

# Heartening decision on database right

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- Owner of ECG screening system asserts database right in pdf generated by the system
- Claims of infringement when customer switches to new provider of ECG screening services
- High Court considers whether a pdf can be protected by database right

## What's it about?

Technomed (the claimant) owns and supplies a system called ECG Cloud which enables ECG analysis and reporting to be carried out remotely. Technomed supplied ECG Cloud to Bluecrest (the defendant), but when the relationship between the two companies soured, Bluecrest chose to use a new supplier (Express, also a defendant) as a source of ECG screening services. Technomed subsequently discovered that the reporting formats used by Express bore some resemblance to those created by ECG Cloud, and claimed that Bluecrest and Express had infringed its copyright and database right in the underlying database on which ECG Cloud relies.

## Why does it matter?

The High Court upheld Technomed's claim. A "database" can be protected by database right if it amounts to a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means (Article 1(2) of the Database Directive 96/9/EC). Here, the court found that a pdf derived from the data created by ECG Cloud qualified as a database for these purposes. Further, the pdf qualified for protection as Technomed had been able to demonstrate that there had been substantial investment in the obtaining, verification and presentation of its contents (Article 7 of the Database Directive).

The High Court also found that certain XML files which formed part of the ECG Cloud contained text and images which qualified for copyright protection, which also had been infringed by the defendants.

## Now what?

Cases which take a detailed look at database right are relatively rare, and so judicial guidance is welcome. Given that computer-based systems for collecting and interpreting data are now commonplace, it is likely that we will see further claims asserting database right from owners of such systems.

[\*Technomed Ltd and another v Bluecrest Health Screening Ltd and another \[2017\] EWHC 2142 \(Ch\)\*](#)

For further information on this or any other IP related matter please contact [Katie Kinloch](#) on 0161 934 6305