**Template for Intellectual Property Analysis in IRAC Format**

[Company Name] has developed a large commercial database containing significant amounts of consumer personal information, with substantial investments in its structure, efficient data access, and data storage. This memo evaluates whether [Company Name] can exploit this data from an intellectual property perspective.

**Issue**

Does [Company Name] have the legal ability to exploit its database under intellectual property laws, considering its structure, arrangement, and content?

**Rule**

1. **Copyright Protection**:
   * **Berne Convention, Article 2(5)**: Protects databases as collections if the selection and arrangement of their contents constitute intellectual creations.
     + *English*: "Collections of literary or artistic works which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected."
     + *中文*：“由于其内容的选择和编排而构成智力创作的合集应受到保护。”
   * **TRIPS, Article 10(2)** and **WCT, Article 5** provide similar protections.
   * **Directive 96/9/EC, Article 3(1)**: Protects databases with original selection or arrangement.
2. **Sui Generis Database Rights**:
   * **Directive 96/9/EC, Article 7(1)**: Grants rights to prevent unauthorized extraction or re-utilization if substantial investment has been made in obtaining, verifying, or presenting the contents.
     + *English*: "The maker of a database which shows substantial investment shall have the right to prevent extraction or re-utilization of substantial parts."
     + *中文*：“数据库制作者在内容获取、验证或呈现方面进行大量投资，有权阻止内容的提取或再利用。”
3. **Data Protection**:
   * **GDPR, Article 4(1)**: Defines personal data as any information relating to an identifiable natural person.
     + *English*: "‘Personal data’ means any information relating to an identified or identifiable natural person."
     + *中文*：“‘个人数据’是指与已识别或可识别的自然人有关的任何信息。”

**Analysis**

1. **Copyright Protection for Database Structure**:
   * The unique structure and arrangement of [Company Name]’s database can qualify for copyright protection under **Berne Convention, TRIPS, WCT**, and **Directive 96/9/EC, Article 3(1)**. This ensures that competitors cannot directly replicate the database’s structure without authorization.
2. **Sui Generis Protection for Substantial Investment**:
   * [Company Name] has made substantial investments in creating and maintaining the database. Under **Directive 96/9/EC, Article 7(1)**, it can prevent unauthorized extraction or reuse of significant portions of the database, safeguarding its commercial value.
3. **Ownership of Content**:
   * Individual data entries, such as customer-submitted pictures, may have separate copyright owners (e.g., the customers themselves). [Company Name] cannot exploit such content without obtaining proper permissions from the rightsholders.
4. **Data Protection Compliance**:
   * If the database contains personal data, GDPR applies, limiting exploitation. However, if the data is anonymized or replaced with synthetic data, it would fall outside GDPR’s scope, allowing broader use.

**Conclusion**

[Company Name] can exploit its database through copyright and sui generis database rights, protecting its structure and arrangement. However, it must ensure compliance with GDPR when dealing with personal data and cannot use copyrighted content owned by other rightsholders without authorization. Anonymization or synthetic data creation could enable lawful and unrestricted exploitation of the database’s contents.

**Note**: Replace placeholders (e.g., [Company Name]) with specific details of the case.