



'Intellectual Property in 3D'

What we have learned at Wellcome and what we need to learn

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Introduction

- Introduction to Intellectual Property
- How different IP rights might apply to 3d data and printing
- Practical considerations when digitising

IP Intro

- Patents
- Trade marks
- Design rights
- Copyright
- Database right



“It is possible to recognise an emerging legislative purpose (though the process has been slow and laborious) of protecting three-dimensional objects in a graduated way, quite unlike the protection afforded by the indiscriminate protection of literary copyright. Different periods of protection are accorded to different classes of work. Artistic works of art (sculpture and works of artistic craftsmanship) have the fullest protection; then come works with “eye appeal” [*old UK Registered Design*]; and under Part III of the 1988 Act a modest level of protection has been extended to purely functional objects (the exhaust system of a motor car being the familiar example) [*unregistered design*]. Although the periods of protection accorded to the less privileged types have been progressively extended, copyright protection has always been much more generous. There are good policy reasons for the differences in the periods of protection, and the Court should not, in our view, encourage the boundaries of full copyright protection to creep outwards”



Supreme Court Decision in Lucas v Ainsworth 2011



IP Rights in Objects



Can I digitise this?

Design right – Expired

Copyright – Not intended to be a sculpture but a utilitarian prop.

Trade Mark – simple to check and remove

Patent - ???

IP Rights in 3d data sets

- Copyright as a literary work.
 - Can cover tables and computer programs
 - But where is the intellectual creation of the author?
- Database right
 - Is it a collection of *independent* works or data?
 - Are such independent data individually accessible?
 - Substantial investment in obtaining, presenting or verifying the data?

IPR in 3-d printed articles

- Can a copy have its own IP Rights?
 - Graves (1869) - UK case where copyright found to exist in photos of engravings.
 - Bridgeman vs Corel (1998) – US case where no copyright in exact copies of artworks. Skill yes but originality no.

IPR in 3-d printed articles

- “*Skill, labour or judgment merely in the process of copying could not confer originality*” – comments by Lord Oliver in *Interlego vs Tyco* (1989).
- “*A photograph ... can have the character of an artistic work in terms of copyright law if the task of taking the photograph leaves ample room for an individual arrangement.*” – Judge Birss *Temple Island v New English Teas* 2012

IPR in virtual worlds

- IP law applies in a virtual world in much the same way it applies in the real world.
- Taser International vs Linden Labs (Second Life) – Taser asserted trademarks and designs against virtual representations of its stun guns.
- A collection of 3d items in a virtual museum might be protectable as a database.

Considerations when Digitising

- Do you own the item? – if not consider contract restrictions
- Do you own the IP rights in the item? If not consider:
 - Age of the item
 - Nature of item – functional vs artistic (Lucas v Ainsworth)
 - Commercial nature and value (look for trade marks)
- Risk assessment – old functional items probably safe, recent items, artistic works and in commerce items are higher risk.
- What, if any, IP position do you adopt for your data / copies ?



Thank you

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