

Speech at WSIS, 16 July 2003

by [Richard Stallman](#)

The benefit of computers is that it's easier to copy and manipulate information. Corporations are using two kinds of imposed monopolies to deny you this benefit.

Software patents restrict how you use your computer. They restrict developing software. A big program combines dozens or hundreds of ideas. When each idea can be patented, only IBMs and Microsofts can safely write software. Bye bye to any independent local software industry. Software patents must be rejected.

Copyrights restrict using and sharing information--exactly what your computer is for. It was fine to trade away the freedom to copy when only publishers could copy; the public lost nothing. Today peer-to-peer sharing must be legal. WSIS should not teach people that sharing is wrong.

Copyrights block access to scientific publications. Every university should be free to make an open-access mirror for any journal, so no one is excluded from access.

Then there's the economic effect. When companies have power over you, they bleed you dry. Copyrights and software patents increase the digital divide and concentrate wealth. We have too much scarcity in the world; let's not create more. TRIPS is bad enough, but software patents and the WIPO copyright treaty go beyond TRIPS, and WSIS should reject them.

Computer users need software that respects their freedom. We call it "free (libre) software", meaning freedom, not gratis. You have the freedom to run it, study it, change it, and redistribute it.

Free software means you control your computing. With non-free software, the software owners control it. They put in spy features, back doors, restrictions. With free software, you can make the program do what you want. "You" could mean an individual programmer, a company, or a group of users with similar needs. Non-programmers can convince or pay programmers to make changes for you. With free software, you're free to make it handle your language. Free to adapt it for your disability.

Software owners deliberately make programs incompatible. With free software, users can make it follow standards.

You need free software to train master programmers. Non-free software is a secret, so nobody can learn from it. Free software gives talented young people in Africa the chance to learn how to work on real software. School should also teach students the spirit of cooperation. All schools should use free software. Free software is necessary for sustainable development. If everyone in your country uses a program that's secret and controlled by a single company, that's not development, that's electronic colonization.

Did You Say "Intellectual Property"? It's a Seductive Mirage

by Richard M. Stallman

It has become fashionable to describe copyright, patents, and trademarks as "intellectual property". This fashion did not arise by accident--the term systematically distorts and confuses these issues, and its use was and is promoted by those who gain from this confusion. Anyone wishing to think clearly about any of these laws would do well to reject the term.

One effect of the term is a bias that is not hard to see: it suggests thinking about copyright, patents and trademarks by analogy with property rights for physical objects. (This analogy is at odds with the legal philosophies of copyright law, of patent law, and of trademark law, but only specialists know that.) These laws are in fact not much like physical property law, but use of this term leads legislators to change them to be more so. Since that is the change desired by the companies that exercise copyright, patent and trademark powers, these companies have worked to make the term fashionable.

According to Professor Mark Lemley, now of the Stanford Law School, the widespread use of the term "intellectual property" is a fad that followed the 1967 founding of the World "Intellectual Property" Organization, and only became really common in the past few years. (WIPO is formally a UN organization, but in fact it represents the interests of the holders of copyrights, patents and trademarks.)

Those who would prefer to judge these issues on their merits should reject a biased term for them. Many have asked me to propose some other name for the category--or proposed alternatives themselves. Suggestions include IMPs, for Imposed Monopoly Privileges, and GOLEMs, for Government-Originated Legally Enforced Monopolies. Some speak of "exclusive rights regimes", but this means referring to restrictions as rights, which is doublethink too.

But it is a mistake to replace "intellectual property" with any other term. A different name could eliminate the bias, but won't address the term's deeper problem: overgeneralization. There is no such unified thing as "intellectual property". It is a mirage, which appears to have a coherent existence only because the term suggests it does.

The term "intellectual property" operates as a catch-all to lump together disparate laws. Non-lawyers who hear the term "intellectual property" applied to these various laws tend to assume they are instances of a common principle, and that they function similarly. Nothing could be further from the case.

These laws originated separately, evolved differently, cover different activities, have different rules, and raise different public policy issues. Copyright law was designed to promote authorship and art, and covers the details of a work of authorship or art. Patent law was intended to encourage publication of ideas, at the price of finite monopolies over these ideas--a price that may be worth paying in some fields and not in others. Trademark law was not intended to promote any business activity, but simply to enable buyers to know what they are buying; however, legislators under the influence of "intellectual property" have turned it into a scheme that provides incentives for advertising (without asking the public if we want more advertising).

Since these laws developed independently, they are different in every detail as well as in their basic purposes and methods. Thus, if you learn some fact about copyright law, you had best assume that patent law is different. You'll rarely go wrong that way!

Laymen are not alone in getting confused by this term. I regularly find that experts on patent law, copyright law, and trademark law, even law professors who teach these subjects, have been lured by the seductiveness of the term "intellectual property" into general statements that conflict with the facts they know. The term distracts them from using their own knowledge.

People often say "intellectual property" when they really mean some other category, larger or smaller than "intellectual property". For instance, rich countries impose laws on poor countries to squeeze money out of them. These laws often fit the category of "intellectual property"--so people who question the fairness of these laws often use that label, even though it does not really fit. That can lead to incorrect statements and unclear thinking. For this subject I recommend using a term such as "legislative colonization" that focuses on the central aspect of the subject, rather than the term "intellectual property". For other subjects, the term that describes the subject would be different.

The term "intellectual property" also leads to simplistic thinking. It leads people to focus on the meager commonality in form of these disparate laws, which is that they create special powers that can be bought and sold, and ignore their substance--the specific restrictions each of them places on the public, and the consequences that result.

At such a broad scale, people can't even see the specific public policy issues raised by copyright law, or the different issues raised by patent law, or any of the others. These issues arise from the specifics, precisely what the term "intellectual property" encourages people to ignore. For instance, one issue relating to copyright law is whether music sharing should be allowed. Patent law has nothing to

do with this. But patent law raises the issue of whether poor countries should be allowed to produce life-saving drugs and sell them cheaply to save lives. Copyright law has nothing to do with that. Neither of these issues is just an economic issue, and anyone looking at them in the shallow economic perspectives of overgeneralization can't grasp them. Thus, any opinion about "the issue of intellectual property" is almost surely foolish. If you think it is one issue, you will tend to consider only opinions that treat all these laws the same. Whichever one you pick, it won't make any sense.

If you want to think clearly about the issues raised by patents, or copyrights, or trademarks, or even learn what these laws say, the first step is to forget the idea of lumping them together, and treat them as separate topics. If you want to write articles that inform the public and encourage clear thinking, treat each of these laws separately; don't suggest generalizing about them.

And when it comes to reforming WIPO, among other things let's call for changing its name.