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COMPUTER GAMES AND THE LAW



- **Interestingly, the industry of computer games crosses paths with several legal concepts under the Intellectual property laws. There are several legal rules and concepts which are very important for the developers of computer games to know in order to secure their work and protect their rights over their work.**
- **The gaming industry constitutes the following concepts that may need protection under the IP laws and rights**
 - **Background fiction story**
 - **Game characters**
 - **Merchandise**
 - **Brand ambassadors**
 - **Marketing strategies and ideas**
 - **Gaming strategy**



Each part of your Computer Game may be protected via a unique IP concept.



COPYRIGHT

- Copyright protects artistic and literary expression of a person. Initially, it covered only books, maps and charts however, today it covers a broad variety of creative expression from email to websites, video games etc.
- You get copyright protection automatically - you don't have to apply or pay a fee. There isn't a register of copyright works in the UK.
- You automatically get copyright protection when you create:
 - original literary, dramatic, musical and artistic work, including illustration and photography
 - original non-literary written work, such as software, web content and databases
 - sound and music recordings
 - film and television recordings
 - broadcasts
 - the layout of published editions of written, dramatic and musical works
- You can mark your work with the copyright symbol (©), your name and the year of creation.
- However, whether you mark the work or not doesn't affect the level of protection you have.

FOR EG: A BOOK WRITTEN BY AN AUTHOR



WHO OWNS THE CONTENT FOUND ONLINE

When you create something original, perhaps something you've written, or drawn, or photographed, or a video you've made, or any kind of art, or other material that you have independently created, you automatically "own" the right to your creation.



However, if you're a contractor or an employee, you typically wouldn't automatically own any creation as it will belong to your employer.

This right is called copyright. It means you are the only person who has the right to copy, reuse, sell, or change it, and you are the only person who can give others permission to use your work.

Ideas or concepts are not protected by copyright, unless they are expressed in a form recognised by the Copyright, Designs and Patents Act 1988 (CDPA). Unexpressed ideas or concepts may be protected as confidential information.

There is no system of registration of copyright under the CDPA.

For international games, local laws should be checked to ensure adequate and appropriate protection is obtained.

1

Trademark is a symbol, word, or words legally registered or established by use as representing a company or product.

2

Using a registered Trademark may lead to infringement of right of the Trademark holder.

3

The name of the game can be registered for trademark though it's not compulsory to do so.

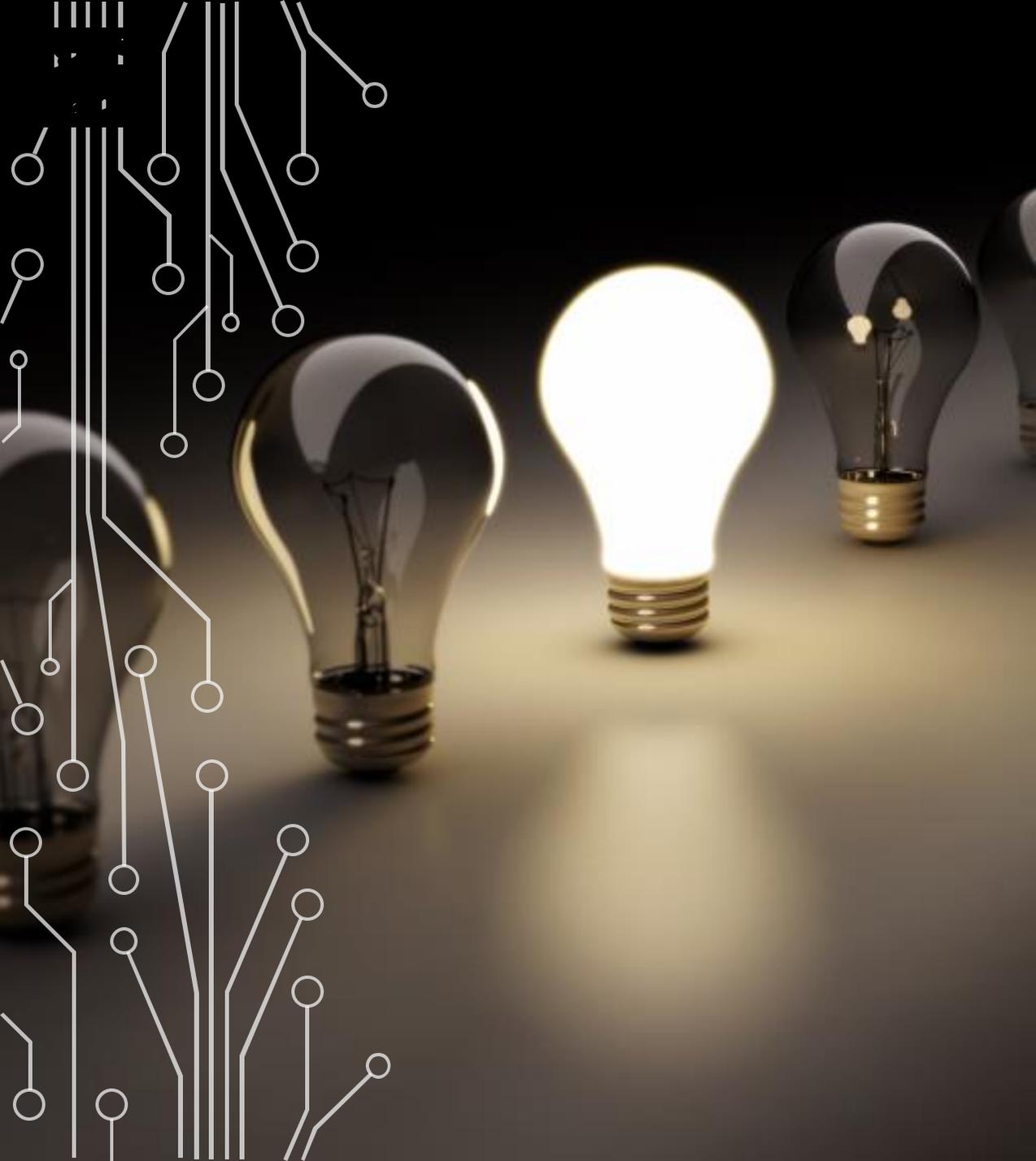
4

FOR EG : PEPSI, COLGATE ETC ARE REGISTERED TRADEMARKS AND USING THESE NAMES BY ANYONE ELSE WILL LEAD TO INFRINGEMENT OF THEIR TRADEMARK

WHAT IS A TRADEMARK?

- A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem.
- The patent owner has the exclusive right to prevent or stop others from commercially exploiting the patented invention. In other words, patent protection means that the invention cannot be commercially made, used, distributed, imported or sold by others without the patent owner's consent.

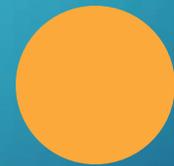
• FOR EG: IPHONE, PEN WITH SCANNER, COMPUTER



DESIGN RIGHTS



Design right is an intellectual property right that protects the visual design of objects that are not purely utilitarian.



Design rights generally protect the appearance, shape or configuration of an article



Registered design rights typically last 25 years, subject to payment of renewal fees at 5 year intervals.



FOR EG: Styled logos, packaging, or digital media products, such as computer game characters and computer icons.



- A trade secret is any practice or process of a company that is generally not known outside of the company. Information considered a trade secret gives the company a competitive advantage over its competitors and is often a product of internal research and development.
- Trade secrets are a part of a company's intellectual property. Unlike a patent, a trade secret is not publicly known.

FOR EG : KFC's secret blend of 11 herbs and spices;
Coca-Cola

IP TERMS

HERE ARE A FEW IP TERMS THAT MAY COME HANDY FOR YOU TO UNDERSTAND THE COMPUTER GAMES AND THE LAW INDUSTRY

IDEA v. expression of IDEAS

The idea-expression dichotomy was formulated to ensure that the manifestation of an idea (i.e. an expression) is protected rather than the idea itself. Courts have repeatedly opined that ideas per se are not copyrightable; only the expression of an idea is copyrightable. An idea is the formulation of thought on a particular subject whereas an expression constitutes the implementation of the said idea. While many persons may individually arrive at the same idea, they can claim copyright only in the form of an expression to this idea. Such expression must be a specific, particular arrangement of words, designs or other forms. Thus, such a doctrine allows for several expressions to be available for the same idea. For ex: A book plot may be an idea, and the writing is the expression of that idea. This allows others to use the basic idea of the plot.

Doctrine of fair use

Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Under the doctrine of "fair use," the law allows the use of portions of copyrighted work without permission from the owner. Fair use is **a defense to copyright infringement**. This means that an unauthorized use of copyrighted material is excusable if it falls under the principle of fair use.

Territory of laws or understanding of jurisdictions

Jurisdiction is the general authority of a sovereign to implement legal rules that normatively affect the behavior of individuals. The scope of jurisdiction of a particular sovereign is traditionally delimited in law on a territorial basis. On the Internet, however, territory plays a significantly different role than in the offline environment, and this difference represents an evolving challenge for legal scholars as well as for practicing lawyers. The relationship between copyrights and territorial jurisdiction is quite complex. One reason is that the object of copyrights, i.e., the work, does not need to have a material form and thus can appear in objectively viewable form in multiple physical locations at once. Or, it might objectively exist, while not being physically present at any particular location. A second, and even more problematic, a factor of complexity in the relationship between territory and copyrights is that copyrights, although considered a kind of "property," do not provide for true appropriation of respective works.

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Censorship

Video game censorship are **efforts by an authority to limit access, censor content, or regulate video games** or specific video games due to the nature of their content. Support for video game regulation has at times been linked to moral panic. Even so, governments have enacted, or have tried to enact, legislation that regulates distribution of video games through censorship based on content rating systems or banning.

Data Protection

Data protection is the **process of safeguarding important data from corruption, compromise or loss** and providing the capability to restore the data to a functional state should something happen to render the data inaccessible or unusable. Basically, anyone who "processes personal data" must comply with data protection legislation (contained in the Data Protection Act 1998). What does "processing personal data" mean? If you are collecting data which (on its own or with other data that you could access) could identify a living person then you are collecting personal data. Some examples of what can constitute personal data are: name, age, sex, race, a post or email address.



WHAT USES ARE CONSIDERED LEGALLY "FAIR"

The fair dealing law, governed by Sections 29 and 30 of the Copyright Designs and Patents Act 1998, outlines three situations where fair dealing is a legitimate defence:

When used for research or private study

When used for the purpose of criticism or quotation

When used to report current events (with the exception of photographs)

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The small print for BIG IDEAS