

Data licensing & legislation – Part 1

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Signature

subject to the laws and regulations of the state of (Spain)
provision of this agreement
in the United States
all disputes

Topics

- Can you own data? What is ownership / property?
- Data rights
- Contracting for data
- Personal data



What is property?

“that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe”

William Blackstone, Commentaries on
the Laws of England, 1766



What is property?

- A collection of rights which are recognised by law
- Generally, exclusive rights to:
 - use something
 - receive the profits derived from it
 - sell it or give it away
 - destroy it

Can information be owned?

Oxford vs Moss (1978)

The Kennel Club Ltd v Micro-ID Ltd (2019)

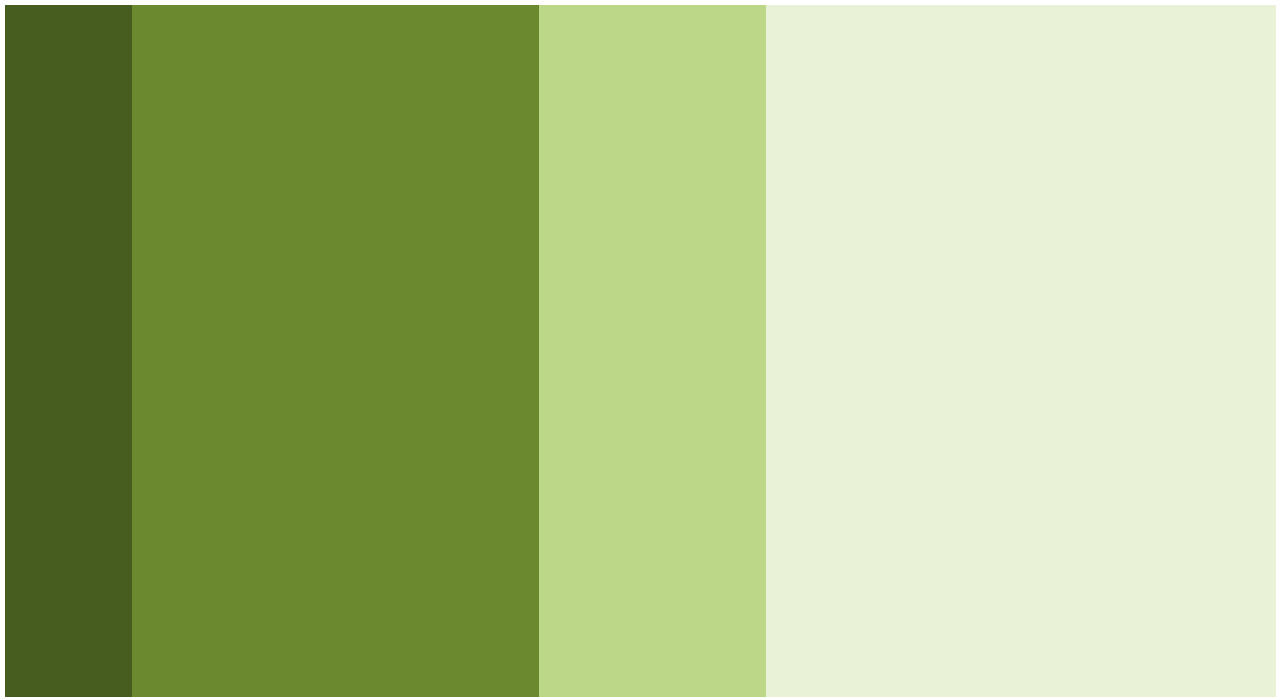
Data rights, or lack thereof

IP

Confidential
Information &
Trade Secrets

??

Public
Information



Where does research data fit in?

Rights in data

- **Intellectual property rights** – not ownership in the traditional sense, but limited rights relating to reproduction and exploitation:
 - **Copyright** – protects original works (not ideas) from copying.
 - **Database** – protects databases from substantial extraction and re-utilisation, provided that a substantial investment was made in obtaining, verifying or presenting the contents of the database.

Patents and design rights generally not relevant to protecting data.

Rights in data

- **Confidentiality** – not an ownership right, but a right to prevent use / disclosure of “secrets” (or inaccessible information). More than just a contractual right.
- **Trade Secrets** – also not an ownership right, but protects secrets which have commercial value because they are secret, provided that steps are taken to keep them secret.

Contract is King.

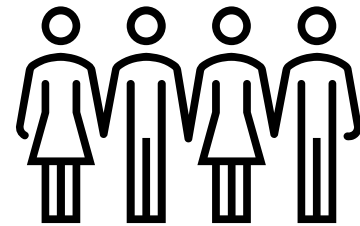
Contracting for data

- What data?
- Acknowledgement of rights
- Use and disclosure – permissions and limitations
- Third party rights
- Data security
- Derived data
- Data quality



Personal data and research attribution

- GDPR and local data protection laws
- Personal data means *“any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly...”*
- Controllers v Processors
- Data Protection Principles, including:
 - Lawfulness
 - Transparency
- Exemptions
- Rights of data subjects



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