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## Content Space

# Frequently Asked Questions for Hackathon Organisers

## Question 1: when do issues of IPR come into play in organising a hackathon?

Hackathons are normally held over a period of one to three days with an invited audience. They usually have some selection process but for the most part the invitations are open since the idea is to get as many participants as possible. In many cases both hackathon organisers and participants bring their own tools and content to the hackathon. The space in which innovation with the tools and content takes place is protected only in the sense that it is not open to the general public beyond those who are registered to attend the hackathon. For this reason it is important for hackathon organisers to consider their IP strategy before offering content and tools at the hackathon. They may decide to make the material available only for the purposes of the hackathon or they may decide to use only open source tools and open content to avoid the risk of rights infringement<sup>1</sup>.

Hackathon participants may download tools and content onto hardware during the course of the hackathon. Some of these may have been made available for the purposes of the hackathon only. Hackathon participants can be asked to agree

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1. See <https://realpython.com/blog/python/fingerprinting-images-for-near-duplicate-detection/>

to delete all such content and tools at the end of the hackathon as a condition of participating in the hackathon. A simple agreement would help to evidence this:

## Sample agreement

I, [here insert name] agree to delete all content and tools from my hardware that I download during the course of the hackathon held at [venue] on [date]. I understand that I may keep tools and content made available under open licences such as xxx.

Signed

Date

If content and tools under protected licences are made available during the hackathon and teams decide these will be used beyond the hackathon, for example, if they are going into an incubation and business modelling process, then it is at this point that negotiations will have to take place with the owners of the copyright and an exploitation strategy developed.

If I provide copyright protected content for the hackathon participants to use, I cannot prevent it from being used and re-used indiscriminately beyond the hackathon. However, as with any other content and tools available on the Internet, any third party using the content beyond the terms of the licence would be acting both in breach of contract and infringing copyright. If the rights are infringed, then enforcement would take place in the same way as any other infringement of copyright on the internet. This would include the owner of the IP contacting internet service providers and asking them to remove offending material from their sites.

Content owners may like to consider fingerprinting images which could aid with detecting infringement.

In the E-Space project a legally and technically protected space was set up to experiment with creative re-uses of high-quality content during a hackathon only, providing an alternative option for those cautious about releasing their content without additional technical protection measures. See the E-Space Technical Space<sup>2</sup>.

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2. See <http://www.europeana-space.eu/technical-space/>

## **Question 2: would it not be better simply to use public domain and other open content?**

Open licences would mean that content and tools could be used in an unrestricted manner (subject to the requirements of for example a CC-BY licence which requires attribution) and is often the preferred strategy to alleviate concerns about IP rights. See the E-Space Open Content Exchange Platform<sup>3</sup> for more information on the benefits of using open content and the sources of open content. It is appreciated, however, that there is a range of both content and tools available that would be perfect to use to encourage innovation – but which the owners prefer to keep control over.

To give hackathons the greatest opportunity for innovation, to give the rights owners the opportunity to see the innovation that can emerge from these events, and to understand how the tools and content can be modelled for business, the solution is to use content with protected licences (licences which make the content or tool available for use in the hackathon space only) where open licences are not possible. This approach should not lead to something being produced in the hackathon that cannot then be re-used in the real world. As has been noted above, before the tools or content leave the protected space, agreement would have to be reached over exploitation of the IP.

## **Question 3: once I have presented my content and/ or tools at a hackathon, have I not already lost my intellectual property?**

Hackathon organisers and participants need to remember that the tangible expressions of their ideas – the tools and the content – are protected by copyright, but that ideas themselves are not. While there is nothing to stop someone else being inspired by ideas, if the expression of those ideas (i.e. the tools and content) is copied, that then infringes the copyright in those works. The intellectual property is not lost.

There may be concern that hackathon participants will become wary of bringing or presenting their best ideas to the hackathon out of fear of them being taken by others. However, even though the ideas themselves cannot be protected, participants

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3. See <http://www.europeana-space.eu/content-space/the-open-content-exchange-platform/>

must be incentivised to take a worthwhile risk in sharing their best ideas by whatever prize is offered to the hackathon winners. Prize money, recognition or the chance of incubation support for a potential prototype, for example, would mean their ideas would have a better chance of being realised and/or commercially successful and this might induce participants to take a risk.

If it is felt that hackathon participants are more likely to attend, share and develop ideas if they are comfortable that others will not appropriate these without permission, then a simple confidentiality agreement between participants might be used to give that comfort. This would be a brief document simply saying that information and ideas obtained during the hackathon would not be subsequently used other than by the person who brought them to the process. This would exclude any ideas or information that was included in a successful project that moved into incubation. The IP in those ideas and that information would be subject to the IP agreement negotiated for the hackathon.

## Sample confidentiality agreement for a hackathon

During the course of the hackathon taking place at xxx on xxx under the auspices of xxx (e.g. the E-Space Project) it is understood that those attending the hackathon may provide certain information that must be kept confidential.

The confidential information may include the description of tools and content; technical and business information; ideas; trade secrets; literary works; computer programs; technical specifications among other information and ideas that may be used to develop content and tools during the hackathon or otherwise be used for innovative activity. Together called 'Confidential Information'.

Excluded from Confidential Information is any confidential information that is selected to progress into incubation under the rules of the hackathon. Where protected by IP, exploitation will be governed by the IP strategy chosen for the hackathon.

Those attending the hackathon agree not to disclose Confidential Information obtained from the discloser to anyone unless required to do so by law.

This agreement is the entire agreement between the parties concerning the disclosure of Confidential Information. This agreement will be governed by the laws of [insert here the place where the hackathon is held]. I acknowledge that I have read and understand this agreement and accept the obligations set out in it

Participant at hackathon:

Name:

Signature:

Date:

## **Question 4: can we provide standard/low quality content for the hackathon to reduce the risk of infringement?**

If content providers are concerned about making high quality content available such as high definition photographs for the hackathons, the question must be whether low resolution content is sufficient for the purposes of experimentation. This is a question for the content owner and those at the hackathon who must ask what the risk will be of opportunities being lost for the content owner, and indeed all parties, if the content is not of high quality.

A content provider and/or hackathon participant may feel more comfortable with releasing high quality content in an online environment that is protected by technical measures. A hackathon organiser may choose to provide such a facility for content providers to contribute collections of high quality images, for example, to a protected area that imposes restrictions on access and use.

Hackathons and business modelling workshops often do not put a large emphasis on content specific applications. They often develop tools that allow for reuse of various media relating to various themes. High quality content is always preferable but the hope is also that more varied thematic datasets are made available, which are more likely to trigger inspiration.

## **Question 5: who benefits from participating in the hackathon?**

Participants engage in a hackathon for a variety of reasons, usually unrelated to financial gain, the outcomes of which are then made available on an 'open' basis.

Some hackathons, such as those in E-Space, are conducted with the explicit goal of the 'best' ideas being taken forwards to business modelling and incubation. The 'prize' of such a hackathon will be the opportunity to participate in this process of support. It is important to think about whether that will change the dynamics of engagement, and whether those participating will want also to have a 'share' of the copyright that results from exploitation of the tools. Thinking about the copyright developed in the hackathon is important as the copyright will support the ultimate business modelling process. Any third party looking to invest in the final tools will want to know about the

ownership of the copyright in the tools and/or content, depending what it is that is going to be monetised. It is important to ask how the hackathon leaders will deal with this.

An agreement such as the one below may have been signed by the partners involved:

### **Recommendation**

Prior to the commencement of the hackathon we would recommend that the hackathon organisers agree with those involved in the hackathon how the IP arising during the course of the hackathon is to be owned and exploited. The two suggested strategies are: Open source or Benefit sharing.

In each case a brief agreement will suffice. This can be oral although a written agreement would help to avoid any misunderstandings. Suggested wording:

### Name of hackathon

I agree that any IP arising from my input to the hackathon at xx held on xx run under the auspices of xxx (e.g. the E-Space Project) will be:

Made available on an open source basis/held by xxx with any revenue arising to be held and used to run future hackathon events [delete whichever is not appropriate]

Signed

Date