



viclink

*Intellectual Property for
Software Developers*



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Hello from Viclink!



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The Technology and Knowledge Transfer office of Victoria University of Wellington



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Intellectual Property (IP) you should know about

COPYRIGHT

PATENTS

What is copyright?

- Copyright protects a work or a “substantial part” of a work from unauthorised copying for a period of time.
- Copyright exists in original literary, dramatic, musical & artistic works.
- A work is not original if it is a copy of another work.
- Literary works include:
 - Research papers, theses & dissertations;
 - Conference posters;
 - Computer programs.

What do I need to do to copyright my work?

- Copyright comes into existence automatically upon the creation of an original work.
- There is no copyright registration system in NZ and no cost!
- Although not compulsory it is a good idea to mark your work with a copyright notice, e.g.
 - © [Year of first publication] [Name of copyright owner]
 - © 2018 Jane Doe
 - © 2018 Victoria University of Wellington
- A copyright notice can be attached to any copyright work, e.g. a document, website, or computer program (either in the code itself or printed on screen when the program is run).

Copyright ownership at VUW

- Students own the copyright in their work unless they assign their IP to the University or another party.
- Staff own the copyright in some of their work (e.g. lecture notes & non-commercially valuable software) and the University owns the copyright in other works (e.g. exam papers & commercially-valuable software). Please see the University's IP Policy document for more information
- If a person pays you to create some types of work (e.g. software) for them, they own the copyright unless specifically agreed otherwise. This is known as the “commissioning rule”.

Licensing your Copyright

- A copyright owner can grant a licence to allow other people to do things that would, without permission, be an infringement of copyright.
- There are many different types of licences, e.g.
 - exclusive / non-exclusive / sole;
 - commercial use / non-commercial use;
 - royalty / royalty-free;
 - perpetual / subscription.

Licensing Software

- Licensing the copyright in software is a very common process!
- There are many different types of license, including popular opensource license agreements, [most of which can be found here](#)
- Licence information can be stored in a file, e.g. licence.txt
- Come talk to Viclink if you would like some advice on software licensing!

Copyright myths

There are a number of commonly held but incorrect beliefs about copyright, e.g.

- ✘ Myth: Any work published on the Internet (e.g. code on GitHub) is in the public domain and can be freely used.
- ✓ Truth: Any work protected by copyright is protected regardless of whether it is published on the Internet. A work only passes into the public domain once the copyright term has expired.
- ✘ Myth: If I change a copyright work by 10% then I will avoid infringing copyright.
- ✓ Truth: There is no set percentage. Copying a “substantial part” of a copyright work can constitute infringement. What is “substantial” depends on the quality rather than the quantity of what is taken.

Copyright and computer programs

- Copyright protects code from being copied, distributed, sold or converted into a different programming language
- Copyright does not protect the functionality or 'end result' of the code
- Examples of copying the functionality but not the code itself:
 - *Navitaire Inc v Easyjet Airline Co & Another* [2004] EWHC 1725
 - *Karum Group LLC v Fisher & Paykel Financial Services Ltd* [2014] NZCA 389
- Only a patent can protect the functionality of code

What are patents?

- A patent protects the concept underlying an invention.
- Unlike copyright, a patent protects the functionality of a product or process.
- In order to obtain a patent, the invention (as at the filing date of the patent application) must be:
 - new over what is in the public domain;
 - non-obvious to a hypothetical person skilled in the field;
 - industrially useful.
- An invention must be kept confidential until after a patent application is filed!

Is software patentable?

- It depends on the country and exactly what the invention is.
- In general, the mere running of software which makes computer hardware perform normal technical functions in the usual way is not patentable subject matter.
- However, a computer program which does something over and above standard computer processing may be patentable subject matter, e.g.
 - software that makes a motor run more economically;
 - software that makes a hard drive output data more efficiently;
 - software that compiles code faster than known compilers.

Copyright & Patent Infringement

Infringing copyright or patents is a criminal offence! Be careful to follow the rules set out by the publisher when you accept their publication agreement!

- Is someone using your work without permission?
- Have you received a legal challenge regarding a copyright or patent violation?
- Please get in touch with Viclink for advice! Email: viclink@viclink.co.nz

Patent searching

- Patents contain a wealth of information (often not published in any other form).
- Each patent application is usually published 18 months after it was filed with a Patent Office.
- Most Patent Offices have a website that allow users to view patents and published patent applications.
- One of the most useful websites to search for patents and published patent applications is the website of the European Patent Office called “Espacenet”:

<https://worldwide.espacenet.com>

Espacenet

- There are 3 search tabs on Espacenet, namely:
 - Smart search;
 - Advanced search;
 - Classification search.
- Let's do some searching!

Smart search

- Smart search combines multiple functions in a single, easy-to-use search field.
- Enter keywords in the search field (with quotation marks for phrases).
- Boolean operators (AND, OR, NOT) can be used, e.g. *“evolutionary computation” AND learning*
- The following wildcards can be used:
 - * = string of characters of any length, e.g. *comput**
 - ? = zero or one character, e.g. *image?* will find image & images;
 - # = one character, e.g. *optimi#ation* will find UK & US spellings.

Advanced search

- Advanced search allows you to combine multiple searches, e.g. you can search for patent applications published so far this month where Huawei is the applicant:
 - Publication date: **“20180901 20180921”**
 - Applicant(s): ***Huawei***
- You should see that, so far this month, 416 patent applications owned by Huawei have been published!
- How many patents or published patent applications has “Victoria Link Ltd” ever filed?

Classification search

- Classification search allows you to find appropriate classification code(s) for an invention under the Cooperative Patent Classification (CPC).
- Each patent application filed is allocated one or more CPC codes.
- CPC codes relating to “computing, calculating and counting” start with the prefix G06.
- Each subsequent letter or number indicates that the subject matter is narrower and more specific, e.g. G06T = “image data processing or generation, in general” & G06T7 = “image analysis”.
- Once you have found an appropriate CPC code you can enter it into the CPC field in the Advanced search. Wildcards can't be used but entering a parent node, e.g. G06T7, will cover all of the descendent nodes from that parent.

Email alerts & commercial opportunity



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Do you want to receive email alerts containing summaries of recently published patent applications?

Email me the CPC codes and keywords and I will set it up!



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Have you developed something that could have commercial value?

Contact me and we will evaluate the opportunity!