

Protecting Information Technology and Data Assets with Intellectual Property

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Overview

- IPR and technology
- Relevant copyright issues
- Software, copyright
- Licence restrictions and their validity
- Open source software
- Escrow and disaster recovery
- Database protection
- Technology and data protection (GDPR)
- Technology and Brexit

IPR in Technology

- Patents
- Trade marks
- Design rights
- Semi-conductor topography rights
 - Design Right (Semiconductor Topographies) Regulations 1989
- Trade secrets and confidentiality agreements



Copyright – Crash course

- What does it protect:
 - Books, Photographs, Music, Films, Buildings, Sculptures - Artistic Works
 - Computer Programs
- Copyright – Qualification
 - Originality and monopoly
 - Manifestation not Subject Matter
 - Qualifying Person



Copyright – Who owns copyright

- First owner
- Employee - "in the course of his employment" CDPA, 1988, Section 10
- Directive 2009/24/EC : "in the execution of his duties or following the instructions given by his employer"
- Position of consultants
- Joint authors if contribution "not distinct"
- All owners need to consent to grant a licence



Copyright – What you receive

- Right to prevent copying
- Whole or substantial part
- Infringement
- Copying, making, issuing, performing, broadcasting, adapting, importing,
- translating
- Duration
- Life + 50 / 70 years



Computer Programs – Legislative Background

- Copyright Designs and Patents Act 1988
- Applies general copyright regime
- Council Directive of 14 May 1991 (23 April 2009) on the Legal Protection of Computer Programs
- Copyright (Computer Programs) Regulations 1992 SI 1992/3233
 - (re) states owner of copyright
 - (re) defines monopoly rights
 - restricts monopoly rights



Software licence provisions

- Restricted use by
 - time
 - number of concurrent users
 - purpose - e.g. not for outsourcing or a bureau service
- Transferability
- Payment
- Termination



Types of Software

- Bespoke (customised)
 - Chemical Plant Control System
- Off-the-shelf (mass-produced)
 - “Windows” operating system
- Part-bespoke
 - Database package
- Big ticket systems
- Financial control systems
- Embedded systems e.g. (in mobile phone, washing machine)
- Entertainment software
- Apps



Copyright – Criminal Sanctions

- Copyright infringement
- Use of an “article”
- In course of a business
- 10 years imprisonment
- Unlimited fine
- Purpose of a licence



What is Open Source Software

- Complex definition relating to the terms of the licence
- Open Source Initiative
- Free redistribution
- Free access to source code
- Free licence of derived works
- Non discriminatory licence
 - users; type of business; technology



Database Protection

- Any compilation of data accessible by electronic means
 - not to “a computer program used in the making or operation of a database”
- Monopoly right to make copies or extract data
- Duration : first year of use +15
- Extracting series of insubstantial parts
- Where totality is substantial



Database Protection: Cases

- William Hill -v- British Horse Racing Board
- Fixtures Marketing Cases in Finland, Sweden and Greece
- Substantial investment in
 - content
 - obtaining and verification
- Database Protection post Brexit



Confidential Information Computers

- Value of software cf. hardware
- Source code algorithms
- Best protection
- Improving the user experience
- Object orientated design, open source
- Internet



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