Subject: Design ownership, public domain and who owns what
Posted by Wayne Parham on Fri, 16 Sep 2005 06:39:07 GMT
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Here I am again getting ready to say what I think. And here again, I'm reminded that I'm not an attorney, nor do I know all the facts in the issues between Doug and Mike. But I am in a similar situation that they are in, so I hope my comments will be useful.I design a lot of stuff and naturally I want to reap some benefits from it. It gives me an advantage over my competition if I have products that are unique and that perform better than my competitors. It also helps if I can make it

I cannot make large production runs that take advantage of an economy of scale. I cannot afford to buy as much specialized equipment as I'd like. And I cannot keep an attorney on staff to watch out for me. So I have to leverage what I have.I can make products that are good, spend time researching them so that they perform the best possible. I can base them on readily available components, which allows me to cut costs on machining and fabricating parts, except for a few things. I can model them with CAD systems that allow me to predict response and reduce the design/prototype/test/produce development cycle time. It limits the number of prototypes I have to build and allows me to test fewer samples compared to empirical build-and-try methods.What I do is to sell parts to make this worth my while. I'm a parts guy and spend a good deal of my time shipping and receiving. It's a glorious high-status job. I sell complete loudspeaker systems too, but I think where I'm most competitive is parts and kits. By concentrating on that, I can increase my economy of scale so that I can afford to be competitive. My volume is high enough that I can beat the prices of the large parts distributors like Parts Express.But I do a hell of a lot of work for that. Most distributors do no design work at all. Most are just counter sales, mail-order or online parts houses. So their R&D costs are zero. Mine are pretty significant. I'll spend several hundred hours on a single design sometimes. If I were to do a P&L with my engineering time listed as a

trickle from it that makes it worthwhile.What I get is a ton of goodwill. I distribute designs, not giving them away, but letting people use them to build their kits. Sometimes I allow people to use them, just for asking, and they source their own parts. That brings more goodwill. I don't relinquish rights to my plans, but by letting people see them, control is effectively lost. So my business is built almost entirely from goodwill, by supporting people whether they buy from me or not.Every time I draw up some plans, write a description of a test I've run or make a post on my forum, the document is automatically copyrighted. It is my document, I own it. Once a document is fixed, it is the property of the author, unless the author was paid to write it. When I give a product a unique name, it is my trademark. As soon as I sell it, that trademark is used in commerce in the state I sold it in. If I do business across a few states, it is trademarked in those states, in a particular region. If I register it, it is trademarked across the nation. But whether registered or not, if I do business somewhere with a product of a given unique name, I own that name.One can patent a product provided they can write a set of claims that are unique. This allows the product to be built by a sole owner, and gives legal rights to police the patent and demand others trying to sell a similar device must stop.The trouble is, each of these is pretty weak. We kind of have to respect each other because if lawyers get involved, once under attack, the pieces can easily come apart. It becomes a war of attrition. Sometimes you can protect yourself on the front end so well that you aren't very vulnerable, but you still have to pay a lot to get justice. The system really isn't very good.Trademarks do not last forever, they must be renewed. They can be damaged by misuse or failure to police. A predator will try to find every

possible weakness and reason the trademark should not be considered unique. A copyright lasts a long time, but honestly, it isn't much good. The only times I ever see them policed is record companies prosecuting college kids. On the internet, almost everyone is copying things, and there are a bunch out there dead set on making legal precedents that remove intellectual property rights, making copyrights worthless. I think it will swing back the other way, but right now, we're pretty liberal in our views on copyright and plagiarism. Patents are probably the strongest protection, but they don't last very long. By the time your kids are grown, your patent runs out and your design slips into the public domain. Better make your profits quick.So what's right and what's wrong? Sometimes, I work so hard on a particular loudspeaker design, I become pretty possessive. I begin to feel like the very essence of the design, its style even, is mine. I've seen this in other engineers too. Whenever two engineers walk the same road, you'd hope they would enjoy each other's company but it is inevitable that each feels a bit possessive of that road. They both have a tendency to want to draw a line in the sand, claiming the road their own. I think that's what has happened between Mike and Doug. It's understandable, really.