



Resolution

2020 – Study Question – Copyright

IP rights in data

Background:

- 1) This Resolution addresses the issue of rights in data, in particular IP rights in structured and unstructured data under existing or possible new forms of protection.
- 2) In the context of this resolution, (i) “mere data” or “unstructured data”, means any information of any kind, not structured and not arranged in a systematic or methodical way; (ii) “Database” or “structured data” refers to a collection of information arranged in a systematic or methodical way and individually accessible by electronic or other means, (iii) “Health Data” refers to data created and/or collected in the health care and medical sectors; and (iv) “Public Sector Information” refers to data held by public bodies.
- 3) This Resolution does not address legal issues of privacy and personal data. Nor does this Resolution address legal issues concerning data used in procedures for obtaining approval for products or procedures, such as marketing approvals for medicinal products.
- 4) Rapid technical developments in information technology are likely to continue, and to impact on the appropriate approach to the protection of mere data. Such future change is beyond the scope of this Resolution.
- 5) This Resolution does not consider whether the sui generis right set out at paragraph 3 should arise solely from a substantial investment in creating the contents of a database.
- 6) 33 Reports were received from AIPPI's National and Regional Groups and Independent Members providing detailed information and analysis regarding national and regional laws relating to this Resolution. These Reports were reviewed by the Reporter General Team of AIPPI and distilled into a Summary Report (see links below).
- 7) At the online AIPPI World Congress in October 2020, the subject matter of this Resolution was further discussed within a dedicated Study Committee, and again

in a full Plenary Session, following which the present Resolution was adopted by the Executive Committee of AIPPI.

AIPPI resolves that:

- 1) Harmonization of the law relating to the protection of mere data and databases is desirable. Harmonization should specifically include legal definitions of mere data or unstructured data and databases or structured data.

Mere data

- 2) Without prejudice to existing rights, mere data should not be eligible for protection by a new specific IP right such as a new sui generis right.

Databases

- 3) Without prejudice to any protections which may arise under copyright and under laws relating to undisclosed information, unfair competition and contracts, databases should be eligible for protection by a sui generis right, according to A-D below.
 - A) Sui generis IP protection should arise where there has been a substantial investment (financial or otherwise) in either the obtaining, verification or presentation of the contents of the database.
 - B) The original owner(s) of the sui generis IP right should be the individual person(s) or entity or entities that made the investment(s) which result(s) in the database.
 - C) The scope of the protection of the sui generis IP right covering a database should prohibit unauthorized third parties from certain acts, e.g. of extraction and re-utilisation, of the whole or a substantial part of the contents of the database, including repeated acts that individually do not involve extraction or re-utilisation of a substantial part of the contents, but that cumulatively constitute extraction or re-utilisation of a substantial part of the contents of the database.
 - D) Exceptions and limitations to the sui generis IP right should provide a reasonable balance between IP protection and the interests of third parties, including freedom of expression and freedom of speech, public health and safety, privacy, research and development in all sorts of industries and fair use.
- 4) Each country should provide appropriate legislation to protect and permit access to and use of Health Data and Public Sector Information to facilitate (1) research, development and innovation based on such data; and (2) public accountability and comment.

Links:

- [Study Guidelines](#)
- [Summary Report](#)
- [Group Reports](#)