

THE LEGAL PROTECTION OF DATABASES

A COMPARATIVE ANALYSIS

Estelle Derclaye

The Legal Protection Of Databases

Lei Huang



The Legal Protection Of Databases:

The Legal Protection of Databases Estelle Derclaye, 2008-01-01 Dr Derclaye's book is well structured the methodology is theoretical and comparative Derclaye's work on database law is timely and readable presenting a sound thesis to the perceived problems Patricia Akester Journal of Intellectual Property This book has a wide ranging detailed appeal for all lawyers students and those in the public and private sectors Richard Chambers this book is a detailed comprehensive and well researched examination of legal protection of databases which offers a valuable template for reform that will be of great interest to academics and policymakers alike Tanya Aplin European Intellectual Property Review The protection of the investment made in collecting verifying or presenting database contents is still not harmonised internationally Some laws over protect database contents whilst others under protect them This book examines and compares several methods available for the protection of investment in database creation namely intellectual property unfair competition contract and technological protection measures in order to find an adequate type and level of protection To this effect the author uses criteria based on a combination of the economics of information goods the human rights to intellectual property and to information and the public interest proposing a model that can be adopted at international and national levels The Legal Protection of Databases will be of interest to intellectual property lawyers competition lawyers as well as general commercial lawyers because of the breadth of laws reviewed It will also appeal to practitioners policymakers economists and students

The Legal Protection of Databases Mark J. Davison, 2003-06-26 Mark Davison examines several legal models designed to protect databases considering in particular the EU Directive the history of its adoption and its transposition into national laws He compares the Directive with a range of American legislative proposals as well as the principles of misappropriation that underpin them In addition the book also contains a commentary on the appropriateness of the various models in the context of moves for an international agreement on the topic This book will be of interest to academics and practitioners including those involved with databases and other forms of new media **The Legal Protection of Databases** Simon Chalton, 2001 *"The" Legal Protection of Traditional Knowledge in the Pharmaceutical Field* Tobias Kiene, 2009

Report on Legal Protection for Databases Library of Congress. Copyright Office, 1997 This report gives an overview of the past and present domestic and international legal framework for database protection It describes database industry practices in securing protection against unauthorized use and Copyright Office registration practices relating to databases Finally it discusses issues raised and concerns expressed in a series of Copyright Office meetings to create a new federal intellectual property right in databases The report is divided into the following sections 1 Copyright Protection for Databases in the United States 2 Database Industry Practices 3 Copyright Office Registration Practices 4 The International Context 5 Prior Congressional Consideration 6 Copyright Office Meetings and 7 Issues including general needs for additional protection form of new protection definitions public interest users duration sole source data and constitutionality Appendices include

the Copyright Office Circular 65 European Database Directive Proposed WIPO Database Treaty Database Investment and Intellectual Property Antipiracy Act of 1996 H R 3531 and Copyright Office Database Meeting Participants AEF *The Legal Protection of Databases in the European Union* ,1995 A Comparison of the Legal Protection of Databases in the United States and EU Mitchell Smith,2010 In this paper the laws governing the protection of databases in Europe and the United States are considered as they provide a useful comparison of different approaches to protection The potential implication of US and EU laws on bioinformatics is also explored as bioinformatics presents difficult issues centring on the commercial nature of the science In focussing on copyright protection in the US and the sui generis protection under the EU Directive it is argued that US copyright law currently provides an insufficient level of database protection While the tort of misappropriation exists in the US it is argued that it remains limited in use in protecting database owners due to the onerous cause of action requirements As such for protection to be sufficient under the US regime database owners are required to proactively seek protection for example through the creation of contracts and TPMs While these are not insufficient ways to protect databases it may be the case that these options promote the locking up of data and so are not optimal Conversely following the ECJ s clarification of the function of the sui generis right of database protection in the case of BHB v William Hill it is argued that the Directive may provide a more effective means of promoting the openness of information as opposed to a closed system where database owners are less likely to share data In considering the effects of the Directive on bioinformatics research it is however contended that the Directive requires further fair dealing exceptions for non commercial use It is to be noted that while these arguments remain pertinent to database protection beyond only scientific databases there is a particularly interesting question with respect to the effects of the law on science that is worth considering Report of Legal Protection for Databases U.s. Copyright Office,2014-10-17 Databases have always been commodities of both commercial value and social utility ranging from their early incarnation in the eighteenth century as directories compiled by walking door to door to the late twentieth century compendiums of millions of items in electronic form The question of whether and how databases should be protected by the law has never been easy as it necessarily involves finding a balance between two potentially conflicting societal goals the goal of providing adequate incentives for their continued production and the goal of ensuring public access to the information they contain At different points in time and in different societies that balance has been struck in different ways In the past few years the issue has taken on new urgency due to changes in the legal technological and international landscape The major landmarks among these changes have been the U S Supreme Court s 1991 decision in Feist Publications v Rural Telephone Service Co rapid developments in the technologies for collecting organizing reproducing and disseminating information and the actions of the European Union in harmonizing the laws of its member states As a result 1996 saw the consideration of proposals for a new form of protection for databases both in the World Intellectual Property Organization and in the U S Congress The discussions sparked a heated

debate in the United States involving a broad spectrum of interests **A Question of Balance** National Research Council, Division on Engineering and Physical Sciences, Commission on Physical Sciences, Mathematics, and Applications, Committee for a Study on Promoting Access to Scientific and Technical Data for the Public Interest, 1999-12-15

New legal approaches such as the European Union's 1996 Directive on the Legal Protection of Databases and other legal initiatives now being considered in the United States at the federal and state level are threatening to compromise public access to scientific and technical data available through computerized databases. Lawmakers are struggling to strike an appropriate balance between the rights of database rights holders who are concerned about possible commercial misappropriation of their products and public interest users of the data such as researchers, educators and libraries. A Question of Balance examines this balancing act. The committee concludes that because database rights holders already enjoy significant legal, technical and market based protections, the need for statutory protection has not been sufficiently substantiated. Nevertheless, although the committee opposes the creation of any strong new protective measures, it recognizes that some additional limits against wholesale misappropriation of databases may be necessary. In particular, a new properly scoped and focused U.S. statute might provide a reasonable alternative to the European Union's highly protectionistic database directive. Such legislation could then serve as a legal model for an international treaty in this area. The book recommends a number of guiding principles for such possible legislation as well as related policy actions for the administration.

The Legal Protection of Databases in the EU, 2005 **E-business Legal Handbook**, 2002 **Software Protection in China** Hong Xue, Chengsi Zheng, 1999. The title contains commentary on the law and practice relating to software copyright in China with particular emphasis on the remedies for infringement available to investors. The text includes references to legislation and recent decisions from the Intellectual Property Tribunals in China to show how the law is being interpreted.

Gaster and Powell Jens Gaster, Mark Powell, 1997. This text provides detailed commentary on the recently adopted Database Directive. It analyzes the various legal issues which arose during the legislative process and studies the background cases and developments both in the EC member states and also in the international arena. *The EU Council of Ministers' Common Position Concerning the Legal Protection of Databases* Jens L. Gaster, 1995 **The EU-directive on the Legal Protection of Databases and the Incentives to Update**, 1996 The Proposed EU Directive for the Legal Protection of Databases Laurence Kaye, 1995 *Law Institute Journal*, 2004 *New Directions in Copyright Law* Fiona Macmillan, Kathy Bowrey, 2005. Contains exploration of the themes such as the theoretical framework of copyright and the convergence, divergence and globalisation of copyright.

Guide to Database Distribution Joe Bremner, 1994

The Legal and Regulatory Environment of E-business John W. Bagby, F. William McCarty, 2003. This new hybrid book integrates both e-commerce and traditional legal environment issues, serving as a bridge between the two by covering the legal environment of business and its extensions into e-commerce. The text fulfills the need for greater understanding of the

role of law regulation and public policy A major focus is on how existing laws will accommodate the transition and on what issues new perspectives are needed from legislation regulation judicial interpretation private contracting industry self regulation and public policy

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