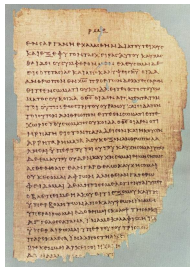


Understanding law and licensing collecting, using and publishing data

Francis Davey

Open Data Institute
65 Clifton Street
London
EC2A 4JE
contact@francisdavey.co.uk



Overview

- ▶ Consumer
 - ▶ Collecting
 - ▶ Using
- ▶ Producer
 - ▶ Publishing

Scope

Not today: Copyright, for example in:

- ▶ images
- ▶ sounds
- ▶ text (eg user comments)

Database Directive (96/9/EC)

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

Database Right

- ▶ **substantial investment**
- ▶ in:
 - ▶ obtaining
 - ▶ verifying
 - ▶ presenting
- ▶ rewards investment
- ▶ “substantial” can be qualitative as well as quantitative

Football

- ▶ Fixtures lists /it Arsenal v Man City 12:45 (13 September 2014)
- ▶ Football data
 - ▶ when goals were scored
 - ▶ who was “man of the match”
 - ▶ ...

Football II

- ▶ Fixtures lists
 - ▶ No database right (Fixtures Marketing C-444/02)
 - ▶ No independent investment in obtaining, verifying or presenting
 - ▶ Big shock. What does it mean?
- ▶ Football data
 - ▶ Database right (Football Dataco v Stan James - Court of Appeal)
 - ▶ Not tested in Europe

Infringement

For all IP rights - infringement tells you the extent of the right. For database right:

- ▶ Extraction (of a substantial part)
 - ▶ i.e. **copying**
 - ▶ occurs if a substantial part of the data appears elsewhere
 - ▶ can be done by hand, need not end up with same schema
- ▶ Re-utilization (of a substantial part)
 - ▶ i.e. making available to the public
 - ▶ generally: publishing on the web
 - ▶ meta search engine (Innoweb v Wegener C-202/12)
- ▶ repeated and systematic insubstantial extraction and/or re-utilisation
 - ▶ conflicts with normal exploitation of database
 - ▶ or unreasonably prejudice's maker's legitimate interests

Database Copyright

- ▶ An instance of copyright
- ▶ author's own intellectual creation in:
 - ▶ selection
 - ▶ arrangement
- ▶ Not football fixtures lists (Football Dataco v Yahoo!)

Example: German Poems

- ▶ 100 most important poems in German literature between 1730 and 1900
 - ▶ significant data mining effort given to
 - ▶ German Professor for final decision
- ▶ used as inspiration for another list
 - ▶ infringement of database right by extraction (Directmedia Publishing v Albert-Ludwigs-Universitt Freiburg C-304/07)
 - ▶ infringement of database copyright (German court)

Access Rights

- ▶ scraping
- ▶ using robots