Legal Issues Associated with Augmented Reality

2014 IP and the Internet Conference
June 12, 2014

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What is Augmented Reality?

- Augmentation of the real world with additional content provided in real time by technology
Examples of Augmented Reality

- GPS Navigation
- GoogleGlass
- Mobile Device Viewers
- Modern Sports Telecasts
What’s the Point?

- Intuitive presentation of information relevant to current context
- Immersive and engaging experience
- Acquisition of user information
Example Use Cases for Augmented Reality

- Retail/Shopping
- Games
- Art
- Industrial Maintenance
- Law Enforcement/Military
- Education/Training
Retail and Shopping with Augmented Reality

- Advertising and Marketing
- Virtual Dressing Room
- “Test Drive”
- Incentive/Promotion
- Comparison Shopping
Games with Augmented Reality

- Gesture-Based Gaming
- Immersive Gaming
  - Image-Based
  - Location-Based
The Law and Augmented Reality

- Advertising
- Privacy
- Intellectual Property
Advertising

- FTC has stated truth-in-advertising standards apply the same between real and virtual worlds
  - Avoid overselling features, function, or appearance
  - Make disclosures clear and easy to spot

- Feedback and comment in Social Media may be endorsements
  - Users generating “endorsements” through social media or augmented reality platforms must disclose if a product is providing any “incentive”
    - Incentives may include rebates, incentives, and event contest participation
Privacy

- Obtain express consent for:
  - What you are collecting
  - How you will be using it
  - How long you will be keeping it

- Default settings should provide for privacy

- Best Practices:
  - Only collect what you need
  - Retain it only as long as necessary
  - Store securely
  - Dispose of it safely

- COPPA
Privacy, Further – Exemplary Information Gathered

- Persistent Identifiers
  - UDID
  - cookies
  - IP address
  - MAC address
  - biometric info
- Location
- Demographic
- Images
- Sound Recordings
- Consumption/ Purchase Information
- Eye Movements
Privacy, Still Further

- Facial Recognition
  - “Cool” use case (Terminator style)
- Right of publicity (Personality rights)
  - Right to control commercial use of name, image, likeness, or other aspects of identity
  - Actually 2 separate rights:
    - Right of publicity – right to contractual compensation
    - Right to privacy – right to be left alone
  - State Law (common law and/or statute)
Privacy, Yet Still Further

- AR technology directed at a specific individual
- Could be used for any number of criminal and/or tortious actions
Intellectual Property

- Patents
- Copyright
- Trademark
Patents

- **Business Methods/Services**
  - Location-based services
  - Commerce and other interactions via AR platform/app
  - Advertising and monetization models
  - Real-time promotions

- **Data**
  - Capture
  - Management
  - Manipulation
  - Analysis
  - Modeling and display
  - Data aggregation and display
  - Data structures

- **Miscellaneous**
  - Object tagging/tracking
  - Integration with social networking

- **Systems**
  - Overall system architecture and functionality
  - Integration of location awareness/real-time data sensors with AR application
  - Contextual awareness

- **Features/Functions/Processes**
  - Combinations of features/functions/information
  - GUI features
  - Interface control schemes and features
  - Algorithms or implementations of algorithms
  - User customizability
  - Integration of functionality with existing technologies and/or services
Copyright

**Protection**
- Maps
- Databases and compilations of data
- User interface features
- Overall look and feel
- Photos
- Underlying code

**Presentation**
- In order to recognize something, you will need to copy and store that something.
- Subject to “fair use”? 
- Alteration or augmentation of copyrighted material a violation of moral rights?
Trademark

- Should be used to protect brands of AR companies in the traditional ways
- In augmenting trademarks, consider whether the augmentation creates a “likelihood of confusion”
Questions?

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