

From: "Kester, W." <wkester@hbs.edu>

To: "Edelman, Benjamin" <bedelman@hbs.edu>

Subject: Re: Edelman follow-up: case copyright policy & rationale, rights in software

Date: Thu, 11 Mar 2010 22:36:22 +0000

Importance: Normal

Ben,

I'll do what I can on that first bulleted item. However, with respect to HBS/Harvard's view of copyright ownership of cases, I don't know that the "view" extends much beyond, "The HBS faculty voted to give case copyrights to HBS in 1947; ergo, HBS owns the copyrights and has ever since then." I'm not sure there is an actual memo on that point, in other words. If there is, I haven't seen it. I think the OGC also has this other theory about cases funded by the HBS being a so-called "work for hire." There may be a memo on that since it's more of an application of legal principles and court precedents, which are no doubt open to interpretation. I'll see what I can find out. And I'll also look into your software ownership issue, as agreed.

Thanks for coming by and talking. I always learn something. This time, there was the unexpected dividend for me of a new tax tip on top of everything else!

Best,

Carl

On 3/11/10 4:59 PM, "Edelman, Benjamin" <bedelman@hbs.edu> wrote:

> Carl,
>
> Thanks again for your time today. Just to recap the follow-up we
> discussed --
>
>
> On the case copyright question:
>
> * You'll forward me documents confirming the HBS/Harvard view of
> copyright ownership in cases faculty write, and the reasons for that
> view.
>
> * After the semester is over, probably this summer, we'll discuss
> further what more could be done to better distribute faculty research,
> to assure that official rules match our shared understandings, and
> otherwise to improve the areas I've identified. I'm happy to follow up
> directly with HBP folks, DRFD folks, others, or though you, as you
> prefer.
>
>
>

> On the software ownership question, you requested a recap of the key
> facts:
>
> I developed an idea for software that would collect data I'd find useful
> for multiple research projects. I identified a suitable developer and
> wish to pay that developer a modest fee (\$1500-\$2000) to implement
> software to my specification.
>
> The standard Research Staff Services contract provides that all rights
> in the software will flow from the developer to Harvard. From my
> perspective, that could be undesirable: I'd like to let others
> (including others outside of Harvard) use the software; I'd like to be
> able to continue to use the software if I should ever leave HBS; I'd
> like to feel confident in my ability to do these things without
> requesting permission or accepting a further delay.
>
> I believe one suitable approach is that both Harvard and I have a
> perpetual nonexclusive license to the developer's work. I'm open to
> other appropriate alternatives. I think a short email waiver,
> confirming my rights in the software I designed, could suffice.
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>
> Thanks,
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>
> Ben

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