

Lecture 1

Property defines the absolute rights on an object. **Intellectual property** (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. Relating this to IP-rights may contain:

- Copyright
- Database rights
- Patents
- Trademarks
- Trade names
- Plant varieties
- Industrial design rights
- Trade secrets
- Portrait rights
- Neighboring rights

Copyright

Copyright is the exclusive rights to do or to authorize. The most relevant for software protective is *Directive 2009/24/EC*.

For copyright, there is no registration required. You also hold the copyright rights until **70 years** after your death.

An exclusive copyright license required a deed. This is a signed document as proof. This is also required if you want to change the owner of the copyright. A non-exclusive license does not require a deed.

When working for an employer, the employer holds the copyrights and not the employee. However, a contractor/freelancer is not an employee. This means that, if not stated explicitly, the contractor/freelancer keeps his rights on the copyrights.

"Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer, the employer exclusively shall be entitled to exercise all economic rights in the program so created, unless otherwise provided by contract."

Object of protection

A computer program itself is protected under the **object of protection (article 1)**. However, the underlying ideas or principles are not protected in any way. However, the following articles should also be considered:

- article 5: Exceptions to the restricted acts
- article 6: Decompilation
- article 7: Special measures of protection

Lecture 2

Database Rights

According to article 1.2, a **database** is defined as the following:

collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means

These contents may be protected under regular copyright. According to art. 3.1 Jo art. 7.1, the selection of arrangements of the contents of a database constitutes the author's own intellectual creation.

Next to this, we also have the **protection of investment**

IF the maker of a database which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database

Exclusive rights imply the following:

- prevent extraction/utilization of the whole or parts of the database
- prevent repeated and systematic extraction and/or re-utilization of insubstantial parts

The term of protection on a database is 15-16 years. However, a spin-off based on the authors main activity is not protected under the directives.

Domain Names

Registration is based on private regulations. They are divided based on a first come, first serve principle.

- ICANN (Internet Corporation for Assigned Names and Numbers): Top level domains (.nl, .de et cetera)
- SIDN (Stichting Internet Domeinregistratie Nederland): Second level domain names

Lecture 3

Privacy Law

Aim of privacy law

The aim of the privacy law is the protection of personal data. This protection is either vertical protection (state vs citizen) or horizontal protection (citizen vs citizen). Under the GDPR the maximum administrative fine is €20.000.000, or in the case of an undertaking, 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher.

There are a number of different privacy categories:

- Information privacy: collection and processing of personal data
- Bodily privacy: protection of people's physical selves against invasive procedures such as genetic tests, drug testing and cavity searches
- Privacy of communications: security and privacy of mail, telephones, e-mail and other forms of communication
- Territorial privacy: limits on intrusion into the domestic and other environments such as the workplace or public space

Legislative history and developments

Article 17 of the international covenant on civil and political rights (1966)

Article 17 1 .No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

These are the most important items. However, there are a ton of laws that define the same. This is both on european level and national level.

General Data Protection Regulation (GDPR)

The GDPR principles relating to the processing of personal data is the following according to article 5:

- Lawfulness, fairness and transparency ▪ Purpose limitation
- Data minimization
- Accuracy
- Storage limitation
- Integrity and confidentiality ▪ Accountability

Lecture 4

Computer crime has three defined types:

1. Computer as motive for criminal behavior
2. Computer as instrument for criminal behavior
3. Computer as target of criminal behavior

A combination is also possible between these motives.

The european directive 2013/40/EU defines two types of laws regarding cyber crime:

Substantive Law	Procedural Law
illegal access to information systems	Penalties for natural persons / Liability of legal persons
illegal system interference	Jurisdiction and international cooperation
illegal data interference	
illegal interception	
illegal tools	
illegal incitement, aiding and abetting and attempt	

Substantive Law relates to prohibited acts. Offenses and penalties fall under this type of law.

Procedural Law relates to lawfully accessing another computer. Investigation of data in computers or order to give a computer fall under this law.

The liability regime state the following:

"Any person who, through negligence, causes data stored, processed or transferred by means of a computerised device or system to be altered, erased, rendered unusable or disabled, or causes other data to be added thereto, shall, if this causes serious damage to that data, be liable to a term of imprisonment or of detention not exceeding one month or a fine of the second category" (Section 350b sub 1 Sr)