IBBT

# Code of practice for geographic surveillance and 3D city modelling

Study on privacy and intellectual property rights

Interdisciplinary Centre for Law & Information Technology
icri

# Content

- Privacy
  - General conclusions
  - Specific recommendations
- Intellectual property
  - Copyright
  - Trademark
- Inspire Directive

# Privacy: General Conclusions

- Geographic surveillance allowed
  - Existing examples in public register
  - Request consent upon first contact data subject
- Only subject to general privacy legislation
- 3D City Modelling not privacy sensitive, only surveillance
  - If limited to structures, no reproduction of people allowed!

# Privacy: General Conclusions (2)

- Picture of disabled person is not considered medical data
  - Medical data = medical records, data referring to actual condition
  - Sensitive data only sensitive if focus of processing and almost certainly true

- Privacy = Building Block  finishing touch

# Privacy: Specific Recommendations

- Remove personal data from images as much as possible
  - If not possible: appropriate technical and organisational measures must be taken (guidelines: privacy commission)
- Store images for as little time as possible if not cleared of personal data
- Keep personal data out of 3D models

# Intellectual property: Copyright

- Scope: works of art and litterature
  - Art = broad concept
    - E.g.: statutes, fountains, buildings… also covered
  - Must comply with conditions for application for protection
  - Protect against any reproduction ( ⟷ trademark)
- Buildings not automatically protected
  - Only rarely considered original
  - Original: broad concept, not to be confused with new!
    - Creative effort (not merely copy-paste)
    - Carrying mark of author (most problematic part!)
- Many landmarks have already lost their protection (Tower Bridge, Eiffel tower)
  - Protection expires 70 years after death 'author'
    - Multiple authors: death of the last surviving author

# Intellectual property: Copyright (2)

- General rule: reproduction requires author's consent
- Exception to copyright relevant for URBAN
  - 2 cumulative conditions:
    - Work exhibited in publicly accessible place
    - Reproduction not focused on reproduced work
      - Goal URBAN: recreation city, not just one structure

# Intellectual property: Trademark

- Scope: distinctive signs for goods and/or services
  - Protect from unfair competition
  - Registration required ( ⟺ copyright)
    - Limited period (10 years, extendable)
    - Strict conditions
      - Must have distinctive character
        - No generic denomination
        - No common identifier (cf. Coke, Hoover, Water)
      - Lawful (does not refer to use of trademark!)
      - Available

# Intellectual property: Trademark (2)

- Protect against :
  - Use for similar goods or service
  - Confusing trademarks
  - Freeriding (abuse status of trademark)

    ⇒ focus on illicit commercial use

    ↳ No issue for URBAN
- Scope of protection (geographically)
  - Determined by rights holder upon registration

- No exceptions or exemptions!

# Inspire Directive

- Goal: create common platform for spatial info in EU

- Only relevant for Member States, not private corporations

  ⇒ Irrelevant for URBAN partners

- Implementing rules still in draft process
  - No definitive view on implementation
  - Entry into force May 15th 2011 (presumed)

# Thank you for your attention.

- Questions?