



CONTENT SHARING

Digital Tech and Creative Arts

Philippe and Laurent have set up a content publishing and sharing website and app, with extra functionality to make it very special – not your usual site for watching videos or picture posting. You can edit the content into 3D demonstrations emulating virtual reality, multimedia shows that can be projected in various surfaces, and mix text, images, video and sound to create wonderful presentations, displays, demonstrations and “shows”. Graphic designers, artists, film directors, and other persons involved in the performing arts, as well as school teachers, industrial designers and institutions use the site for publishing, sharing and collaborative editing of works. Due to the heavy use of IT resources, they have to charge users a minimum joining fee and “per-use” fee, which hasn’t stopped the huge success of the site in the artistic and design world.

Photo by Pawel Czerwiński on Unsplash





Philippe, the programmer behind this, is worried about larger social media sites taking up his idea and quickly producing a new version integrated into their platforms, where they can migrate their huge databases of works and quickly gain bigger audiences. The fact that these social media sites are used for free (advertising revenue) seems totally unfair.

Laurent, the UX and graphic designer, is worried about users uploading third party content and starting to work and modify it, sharing what he thinks may be “illegal” works because they may not give proper credit to the original artist, designer or author.

QUESTIONS

Q1: **What form of protection did or should the creator choose and why?**

Philippe and Laurent can protect the content published on the website, the website itself and the app under **copyright**. Furthermore, they may be able to protect the new system to edit the content into 3D demonstrations through **patents**.

The content, the website and the app can be considered as a work of authorship under international and national copyright legislation, and the new system to edit content into 3D demonstrations emulating virtual reality can be considered an “invention” under international and national patent legislation.

Q2: **How does this IP protection work?**

Firstly, the website, the app and the content as original works are copyrighted from the moment of their creation when they're fixed in a tangible form without the need for registration. However, in



those countries where there is no filing or registration required, evidence of creation may be useful. Copyright will give to Philippe and Laurent some control over the use of the website, the app and the content because those who want to reproduce it, modify or transform it, and distribute or communicate it need authorisation from the authors. Philippe and Laurent also have the moral right to be recognised as its authors. The duration of copyright is, generally speaking, the life of the author plus 70 years, but this depends on the case and the law of the specific country in question.

Secondly, the new system to edit content into 3D demonstrations may be patented as an "invention" if it fulfils the following three conditions: i) novelty, ii) inventive step and iii) industrial applicability. However, it may have the obstacle of being considered "software as such" and may be excluded from patentability. A patent would give Philippe and Laurent the right to prevent others from making, using or selling their invention in the country for which the patent has been granted, for a limited period of time (up to 20 years from application). In order to obtain patent protection, the creators must file a patent application in a patent office (European or national) in the territory where they want protection. Once granted, patent law gives the inventor an exclusive right to exclude others from making, using, selling, and importing the protected invention or products resulting from the invention for a limited period of years (20 years, from application) in the country for which protection has been granted, in exchange for publishing how the invention works (an "enabling public disclosure" of the invention).

Note that copyright protection and patent protection may be possible over the same technology because both rights have different subject matter protection: copyright protects the website,



the app and the content as an original work, patents (if available) protect the methods that the code implements.

Q3: How do you think the IPR law would help the creator to innovate and protect against abuse (false/unfair competition)?

IPR law helps creators to innovate by recognising and rewarding them for their commercially-successful inventions and creations, prohibiting third parties from copying or using their creation without authorisation. IPR law therefore protects creators against abuse by providing specific legal actions against "copiers" and competitors who violate their IP rights. By giving exclusive rights to those who invest and create something new, they can license the invention or work for economic return, sharing it with society, and forcing competitors to innovate by looking for new solutions over something already on the market. Furthermore, when a new technology enters the market, society benefits and it enables further technological research and development.