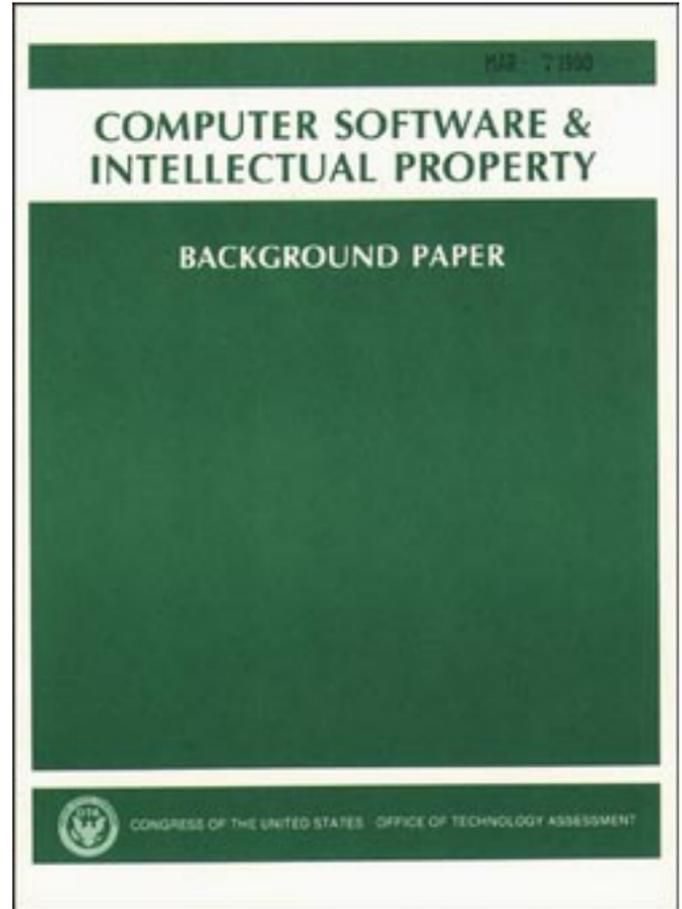


Computer Software and Intellectual Property

March 1990

OTA-BP-CIT-61

NTIS order #PB92-169242



Recommended Citation:

U.S. Congress, Office of Technology Assessment, *Computer Software and intellectual Property--Background Paper, OTA-BP-CIT-61* (Washington, DC: U.S. Government Printing Office, March 1990).

For sale by the Superintendent of Documents
U.S. Government Printing Office, Washington, DC 20402-9325
(order form can be found in the back of this report)

Foreword

In the past, programming was viewed as a support activity for computer hardware or as a hobby for “hackers.” As the software industry matured, it has become less driven by technology and more concerned with the needs of users and the demands of the market. Today software is a lucrative industry of its own, amounting to some \$60 billion per year in domestic sales and services. Internationally, the United States dominates the software market, holding the edge in innovation over Western Europe, Japan, and the Soviet Union. Accompanying this growth and maturity has come concern about the amount and type of intellectual-property protection available for software.

This background paper examines existing intellectual-property protection for computer software—copyrights, patents, and trade secrets—and provides an overview of the often conflicting views and concerns of various stakeholders. It was prepared in response to a request from the Subcommittee on Courts, Intellectual Property, and the Administration of Justice of the House Committee on the Judiciary.

OTA gratefully acknowledges the contributions of the many experts, within and outside the government, who reviewed or contributed to this document. As with all OTA publications, however, the content is the responsibility of OTA and does not necessarily constitute the consensus or endorsement of reviewers or the Technology Assessment Board.



JOHN H. GIBBONS
Director

Reviewers and Other Contributors

Reviewers

Anne W. Branscomb
Program on Information Resources Policy
Harvard University

Dam E. Cartwright, III
Academic Computing Services
Syracuse University

Joseph Farrell
Department of Economics
University of California at Berkeley

Francis D. Fisher
Cambridge, MA

Steven W. Gilbert
EDUCOM

Gerald Goldberg
U.S. Patent and Trademark Office

Brian Kahin
Science, Technology and Public Policy program
Harvard University

Michael S. Keplinger
U.S. Patent and Trademark Office

Ronald S. Laurie
Irell & Manella

Peter Menell
Georgetown University Law Center

Steven J. Metalitz
Information Industry Association

Eric Schwartz
U.S. Copyright Office

Lee Skillington
U.S. Patent and Trademark Office

Oliver R. Smoot
Computer and Business Equipment
Manufacturers Association (CBEMA)

Douglas R. Weimer
Congressional Research Service
American Law Division

Milton R. Wessel
Georgetown University Law Center

Other Contributors

Kenneth B. Allen
Information Industry Association

Ronald Palenski
Association of Data Processing
Service Organizations (ADAPSO)

Ron Reiling
Digital Equipment Corp.

Pamela Samuelson
University of Pittsburgh and
Emory University

Kenneth A. Wasch
Software Publishers Association

Ingrid A. Voorhees
Computer and Business Equipment
Manufacturers Association (CBEMA)

OTA Reviewers and Contributors

Karen G. Bandy
Communication and Information
Technologies program

D. Linda Garcia
Communication and Information
Technologies Program

Elizabeth Miller
Communication and Information
Technologies program

Kevin O'Connor
Biological Applications Program

Fred W. Weingarten
Communication and Information
Technologies Program

Robert Weissler
Industry, Technology, and
Employment Program

Fred B. Wood
Communication and Information
Technologies Program

NOTE: OTA appreciates and is grateful for the valuable assistance and thoughtful critiques provided by outside reviewers and other contributors. These individuals do not however, necessarily approve, disapprove, or endorse this background paper. The paper is the sole responsibility of OTA, not of those who so ably assisted us.

OTA Project Staff-Computer Software and Intellectual Property

*John Andelin, Assistant Director, OTA
Science, Information, and Natural Resources Division*

*James W. Curlin, Manager
Communication and Information Technologies Program*

Project Staff

Joan D. Winston, Policy Analyst

AM M. Hironaka Research Assistant

Administrative Staff

Elizabeth Emanuel, Administrative Assistant

Jo Anne Price, Secretary

Karolyn St. Clair, Secretary