Standing in Software Copyright Infringement Cases

August 28, 2014
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Sources

- Unplanned Coauthorship, 100 VA. L. REV. (2014) by Shyamkrishna Balganesh
OSS Projects – Developer Perspective 1

Trending repositories this week:

- **fastmonkeys/stellar**
  - 2,593 stars, 77 forks
  - Fast database snapshot and restore tool for development

- **chriskiehl/Gooey**
  - 2,235 stars, 81 forks
  - Turn (almost) any command line program into a full GUI application

- **duojs/duo**
  - 1,842 stars, 45 forks
  - A next-generation package manager for the front-end

- **typicode/lowdb**
  - 1,402 stars, 38 forks
  - Flat JSON file database for Node

- **gogits/gogs**
  - 1,282 stars, 54 forks
  - Gogs (Go Git Service) is a painless self-hosted Git Service

- **sahat/satellizer**
  - 977 stars, 79 forks
  - Token-based AngularJS Authentication
OSS Projects – Developer Perspective 3
OSS Projects – Developer Perspective 4
History for `gogs/.fswatch.json`

Commits on Apr 10, 2014
- `fix`
  - zhssao authored on Apr 10
- `mistakes`
  - zhssao authored on Apr 10

Commits on Apr 09, 2014
- `remove martini oauth2 depend`
  - codeskyblue authored on Apr 9

Commits on Apr 08, 2014
- `add id for oauth2`
  - codeskyblue authored on Apr 8
Co-Authorship Defined

- Under 17 USC 101 a joint work is a “work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole”
  - Both authors MUST intend that their contributions be combined.
  - The intention must exist at the time the contribution is created.

- Co-Author Right and Interest:
  - The right to use or license the work as the co-author wishes
  - Co-authors have equal and undivided interest in their work

- Co-Author Duty:
  - A co-author has an obligation to account to other co-authors for their share
Act or Omission?

“intend that their contributions be combined”

Handling pull requests

Say your friend has suggested some changes to your code.
Ask them to get a github account and follow the instructions above: fork your repository, make the changes, and submit a pull request.
Once they do that, you’ll get an email about it. How to handle it?

Using the github website:

- Go to your version of the repository.
- Click on “Pull Requests” at the top.
- Click on the particular request.
- You’ll see their comments on the pull request, and can click to see the exact changes.
- If you want them to make further changes before you merge the changes into your repository, add a comment.
- If you hate the whole idea, just click the “Close” button.
- If you want to merge the changes into your repository, click the “Merge pull request” button.
“standing, n. A party’s right to make a legal claim or seek judicial enforcement of a duty or right.” Black’s Law Dictionary, 3rd Edition
Written Agreement between Co-Authors?

Yes. Governed by the agreement.

NO. COMPETING TEST TO DETERMINE WHETHER AN INDIVIDUAL’S CONTRIBUTION RISES TO THE LEVEL OF A JOINT AUTHORSHIP.

Childress v. Taylor, 945 F.2d 500 (2d Cir. 1991)
Thomson v. Larson, 147 F.3d 195 (2d Cir. 1998)
Aalmuhammed v. Lee, 202 F.3d 1227 (9th Cir. 2000)

Goldstein on Copyright
Intention Test

“To prove co-authorship status, it must be shown by the individual claiming co-authorship status that each of the putative co-authors (1) fully intended to be co-authors, and (2) made independently copyrightable contributions to the work.”

http://meta.wikimedia.org/wiki/Wikilegal/Authorship_and_Copyright_Ownership
http://www.copyright.gov/title17/92chap1.html

Lindsay v. Wrecked and Abandoned Vessel R.M.S. TITANIC, 52 U.S.P.Q.2D 1609 (S.D.N.Y. 1999)
No. 08-534

In the
Supreme Court of the United States

BRADLEY RICHLIN, LANCE RICHLIN,
MARK MANNIS, ABIGAIL RICHLIN SCHWARTZ,
LOUISE RICHLIN, ELYSSA PARTON
and MICHELLE FORKEL,

Petitioners,

v.

METRO-GOLDWYN-MAYER PICTURES INC.,
GEOFFREY PRODUCTIONS, INC.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

REPLY BRIEF
Thank you!

Questions?