patent owner(s), and consequently will face stiff penalties. To be found guilty of patent infringement, it is sufficient to create, use, sell, or import a software product having only one of the protected designs and features of a software patent, without the authorization of the patent owner(s).

Do not hesitate to contact me at [raouf@noli-ipsolutions.com](mailto:raouf@noli-ipsolutions.com), if you have any questions or need more information about software protection.

## *Copyright: How can we get it protected worldwide?*

*By Luciana Eugenia Noli*

As you probably know, there is no such a thing as an “International Copyright” that will automatically protect an author’s original work of authorship whether a writing, sculpture, music in each and

every country throughout the entire world. Protection against the unauthorized use in a particular country depends, basically on the national laws of that country. However, a large number of

countries are signatories to several important treaties that have helped to harmonize, to a considerable extent, the level of copyright and related rights protection among countries.

Treaties and conventions include substantive obligations. Many define the so-called “points of attachments”, the factors that connect an eligible work to be protected among treaty member countries such as the author’s nationality, the first place of publication, etc.

The main international copyright treaty in force in 162 countries is “The Berne Convention” which establishes, among other things, the rule of “national

treatment” meaning that in every country, foreign authors enjoy the same rights as the national authors. Right after come the “WIPO Copyright Treaty” (WCT) and the “WIPO Performances and Phonograms Treaty” (WPPT). The WCT supplements The Berne Convention for the Protection of Literary and Artistic Works, adapting its provisions to the new requirements of the Information Society. These are only a few examples of treaties that help copyright

owners protect, defend and keep their rights worldwide. We highly recommend that you don’t forget to seek copyright protection of your U.S. work. Always keep in mind that some countries offer little or no copyright protection to foreign works.

Feel free to contact me at [luciana@noli-ipsolutions.com](mailto:luciana@noli-ipsolutions.com) if you would like more information on this topic.

## ***We believe in Teamwork: NOLI IP Relay Team @ SDRnR***

Promoting running, sports and a balanced lifestyle is part of what we strive as a company. We believe healthy bodies and healthy minds, are more productive.

As the owner of NOLI IP Solutions, PC, I want to make a special mention in this edition to thank Judit for suggesting we run the Rock n’ Roll race as a team, Lucy for helping design our t-shirts and our friend Jessie for filling in for Judit last minute when she unexpectedly had to travel back to Europe. Way to go and represent the NOLI IP team! You ladies ROCK!

