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The Legal Protection of Databases

Mark Davison examines several legal models designed to protect databases, considering in particular the 1996 European Union Directive, the history of its adoption and its transposition into national laws. He compares the Directive with various 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.

MARK J. DAVISON is Associate Professor in the Faculty of Law at Monash University. He has published articles on intellectual property and restrictive trade practices in Australia, China, England, Germany, Indonesia and Thailand.

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For James, Sibyl and Sara

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Foreword

Mark Davison's book on database protection covers a vital aspect of the digital revolution. Indeed, the whole issue cries out for a place in this series. Databases stand at the juncture between information as such and the expression of literary and artistic ideas. From the first perspective, information appears to be a necessary element in social existence and so arguably it should be freely accessible to all. From the second, the need to provide an incentive for the costly business of assembling large databases argues for an equivalent appropriation to that given to creators and their producers by copyright. Deciding how to structure this crossroads – be it with filter lanes or with stop signs – calls for refined legal engineering. What has been done so far to regulate this space has in considerable degree depended on attitudes towards traffic which were formed in a horsedrawn era. Now, motorised vehicles bearing enormous loads of information bear down and have somehow to be accommodated. Hard-pressed legislators and courts have done what struck them as best, but it is far too early to say whether anything like a reasonable balance has been reached between free flow and controlled access.

It will be some time before we can see whether by and large we are offering stimulants to investment in data accumulation which are what is needed, but not evidently more than that. Mark Davison draws on the experience to date in the United States, the British Commonwealth and the European Union. He shows the effects of pressure groups on emerging solutions and, with a candid objectivity, demonstrates how much has as yet to be treated as experimental. His writing is a refreshing antidote to those who abjure any idea of intellectual property in this sphere, as much as to those who battle for extensive intellectual property rights as the one and only cause in the new and ever expanding market for organised data. The book deserves to reach a wide audience.

Series Editor

WILLIAM R. CORNISH

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