

SOLVING THE HARDEST PROBLEMS

ARA 2030

SCIENCE AND TECHNOLOGY • PRODUCTS AND SERVICES

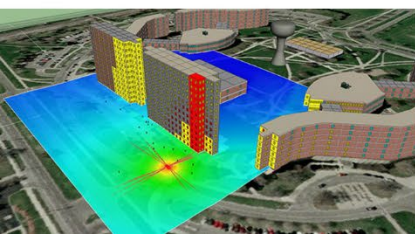


Intellectual Property Management and Transportation

A Presentation to the Transportation Librarian's Roundtable
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Let's start with some basic thoughts

Intellectual Property is derived from

- US Constitution
- Case Law

IP Management

- Concept of providing for orderly use of intellectual property and intellectual property rights



What things we ask

What do we currently know (or think we know)?

What do we *need* to know?

How should we address the gap?

What will be the impact of our actions/inactions?

What is the schedule and time horizon?





Key Principles and Foundation

Why do we want to spend time on this?



Copyright protection is automatic

- Copyright protection with no need for notice, publication, or registration when:
- Minimal creativity: Some modicum of creativity is required, but there is no definitive rule concerning how much must exist
- Originality: The work must be unique and independently created. Existing works can be combined in new
- Fixation: The work must be fixed perceived directly or with the aid of a machine or device

United States Copyright Office is undertaking a public study on moral rights for authors, specifically the rights of attribution and integrity



Copyright Notice



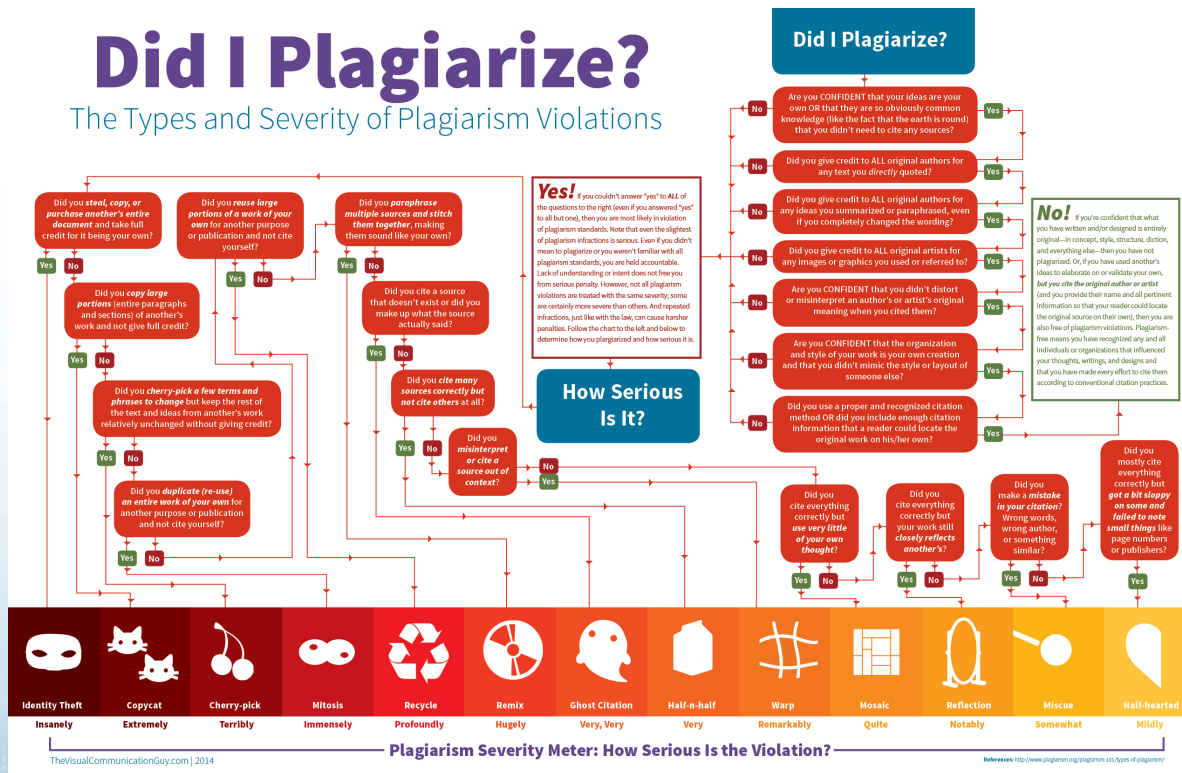


I will tell you about

- Works for Hire
- Public Domain
- Fair Use

Did I Plagiarize?

The Types and Severity of Plagiarism Violations



http://thevisualcommunicationguy.com/wp-content/uploads/2014/09/Infographic_Did-I-Plagiarize1.jpg



Works for Hire

- All employee generated material belongs to the employer
- Most contracted material belongs to the sponsor
 - Must be designated in writing (contract) before it is created
- Best practice is to include a Copyright Transfer in the contract language



Photo source: <https://paynebritton.wordpress.com/2016/05/03/works-for-hire-and-the-no-moonlighting-clause-if-you-write-an-app-on-the-side-does-your-boss-own-it-anyway>



Fair Use Doctrine

- Research, criticism, commentary, teaching, news reporting, and parody exempted
- Four factors:
 - (1) the purpose and character of the use;
 - (2) the nature of the copyrighted work (worthiness factor);
 - (3) the amount and substantiality used in proportion to the whole; and
 - (4) the effect on the marketplace on the potential market or value of the copyrighted work

Non Commercial uses are favored



Fair Use Guidelines

- Checklists
- Look for permission information or guides
 - If it is posted, follow them carefully!
 - If not posted, credit the source
 - Link to sources rather than copying information over
- How much is too much?
 - Good rule is >10%
- Acting in good faith
 - Honest or sincere intention to honor the materials



Public Domain

- Internet ≠ Public Domain
- Why have a public domain?
 - Build upon other work

We have reviewed this material in accordance with U.S. Copyright Law and have tried to maximize your ability to use, share, and adapt it. The citation key on the following slide provides information about how you may share and adapt this material.

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Author(s): August E. Evrard, PhD. 2010

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How does something get into the Public Domain?

- Copyright has expired
- Copyright owner failed to renew
- Copyright owner deliberately places it in the public domain
 - “Dedication to the public domain”
 - Does that entity hold the rights to dedicate it?
- Copyright law does not protect this type of work



You can dedicate IP to the Public Domain

- Enabling low-cost access to information without the need to locate an owner of IP rights
- Promoting and expanding education through the spread of ideas, inventions, and discoveries
- Restricting another party from claiming IP rights to a creation
- Enabling competitive imitation
- Promoting innovation without the cost of IP protection and defending protected IP



Highlighted Questions



Key Project Efforts

- Copyright permissions in journals
 - Relatively still undecided for transportation research programs
- Take down notices



<https://www.setindiabiz.com/learning/copyright-transfer/>



Copyright Ownership

- Initially by the authors
- Listed authors
- Joint ownership
 - And if a co-owner decides to transfer his interest to a publishing company who can better exploit his interest, he may do so without the involvement of the other co-owner. This last point is critical: Though a co-owner can only transfer whatever interest he owns, and cannot purport to be transferring the entire copyright, the transfer nonetheless satisfies Section 201(d).



License and Assignment and Transfer

- These are different terms
- Exclusivity





Special Cases

- Video Streaming



<http://buzz.dragonarmy.com/wp-content/uploads/2017/08/streaming.jpg>



Strategies for the Future



Where are the largest risks to a state with respect to IP?

Database development

- Access to necessary documentation

Specialty software

- Getting the Right to *Use* the Software and Related Documentation
- Agreeing to the Rights of the Developer

Reports and Graphics

- Inappropriate or unauthorized use of state DOT IP.

Logos/Branding of the Program

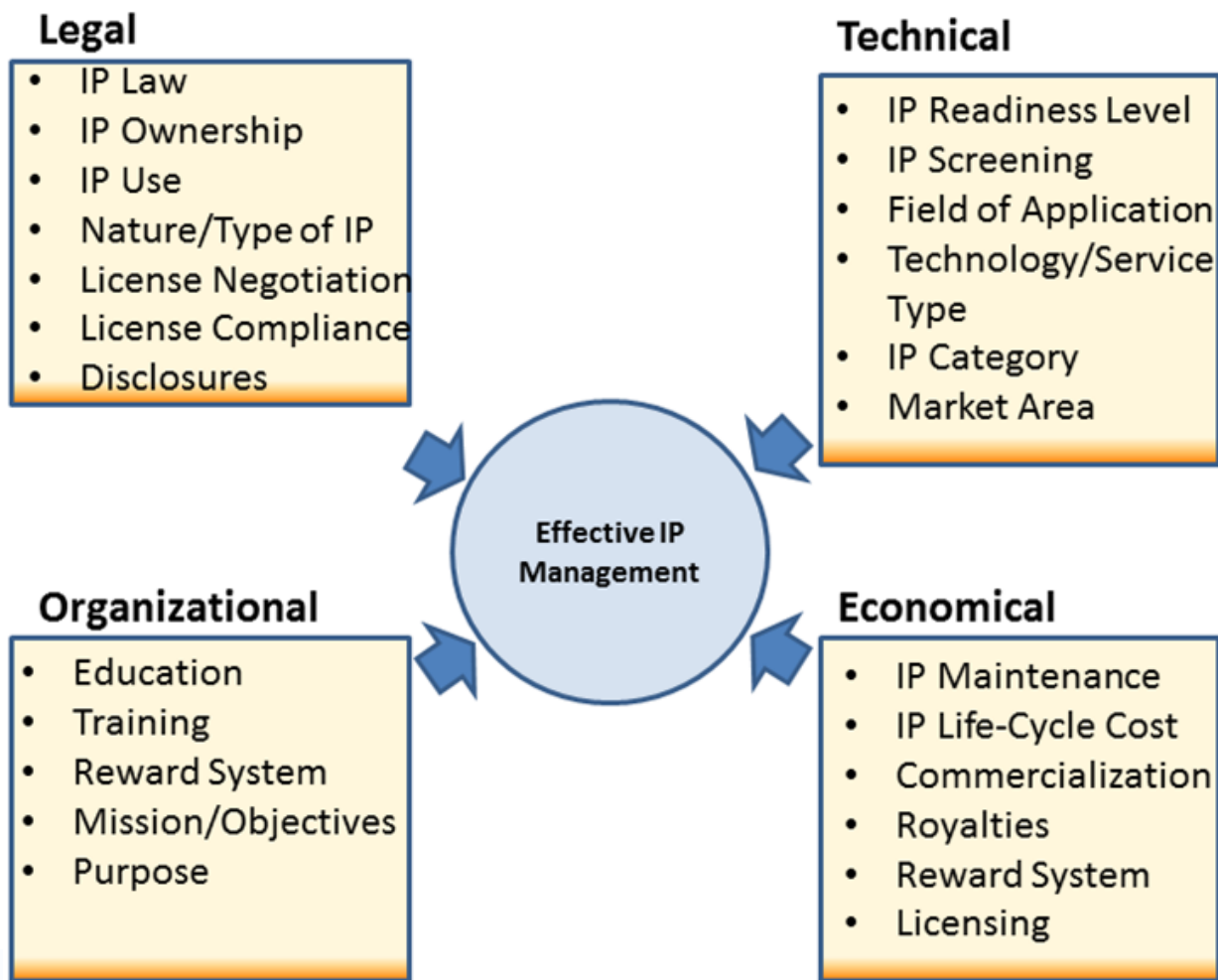
Liability if unknowingly using others' IP without consent (e.g., a state DOT employee using copyrighted material found on the web)

A third party laying claim to state DOT IP



Operational Models

■ IP Management Key Factors Analysis





What is gained through IPM?

- Maintain access to creations
- Protect IP rights of others, including contractors and employees
- Shield state DOT contractors from IP infringement claims
- Identify contributions to the field by DOTs



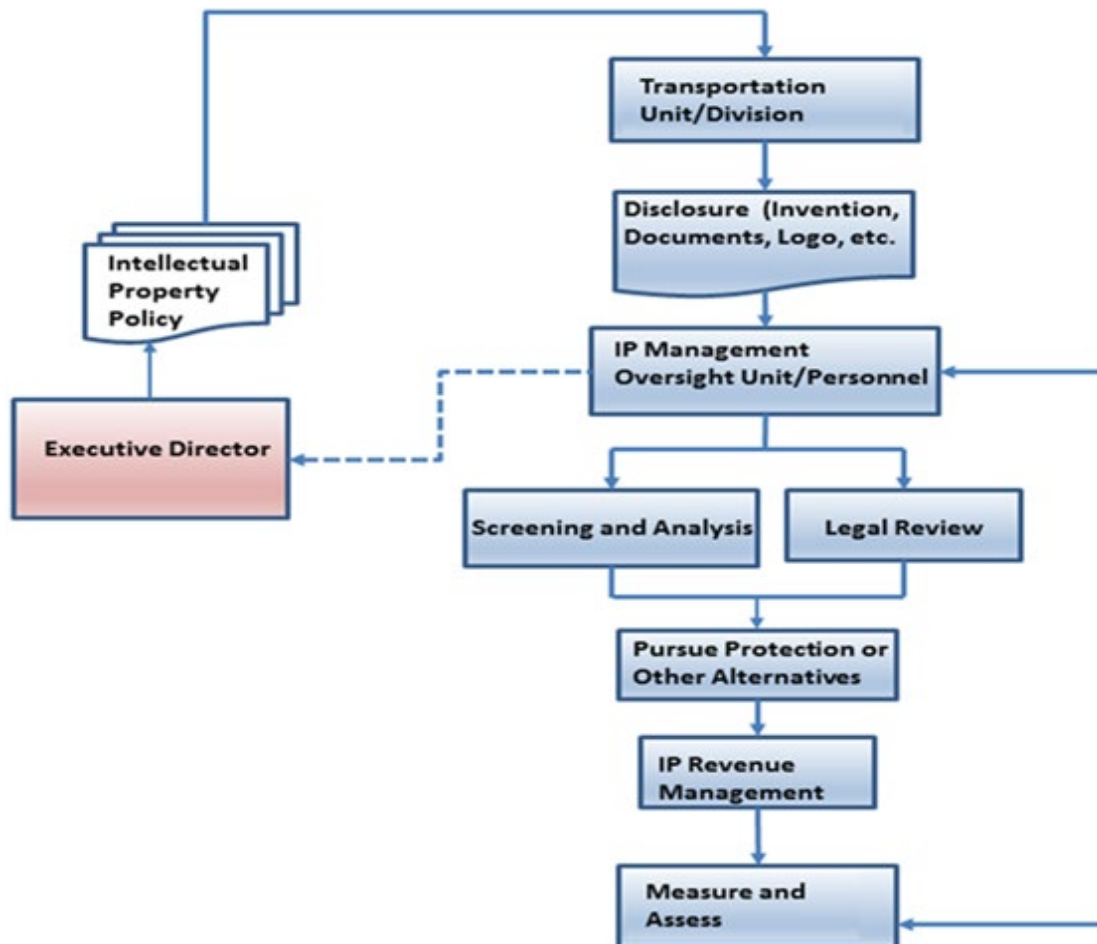
Intellectual Property Management needs to start early

- Establish a team for looking at IP issues in your state
- Consider software escrow accounts
- Understand what tools and documents should be protected
 - Look closely at Management Systems and legacy reports
- Work collaboratively with vendors and consultants
- Exercise copyright protections
- Inventory copyrights
- Ask before stealing
- Avoid traps



Key Steps in the IP Management Process

- **STEP 1:** Identifying the person(s), organization, or an office that will be responsible for handling IP issues within the organization.
- **STEP 2:** Identifying and documenting potential IP created through the performance and asset management processes
 - Create and use inventory forms
- **STEP 3:** Make the decision on how the potential IP will be handled.
 - Technology transfer.
- **STEP 4:** Monitoring intellectual property management results and performance.





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Thank you!



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