

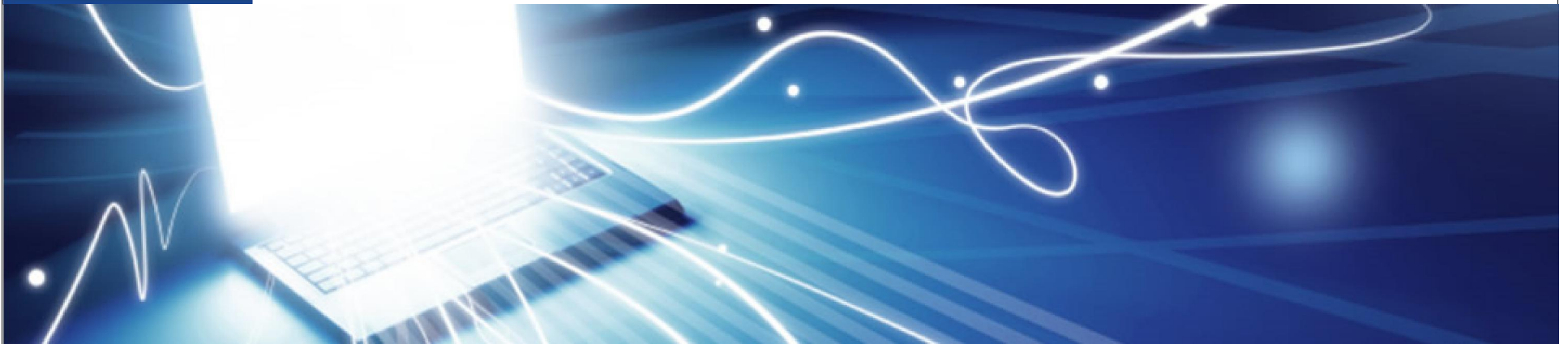
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# 2015 ALAI

## Why U.S. Software Copyrights Are a Game Changer



MITCHELL C. SHELOWITZ, June 29, 2015

MANAGING PARTNER

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## ABOUT SHELOWITZ LAW GROUP

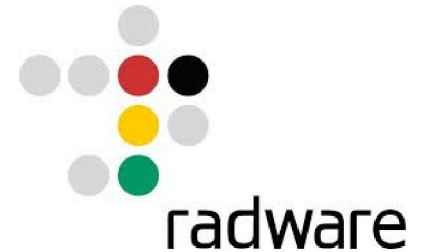
- Shelowitz Law Group is an international law firm with extensive expertise representing Israeli and U.S. clients in all aspects of copyright protection from registration with the U.S. Copyright Office to representing plaintiffs and defendants in copyright infringement litigation.
- Shelowitz Law Group delivers the highest levels of quality and service with a practical, business approach, and a focus on personal attention.

## Background

- ❑ **Managing Partner, Shelowitz Law Group (Israel - New York)**
- ❑ **Former Partner, Pearl Cohen Zedek Latzer Baratz (NYC and Herzelia) (2011-2015)**
- ❑ **Leader, Pearl Cohen Software Copyright Protection Group**
- ❑ **Head of Israeli Desk, Nixon Peabody**
- ❑ **Head of New York Israeli Desk, Greenberg Traurig**
- ❑ **Former General Counsel at Ceragon Networks**
- ❑ **Former In-House Counsel at Gilat Satellite Networks**
- ❑ **Corporate Associate, Goldfarb Seligman**
- ❑ **Founder, Association of Corporate Counsel Israel**



# Representative Client Experience



## Copyrights Facts



Unlawful software copying results in billions of dollars in annual lost revenue



U.S. Software Copyrights provide a key layer of IP protection to minimize lost revenues



# Global Leaders Rely On Software Copyrights



## Copyright Protection is Not New

1787

- U.S. Constitution protects works of authors

1790

- First U.S. Copyright Act Adopted

1980

- U.S. Copyright Act Protects Software

## Power of Copyrights Highlighted In Recent Cases

1.

**ORACLE**<sup>®</sup>

VS.



*\$479 Million Judgment Against SAP for  
Copyright Infringement*

2.

**ORACLE**<sup>®</sup>

VS.



*Java API Copyrights Infringed by Google*





# First Hand Experience with Power of U.S. Copyrights



And then there was Alice . . . .

Alice Changed U.S. Software Patents Forever

# Who is Alice?

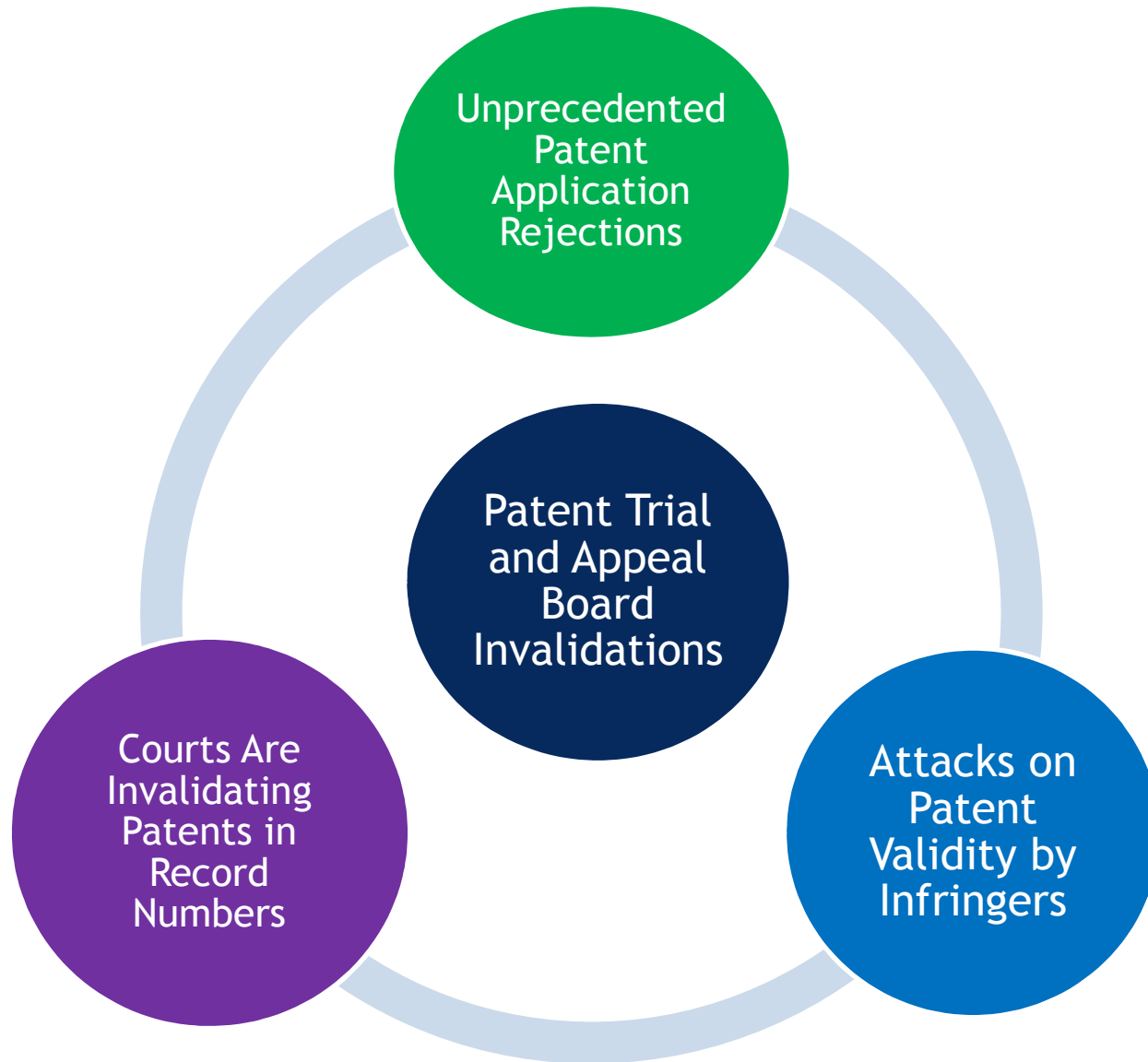
*Alice Corp. v. CLS  
International*

US Supreme Court  
Decision

(June 2014)

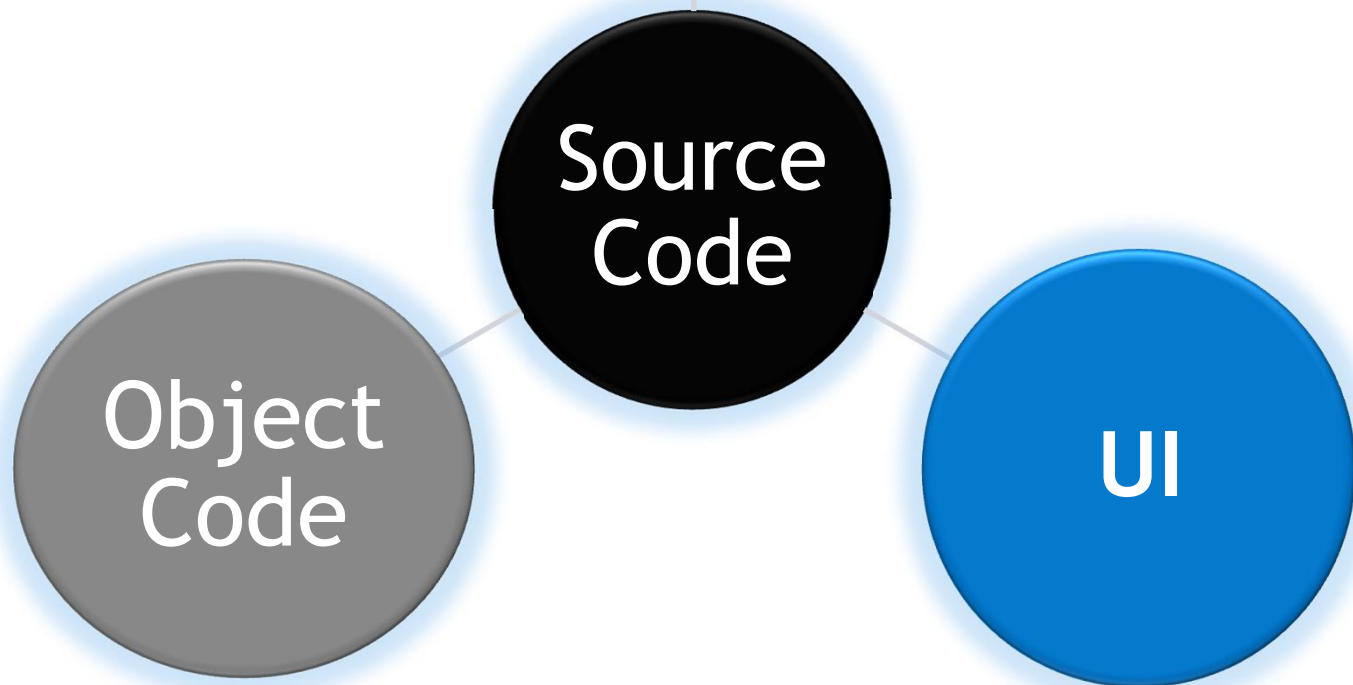


## Immediate Consequences of *Alice*



# What Do Software Copyrights Protect?

## Software Copyright Registration

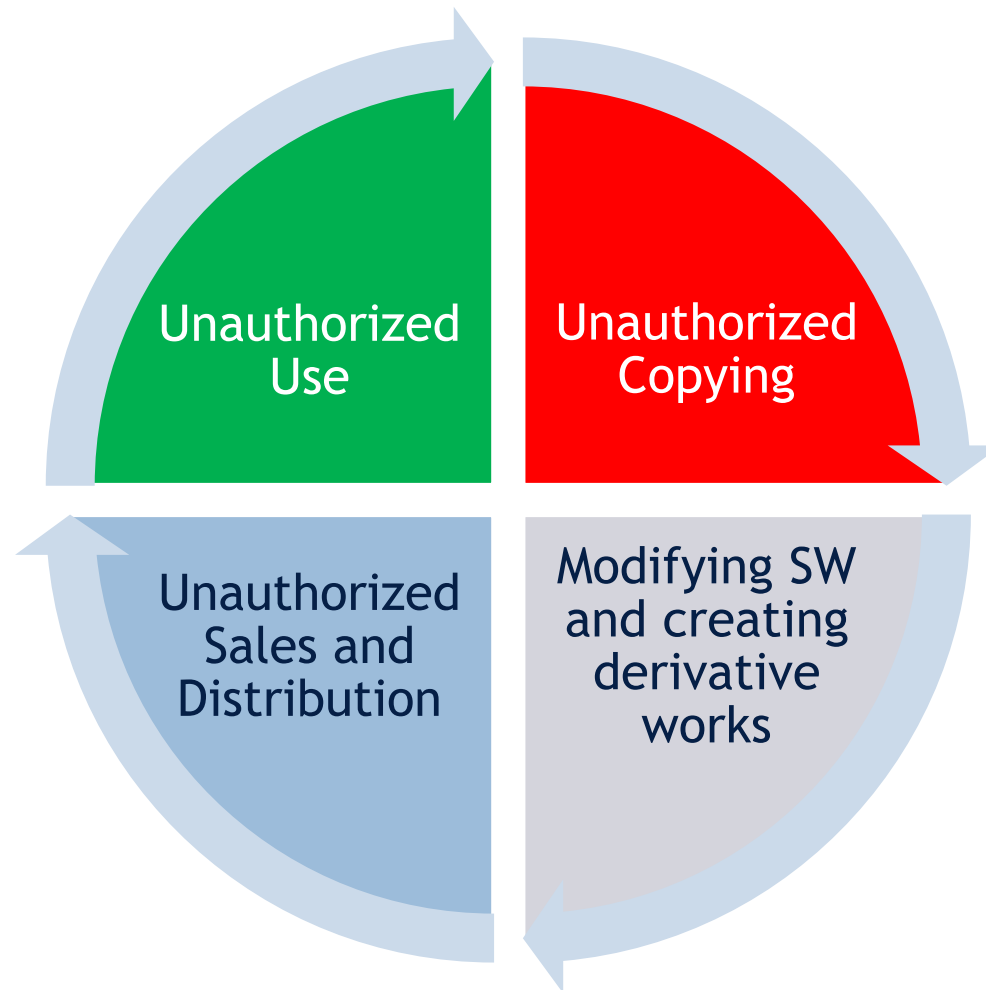


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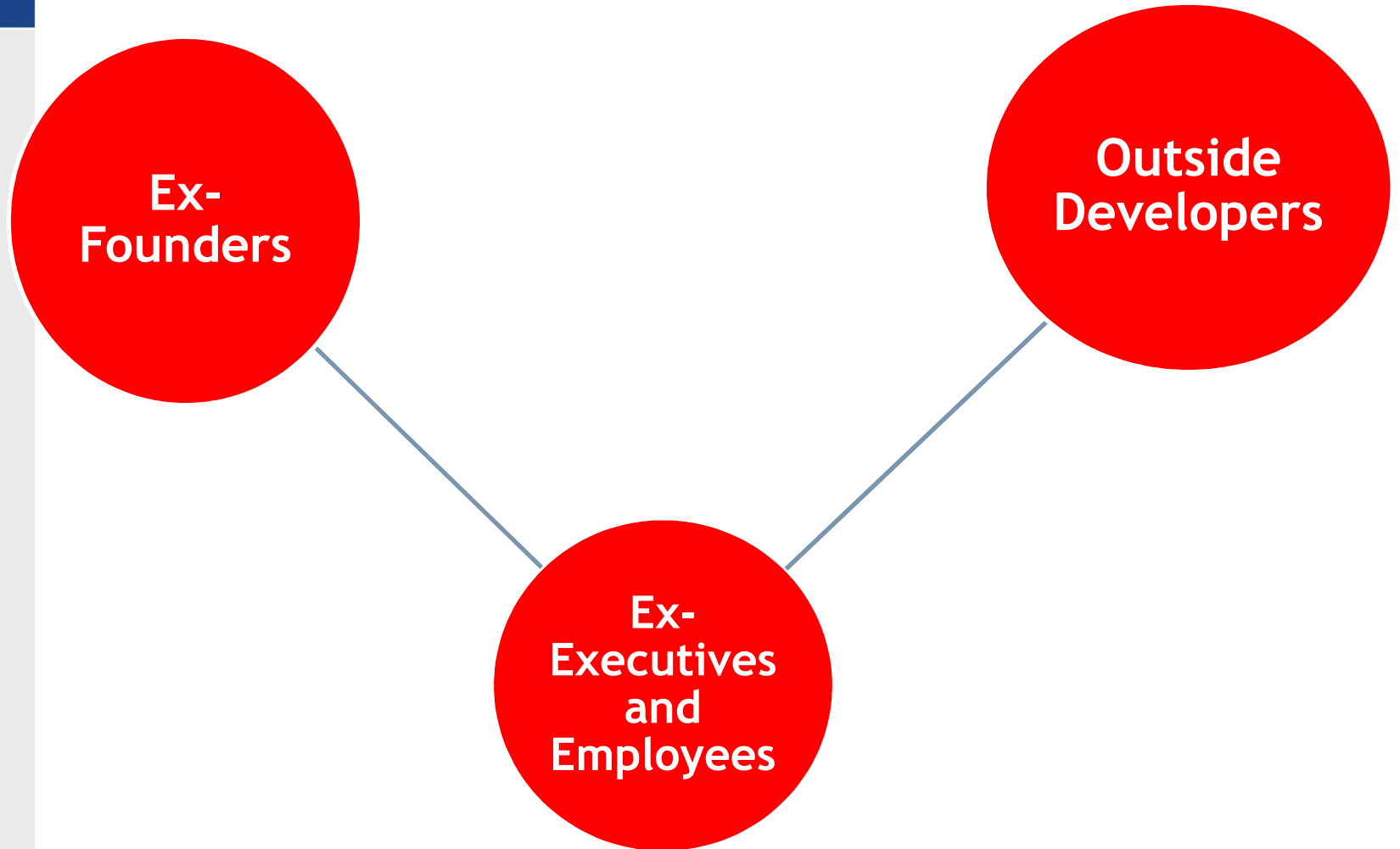
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# Software Copyright Protection



# The Usual Suspects (1/3)

## Insiders



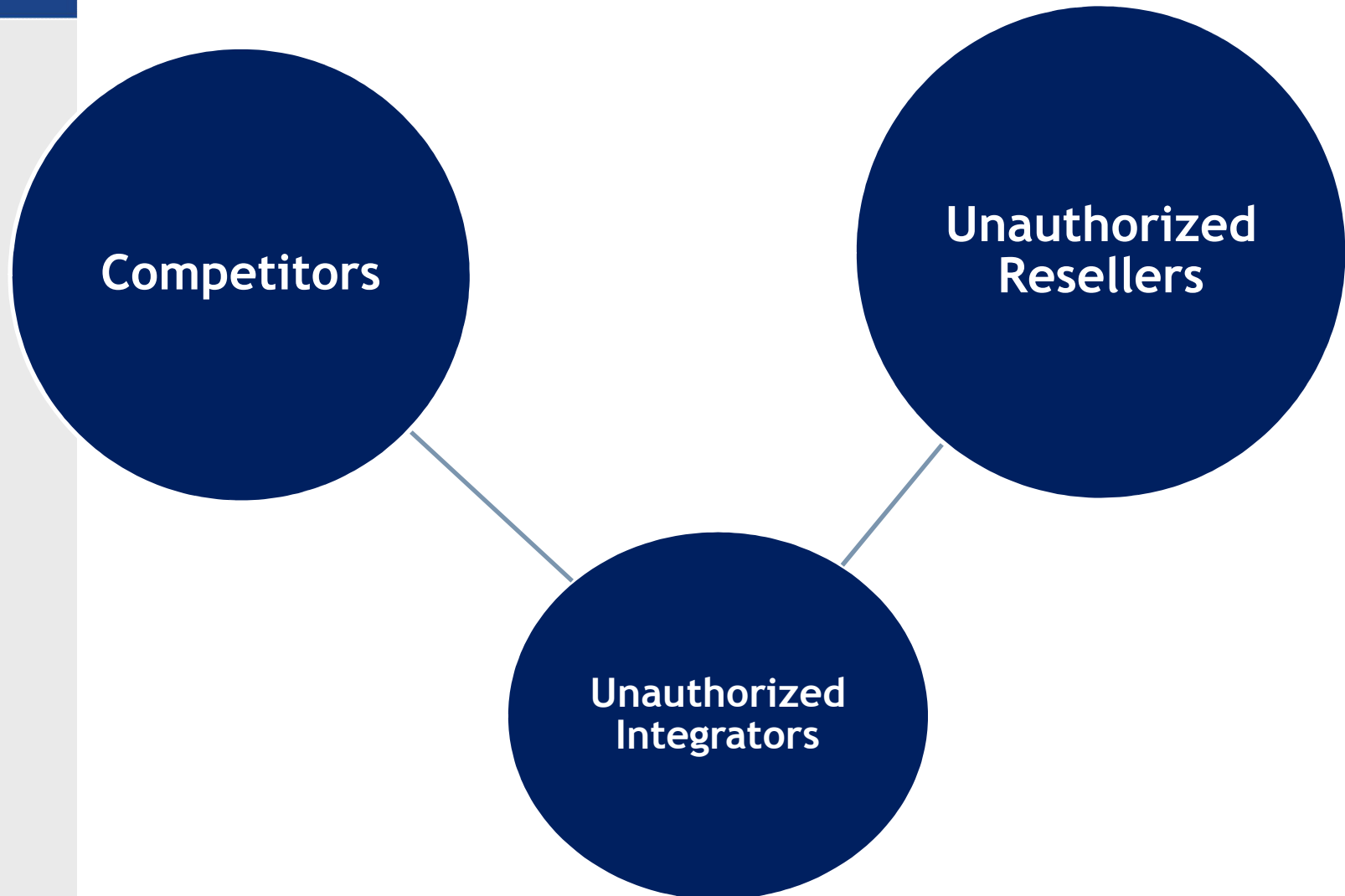
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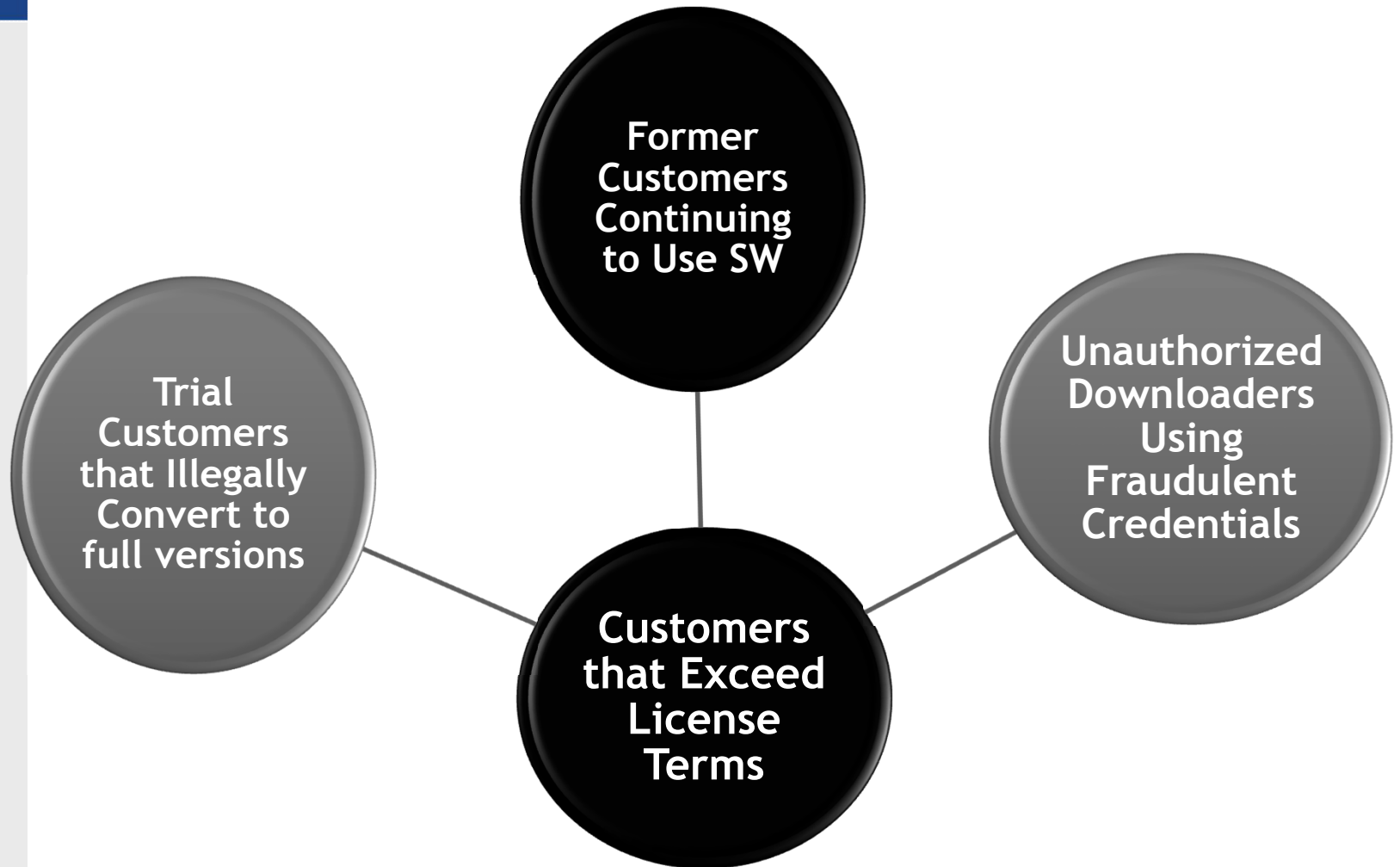
# The Usual Suspects

## MARKET PARTICIPANTS



# The Usual Suspects (3/3)

## UNAUTHORIZED “CUSTOMERS”





# Common Misperceptions

- ✓ No requirement that entire code be literally copied.
- ✓ Does not need to be identical copying (substantial similarity is enough)
- ✓ Small portions may be sufficient to show copying

## Software Copyrights Are Very Powerful

### **Available Remedies for Infringement**

- ✓ Statutory Damages.
- ✓ *Actual Damages.*
- ✓ Attorneys Fees and Litigation Expenses.
- ✓ Seizure of infringing products
- ✓ Block import into U.S. of infringing products.

## Stronger Protection Than Any Alternatives

Stronger than Non-Disclosure Agreements

Stronger than End-User License Agreements

Provides strong protection while **Patent** applications are pending

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# U.S. Copyright Registration Certificate

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

Registration Number

TXu 1-909-601

Effective date of  
registration:

October 1, 2014

### Title

Title of Work: [REDACTED] Version 3.0

### Completion/Publication

Year of Completion: 2014

### Author

Author: [REDACTED] Ltd.

Author Created: computer program

Work made for hire: Yes

Domiciled in: Israel

### Copyright claimant

Copyright Claimant: [REDACTED]

## Copyrights Are Valid for a Long Time

# U.S. Software Copyrights Are Valid for 95-120 years



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## Registration Process Is Fast and Easy

- Registration in as little as 2 weeks
- No Examination of Code by U.S. Copyright Office

## Trade Secrets Are Protected

- ✓ Only small excerpts of source code deposited with Copyright Office
- ✓ No on-line access to applications
- ✓ **Confidential and proprietary code** can be blocked from view – as follows:

```
class Deck
{
    public:
        Deck(int DeckSize);
        ~Deck(void);

        void Shuffle(int passes);
        Card Deal(void);
        void Collect(void);
}
```

```
class Deck
{
    public:
        [REDACTED]
        ~Deck(void);

        void Shuffle(int passes);
        Card Deal(void);
        [REDACTED]
}
```

# iOS 8.0 Public US Copyright Office Record

*iOS 8.0.*

**Type of Work:** Computer File

**Registration Number / Date:** TX0007946959 / 2014-12-16

**Application Title:** iOS 8.0.

**Title:** iOS 8.0.

**Description:** Electronic file (eService)

**Copyright Claimant:** Apple Inc. Address: 1 Infinite Loop, MS: 169-3IPL, Cupertino, CA, 95104, United States.

**Date of Creation:** 2014

**Date of Publication:** 2014-09-16

**Nation of First Publication:** United States

**Authorship on Application:** Apple Inc., employer for hire; Domicile: United States. Authorship: New and revised computer program, new and revised text, and new and revised audiovisual elements.

**Alternative Title on Application:** Apple iOS 8.0 Software  
Apple iOS 8.0

**Previous Registration:** 2014, TX 7-934-810.  
2014, TX 7-934-817.



## Every Israeli Software Company Should Register SW Copyrights

- Protects loss of royalties**
- Provides proof of IP ownership of software IP**
- Provides reliable proof of date of IP creation**
- Increases Company valuations**
- Provides powerful weapon against U.S. infringement**

# Software Copyright Registration is a No Brainer



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FOR MORE INFORMATION, PLEASE  
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