



## Intellectual Property

By Russ McGuire - [russ.mcguire@gmail.com](mailto:russ.mcguire@gmail.com)

One of the major storylines that anyone in technology needs to pay attention to is the war being fought over Intellectual Property. This is most evident in the smartphone space, with the most active litigants being Apple, Microsoft, Google (especially through their Motorola division), Samsung, HTC, and RIM. How these battles play out could have a significant impact on all of us.

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### What is Intellectual Property?

According to the U.S. Patent and Trademark Office's (USPTO) website: "It [Intellectual Property] is imagination made real. It is the ownership of dream, an idea, an improvement, an emotion that we can touch, see, hear, and feel. It is an asset just like your home, your car, or your bank account." The USPTO identifies four ways to protect Intellectual Property: Patents, Trademarks, Copyrights, and Trade Secrets.

Utility patents generally protect inventions, including new products, new materials, and new processes. Design patents protect new, original and ornamental designs of manufacture such as the look of a shoe or the shape of a bicycle helmet. Trademarks protect words, names, symbols, sounds, or colors that are used to identify products or companies. Copyrights protect writings, music,

and works of art.

### Why are companies fighting over Intellectual Property?

Some companies invest millions of dollars to create Intellectual Property that can give them access to, or advantage in, a lucrative market. If someone else copies what they spent millions to create, it is like stealing. Most companies are willing to license their technology to other companies for a fee, and in some cases, there is a requirement for companies to license technology essential to implementing technology standards on fair, reasonable, and non-discriminatory (FRAND) terms. So, a company that implements an invention without paying the licensing fee for the technology truly is denying money that is rightfully due to the other company. For example, it is believed that

Microsoft makes more money licensing Intellectual Property to makers of Android smartphones than they make from the sale of Windows-based smartphones.

However, it isn't always just about licensing fees. In some cases, a company will refuse to license their Intellectual Property to competitors, making it impossible for anyone else to create a product that can effectively compete with them in the marketplace. Apple is most often accused of this tactic and they have been very aggressive about seeking injunctions against competitors to prohibit them from selling their competitive offers. Apple has been particularly successful in keeping versions of Samsung's tablets out of different markets around the world, but have also won injunctions against HTC, Motorola, and Samsung smartphones.

Even murkier is the validity or applicability of different patents. There is a current case in San Jose, California between Apple and Samsung that involves a number of Apple design patents, including the design of a device that has edge-to-edge glass on the front, and a design with a rectangular shape.

Kevin Packer, Samsung's product chief, was quoted by *Wired* magazine as saying "it's unreasonable that we're fighting over rectangles." Who can blame him? Nearly every smartphone on the market today is rectangular in shape and has glass pretty much from edge-to-edge.

So, why are these companies going to all this trouble? It's all about money. The smartphone market is exploding. ITC estimates that \$111 billion in smartphones were shipped last year, and this figure is expected to grow to \$174 billion in 2016. Asymco estimates that Apple earns 73% of the profits in the smartphone industry, with Samsung taking 23.5%, HTC barely breaking even, and everyone else losing money. In Apple's most recent quarter, they made \$8.8 billion in profits. They want to protect that cash flow by keeping products out of the market that may be more at-



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tractive to customers, especially if that attractiveness is due to competitors implementing Apple's inventions.

### Why should churches and ministries care?

I think there are two reasons that we need to pay attention to this issue.

The first reason is impersonal, logical, and rational. Licensing fees drive up the price we pay for the technology we use in serving the Lord through our ministries. These battles will undoubtedly result in increased licensing fees and higher retail prices. More troubling, injunctions can keep us from being able to purchase technology that we may have counted on for our ministry. If you've been working hard to launch an Android app for your ministry, but Apple is successful in their legal efforts and compelling Android products are no longer available, your efforts may be wasted. (Many are suing Apple as well, so injunctions keeping the iPhone out of the market are also possible.)

The second reason we need to pay attention to this issue is personal, moral, and emotional. Es-

pecially those of us in ministry, serving the Lord with limited budgets, are often tempted to violate the Intellectual Property of others. We may use software that we haven't properly licensed for our computer. We may download a photo or audio file from the web and use it on our website or in our church service without proper permissions and without paying appropriate fees. We may plagiarize what someone else wrote in our blog because we simply couldn't think of a way to say it any better.

As Paul wrote to the Ephesians "Let the thief no longer steal, but rather let him labor, doing honest work with his own hands, so that he may have something to share with anyone in need." (Ephesians 4:28) Let us heed this admonition, especially in our service to the Lord.

It is my hope and prayer that these articles on the power and danger of technology will encourage you in your daily walk with Christ. Whether it is the printing press, personal computers, the Internet, mobility, Wi-Fi, social networks, or tablet computers, new technologies continue to advance our ability to know God and to serve Him, wherever we go.

*Russ McGuire is an executive for a Fortune 100 company and the founder/co-founder of three technology start-ups. His latest entrepreneurial venture is Hschooler.net (<http://hschooler.net>), a social network for Christian families (especially home-schoolers) which is being built and run by seven young men under Russ' direction.*



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