

# Databases, database licensing, and open data

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Jordan Hatcher

e: webcontact ]AT[ opencontentlawyer D O T com

w: <http://opencontentlawyer.com>

w: <http://twitchgamer.net>

# Disclaimers

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- IAAL but of course IAALBIANYL
- I am a techie among lawyers, but not among techies
- I am not a specialist in digital curation

But...

- I do work primarily in copyright and content issues
- I am currently working on a set of open data licences with Dr. Waelde

# Database copyright – key points

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- Covers selection and arrangement
- Doesn't apply to computer programs, but the line can be unclear
- Each entry (database contents) must be independent
- Arrangement must not be random - systematic and methodical
- Each entry must be individually accessible (method of retrieving the contents)
- Higher threshold (of originality) for databases - selection and arrangement of the contents ... constitutes the *author's own intellectual creation* (more than just skill and labour)
- Database copyright doesn't cover the contents (can add a new © layer)

# Database right – key points

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- EU Directive, implemented in UK law, exists alongside copyright
- Substantial investment in obtaining, verifying, or presenting data/database
- Spin off databases – need more than creating data
- Maker gets a right for 15 years covering extraction and reutilisation of whole or substantial part of data/databases (extends de facto if continuing investment)
- Exception for insubstantial amounts
- Data is the contents of a database and not just factual data

# Database rights - Key points

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- It is a right you may have to clear from others
- It is a right you may have over your collections
- Both copyright and database rights require permission before exercising one of the restricted rights

# Open data

# Open data – key points

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- About applying free and open source software and open content approaches to data
- Copyright and database rights mean that can't use data without permission
- A “some rights reserved” approach
- Giving permission while still influencing people's behaviour with the data/database
- FOSS and open content examples include GPL, BSD/MIT, and Creative Commons

# Common open licensing elements

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- Attribution (give credit where credit is due)
- Reciprocal/share alike/copyleft/viral licensing (share your work too)
- Non commercial (vague at times)
- No derivatives (no changing the work)
- Notice, waiver of claims, standard licence clauses

# Problems w/existing solutions

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- CC poor fit, doesn't cover database rights, not clear about relationship to data (when is BY required?)
- GPL - designed for software, bad fit for databases and data
- CC Public domain dedication - unclear on fit within UK law, doesn't cover database right

# Problem areas with open data licensing

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- Attribution and notice requirements could prove cumbersome
- Scope of protection unclear
- Uncopyrightable data apart from the database
- Moral rights
- Patents
- Trademark

# Academics and open data

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- Rights of first publication
- Attribution/citation
- Norms different between disciplines
- Universal norms difficult to assess and licence not the best place

# Possible solutions

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- contract in addition to licence
- limit the reach of the licence elements like attribution and share alike
- limit how attribution is required
- community building around open data
- waiver of all rights

# Advantages of open data approach

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- Rights up front and easy to understand
- As a database consumer, get more data
- As a database producer, get better data by involving community in your work

# Open Data Commons

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- Work, funded by Talis, by myself and Dr. Waelde of the AHRC Research Centre for Studies in IP and Technology law
- Draft set of licences up for comment
- New set of licences out soon
- These licences need your comments and feedback to build an open data community

<http://www.opencontentlawyer.com/open-data/>

# Thanks!

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