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Verfasser/In: Vorname, Nachname	Jersey Otabor, Izedonwmen
Matrikelnummer	H12017427
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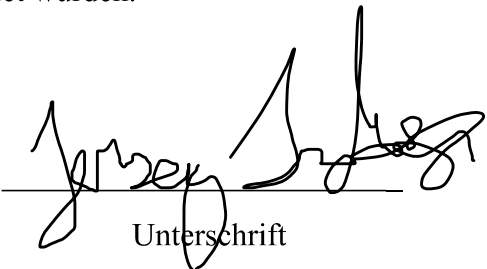
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# Abstract

The concept of ownership in Information Technology (IT) has evolved significantly in recent decades, driven by technological advancements, changing business models, and evolving legal frameworks. This paper explores the multifaceted nature of IT ownership, particularly focusing on software and hardware, and the shift from traditional ownership models to contemporary constructs such as licensing, leasing, and subscription services. By examining legal definitions and regulations in Europe, the United States, and internationally, this study provides a comprehensive overview of how ownership rights are defined and enforced in different jurisdictions. Additionally, it delves into the roles of intellectual property law—specifically copyrights, patents, and trademarks—in protecting IT assets, and how these protections influence ownership structures.

The paper further investigates limited ownership rights, emphasizing the prevalence and implications of software licenses and IT leasing. The importance of ownership rights in the digital age is analyzed from both consumer and business perspectives, addressing issues such as digital piracy, security, and data privacy. Case studies of significant legal disputes, such as *Oracle America, Inc. v. Google Inc.* and *Vernor v. Autodesk, Inc.*, illustrate the practical challenges and ramifications of IT ownership conflicts. Finally, the paper presents future perspectives on IT ownership, considering emerging technologies and market trends.

The findings highlight the need for ongoing refinement of legal frameworks to accommodate the unique challenges posed by digital assets. For businesses, strategic approaches to IT ownership that balance flexibility and control are essential for maintaining competitive advantage. For consumers, understanding the implications of different ownership models is crucial for making informed decisions. This paper contributes to the broader discourse on digital ownership and property rights, offering actionable insights for policymakers, businesses, and consumers navigating the changing landscape of IT ownership.

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# 1 Introduction

<sup>1</sup> The concept of ownership in Information Technology (IT), particularly regarding software and hardware, has significantly evolved over the past few decades. This evolution has been driven by rapid technological advancements, changing business models, and the global expansion of digital markets. The traditional understanding of ownership, which involved the outright purchase and perpetual control of physical products, is increasingly being replaced by more complex arrangements such as software licenses, subscriptions, and cloud-based services. This paper aims to explore these changes in detail, examining the legal, economic, and technological factors that are reshaping IT ownership.

## 1.1 Topic Outline and Background

Traditionally, ownership of IT products was straightforward: businesses and individuals purchased hardware and software outright, owning them permanently. However, the rise of digital technology has introduced new models of ownership and access. For example, software-as-a-service (SaaS) models allow users to subscribe to software on a monthly or yearly basis, rather than owning it outright <sup>2</sup>. This shift has significant implications for how we think about property rights and ownership in the digital age.

The legal frameworks governing IT ownership have also had to evolve. Intellectual property law, which includes copyrights, patents, and trademarks, plays a critical role in defining ownership rights in the digital realm. However, these laws are often challenged by the unique nature of digital products, which can be easily copied and distributed <sup>3</sup>. Economic considerations are also paramount, as businesses must balance the costs and benefits of different ownership models. The move towards subscription-based services and cloud computing reflects broader economic trends towards flexibility, scalability, and cost-efficiency <sup>4</sup>.

Technological advancements, such as cloud computing, artificial intelligence, and the Internet of Things (IoT), further complicate the landscape of IT ownership <sup>5</sup>. These technologies enable new forms of access and control, often blurring the lines between ownership, leasing, and licensing. As technology continues to evolve, so too will the models of ownership that define our relationship with IT products.

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<sup>1</sup> Regulation (EU) 2016/679 (2016)

<sup>2</sup> Armbrust et al. (2010)

<sup>3</sup> Perzanowski and Schultz (2016)

<sup>4</sup> Marston et al. (2011)

<sup>5</sup> Botta et al. (2016)

## 1.2 Goals and Research Questions

The primary objective of this paper is to provide a comprehensive analysis of IT ownership, focusing on the legal, economic, and technological dimensions. This includes an examination of current ownership models, the implications of these models for consumers and businesses, and the future trends that are likely to shape IT ownership in the coming years. Furthermore, to provide such an analysis, we will focus on answering following research questions.:

1. How have legal frameworks adapted to changes in IT ownership? This question will explore the evolution of intellectual property law and its application to digital products.
2. What are the economic implications of different IT ownership models? This will involve an analysis of the costs and benefits of traditional ownership versus newer models such as licensing and subscriptions.
3. How do technological advancements influence IT ownership? This question will investigate the impact of emerging technologies on ownership models and user control.
4. What are the future trends in IT ownership? This will involve a forward-looking analysis of potential developments in IT ownership, considering legal, economic, and technological factors.

## 1.3 Methodology

This paper employs a multidisciplinary approach, drawing on legal analysis, economic theory, and technological perspectives to provide a holistic understanding of IT ownership. By integrating insights from these different fields, the paper aims to offer a nuanced analysis that captures the complexity of the topic <sup>6</sup>.

A thorough review of academic literature, legal statutes, and industry reports forms the foundation of this research. This includes examining key legal cases, analyzing economic data, and exploring technological developments that impact IT ownership. The literature review will help to contextualize the current state of IT ownership and identify gaps in existing research <sup>7</sup>.

To provide concrete examples of the issues discussed, the paper will include case studies of significant legal disputes and business practices related to IT ownership. These case studies will illustrate the practical implications of different ownership models and highlight the challenges and opportunities faced by businesses and consumers <sup>8</sup>.

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<sup>6</sup>Venters and Whitley (2012)

<sup>7</sup>Perzanowski and Schultz (2016)

<sup>8</sup>Armbrust et al. (2010)

## 2 Legal Framework of Ownership

### 2.1 Rights as Owner

#### 2.1.1 European Law and Definitions

In the European Union, the concept of ownership, especially concerning information technology and digital assets, is defined and protected through a combination of national laws and overarching EU regulations. The EU seeks to harmonize these laws to ensure a unified internal market, fostering both innovation and the protection of property rights across its member states.

The cornerstone of property rights in the EU is embedded in the Treaty on the Functioning of the European Union (TFEU). Article 345 of the TFEU<sup>9</sup> allows member states to regulate property ownership within their territories, while still complying with the broader objectives of the Union. This article ensures that national laws align with the EU's overarching principles, fostering a balanced approach to property rights.

A pivotal regulation in this context is the General Data Protection Regulation (GDPR), which, although primarily focused on data protection, indirectly influences ownership rights by defining individual rights over personal data. Under the GDPR, individuals have the right to access, rectify, and erase their data, which can be viewed as a form of ownership. This regulation emphasizes the control individuals have over their personal information, reinforcing the concept of digital ownership in the EU context<sup>10</sup>.

In addition, the Digital Content Directive<sup>11</sup> and the Sale of Goods Directive<sup>12</sup> were implemented to harmonize rules regarding the supply of digital content and services across member states. These directives ensure that consumers have certain rights over digital content, including the right to receive updates and remedies if the digital content does not conform to the contract. These measures significantly strengthen consumer protection and ownership rights in the digital domain.

Intellectual property rights (IPR) in the EU are governed by a comprehensive legal framework that includes the Copyright Directive<sup>13</sup>, the Software Directive<sup>14</sup>, and the Database Directive<sup>15</sup>. These directives provide robust protections for creators and inventors, ensuring that their works are safeguarded against unauthorized use and infringement.

The Copyright Directive, for example, grants authors exclusive rights to their creations, including the reproduction, distribution, and communication to the public of their works. This directive is crucial for software developers and digital content creators, as it ensures they retain significant control over

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<sup>9</sup>TFEU Article 345 (2012)

<sup>10</sup> Regulation (EU) 2016/679 (2016)

<sup>11</sup>Directive (EU) 2019/770 (2019)

<sup>12</sup>Directive (EU) 2019/771 (2019)

<sup>13</sup>Directive 2001/29/EC (2001)

<sup>14</sup>Directive 2009/24/EC (2009)

<sup>15</sup>Directive 96/9/EC (1996)

their creations <sup>16</sup>.

The Software Directive specifically addresses the protection of computer programs, treating them as literary works under the Berne Convention. This directive provides software authors with exclusive rights to authorize the reproduction, adaptation, and distribution of their programs, thus bolstering the notion of digital ownership in the EU <sup>17</sup>.

Consumer protection laws in the EU also play a critical role in defining ownership rights in the digital realm. The Consumer Rights Directive <sup>18</sup> enhances consumer protection by ensuring transparency and fairness in digital transactions. This directive mandates that consumers must be provided with clear information about their rights, including the terms of use and any limitations on digital content and services.

Moreover, the Unfair Commercial Practices Directive <sup>19</sup> protects consumers from misleading and aggressive commercial practices, further reinforcing their rights in digital transactions. These consumer protection measures ensure that digital ownership rights are respected and upheld, providing consumers with the confidence to engage in the digital market.

## 2.1.2 American Law and Definitions

In the United States, the legal framework governing ownership rights, particularly in the context of information technology, is grounded in the Constitution and a blend of federal and state laws. This framework ensures a robust protection of property rights, including intellectual property, which is crucial for fostering innovation and economic growth.

The Fifth Amendment to the United States Constitution provides the bedrock for property rights, stating that private property cannot be taken for public use without just compensation <sup>20</sup>. This protection extends to all forms of property, including digital and intellectual property, ensuring that owners have a legal claim to their assets and are compensated fairly if those rights are infringed.

The primary legal instruments for protecting intellectual property (IP) in the U.S. are the Copyright Act, the Patent Act, and the Lanham Act. These federal statutes provide creators, inventors, and businesses with exclusive rights to their creations and innovations, thus facilitating ownership and control over their digital and technological assets.

The Copyright Act of 1976 grants authors of original works, including software, the exclusive right to reproduce, distribute, perform, and display their works. This statute is particularly significant for software developers and digital content creators, as it ensures they retain control and economic benefits from their creations <sup>21</sup>.

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<sup>16</sup>Directive 2001/29/EC (2001)

<sup>17</sup>Directive 2009/24/EC (2009)

<sup>18</sup>Directive 2011/83/EU (2011)

<sup>19</sup>Directive 2005/29/EC (2005)

<sup>20</sup>Constitution (1789)

<sup>21</sup>U.S.C. (1976)

The Patent Act provides inventors with exclusive rights to their inventions for a limited period, incentivizing innovation by allowing them to reap the benefits of their creations. This act is crucial for the protection of technological advancements and digital innovations, ensuring that inventors can secure ownership rights over their technological breakthroughs <sup>22</sup>.

The Lanham Act protects trademarks, which are essential for businesses to establish brand identity and consumer trust. This act ensures that businesses can safeguard their trademarks from unauthorized use, thus maintaining the integrity and value of their brand in the digital marketplace ( <sup>23</sup>).

The Uniform Commercial Code (UCC), particularly Article 2, governs the sale of goods, including software and other digital products. Although the UCC is adopted at the state level, it provides a uniform set of rules that standardize transactions and ownership rights across states <sup>24</sup>. This legal framework ensures that buyers of software and digital goods receive certain warranties and protections, reinforcing their ownership rights.

Article 2 of the UCC covers the sale of goods and includes provisions for the transfer of ownership, warranties, and remedies for breach of contract <sup>24</sup>. This article is essential for digital transactions, as it ensures that consumers and businesses can rely on consistent legal standards when buying and selling digital products.

The concept of "fair use" under copyright law is a critical aspect of American IP law, allowing limited use of copyrighted material without permission from the rights holders for purposes such as criticism, comment, news reporting, teaching, scholarship, or research <sup>25</sup>. This doctrine balances the rights of owners with the public interest, fostering innovation and access to information.

Fair use is determined by considering factors such as the purpose and character of the use, the nature of the copyrighted work, the amount used, and the effect on the market for the original work <sup>25</sup>.. This flexible doctrine ensures that copyright law does not stifle creativity and innovation, while still protecting the rights of content creators.

The Digital Millennium Copyright Act (DMCA) is another significant federal law that impacts digital ownership. The DMCA provides protections for copyright owners in the digital environment, including measures against the circumvention of technological protection measures (TPMs). This act ensures that digital content creators and distributors can protect their works from unauthorized access and use, thereby reinforcing their ownership rights <sup>26</sup>.

### **2.1.3 International Aspects**

Internationally, the recognition and enforcement of ownership rights in information technology are governed by various treaties and agreements facilitated by organizations such as the World Intellectual

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<sup>22</sup>U.S.C. (1952)

<sup>23</sup>U.S.C. (1946)

<sup>24</sup>Code (1952)

<sup>25</sup>Use (2017)

<sup>26</sup>Act (1998)



Property Organization (WIPO) and the World Trade Organization (WTO). These institutions strive to create a balanced and predictable global intellectual property system, ensuring that ownership rights are respected across borders.

The WIPO is a specialized agency of the United Nations that oversees the global intellectual property system. It administers numerous treaties that establish international standards for the protection of intellectual property, including the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). These treaties ensure that authors, performers, and producers of phonograms have rights over their digital works, which are recognized and enforceable in member countries.

The WCT, adopted in 1996, extends the protection of copyright to the digital environment, addressing issues such as the rights of reproduction, distribution, and communication to the public of digital works. This treaty is crucial for digital content creators, ensuring that their works are protected globally<sup>27</sup>.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), administered by the WTO, establishes minimum standards for the protection and enforcement of intellectual property rights, including those related to information technology. TRIPS mandates that member countries provide robust protections for software and digital works, thereby supporting the global framework for IT ownership.

TRIPS incorporates and builds upon existing international agreements, such as the Berne Convention for the Protection of Literary and Artistic Works, to ensure comprehensive protection of intellectual property. It also includes enforcement provisions, requiring member countries to implement effective legal measures to protect IP rights<sup>28</sup>.

The Berne Convention, adopted in 1886 and subsequently amended, is one of the most important international treaties for the protection of literary and artistic works. It stipulates that works originating in one member country must be given the same level of protection in all other member countries. This principle, known as "national treatment," ensures that digital content creators can rely on consistent and reliable protection of their ownership rights across borders<sup>29</sup>.

The Berne Convention also establishes key standards for copyright protection, including the exclusive rights of authors to control the reproduction, adaptation, and distribution of their works. These provisions are essential for safeguarding digital content in the international arena, ensuring that creators can maintain control over their works globally.

The Madrid System, administered by WIPO, facilitates the international registration of trademarks, allowing businesses to protect their brand identities across multiple countries with a single application. This system streamlines the process of trademark registration and management, ensuring that businesses can safeguard their trademarks globally, which is particularly important in the digital mar-

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<sup>27</sup>WCT (1996)

<sup>28</sup>TRIPS (1994)

<sup>29</sup>Convention (1886)

ketplace<sup>30</sup><sup>31</sup> Despite the robust international framework for intellectual property protection, challenges remain. The territorial nature of IP rights means that enforcement can be complex and inconsistent, especially in jurisdictions with varying levels of legal development and enforcement capabilities. Moreover, the rapid pace of technological advancement continually tests the adaptability of existing legal frameworks.

However, these challenges also present opportunities for international cooperation and harmonization. By fostering collaboration and dialogue among countries, international organizations can work towards more unified and effective IP protection mechanisms, ensuring that digital ownership rights are respected and upheld globally.

## 2.2 Overview of Intellectual Property Law

### 2.2.1 Copyrights

Copyright law is a cornerstone of intellectual property (IP) law, providing creators with exclusive rights over their original works of authorship. This legal framework plays a crucial role in fostering creativity and innovation by ensuring that creators can control and benefit from the use of their creations.

Copyrights are governed by both national laws and international treaties. In the United States, the Copyright Act of 1976<sup>32</sup> is the primary statute, granting authors the exclusive rights to reproduce, distribute, perform, display, and create derivative works based on their original creations. These rights typically last for the life of the author plus 70 years, ensuring long-term protection and control over their works.

Internationally, the Berne Convention for the Protection of Literary and Artistic Works, first adopted in 1886, establishes a unified standard for copyright protection among its member countries. The Berne Convention mandates that all member countries provide automatic copyright protection to works originating in other member countries without the need for formal registration. This ensures a consistent and robust level of protection across borders<sup>33</sup>. Copyright protection extends to a wide range of creative works, including literary works, musical compositions, films, software, architectural designs, and visual art. The breadth of this protection is designed to cover virtually all forms of original expression, ensuring that creators in diverse fields can secure their rights.

Software, as a literary work under copyright law, is afforded significant protection. This includes the program's code, structure, and user interface, providing comprehensive coverage against unauthorized copying and distribution. The Digital Millennium Copyright Act (DMCA) further strengthens this protection by prohibiting the circumvention of technological measures designed to protect copyrighted

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<sup>30</sup>Agreement (1891)

<sup>31</sup>Protocol (1989)

<sup>32</sup>U.S.C. (1976)

<sup>33</sup>Convention (1886)

works<sup>34</sup>.

The exclusive rights granted by copyright law enable creators to control how their works are used, allowing them to license or sell these rights to others. This creates economic incentives for creators, encouraging investment in new works and the dissemination of knowledge and culture.

However, copyright law also includes limitations and exceptions to balance the interests of rights holders with those of the public. The most notable of these is the doctrine of "fair use," which permits limited use of copyrighted material without the owner's permission for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. Fair use is determined by considering factors such as the purpose and character of the use, the nature of the copyrighted work, the amount used, and the effect on the market for the original work<sup>34</sup>.

The digital age has introduced new challenges for copyright law, particularly regarding the ease of copying and distributing digital content. The rapid proliferation of online platforms and peer-to-peer networks has necessitated stronger enforcement mechanisms and innovative legal solutions to protect copyright holders effectively.

One significant development is the implementation of the European Union's Copyright Directive (Directive 2019/790), which aims to modernize copyright rules for the digital single market. This directive includes provisions to ensure fair remuneration for creators and to hold online platforms accountable for unauthorized use of copyrighted content, thereby addressing some of the contemporary challenges faced by copyright holders<sup>35</sup>.

## 2.2.2 Patents

Patent law is a critical component of the intellectual property system, providing inventors with exclusive rights to their inventions. This legal protection is designed to encourage technological innovation and economic development by granting inventors a temporary monopoly on the use and exploitation of their inventions.

In the United States, patents are governed by the Patent Act, codified in Title 35 of the United States Code. The U.S. Patent and Trademark Office (USPTO) administers the patent system, examining and granting patents to qualifying inventions. To be patentable, an invention must be novel, non-obvious, and useful. Patents are typically granted for a term of 20 years from the filing date, providing inventors with a limited period during which they can exclude others from making, using, or selling their invention<sup>36</sup>.

Internationally, the Patent Cooperation Treaty (PCT), administered by the World Intellectual Property Organization (WIPO), facilitates the process of obtaining patents in multiple countries. The PCT allows inventors to file a single international patent application, which can then be used as a basis for

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<sup>34</sup>U.S.C. (1976)

<sup>35</sup>2019/790 (2019)

<sup>36</sup>U.S.C. (1952)

seeking patent protection in any of the PCT's contracting states. This streamlined process significantly reduces the complexity and cost of securing international patent protection<sup>37</sup>.

There are three main types of patents: utility patents, design patents, and plant patents. Utility patents are the most common and cover new and useful processes, machines, articles of manufacture, or compositions of matter. Design patents protect the ornamental design of an article, while plant patents are granted for new and distinct varieties of plants that are asexually reproduced.

Software patents, which fall under the category of utility patents, have been a topic of significant debate. In the United States, the eligibility of software for patent protection has evolved through various court rulings. The landmark case of *Alice Corp. v. CLS Bank International* established a two-step framework for determining the patent eligibility of software-related inventions, focusing on whether the claims are directed to an abstract idea and, if so, whether they contain an inventive concept sufficient to transform the abstract idea into a patent-eligible application<sup>38</sup>.

A patent grants its holder the exclusive right to make, use, sell, and import the patented invention. This monopoly incentivizes innovation by allowing inventors to reap the financial benefits of their discoveries. Patent holders can also license their patents to others, creating opportunities for commercialization and collaboration.

However, the scope of patent protection is subject to several limitations. Patent rights are territorial, meaning they are only enforceable in the countries where the patent has been granted. Additionally, patents are subject to rigorous examination processes to ensure that only truly novel and non-obvious inventions receive protection. Once a patent expires, the invention enters the public domain, allowing others to use and build upon the patented technology without restriction.

The rapid pace of technological advancement presents ongoing challenges for patent law. In particular, the field of software and biotechnology patents continues to evolve, as courts and policymakers grapple with the complexities of these technologies. The European Patent Office (EPO), for example, has established guidelines for the patentability of computer-implemented inventions, aiming to provide clarity and consistency in this contentious area<sup>39</sup>.

Moreover, global efforts to harmonize patent laws and streamline patent application processes are ongoing. Initiatives such as the Patent Law Treaty (PLT) and the Global Patent Prosecution Highway (GPPH) aim to simplify procedural requirements and enhance cooperation among patent offices worldwide, thereby facilitating more efficient and effective patent protection<sup>40 41</sup>.

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<sup>37</sup>PCT (1970)

<sup>38</sup>208 (2014)

<sup>39</sup>Guidelines (2022)

<sup>40</sup>PLT (2000)

<sup>41</sup>GPPH (2014)

### 2.2.3 Trademarks

Trademark law protects brand identity by granting exclusive rights to distinctive signs that distinguish goods or services in the marketplace. These signs can include words, logos, symbols, and even sounds or colors, provided they are capable of distinguishing the goods or services of one entity from those of another.

In the United States, trademarks are governed by the Lanham Act <sup>42</sup>, which provides a comprehensive legal framework for the registration, protection, and enforcement of trademark rights. The U.S. Patent and Trademark Office (USPTO) administers the federal trademark registration system, while state laws provide additional layers of protection.

Internationally, the Madrid System for the International Registration of Marks, administered by the World Intellectual Property Organization (WIPO), facilitates the registration of trademarks in multiple countries through a single application. This system simplifies the process of obtaining international trademark protection and ensures that trademark owners can secure their rights in various jurisdictions efficiently <sup>43 44</sup>.

Trademarks can take various forms, including:

1. Word Marks: These consist of words or letters, such as brand names or slogans (e.g., "Coca-Cola").
2. Design Marks: These include logos or other graphic symbols (e.g., the Nike "swoosh").
3. Service Marks: These are similar to trademarks but identify services rather than goods (e.g., the McDonald's "Golden Arches" for restaurant services).
4. Trade Dress: This refers to the overall appearance and packaging of a product that signifies its source (e.g., the distinctive shape of a Coca-Cola bottle).
5. Sound Marks: These are sounds that are uniquely associated with a product or service (e.g., the NBC chimes).
6. Color Marks: Specific colors that are used in a distinctive manner (e.g., the purple color of Cadbury chocolate wrappers).

A registered trademark grants the owner the exclusive right to use the mark in connection with the goods or services for which it is registered. This includes the right to prevent others from using confusingly similar marks that could mislead consumers. Trademark rights can be maintained indefinitely, provided the owner continues to use the mark in commerce and renews the registration as required.

Trademark protection, however, is subject to certain limitations. The primary limitation is that trademarks must be distinctive and not merely descriptive of the goods or services they represent. Additionally, trademark rights are confined to the geographic area in which the mark is used and recognized. Furthermore, trademark law includes provisions to prevent the registration and use of marks that are likely to cause confusion with existing marks, are deceptive, or are otherwise contrary to public order and morality.

One of the significant challenges in trademark law is the global nature of commerce, which neces-

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<sup>42</sup>U.S.C. (1946)

<sup>43</sup>Agreement (1891)

<sup>44</sup>Protocol (1989)

sitates effective international protection and enforcement of trademark rights. The rise of e-commerce and digital marketing has amplified the importance of securing and defending trademarks across multiple jurisdictions. The Madrid System has been instrumental in addressing this need by streamlining the process of obtaining international trademark protection.

Another challenge is the balancing act between protecting trademark rights and allowing fair competition. Courts and trademark offices continually navigate issues such as trademark dilution, where the distinctiveness of a well-known mark is weakened by unauthorized use, and the fair use defense, which permits the use of descriptive terms in good faith without infringing on trademark rights.

Recent developments in trademark law include increased recognition of non-traditional trademarks, such as sound and color marks, reflecting the evolving nature of branding in the modern marketplace. Additionally, advancements in technology, such as artificial intelligence and blockchain, are being explored to enhance the registration, protection, and enforcement of trademark rights.

## 3 Ownership of Software and Technology

### 3.1 Limited Ownership Rights

#### 3.1.1 Software Licenses

Software licenses represent a critical aspect of intellectual property law in the digital age. Unlike traditional tangible property, software is an intangible asset, and its ownership and use are governed by a set of complex legal agreements known as software licenses. These licenses delineate the terms under which software can be used, distributed, and modified, creating a framework for balancing the interests of developers, distributors, and users.

Software licenses can be broadly categorized into proprietary licenses and open-source licenses. Proprietary licenses, often referred to as commercial licenses, restrict the user's ability to modify, share, or redistribute the software. These licenses typically require users to agree to an End-User License Agreement (EULA) before using the software. The EULA sets forth the terms of use, including restrictions on copying, modifying, and reverse engineering the software. Examples of proprietary software include Microsoft Windows and Adobe Photoshop.

Conversely, open-source licenses grant users more freedom to use, modify, and distribute the software. The most well-known open-source licenses include the GNU General Public License (GPL), the Apache License, and the MIT License. These licenses encourage collaborative development and innovation by allowing users to access the source code and make modifications. However, they also come with conditions, such as the requirement under the GPL to release any derivative works under the same license <sup>45</sup>.

Under a proprietary software license, the user typically does not own the software but rather acquires a license to use it under specific conditions. The software developer or publisher retains ownership of the software, including the copyright, and grants the user limited rights to use it. These rights often include: Firstly, users are permitted to install and use the software on a specified number of devices. Secondly, users may receive updates and patches as part of the license agreement. Thirdly, users might be entitled to technical support from the software provider.

However, proprietary licenses also impose significant restrictions, such as prohibiting the modification, reverse engineering, or redistribution of the software. These restrictions protect the intellectual property and commercial interests of the software developer.

Open-source licenses, while more permissive, still impose certain conditions to ensure that the software remains open and accessible. For instance, the GPL requires that any modified versions of the software be released under the same license, thereby ensuring that derivative works remain free and open. This creates a collaborative environment where improvements and innovations can be shared widely <sup>45</sup>.

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<sup>45</sup>Free Software Foundation (2007)

For users, software licenses define the extent of their rights and obligations. Understanding the terms of a license is crucial to ensure compliance and avoid legal issues. For developers, licenses provide a mechanism to protect their intellectual property while controlling how their software is used and distributed.

The choice between proprietary and open-source licenses depends on the goals of the developer. Proprietary licenses are often chosen for commercial software to maximize revenue and control over the software. Open-source licenses, on the other hand, are favored for fostering collaboration, innovation, and community development.

The enforcement of software licenses poses significant challenges, particularly in the digital age where software can be easily copied and distributed. Legal actions for license violations can be complex and costly, involving issues of jurisdiction, intellectual property rights, and contract law.

Recent developments in software licensing include the rise of software-as-a-service (SaaS) models, where software is accessed online rather than installed locally. SaaS licenses often involve subscription-based models, changing the traditional dynamics of software ownership and use. This shift has implications for how software is licensed, used, and enforced <sup>46</sup>.

### **3.1.2 IT – Leasing**

IT leasing is an increasingly popular option for businesses seeking to manage their technology needs without the significant capital expenditure associated with outright ownership. Leasing allows organizations to use IT equipment and software for a specified period in exchange for regular payments, providing flexibility and access to the latest technology.

IT leasing agreements are governed by contract law, and the specific terms can vary widely depending on the lessor and the lessee. Generally, IT leasing can be categorized into two main types: operating leases and finance leases. Operating Leases are short-term leases where the lessee rents the IT equipment for a period shorter than its useful life. The lessor retains ownership of the equipment and is typically responsible for maintenance and support. At the end of the lease term, the lessee can return the equipment, renew the lease, or purchase the equipment at its fair market value. Operating leases are akin to renting and are often used for rapidly depreciating assets or when flexibility is needed <sup>47</sup>. Finance Leases are long-term and often span the majority of the equipment's useful life. The lessee assumes many of the risks and rewards of ownership, including maintenance and obsolescence. At the end of the lease term, the lessee typically has the option to purchase the equipment for a nominal amount. Finance leases are similar to installment purchases and are recorded as assets and liabilities on the lessee's balance sheet <sup>48</sup>.

The rights and obligations of both parties in an IT leasing arrangement are delineated in the lease

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<sup>46</sup>Vogelsang (2010)

<sup>47</sup> (FASB)

<sup>48</sup> (IASB)



agreement. Common terms include.: Firstly, the lessee is granted the right to use the IT equipment or software according to the terms specified in the lease. Secondly, the responsibility for maintenance and support can vary. In operating leases, the lessor often handles these aspects, while in finance leases, the lessee may assume responsibility. Thirdly, the lessee agrees to make regular lease payments over the lease term. The payment structure can be fixed or variable, depending on the agreement. Lastly, at the end of the lease term, the lessee may have options to renew the lease, return the equipment, or purchase it <sup>49</sup>.

Furthermore, leasing IT assets offers several advantages footnote (IASB).: On the one hand, leasing can reduce upfront costs and spread expenses over time, improving cash flow management. On the other hand, leasing allows organizations to regularly update their IT assets, ensuring access to the latest technology without the burden of obsolescence. Nonetheless, Flexibility leasing provides flexibility to scale IT resources up or down based on business needs.

However, there are also drawbacks to consider.: Firstly, over time, leasing can be more expensive than purchasing, especially for long-term use. Secondly, leasing does not confer ownership, and the lessee may not benefit from the residual value of the assets. Thirdly, leases impose contractual obligations that can limit flexibility if business needs change.

The dynamic nature of technology and business needs poses challenges for IT leasing. Lease agreements must be carefully crafted to address issues such as technological obsolescence, changes in business requirements, and compliance with evolving accounting standards.

Recent developments include the adoption of new accounting standards that affect how leases are reported on financial statements. The Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) have both issued standards requiring companies to recognize most leases on their balance sheets, thereby increasing transparency and comparability <sup>49</sup>.

## **3.2 Importance of Ownership Rights in the Digital Age**

### **3.2.1 Consumer Perspective**

In the digital age, the concept of ownership has undergone significant transformation, especially from the consumer perspective. As more goods and services transition from physical to digital formats, the traditional notions of ownership, characterized by the right to possess, use, and dispose of tangible property, are being challenged and redefined.

Consumers today engage extensively with digital goods such as e-books, music, software, and digital games. Unlike physical goods, digital products are often acquired through licenses rather than outright purchases, meaning consumers do not own the product in the traditional sense. Instead, they purchase a limited right to use the digital content under specific terms and conditions set by the provider. This shift is evident in the rise of platforms like Amazon Kindle, Apple iTunes, and Steam, where consumers

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<sup>49</sup> (FASB)

access vast libraries of content through digital storefronts <sup>50</sup>.

The licensing model significantly impacts consumer rights. When purchasing digital goods, consumers are often subject to restrictive End-User License Agreements (EULAs) that limit their ability to transfer, modify, or share the content. For instance, an e-book purchased on Kindle cannot be freely lent or resold as a physical book can, and music bought from iTunes cannot be played on non-Apple devices unless certain conditions are met. These restrictions can frustrate consumers who expect the same level of control over digital goods as they have with physical ones <sup>50</sup>.

The digital age has brought convenience and accessibility, but it has also introduced complexities in ownership rights that can lead to consumer dissatisfaction. Many consumers are unaware of the limitations imposed by digital licenses until they attempt to exercise what they perceive as ownership rights. Issues such as the inability to transfer digital content between devices, loss of access due to platform shutdowns, or changes in licensing terms can create significant challenges. For example, the shutdown of a digital service can result in consumers losing access to their purchased content without any form of compensation <sup>51</sup>.

In response to these challenges, there has been a growing movement towards stronger consumer protection in the digital realm. Laws and regulations, such as the European Union's Digital Content Directive <sup>52</sup>, aim to enhance consumer rights by ensuring transparency in digital transactions and providing remedies for defective digital content. Additionally, consumer advocacy groups are pushing for "digital first sale" rights, which would allow consumers to resell their digital goods similarly to physical ones, thereby aligning digital ownership more closely with traditional ownership models <sup>52</sup>.

The evolution of ownership rights in the digital age is ongoing. Emerging technologies such as blockchain are being explored as potential solutions to some of the challenges associated with digital ownership. Blockchain can enable the creation of verifiable, transferable digital assets, potentially allowing consumers to resell digital goods in a manner akin to physical goods. Moreover, there is a growing recognition among policymakers and industry leaders of the need to balance the interests of rights holders with those of consumers to foster a fair and sustainable digital marketplace <sup>53</sup>.

### **3.2.2 Business Perspective**

From a business perspective, ownership rights in the digital age are both a strategic asset and a complex legal challenge. Companies in various sectors, including software development, entertainment, and information technology, must navigate the evolving landscape of digital ownership to protect their intellectual property, innovate, and maintain competitive advantages.

For businesses, intellectual property (IP) is a crucial asset that underpins innovation and competitive positioning. In the digital economy, where software, data, and digital content are primary prod-

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<sup>50</sup>Perzanowski and Schultz (2016)

<sup>51</sup>Garon (2007)

<sup>52</sup>Directive (EU) 2019/770 (2019)

<sup>53</sup>Tapscott and Tapscott (2016)

ucts, protecting IP through ownership rights is vital. Patents, copyrights, and trademarks provide legal frameworks that grant businesses exclusive rights to their creations, enabling them to monetize their innovations and deter competitors from unauthorized use <sup>54</sup>.

Proprietary software companies, such as Microsoft and Adobe, rely heavily on licensing models to generate revenue and maintain control over their products. These companies issue licenses to users, which grant limited rights to use the software under specific conditions. This approach not only protects the software from unauthorized copying and distribution but also allows the company to enforce updates and maintain a consistent user experience <sup>55</sup>.

Licensing has become a dominant business model in the digital age. Businesses can choose from various licensing arrangements, including perpetual licenses, subscription-based licenses, and freemium models. Each model offers distinct advantages and challenges: Firstly, customers pay a one-time fee for indefinite use of the software. While this model provides upfront revenue, it may limit long-term income unless supplemented with maintenance and support contracts. Secondly, customers pay recurring fees for access to the software. This model provides a steady revenue stream and can enhance customer retention by offering regular updates and support. Thirdly, Basic software versions are offered for free, with advanced features available through paid upgrades. This approach can attract a large user base and generate revenue through premium subscriptions <sup>56</sup>

Despite the advantages, businesses face several challenges related to digital ownership. One significant issue is piracy, which can erode revenue and undermine the value of intellectual property. Companies employ various strategies to combat piracy, including digital rights management (DRM) technologies and legal actions against infringers. However, these measures can sometimes lead to negative customer experiences and backlash if perceived as overly restrictive <sup>57</sup>.

Another challenge is the need to balance protection and accessibility. Overly restrictive licensing terms can deter potential customers and stifle innovation by limiting interoperability and customization. Businesses must find a balance that protects their interests while fostering an open and innovative environment.

Businesses must also navigate a complex web of legal and regulatory requirements that govern digital ownership. Compliance with international IP laws, data protection regulations, and consumer rights directives is essential to avoid legal pitfalls and maintain market credibility. For example, the General Data Protection Regulation (GDPR) in the European Union imposes stringent requirements on how businesses handle personal data, impacting how digital products and services are designed and delivered <sup>58</sup>.

The strategic implications of ownership rights extend beyond legal compliance. Businesses must

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<sup>54</sup>Merges (2011)

<sup>55</sup>Perritt (2001)

<sup>56</sup>Vogelsang (2010)

<sup>57</sup>Perzanowski and Schultz (2016)

<sup>58</sup> Regulation (EU) 2016/679 (2016)

leverage their IP to drive innovation, create value, and build sustainable competitive advantages. Emerging technologies, such as artificial intelligence and blockchain, offer new opportunities for managing and protecting digital ownership. AI can enhance the detection and enforcement of IP violations, while blockchain can provide secure and transparent mechanisms for IP transactions and rights management<sup>59</sup>.

Moreover, as the digital economy continues to evolve, businesses must stay agile and adapt to changing market dynamics and regulatory landscapes. Embracing flexible licensing models, fostering collaborative innovation, and prioritizing customer-centric approaches will be key to thriving in the digital age.

### 3.3 Digital Piracy

Digital piracy, the unauthorized use, reproduction, and distribution of digital content, has become a significant issue in the digital age, affecting various industries, including software, music, film, and publishing. This sub-chapter explores the phenomenon of digital piracy, its impact on stakeholders, the legal frameworks addressing it, and the measures taken to combat it.

Digital piracy encompasses a broad range of activities, from downloading pirated movies and music to distributing cracked software and e-books without authorization. The ease of copying and distributing digital files has exacerbated the problem, making it difficult for content creators and rights holders to control and monetize their intellectual property.

Studies show that digital piracy is widespread, with millions of users engaging in illegal downloading and streaming. For instance, a 2018 report by the Global Innovation Policy Center estimated that piracy costs the U.S. economy alone around \$29.2 billion annually<sup>60</sup>. This illegal activity undermines revenue streams for content creators, leading to significant economic losses and reduced incentives for innovation and creativity.

The impact of digital piracy extends to various stakeholders, including content creators, consumers, and the broader economy. On the one hand, for artists, writers, filmmakers, and software developers, piracy represents a direct loss of revenue. This loss can stifle creativity and innovation as creators struggle to recoup their investments and earn a livelihood. Independent creators and smaller companies are particularly vulnerable, lacking the resources to effectively combat piracy. On the other hand, while some consumers may benefit from free access to pirated content, they are also exposed to risks such as malware and data breaches. Moreover, the widespread availability of pirated content can lead to a devaluation of digital products, reducing the willingness of consumers to pay for legitimate content. Furthermore, digital piracy can have broader economic implications, including job losses in creative industries and reduced tax revenues. It also affects the global competitiveness of industries reliant on intellectual property, such as software development and entertainment.

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<sup>59</sup>Tapscott and Tapscott (2016)

<sup>60</sup>U.S. Chamber of Commerce (2024)

Various legal frameworks at the national and international levels address digital piracy. Key international agreements include the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). These treaties establish baseline standards for copyright protection and enforcement.

Countries have enacted their own laws to combat digital piracy, often incorporating provisions from international agreements. For example, in the United States, the Digital Millennium Copyright Act (DMCA) provides legal tools to address online piracy, including safe harbor provisions for internet service providers (ISPs) that comply with takedown requests <sup>61</sup>.

Enforcement of anti-piracy laws involves various strategies, including: Firstly, rights holders can pursue civil and criminal actions against infringers. High-profile cases, such as the shutdown of Napster and the prosecution of individuals for illegal file sharing, have raised awareness and deterred some forms of piracy. Secondly, digital Rights Management (DRM) technologies aim to prevent unauthorized copying and distribution of digital content. While effective to some extent, DRM has also faced criticism for restricting legitimate use and creating inconvenience for consumers. Thirdly, governments, industry groups, and ISPs often collaborate to combat piracy. Initiatives such as voluntary codes of conduct for ISPs, educational campaigns, and international cooperation through organizations like INTERPOL play crucial roles in enforcement.

Despite these efforts, combating digital piracy remains challenging. The anonymous and decentralized nature of the internet makes it difficult to track and prosecute infringers. Additionally, enforcement measures can sometimes lead to unintended consequences, such as privacy concerns and the restriction of legitimate uses of digital content.

Critics argue that the current approach to digital piracy often disproportionately targets end-users rather than addressing the root causes, such as the high cost and limited availability of legal content. They advocate for more balanced strategies that include making content more accessible and affordable, alongside robust enforcement <sup>62</sup>.

The future of combating digital piracy lies in innovative approaches that balance protection with accessibility. Blockchain technology, for instance, offers potential solutions for securing digital rights and creating transparent, tamper-proof records of ownership and transactions. By enabling new business models, such as micropayments and decentralized distribution, blockchain could reduce the incentives for piracy while ensuring fair compensation for creators <sup>63</sup>.

Furthermore, industry shifts towards subscription-based models, like those employed by Netflix and Spotify, have demonstrated that providing affordable, convenient access to content can significantly reduce piracy rates. These models align consumer behavior with legal consumption, creating a more sustainable digital economy.

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<sup>61</sup>Act (1998)

<sup>62</sup>Lessig (2004)

<sup>63</sup>Tapscott and Tapscott (2016)

## 4 Case Studies and Examples

### 4.1 Issues between Businesses

The realm of information technology and software development is fraught with complex legal disputes over intellectual property, often arising from the intricate interplay of software licenses, patents, and copyrights. This sub-chapter delves into two prominent legal battles—Oracle America, Inc. v. Google Inc. and SCO Group vs. IBM—that highlight the critical issues and precedents in the field.

#### 4.1.1 Oracle America, Inc. v. Google Inc.

The legal battle between Oracle America, Inc. and Google Inc. centers on the use of Java APIs in the Android operating system. Oracle, which acquired Java creator Sun Microsystems in 2010, sued Google claiming that Google's use of Java APIs in Android infringed on Oracle's copyrights and patents. This case is notable for its implications on software development and the legal status of APIs<sup>64</sup>. Firstly, at the heart of the dispute was whether APIs, which allow different software programs to communicate, can be copyrighted. Oracle argued that the structure, sequence, and organization (SSO) of the Java APIs were copyrightable. Google, on the other hand, contended that APIs are functional elements necessary for interoperability and should not be subject to copyright<sup>65</sup>. Secondly, Google also argued that its use of the Java APIs constituted fair use, a legal doctrine that permits limited use of copyrighted material without permission under certain conditions, such as for commentary, criticism, or education. On the one hand, in 2012, the U.S. District Court for the Northern District of California ruled in favor of Google, stating that the Java APIs were not copyrightable. The jury also found that even if they were copyrightable, Google's use would qualify as fair use. On the other hand, in 2014, the Federal Circuit reversed this decision, holding that the Java APIs were indeed copyrightable and remanded the case to the lower court to reconsider the fair use argument. Furthermore, the case ultimately reached the U.S. Supreme Court, which in 2021 ruled in favor of Google. The Court held that Google's use of the Java APIs was fair use, emphasizing the transformative nature of Google's implementation in a new and different context—smartphones<sup>64</sup>

The Supreme Court's decision has far-reaching implications for the software industry. By affirming that Google's use of the APIs was fair use, the ruling supports the practice of reusing software interfaces to foster innovation and compatibility. This precedent protects developers who rely on existing APIs to build new applications, promoting interoperability and reducing legal risks associated with software development<sup>65</sup>.

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<sup>64</sup>Court (2021)

<sup>65</sup>Lemley and Samuelson (2021)

### 4.1.2 SCO Group vs. IBM

The legal confrontation between the SCO Group and IBM epitomizes the complexities of intellectual property rights within the software industry, particularly concerning open-source software. SCO, which acquired the rights to UNIX, sued IBM in 2003, alleging that IBM had inappropriately contributed proprietary UNIX code to the open-source Linux operating system, violating SCO's contractual rights and copyrights<sup>66</sup>. Firstly, SCO claimed that IBM had breached its contractual obligations by transferring UNIX source code and methods to the Linux community, thereby undermining SCO's proprietary interests in UNIX. Secondly, SCO also alleged that IBM's actions constituted copyright infringement by incorporating protected UNIX code into Linux, which SCO claimed to own. Furthermore, a significant aspect of the case was determining the validity of SCO's ownership claims over the UNIX code and whether SCO had the right to enforce these claims against IBM and the broader open-source community. On the one hand, the U.S. District Court for the District of Utah initially oversaw the case, which involved extensive discovery and multiple rulings on motions. IBM counterclaimed, asserting that SCO's claims were unfounded and that SCO had engaged in unfair competition. On the other hand, in 2007, the court granted summary judgment in favor of IBM on most of SCO's claims, concluding that SCO had failed to provide sufficient evidence of copyright infringement and contractual breach. The court also questioned SCO's ownership of the UNIX copyrights. What's more, SCO appealed the decisions, but its financial difficulties led to bankruptcy proceedings. In 2010, the court reaffirmed its earlier rulings, effectively ending SCO's claims against IBM<sup>66</sup>.

The outcome of the SCO vs. IBM case had significant implications for the software industry, particularly for the open-source community. The rulings reinforced the legal standing of open-source licenses and alleviated fears of widespread litigation over the use of UNIX-derived code in Linux. This case highlighted the importance of clear intellectual property management and the need for transparency in the ownership and licensing of software code<sup>67</sup>.

The protracted litigation also underscored the challenges and costs associated with defending intellectual property rights in the software industry, prompting companies to adopt more robust legal strategies and compliance practices to mitigate such risks.

## 4.2 Issues Involving Consumers

In the digital age, disputes between consumers and companies over software and digital content have become increasingly common. These conflicts often arise from disagreements over licensing terms, digital rights management (DRM), and the extent of consumer rights in the digital marketplace. This sub-chapter examines two significant case studies: *Vernor v. Autodesk, Inc.*, which explores the boundaries of software licensing, and the Sony BMG CD copy protection scandal, which highlights the risks

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<sup>66</sup>for the District of Utah (2007)

<sup>67</sup>LaFontaine (2005)

and backlash associated with DRM technologies.

#### **4.2.1 Vernor v. Autodesk, Inc.**

Vernor v. Autodesk, Inc. is a landmark case that addresses the distinction between ownership and licensing of software. Timothy Vernor, an eBay seller, purchased copies of Autodesk's AutoCAD software from a company that no longer needed them and resold them on eBay. Autodesk, which distributes AutoCAD under a license agreement prohibiting resale, demanded that eBay remove Vernor's listings, citing copyright infringement. Firstly, central to the case was the application of the First Sale Doctrine, which allows the owner of a lawfully made copy of a copyrighted work to sell or otherwise dispose of that copy without the permission of the copyright holder<sup>68</sup>. Vernor argued that the doctrine applied because he had purchased the software legally and was therefore entitled to resell it. Secondly, Autodesk countered that Vernor was not an owner of the software copies but merely a licensee, bound by the terms of Autodesk's End User License Agreement (EULA). Autodesk's position was that the EULA restricted the transfer of the software, making any resale unauthorized and infringing.

On the hand one, the U.S. District Court initially ruled in favor of Vernor, asserting that the First Sale Doctrine applied since Vernor had obtained lawful copies of the software. The court held that the transaction was a sale, not a license, thereby permitting resale. On the other hand, on appeal, the Ninth Circuit reversed the decision, siding with Autodesk. The court emphasized that the terms of Autodesk's EULA defined the transaction as a license rather than a sale. The ruling underscored that software distributed under restrictive licensing terms does not transfer ownership to the end-user, thus excluding the application of the First Sale Doctrine<sup>68</sup>.

Furthermore, the decision clarified that many software transactions are licenses rather than sales, meaning consumers do not own the software in the traditional sense. Instead, they possess limited rights to use the software under the conditions set by the licensor. The ruling limits consumers' ability to resell software purchased under restrictive licenses, impacting secondary markets for used software. This has broader implications for consumer rights and the legal landscape of digital content ownership<sup>69</sup>.

#### **4.2.2 Sony BMG CD Copy Protection Scandal**

##### Background and Context

The Sony BMG CD copy protection scandal of 2005 highlights the potential pitfalls of DRM technologies and their impact on consumers. Sony BMG implemented DRM software on millions of audio CDs to prevent unauthorized copying. This software, known as XCP (Extended Copy Protection), installed itself automatically on users' computers without their knowledge or consent, creating significant security and privacy concerns. Firstly, one of the major issues was the unauthorized installation of the

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<sup>68</sup>of Appeals for the Ninth Circuit (2010)

<sup>69</sup>Perzanowski and Schultz (2016)



DRM software on consumers' computers. The software not only restricted the ability to make copies of the CDs but also operated covertly, making it difficult for users to detect and remove. Secondly, the DRM software created serious security vulnerabilities, including a "rootkit" that could be exploited by malicious software to hide its presence and activities. This exposed users to increased risk of malware infections and other cyber threats. Moreover, the scandal raised significant concerns about consumer rights and privacy. The secretive nature of the DRM installation and its invasive properties were seen as a breach of consumer trust and autonomy <sup>70</sup>.

The public outcry and subsequent legal actions against Sony BMG led to several important developments. On the one hand, multiple class action lawsuits were filed against Sony BMG, alleging violations of consumer protection laws, including unauthorized access to computer systems and privacy violations. In 2006, Sony BMG settled the lawsuits, agreeing to compensate consumers and provide tools to uninstall the DRM software <sup>70</sup>. On the other hand, the Federal Trade Commission (FTC) also took action against Sony BMG, resulting in a settlement that required the company to cease using the offending DRM software and to notify consumers about the risks and remedies available to them <sup>71</sup>.

The Sony BMG scandal had profound implications for consumers and the broader digital content industry. Furthermore, the incident heightened consumer awareness about the potential dangers of DRM technologies and the importance of digital rights. It also empowered consumer advocacy groups to push for stronger protections and transparency in the use of DRM. Nonetheless, in response to the backlash, many companies reconsidered their use of DRM. The scandal underscored the need for companies to balance the protection of intellectual property with respect for consumer rights and privacy. It also led to increased scrutiny and regulatory oversight of DRM practices in the industry <sup>72</sup>. Thus, the legal outcomes of the scandal set important precedents regarding the unauthorized installation of software and consumer rights. These precedents continue to influence legal interpretations and regulatory policies surrounding DRM and digital content protection.

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<sup>70</sup>for the Southern District of New York (2006)

<sup>71</sup>Perzanowski and Schultz (2016)

<sup>72</sup>Doctorow (2008)

## 5 Future Perspectives

The future of IT ownership is evolving rapidly, driven by technological advancements, changing consumer preferences, and shifting business models. This chapter explores future perspectives on personal software and hardware, as well as IT ownership in businesses, providing insights into emerging trends, potential challenges, and the transformative impact of new technologies.

### 5.1 Outlook on Personal Software & Hardware

The future of personal software and hardware is marked by increasing convergence and integration. The lines between different types of devices—such as smartphones, tablets, laptops, and wearables—are blurring as they become interconnected through the Internet of Things (IoT). This convergence enables seamless user experiences across multiple devices and platforms.

One of the significant trends in personal software is the shift towards subscription models and cloud-based services. Software-as-a-Service (SaaS) has become the norm, with companies like Microsoft and Adobe offering their software through monthly or annual subscriptions rather than one-time purchases. This model provides consumers with continuous updates, access to the latest features, and the flexibility to scale services according to their needs.

Cloud computing plays a pivotal role in this transition, allowing users to access software and store data online rather than on local devices. This shift reduces the need for powerful hardware, as processing and storage are handled by remote servers. Consequently, consumers can use lightweight devices to perform complex tasks, relying on cloud infrastructure for performance and scalability<sup>73</sup>.

The shift towards digital and cloud-based services raises questions about ownership and digital rights. With subscription models, consumers often pay for access rather than owning the software outright. This change has implications for digital rights management (DRM) and user autonomy, as companies retain control over the software and can enforce usage restrictions.

Moreover, the increasing use of DRM to protect digital content and prevent unauthorized use can limit consumers' ability to fully control their software and hardware. The balance between protecting intellectual property and ensuring user rights will be a critical issue in the future of personal software and hardware<sup>74</sup>.

Artificial Intelligence (AI) and Augmented Reality (AR) are poised to revolutionize personal software and hardware. AI-powered assistants like Siri, Alexa, and Google Assistant are becoming more integrated into daily life, offering personalized experiences and automating routine tasks. These technologies rely heavily on data, raising important considerations about privacy and data security.

AR, on the other hand, enhances real-world environments with digital overlays, offering new possibilities for gaming, education, and productivity. Devices like Microsoft's HoloLens and the anticipated

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<sup>73</sup>Armbrust et al. (2010)

<sup>74</sup>Perzanowski and Schultz (2016)

AR glasses from Apple and Facebook are examples of how AR could become mainstream, providing immersive experiences that blend the physical and digital worlds <sup>75</sup>.

Sustainability and ethical considerations are increasingly important in the development and consumption of personal software and hardware. The environmental impact of electronic waste and the carbon footprint of data centers are significant concerns. Companies are focusing on creating more sustainable products, using recyclable materials, and improving energy efficiency.

Ethical issues such as data privacy, security, and the potential for AI bias also require attention. Consumers and regulators are demanding greater transparency and accountability from tech companies to ensure that technological advancements benefit society without compromising ethical standards <sup>76</sup>.

## 5.2 Outlook on IT-Ownership in Businesses

The future of IT ownership in businesses is increasingly characterized by a shift from traditional ownership models to service-based approaches. Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) allow businesses to access computing resources, platforms, and software on a subscription basis. This transition offers flexibility, scalability, and cost savings, as companies can adjust their IT resources based on demand without significant upfront investments <sup>77</sup>.

Cloud computing is at the forefront of this transformation, with many businesses adopting public, private, or hybrid cloud solutions. Public clouds, provided by companies like Amazon Web Services (AWS), Microsoft Azure, and Google Cloud, offer robust and scalable infrastructure that businesses can leverage to deploy applications and store data. Private clouds provide similar benefits but are managed within a company's own data centers, offering greater control and security.

Hybrid cloud solutions combine the best of both worlds, allowing businesses to manage sensitive data on private clouds while leveraging the scalability of public clouds for less critical workloads. This hybrid approach provides flexibility and optimizes resource utilization, addressing concerns related to data security, compliance, and performance <sup>78</sup>.

The shift to service-based models and cloud adoption has significant implications for IT management and strategy. IT departments are transitioning from managing physical hardware and software installations to overseeing vendor relationships and ensuring seamless integration of cloud services. This change requires new skills and competencies, such as vendor management, contract negotiation, and cloud architecture design.

Furthermore, businesses must develop comprehensive IT strategies that align with their overall goals and objectives. This includes evaluating the costs and benefits of different service models, ensuring data security and compliance, and fostering innovation through the adoption of emerging technologies like

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<sup>75</sup>Azuma (1997)

<sup>76</sup>Binns (2018)

<sup>77</sup>Marston et al. (2011)

<sup>78</sup>Botta et al. (2016)

AI, big data analytics, and IoT <sup>79</sup>.

As businesses increasingly rely on cloud services and external vendors, security and compliance challenges become more pronounced. Protecting sensitive data from cyber threats and ensuring compliance with regulations such as the General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA) are critical concerns.

Businesses must implement robust security measures, including encryption, multi-factor authentication, and continuous monitoring, to safeguard their data. Additionally, they need to establish clear policies and procedures for data governance and work closely with cloud service providers to ensure compliance with relevant regulations <sup>80</sup>.

Two emerging trends that are likely to shape the future of IT ownership in businesses are edge computing and blockchain technology. On the one hand, as the volume of data generated by IoT devices grows, edge computing is gaining traction. This approach involves processing data closer to its source, at the "edge" of the network, rather than relying solely on centralized cloud servers. Edge computing reduces latency, enhances real-time processing, and alleviates bandwidth constraints, making it ideal for applications such as autonomous vehicles, smart cities, and industrial automation <sup>81</sup>. On the other hand, Blockchain offers a decentralized and secure way to manage transactions and data, providing transparency and reducing the risk of fraud. In business IT, blockchain can be used for supply chain management, secure transactions, and identity verification. Its ability to create immutable records and facilitate trustless interactions holds promise for various industries, including finance, healthcare, and logistics <sup>82</sup>.

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<sup>79</sup>Venters and Whitley (2012)

<sup>80</sup>Fernandez et al. (2012)

<sup>81</sup>Shi et al. (2016)

<sup>82</sup>Iansiti et al. (2017)

## 6 Conclusion

As the digital landscape continues to evolve, so too does our understanding of ownership in IT. The traditional model of outright ownership is increasingly being supplemented, and in some cases replaced, by more flexible arrangements such as licenses, subscriptions, and cloud-based services. This shift has profound implications for legal frameworks, economic strategies, and technological development. The paper has shown that legal frameworks are gradually adapting to the realities of digital ownership, with intellectual property law playing a crucial role. However, challenges remain in enforcing these laws in a digital context where products can be easily copied and distributed.

Furthermore, the move towards subscription-based models and cloud services offers significant economic benefits, including cost savings and increased flexibility. However, it also raises questions about long-term costs and the balance of power between providers and users. Emerging technologies such as AI, IoT, and blockchain are likely to further transform IT ownership. These technologies offer new possibilities for access and control but also pose new challenges for regulation and enforcement. Moreover, the trend towards service-based models is likely to continue, driven by technological advancements and changing consumer preferences. Legal and economic frameworks will need to evolve to keep pace with these changes, ensuring that they protect the interests of all stakeholders while fostering innovation and growth.

For policymakers, there is a need to continually update and refine legal frameworks to address the unique challenges posed by digital ownership. This includes balancing the rights of creators and users, protecting consumer interests, and ensuring fair competition. For businesses, adopting flexible ownership models such as subscriptions and cloud services can offer significant advantages, but it requires careful management of legal and economic risks. Companies must also stay abreast of technological developments and be prepared to adapt their strategies accordingly. Additionally, for consumers, understanding the implications of different ownership models is crucial for making informed decisions. As digital products and services become more prevalent, consumers must be aware of their rights and responsibilities under various licensing agreements.

Future research should continue to explore the evolving landscape of IT ownership, focusing on several key areas. On the one hand, investigating new legal approaches and regulatory frameworks that can better accommodate the unique characteristics of digital assets. On the other hand, assessing the economic implications of different ownership models, including the effects on innovation, market competition, and consumer welfare. Moreover, analyzing how emerging technologies such as AI, blockchain, and edge computing will influence IT ownership and the broader digital economy.

In conclusion, by addressing these and other critical questions, future research can contribute to a deeper understanding of IT ownership and help shape policies and practices that foster a fair, secure, and innovative digital environment.

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