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Library 3.know – Class Exercise

SI 519 / PubPol 688

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Class 7 – October 17, 2008

Group 1

You are an administrator at a local non-profit library. You have initiated a project to create a web-based digital library program whereby a user can search the library's electronic archive of excerpts of books and other literary works. For copyrighted works, the library has electronically archived only very short excerpts as well as other identifying data (such as author, title, keyword, genre, ISBN No., etc.) for each book. For works in the public domain, the library has scanned the entire book. In response to the search, the program displays to the user the short excerpt of the works. The user can then review the excerpts and check-out a particular work, if available. The library will deliver a hard copy of the work to the person's home the next day. Also, for works in the public domain, the user has the option of obtaining an electronic version of the work.

To create this project, called "Library 3.know", you hired a college student to write the software code during the summer. It was actually this student that recommended to you the name "Library 3.know" after you had been contemplating "Library 2.0." The student worked under an employment contract that simply required her to complete her programming assignment in a given amount of time and stated the terms of her payment. In addition, several years ago, you hired some temporary contract workers to select and scan short excerpts from each work in the library collection to include in Library 3.know. To employ the workers, you signed a contract with a temp agency stating "the workers and the agency agreed to assign their rights in any works created for [your library]".

In light of the recent financial situation, the federal government announced it will cease funding to 75% of all libraries. The government will focus its funding on libraries that have demonstrated unique and novel initiatives with technology. In addition, due to the lack of funding for public libraries, private libraries are springing up around the area. These private libraries are typically funded by organizations with strong ideological beliefs, and their choice of literary collections reflects those beliefs. Your boss disdains the very notion of these private libraries and wants to ensure that they cannot use anything similar to the "Library 3.know" concept. Accordingly, based on the above concerns, your boss has instructed you to identify the most important form of intellectual property protection for the "Library 3.know" project. She also wants to understand why that form of IP is the most important and what other forms of protection are available.

In assessing, which form of IP protection to recommend, you learn the following:

- In 2002, prior to your conception of the Library 3.know concept, Netflix offered an online movie rental service where a user could search for movies, view short movie trailers, and then select a movie to be delivered via mail to your house. No one offered a similar service for literary works.
- The Library 3.know concept will likely have commercial value for at

least seven years.

- The source code written by the college student could be written relatively easily to perform the same function.
- This selection and scanning of the library collection took twelve workers four years to complete. The workers carefully selected excerpts that would give the reader insight into the content of the book.

Question 1: Based on the above scenario, out of patent, copyright, or trademark protection for the Library 3.know project, identify a particular IP strategy for protecting the Library 3.know concept. Include in your strategy your first choice for a particular aspect of the project to protect with a single form of IP. Also include any forms of IP that you think are not worth pursuing. (Note: there may be multiple aspects of the project that are protectable by the same form of IP.) Provide your basis for these decisions.

Question 2: As of now, does your library own the copyrights associated with the code written by the student programmer?

Question 3: One month after the launch of Library 3.know, you get a letter from the Authors Guild charging that your library's use of Library 3.know infringes the copyrights of author's works still under copyright protection. How much merit is there to the Authors Guild's complaint?

Group 2

You are an administrator at a local non-profit library. You have initiated a project to create a web-based digital library program whereby a user can search the library's electronic archive of excerpts of books and other literary works. For copyrighted works, the library has electronically archived only very short excerpts as well as other identifying data for each book. For works in the public domain, the library has scanned the entire book. In response to the search, the program provides short abstracts of the works. The user can then check-out a particular work, if available, and the library will deliver a hard copy of the work to the person's home the next day. Also, for works in the public domain, the user has the option of obtaining an electronic version of the work. You are calling the project "Library 3.know."

To create "Library 3.know", you hired a college student to write the software code during the summer. It was actually this student that recommended to you the name "Library 3.know" after you had been contemplating "Library 2.0." The student worked under an employment contract that simply required her to complete her programming assignment in a given amount of time and stated the terms of her payment. In addition, several years ago, you hired some temporary contract workers to select and scan short excerpts from each work in the library collection to include in Library 3.know. To employ the workers, you signed a contract with a temp agency stating "the workers and the agency agreed to assign their rights in any works created for [your library]".

In light of the recent financial situation, the federal government is cutting its spending. It has announced it will cease funding to 75% of all libraries. The government will focus its funding on libraries that have demonstrated unique and novel initiatives with technology. In addition, due to the lack of funding for public libraries, private libraries are springing up around the area. These private libraries are typically funded by organizations with strong ideological beliefs, and their choice of literary collections reflects those beliefs. Your boss disdains the very notion of these private libraries and wants to ensure that they cannot use anything similar to the "Library 3.know" concept. Accordingly, based on the above concerns, your boss has instructed you to identify the most important form of intellectual property protection for the "Library 3.know" project. She also wants to understand why that form of IP is the most important and what other forms of protection are available.

In assessing, which form of IP protection to recommend, you learn the following:

- In 2002, prior to your conception of the Library 3.know concept, Netflix offered an online movie rental service where a user could identify movies of interest, view short movie trailers, and then select a movie to be delivered via mail to your house. To identify a movie, a user could look at a list of movies by alphabetical order, or categorized by release date or genre,

but could not search for key words, creator, actors, or other related content. Moreover, you learn that there were technical reasons that made it very difficult to search the actual content of digitally imaged works, and your student programmer overcame this difficulty. No one offered a similar service for literary works.

- The Library 3.know concept will likely have commercial value for at least seven years.
- Although it was a significant advance at the time she wrote the code, as of today, the source code written by the college student could be written relatively easily to perform the same function of searching the content of digital images.
- This selection and scanning of the library collection was relatively simple and could be easily replicated. Furthermore, each library will likely want to scan its own books in order to make sure it selects the excerpts it wants to present to the user.

Question 1: Based on the above scenario, out of patent, copyright, or trademark protection for the Library 3.know project, identify a particular IP strategy for protecting the Library 3.know concept. Include in your strategy your first choice for a particular aspect of the project to protect with a single form of IP. Also include any forms of IP that you think are not worth pursuing. (Note: there may be multiple aspects of the project that are protectable by the same form of IP.) Provide your basis for these decisions.

Question 2: Does the library own the TM rights to “Library 3.know”

Question 3: Your boss believes that users of Amazon.com will be attracted to Library 3.know if they become aware of it. Your boss asks you to analyze the possibility of buying “sponsored links” on Google and using “Amazon” and “Amazon.com” as key word triggers for that sponsored link. Your boss says that if there is a court case that says he can’t do this, he wants to hear about it.

Group 3

You are an administrator at a local non-profit library. You have initiated a project to create a web-based digital library program whereby a user can search the library's electronic archive of excerpts of books and other literary works. For copyrighted works, the library has electronically archived only very short excerpts as well as other identifying data for each book. For works in the public domain, the library has scanned the entire book. In response to the search, the program provides short abstracts of the works. The user can then check-out a particular work, if available, and the library will deliver a hard copy of the work to the person's home the next day. Also, for works in the public domain, the user has the option of obtaining an electronic version of the work. You are calling the project "Library 3.know."

To create "Library 3.know", you hired a college student to write the software code during the summer. It was actually this student that recommended to you the name "Library 3.know" after you had been contemplating "Library 2.0." The student worked under an employment contract that simply required her to complete her programming assignment in a given amount of time and stated the terms of her payment. In addition, several years ago, you hired some temporary contract workers to select and scan short excerpts from each work in the library collection to include in Library 3.know. To employ the workers, you signed a contract with a temp agency stating "the workers and the agency agreed to assign their rights in any works created for [your library]".

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but could not search for key words, creator, actors, or other related content. Moreover, you learn that there were technical reasons that made it very difficult to search the actual content of digitally imaged works, and your student programmer overcame this difficulty. No one offered a similar service for literary works.

- The Library 3.know concept will likely have commercial value for between 4 and 5 years. After that, it is highly likely that new technologies will replace the Library 3.know concept.
- The source code written by the college student could be written relatively easily to perform the same function.
- This selection and scanning of the library collection took twelve workers four years to complete. The workers carefully selected excerpts that would give the reader insight into the content of the book.

Question 1: Based on the above scenario, out of patent, copyright, or trademark protection for the Library 3.know project, identify a particular IP strategy for protecting the Library 3.know concept. Include in your strategy your first choice for a particular aspect of the project to protect with a single form of IP. Also include any forms of IP that you think are not worth pursuing. (Note: there may be multiple aspects of the project that are protectable by the same form of IP.) Provide your basis for these decisions.

Question 2: Does the library own any patent rights associated with Library 3.know.

Question 3: Your boss starts to second guess the name "Library 3.know" and says she really likes the name "Zamm!" Analyze the pro's and con's of each name in terms of trademark protection.

Group 4

You are an administrator at a local non-profit library. You have initiated a project to create a web-based digital library program whereby a user can search the library's electronic archive of excerpts of books and other literary works. For copyrighted works, the library has electronically archived only very short excerpts as well as other identifying data for each book. For works in the public domain, the library has scanned the entire book. In response to the search, the program provides short abstracts of the works. The user can then check-out a particular work, if available, and the library will deliver a hard copy of the work to the person's home the next day. Also, for works in the public domain, the user has the option of obtaining an electronic version of the work. You are calling the project "Library 3.know."

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- The Library 3.know concept will likely have commercial value for at least seven years.
- The source code written by the college student could be written relatively easily to perform the same function.
- This selection and scanning of the library collection was relatively simple and could be easily replicated. Furthermore, each library will likely want to scan its own books in order to make sure it selects the excerpts it wants to present to the user.
- Early marketing shows that the public has really latched onto the Library 3.know brand and enjoys the elegant user interface provided for the project.

Question 1: Based on the above scenario, out of patent, copyright, or trademark protection for the Library 3.know project, identify a particular IP strategy for protecting the Library 3.know concept. Include in your strategy your first choice for a particular aspect of the project to protect with a single form of IP. Also include any forms of IP that you think are not worth pursuing. (Note: there may be multiple aspects of the project that are protectable by the same form of IP.) Provide your basis for these decisions.

Question 2: As of now, does your library own the compilation of excerpts created by the temp workers?

Question 3: About a week before the launch of Library 2.know, you receive a letter from a company called “IP in Libraries, LLC”, notifying you that they have a patent with a broad claim that reads: A method of providing a work of authorship, comprising: (1) receiving search criteria from a user; (2) providing samples of works based on the search criteria; (3) receiving an input from a user selecting a particular work to receive; and (4) based on such input, delivering to the user the selected work. Your boss says that as a non-profit library, your use of Library 3.know is fair use so you should not worry about this patent. What do you tell your boss?

Question 4: Your boss then asks you to analyze whether the above patent is valid. It was filed in 2004. In light of Netflix, should the “IP in Libraries” patent be valid?

Group 5

You are an administrator at a local non-profit library. You have initiated a project to create a web-based digital library program whereby a user can search the library's electronic archive of excerpts of books and other literary works. For copyrighted works, the library has electronically archived only very short excerpts as well as other identifying data for each book. For works in the public domain, the library has scanned the entire book. In response to the search, the program provides short abstracts of the works. The user can then check-out a particular work, if available, and the library will deliver a hard copy of the work to the person's home the next day. Also, for works in the public domain, the user has the option of obtaining an electronic version of the work. You are calling the project "Library 3.know."

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- In 2002, prior to your conception of the Library 3.know concept, Netflix offered an online movie rental service where a user could search for movies, view short movie trailers, and then select a movie to be delivered via mail to your house. No one offered a similar service for literary works.

- The Library 3.know concept will likely have commercial value for at least seven years.
- The code that the student programmer wrote to allow a user to search the entire content of a digitally-imaged literary work was very difficult to write. It took the student eight months, working sixteen-hour days. You lucked out in finding a “superstar” student and you believe it would be very costly for another institution to write code that performed the same function as the code written for your library by the student.
- This selection and scanning of the library collection was relatively simple and could be easily replicated. Furthermore, each library will likely want to scan its own books in order to make sure it selects the excerpts it wants to present to the user.

Question 1: Based on the above scenario, out of patent, copyright, or trademark protection for the Library 3.know project, identify a particular IP strategy for protecting the Library 3.know concept. Include in your strategy your first choice for a particular aspect of the project to protect with a single form of IP. Also include any forms of IP that you think are not worth pursuing. (Note: there may be multiple aspects of the project that are protectable by the same form of IP.) Provide your basis for these decisions.

Question 2: Who owns the copyright in each individual excerpt of a literary work from the library’s collection?

Question 3: Some of the library’s existing collection was already in digital format. In order for the contract workers to obtain excerpts of those works, the workers circumvented some code protecting those works from being easily copied. Still, the workers only obtained a very small portion of the overall work (less than .3%), and never made a copy of the entire existing work in the process. Is there any legal problem with this?