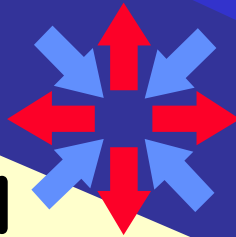


Intellectual Property in Projects

Austin PMI

28 January 2003



**Digital
Thinking Inc.**

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Who Me ?

- Does your project use or produce software ?
- Does your project produce a thing or operation that uses software ?
- Does your project interact with organizations that use software or have special know-how ?
- Does your project use, or connect to, the branding or identity of a product or organization ?

... then you need to understand Intellectual Property and its impact on your project

Is this Status Quo ?



**The
Assumption**

=

**The Project can proceed,
and the Deliverable can
be implemented, without
an Intellectual Property
problem**

Potential Impacts

- Fatal
 - Completed deliverable infringes someone's IP and cannot be implemented
 - Definition of project cannot be reconciled with IP issue
- Schedule
 - Work must stop awaiting negotiation or dispute resolution
 - Different components/tools must be selected and work must be re-done
- Cost
 - Licenses/rights are insufficient and will cost more
 - (Worst Case) Cost can exceed entire project budget

Map to PMI Knowledge Areas

- **Integration** ?
- **Scope** ?
- **Time** ?
- **Cost** ?
- **Quality** ?
- **Human Resource** ?
- **Communications** ?
- **Risk** ?
- **Procurement** ?



Types of Intellectual Property

- Patent
- Trademark
- Copyright
- Trade Secret

Patent

- Covers ideas behind system, material, molecule, GE cell, business process
- Must be useful, novel and non-obvious
- Need good patent attorney from the start
- NOT a right to produce, but a right to exclude
- Popular business model is largely on improvements, leading to cross-licensing



Patent Improvements & Cross Licensing



- Patent issued to Company A
- Claims: ‘Keeps body off floor’; ‘comfortable’
- Company A builds & sells

- Patent issued to Company B
- Claims: ‘Falls over less than 3-legged stool’
- **Can Company B build and sell ?**

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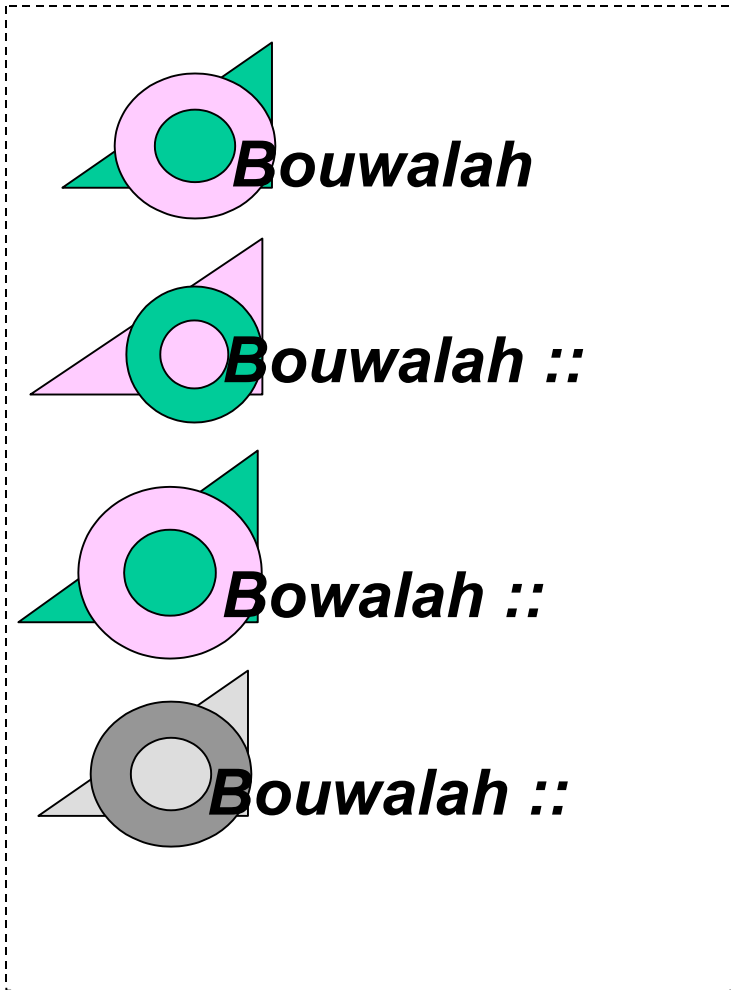
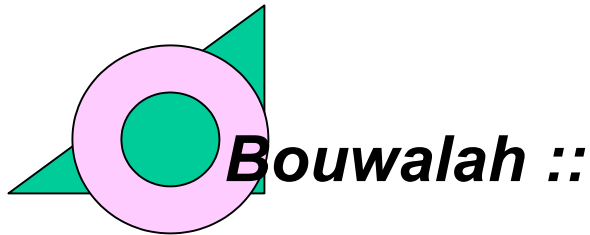
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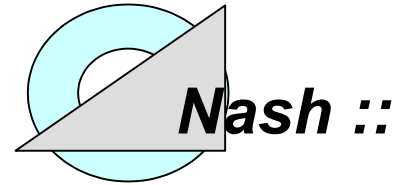
Trademark

- Can be asserted without registration (TM)
- ® symbol means registered with PTO
- Can be a mark, phrase, made-up word
- Different from Servicemark
- Many organizations risk losing ability to protect trademark by improper or inconsistent usage

Bouwalah Inc.
(makers of fine ice machines)



Trademark Defendability



Bouwalah SpeedBoats



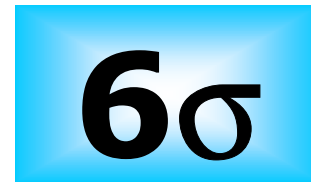
{Disclaimer}

Copyright

- Alive & well despite Napster & ElcomSoft
- Literary copyright goes further; not covered
- Don't fall prey to popular arguments about copyright vs technology, or Fair Use
- Moral Rights (Europe)
- Very relevant to Project Management

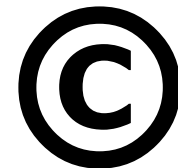
In the beginning ...

CODE WAS WRITTEN ...



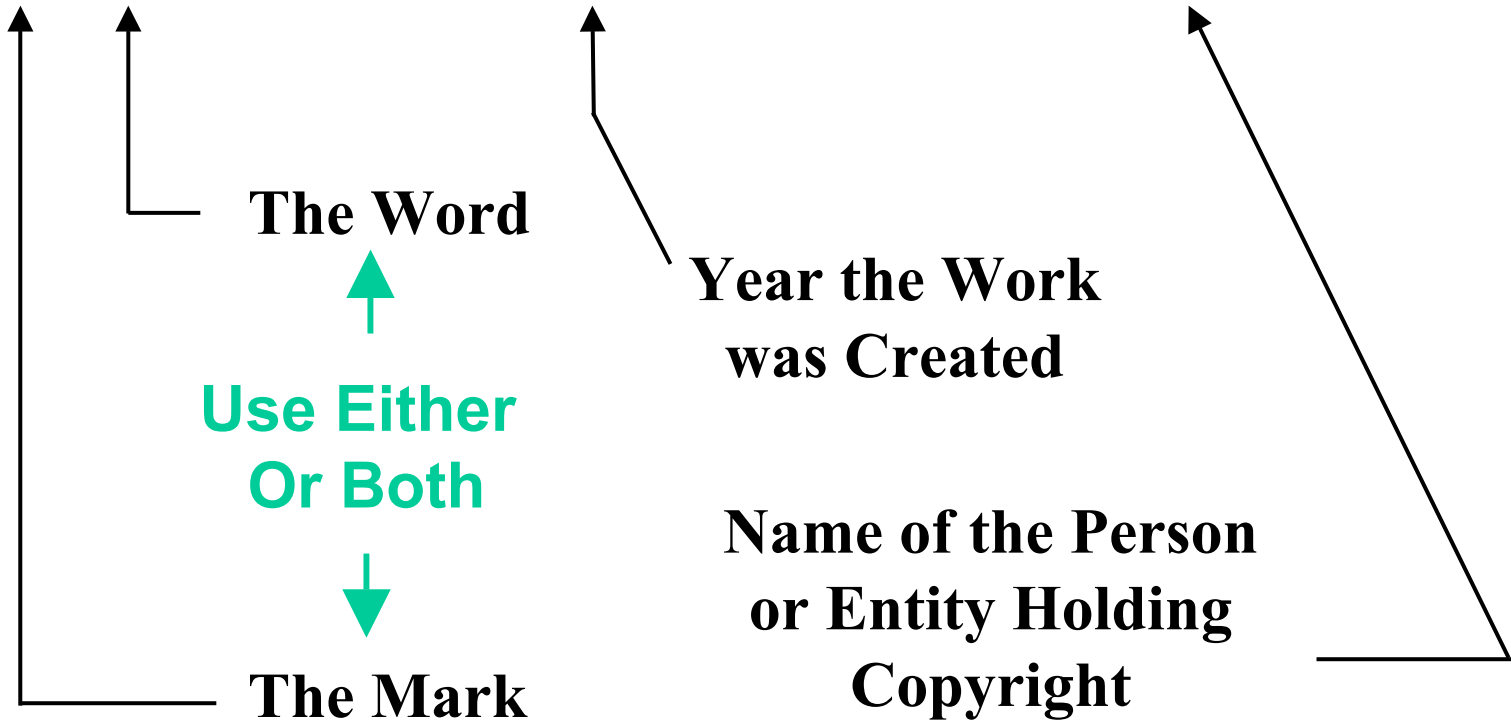
AND IT WAS GOOD ...

**AND IT WAS PROTECTED BY
COPYRIGHT.**



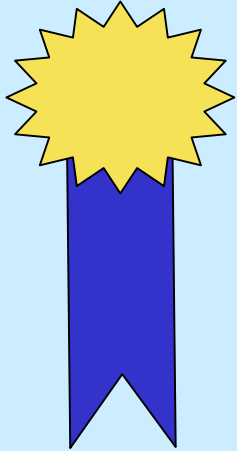
This entire presentation is:

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© Quick Bits

- Automatic upon creation; does not require registration; Federal law: US territory / US citizens
- Expression, not ideas
- Held by company if creator is employee; need to know “Work for Hire” !
- Does NOT dictate any distribution/use terms
- Basic principles apply in most of world through treaties
- Complex extensions of copyright are beyond scope of this presentation

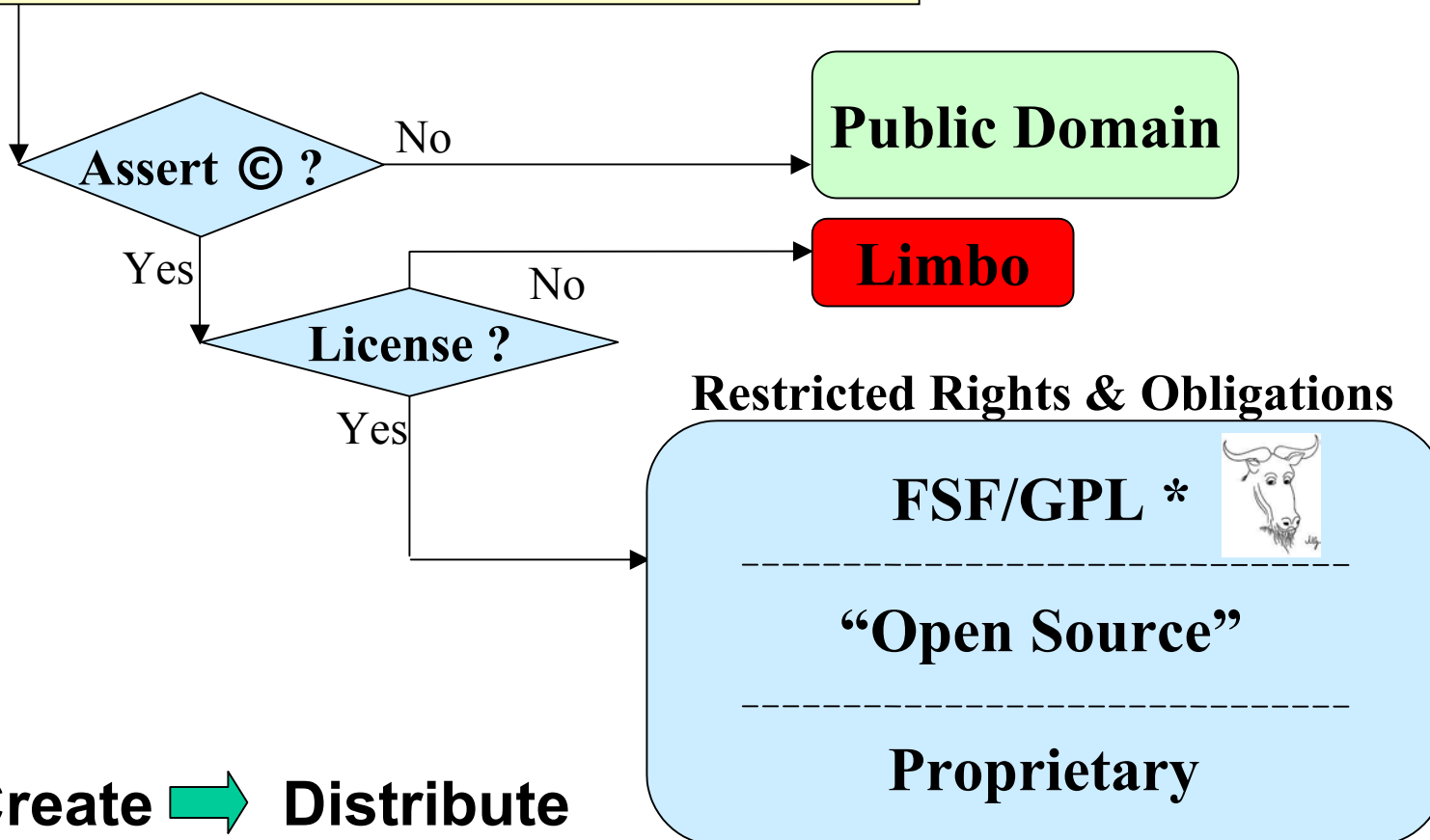


“Copyleft” is
NONSENSE

The Process

Copyright holder's Choice

```
With Range("ListOfHospitals")  
    iTotalHospitalCount = .Rows.Count + 2  
    iStartRow = .Row - 1  
    iCol = .Column + 1  
  
End With 'Range("ListOfHospitals")
```



The Process Continues

Public Domain

Limbo

User's Choice

Restricted Rights & Obligations

FSF

Open Source

Proprietary

Read the License!



Create

Receive



Use
Copy
Modify
(...)



Distribute

Trade Secret

- Operative word is “secret”
- Horse/barn door scenario very typical
- Less structured and most likely for disputes
- Very relevant to Project Management;
critical regarding joint venture projects or those with sub-contractors

**Has Intellectual Property been
a subtle or hidden element in a
project your have recently run
???**

Critical Distinction

- Belief
- Generalization
- Doubt
- Review
- Similarity
- Expectation
- Assumption
- Rigor
- Documentation
- Evidence
- Analysis
- Diligence
- Perfection
- Knowledge

Moral Rights ?

Case Studies

- Accenture – Bertelsmann
 - Moral rights stopped commercial T-18 hours
- Univ of Michigan – Display Services Inc.
 - Engineering fair showed “best” achievements
- Alcatel – UCSC
 - Dire need for license increased price
- ASU survey
 - Find the GPL constraints ...

Commitment in Knowledge Areas



**Write
This
Down**

- **Integration needs to involve IP because ...**
- **Scope**
- **Time**
- **Cost**
- **Quality**
- **Human Resource**
- **Communications**
- **Risk**
- **Procurement**

Questions: pointed -or- broad

Thank you.