

Date

Tuesday 17 July 2007

Title of session

Workshop 4 - Licensing

Name of presenter/chair

Chair: Sherree Westell, Partner, Bevan Brittain

Presenter: Alan Easton, Bevan Brittain

Rapporteurs

John Pepper, UK Hydrographic Office and Yvette Ragozins, Land Registry (GB)

General observations and comments supporting the Workshop:

Without rights there is no licensing.

Patents/ inventions protection is given to owners for up to 20 years; 'me too' inventions will be refused similar treatment during this time. Any patent has to be placed in the public domain.

Copyright can also exist at the same time at Data Base rights in the same information

INSPIRE Directive in Europe is solution neutral when licensing web based services.

Quality of information - Supply of Goods Act 1979 states 'satisfactory quality' (durability, free of defects) Case Law: ICL v St Albans. If goods are on tangible media it is a product; if electronic then it is a service.

Comment...Ian Jackson (British Geological Survey)...Ref: Book by Ian J Duncan 'Liability of data spatial sets and liability for misrepresentation of spatial data'.

Comment...Laila Aslesen (Norwegian Mapping & Cadastre Agency). You have to know case law in your own country if not a 'common law' country (where it is different).

Juan Vidal; a Chilean Case Study. Chile has a digital cadastre system at 1:500 scale. They requested funding of \$1m to underwrite data capture in return for Free of Charge (FOC)

cartography. The Government rejected their request and gave 30% of cost with the other 70% required to be generated through licensing and sales of data. They are obliged to give data away FOC to a commercial company but with no surety that in the event of that company ceasing trading that they could retrieve that data. This is as a result of the lack of electronic protection.

Licensing Public Sector Information - free or paid for?

Fraser Taylor (Canada). Canadian Geospatial data has changed from a cost recovery regime to a free of charge policy made available over the web. This happened in Spring 2007. Business models across the World are different along a continuum from FOC to market prices. Many are enshrined in history and reflect political imperatives.

Ed Parsons (Google) Google are not adverse to paying for data but keep licences simple. It is made difficult by regimes which are different in every country, different across Public Sector Information Houses (PSIH) in-country and with different T&C's from product to product and even in different sectors requiring the information.

Paul Hardy (ESRI). Data in the USA is free of charge but out-of-date. It is one decision to make it available but someone has to pay somewhere.

Dan Paull (PSMA Australia). Licensing/ Policy is out of step with technical change. If barriers are placed then the user will seek out data in other ways.

Thorben Hanson (National Survey & Cadastre, Denmark). A new business model is required if these issues are to be overcome.

Dan Paull (PSMA Australia) We should not be fixing something that does not work we should be devising a new way of working.

Ed Parsons (Google). For NMA's 150 years ago, activities were centred on data creation and management but more recently they are being forced to adopt cost recovery...has the NMA model gone too far?

Laila Aslesen (Norwegian Mapping & Cadastre Agency). Do NMA's do too much? Should we focus on the needs of society rather than commercial needs? 100% government funding is dangerous as it leads to ivory tower mentality.

Mohammed Al Zaffin (UAE GIS Centre, Dubai). We provide data for all Government and the public, plus commercial use (for a fee). The development of a global standard for licensing of GI across the World would be useful. Users are demanding bespoke licences.

Thorben Hansen (National Survey & Cadastre, Denmark). Maps do not solve problems on their own. We will not be able to convince politicians to back GI on that basis; it needs an appreciation of how they can be used.

Ian Jackson (British Geological Survey) stated that if you think it is hard to sell GI to politicians from the topo and hydro communities, then spare a thought for us geologists.

Questions	Answers
<p>Waheed Ahmed Hadi (Bahrain): The issue of cost of licensing data points or features...is this being covered?</p>	<p>No</p>
<p>Laila Aslesen (Norway) Database Rights...what constitutes a substantial change to data that would undermine DBR?</p>	<ul style="list-style-type: none"> • Re organisation of the data • Add in's to data • Re-ordering of the content of the Database • Re organisation of the data • Add in's to data • Re-ordering of the content of the DEB
<p>Stuart Haynes (Defence Geographic Centre); If you have a Copyright but you fail to enforce it...can it be lost?</p>	<p>It is difficult to stop exploitation once it has been allowed. Copyright cannot be lost but can become misused through lack of management</p>
<p>Graham Vowles (Ordnance Survey) You can sell or assign rights of hard copy information in writing. In respect of digital data, how can this process be transposed?</p>	<p>You assert your rights then exploitation is allowed subject to Terms and Conditions (T&C's). Signature on paper is evidence so should be completed. Electronic signatures/certificates are evidence of acceptance of T&C's. For example: medical records require a 'wet' signature.</p>
<p>Graham Vowles (Ordnance Survey) Which elements of the licence are permitted using technology? How far can we go? Are there any issues regarding adding technical protection?</p>	<p>Computer Misuse Act protects. Programme embedded capability is necessary to ensure data use stops at the end of a given period and that such capability has no adverse effects on systems etc.</p>
<p>Graham Vowles (Ordnance Survey). How do you protect the service rather than the data? Open Source Geo Rights Standard (GRS) is being developed by Ordnance Survey and might be hacked.</p>	<p>Internet Service Provision will allow Ordnance Survey to switch off the service. GRS as a copyrighted process is protected under the Competition Act.</p>
<p>Laila Aslesen (Norway). In Norway, you can never be assured rights are transferred until positively demonstrated. The licensee has to prove this. Is this so in UK Law?</p>	<p>A bare licence allows 'rights to use'. T&C's created by licensor should be sealed and a mechanism by which the licensee can accept put in place supplements the bare licence.</p>
<p>Laila Aslesen (Norway). Digital Rights Management (DRM); If the T&C's are specific to a server/ solution, is it permissible to amend this to allow the licensee to change the operating system? Is there a risk is of creating a specific restriction?</p>	<p>In specifying a particular server/ solution, warranty terms in the data may be impinged. Browser protection is necessary in any event.</p>

<p>Thorben Hanson (Denmark). Is there a difference between issuing a licence or issuing a sub licence?</p>	<p>Sub licensing is subject to additional T&C's. The licensee can continue to use but other sub licensed users are normally licensed by the licensor. Sole and Exclusive licence can be used, provided it is spelt out how and why this type is preferred</p>
<p>Graham Vowles (Ordnance Survey). Dynamic speed of service provision is being proposed but linked to existing Copyright Law. Rights management is lightening quick; is this linkage the right tool? Are there better tools in the legal toolkit?</p>	<p>Little precedent in this area. Case Law does not exist but legal toolkits can be built that might create a precedent. Note: A common toolkit is needed that embraces GI licensing in the 21st century.</p>
<p>Derek Ireson (Intergraph). When considering the licensing of web services what needs to be taken into account?</p>	<p>Sign off page of T&C's that states (for example) that a web browser is required, service continuity provision, responsiveness of the service, down time et al. Technical protection is needed. Because of the on-line nature of the transaction, delivery and acceptance is 'lost' and needs to be confirmed using traditional methods.</p>
<p>Laila Aslesen (Norway) What are the bare essentials for a licence?</p>	<p>What a licensee can do, what they cannot do and potential liability if the product is defective in any way.</p>
<p>Laila Aslesen (Norway). Can I restrict a licence to a specific project?</p>	<p>Yes, if recorded and clear (scope) in T&C's. If licensee infringes he/ she is in breach.</p>
<p>Licensing and the Law. If licensing goes wrong, how important is it to choose the right pathway to Law?</p>	<p>As owner of the right, you instigate the scope and purpose for the use of the information but record decisions, as without evidence, breach and infringements are difficult to prove.</p>
<p>Chris Parker (Ordnance Survey). What are the licensing rules for NMA business models in the future?</p>	<p>Fraser Taylor (Canada) NMA's should be getting out of the process of distribution. Quality Assurance/ Quality Control is important Paul Hardy (ERSI) The role is for the NMA to support NSDI and to provide the mapping required to support same. Ed Parsons (Google). It needs to do both Ian Jackson (British Geological Survey). Geology is the poor relation but in civil emergencies it is vital. There is no strategic thinking in UK. Anders Lundquist (Sweden). The US model which was just capture based is now moving towards national infrastructure focus. Stuart Haynes (Defence Geographic Centre) NMA's should persuade Government of the value and benefit of good GI.</p>

	<p>Laila Aslesen (Norway). If data is free then the user (government or not) attaches no value and benefit to it; perception is that if it is free it must be poor data.</p>
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