

# Conlanging and US Intellectual Property Law

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## Disclaimers:

I am *not* a lawyer (yet).

I am not *your* lawyer.

I am not giving any legal *advice or opinion*.

LCS' lawyers are not *your* lawyers, and not giving legal *advice*.

The memo & talk only address United States law.

I will gloss over lots of details & exceptions.

If in doubt, read the memo yourself, or get a lawyer. ;-)

The memo belongs to Dentons, and is used with their permission.

# We got real lawyers to address this

Dentons US LLP — *pro bono!* (Thanks!)

Samuel Fifer (copyright & trademark)

Heather Khassian (patents)

Marc Mandel (corporate, securities and IP)

Memo is now public!

See LCC6 schedule page.

Few lawsuits = "maybe" & "it depends"...

Q&A at end of talk

# How might IP law affect conlangers?

Can you:

stop others from (mis)using your conlang?

sell a conlang?

sell a grammar book of a conlang?

make a conlang based on others' work?

sell things based on a popular conlang?

require (or prevent) attribution to you?

get sued for conlanging? (realistically)

...

# US Intellectual Property Law 101

Copyright ©, ®

✓ Creative work

Fixed form

Original

✗ Utilitarian

Ideas

Facts of the world

! Fair use exception

*Automatic* on creation

Registration optional

# US Intellectual Property Law 101

## Trademark <sup>TM</sup>

- ✓ Identifies source of service/product  
Commercial use in specific area

- ✗ Dilution, confusion, or conflict

  - Merely descriptive

  - Generic

- ! Maintained in active use

  - Defended (cf. "Kleenex")

  - Registration optional

  - Trade dress ("look and feel" identity)

# US Intellectual Property Law 101

## Patent

✓ Useful

New

Not obvious

Not disclosed (1 year limit)

Methods OK (... in US)

... if it's *for* an otherwise patentable thing

✗ Creative / artistic works

! Registration *required*

# US Intellectual Property Law 101

Moral rights, unjust enrichment, etc.

- ✓ Your personal identity

- ~ Association with your work

- ✗ EU style *droit moral*

- ! *Very weak in US*

# Conlang parts from a lawyer's POV

Specific "works" (grammars, poetry, etc)  
& anything *associated* with commercial products  
Dothraki, Klingon, Na'vi, Quenya...

Vocabulary *per se*

Glyphs

Compilations

*Creatively arranged vocabulary*

Grammatical rules

Fonts (the software, not the glyphs)

Association with the creator



# Conlangs: Copyright

✓ Specific, fixed *expressions*

Books, poetry, music, etc

Grammar documents

(*not* the content)

~ Creative compilations (e.g. a dictionary)

✓ *Creative* glosses / definitions

! Someone else can re-compile it

*A posteriori* work

x Idea / grammar

Individual vocabulary

Functional / useful aspects

# Conlangs: Copyright

Language is  
*meant to be used*

# Conlangs: Trademark

✓ Identify *single source of goods & services*

Branding

✗ Language names

! Based on "relevant" public

Limited to area of use

# Conlangs: Trademark

If it's making money...

# Conlangs: Patent

✓ Identify *single source of goods & services*

Branding

✗ Morse code

Abstract ideas, algorithms

! Prior art

Novel, not obvious, *and* not published

"Obvious" per experts in the field (us!)

EU patent law *very* different

? Process of *making* a language

**Conlangs: Patent**

**Novel & non-obvious?  
Good luck...**

**Conlangs: Moral rights, etc**

Do you *want* credit?

Do you *deserve* credit?

# Recap: how does it affect you?

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...



**Three years ago, when asked a legal question, you could answer, in all honesty, "I don't know." Now you can say with great authority: "It depends."**

- **UVA Law School professor, to a graduating class**

**Q & A\***

\* ("A" ≠ "Advice")

# ***Culture, not law***

Our mores:

share openly

improve our craft

use *with permission*

improve outside perspectives

don't prosleytize

educate and encourage new people

**be excellent to each other**