Five Things
Every Software Developer Should Know About Intellectual Property

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Topics

1) How To Outsource Work To Contractors
2) How To Protect Computer Inventions In Light Of Recent Legal Changes
3) How To Copyright Code
4) The Pros And Cons Of Open Source Software
5) How To Protect Trade Secrets
Intellectual Property Business Tools

- **Ownership** – ensure you own your technology
Make Sure You Own Your Technology

- **Myth:** I paid for it, therefore I own it.

- Have contractors and employees sign agreements that assign their intellectual property rights
  - Independent Consultant Agreements
  - Employee Agreements

- These agreements should also include an obligation of confidentiality
Intellectual Property Business Tools

- **Ownership** – ensure you own your technology
- **Patents** – obtain exclusivity in your market niche
What Can I Patent?

- The invention must be useful.
- The invention must be novel – you have to be the first one to do it.
- The invention must not be an obvious variation.
- With respect to software, the invention must be a technical improvement.
Finger Tap Zoom
U.S. Patent No. 7,864,163
America Invents Act (AIA)

- General Themes:
  - Harmonization
  - First-To-File Patent System
  - Simplify And Reduce Cost Of Patent Litigation
America Invents Act (AIA) Tax

- Patent Maintenance Fee Increases
  - 3.5 Years - from $1,150 to $1,600  
    +39% increase
  - 7.5 Years - from $2,900 to $3,600  
    +24% increase
  - 11.5 Years - $4,810 to $7,400  
    +54% increase
First-to-File Patent System

Beware: Deadlines Still Exist

Make Sure To File Your Patent Application Before A Bar Date:

(1) Printed Publications,

(2) On Sale, and

(3) Public Use.
America Invents Act
Michael Jackson’s Anti-Gravity Lean
United States Patent

Jackson et al.

[54] METHOD AND MEANS FOR CREATING ANTI-GRAVITY ILLUSION

[75] Inventors: Michael J. Jackson, Los Angeles;
      Michael L. Bush; Dennis Tompkins,
      both of Hollywood, Calif.


[21] Appl. No.: 905,470

[22] Filed: Jun. 29, 1992

[51] Int. Cl. ......................... A43B 5/00; A43B 3/00
[52] U.S. Cl. .......................... 36/113; 36/1;
      36/136; 36/80; 36/132
[58] Field of Search ..................... 36/1, 80, 103, 113,
      36/114, 131, 132, 136; 482/70, 71, 105

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Attorney, Agent, or Firm—Drucker & Sommers

[57] ABSTRACT

A system for allowing a shoe wearer to lean forwardly beyond his center of gravity by virtue of wearing a specially designed pair of shoes which will engage with a hitch member movably projectable through a stage surface. The shoes have a specially designed heel slot which can be detachably engaged with the hitch member by simply sliding the shoe wearer's foot forward, thereby engaging with the hitch member.

13 Claims, 4 Drawing Sheets
Increasing Odds Of Success

- What Patent Office Program provides a 66% allowance rate in less than 4 months?
  - Patent Prosecution Highway
  - First Action Interview Program
  - Prioritized Examination
Increasing Odds Of Success

- What Patent Office Program provides a 66% allowance rate in less than 4 months?
  - Patent Prosecution Highway – 90% allowance within a year.
  - First Action Interview Program – 45% allowance within six months.
  - Prioritized Examination - 66% allowance in less than 4 months!
America Invents Act
SmartMedia Card

Store Images, Text And More On A SanDisk® Removable SmartMedia Card!

What is a SanDisk® SmartMedia Card?
The SanDisk® SmartMedia card is a removable flash memory card that can be used in several different types of digital devices, including digital cameras, digital music players and digital voice recorders.
Multimedia Time Warping
U.S. Patent No. 6,233,389

FIG. 1
Intellectual Property Business Tools

- **Ownership** – ensure you own your technology
- **Patents** – obtain exclusivity in your market niche
- **Copyrights** – protect your content
Copyright Protection

- Copyright protection provided to the authors of “original works of authorship” including software, literary, dramatic, musical, and artistic.

- Copyright Protection is Automatic

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Intellectual Property Business Tools

- **Ownership** – ensure you own your technology
- **Patents** – obtain exclusivity in your market niche
- **Copyrights** – protect your content
- **Open Source** – rapid prototyping with some risks
Open Source Software

- Pros:
  - Excellent way to create a prototype quickly.
  - Excellent for creating internal software tools.
  - Powerful SaaS tools.

- Cons:
  - Can include an obligation to dedicate intellectual property to the public
  - Large acquiring companies often do not like it.
Open Source Software

- If you do not plan on distributing the software then Open Source is an excellent option.

- If you do plan on distributing the software then you must consider the type of Open Source you plan on using:
  - Permissive
  - Weak Copyleft
  - Strong Copyleft
Open Source Software

- **Permissive** - here’s the code, do whatever you want with it.

- As an example, both Apple’s OS X and iOS operating systems contain code that permissively licensed the Berkeley Software Distribution (BSD) Unix Operating System.

- Among the more common permissive licenses are the Apache, MIT, and BSD licenses.
Open Source Software

- **Weak Copyleft** - a firm’s proprietary program can remain proprietary, even when interfacing with weak copyleft open source code.

- Modifications to the weak copyleft open source code, however, must be licensed to the public.

- Examples include the GNU Lesser General Public License (LGPL) and the Mozilla Public License.
Open Source Software

- Does cloud software constitute “distribution?”
- Generally not, but be aware of the Affero General Public License (AGPL).
- Online use of AGPL code is considered distribution and requires source code access even though a physical copy of the code has not been distributed.
Licensing
Licensing

- Beware of license terms.
ARTICLE 15
MISCELLANEOUS

15.1 Intellectual Property Rights. Vendor hereby releases Indemnitees from all claims based on Vendor’s patent, copyright, trademark, trade dress or other Intellectual Property Rights that arose prior to this Agreement or that arise during or after the term of this Agreement. Additionally, for the term of this Agreement and thereafter Vendor hereby grants to Purchaser a license to make, have made, use, sale, offer for sale, import, distribute and promote Products (including packaging) that incorporate in whole or in part the patent, copyright, trademark, trade dress or other Intellectual Property Rights of Vendor.
Intellectual Property Business Tools

- **Ownership** – ensure you own your technology
- **Patents** – obtain exclusivity in your market niche
- **Copyrights** – protect your content
- **Open Source** – rapid prototyping with some risks
- **Trade Secrets** - keep proprietary information confidential
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