



INNOVATION IN TECHNOLOGY IS HAPPENING AT A RAPID RATE AND BUSINESSES CAN OFTEN REAP GREAT REWARDS FROM IT BUT, IN SUCH A FAST AND RAPIDLY CHANGING INDUSTRY, DO YOU KNOW YOUR RIGHTS? HERE, TECHNOLOGY AND INTERNET LAW EXPERT, CLIVE HALPERIN, EXPLAINS WHAT YOU NEED TO BE AWARE OF.

**I**NNOVATIVE technology is an exciting and fast moving business and often in the news. From new app ideas to drone deliveries, it seems that creative business people are coming up with new business ideas on a daily basis.

Technology is affecting businesses in a myriad of different ways. In just a few years, it seems that almost every business has become technology

dependent. Even the simplest businesses use at the very least email and word processing or accounting software and nearly all have their own websites.

Other businesses are themselves in the tech space. Perhaps you're operating an online marketing or web development company or you are a cloud or IT security provider. Or maybe you are developing new apps, cloud solutions or business models that didn't exist a

few years ago.

Great opportunities have come from tech – the cost of entry can be low, industrial scalability is readily available in the cloud and investors are around for the right businesses; huge businesses have been built in short periods such as AirBnB, Spotify, Twitter and JustEat, and in Health tech and Fin Tech

These days, you don't have to be a big business to have e-commerce websites, >

undertake online marketing or operate your business from the ‘cloud’.

So what type of advice does a tech lawyer provide? In some ways it’s very traditional – setting up companies, shareholder agreements, transactions with investors, share options, mergers, acquisitions, joint ventures and exits.

In other respects, it’s more focussed on the ‘tech’ and areas such as copyright, software, data protection and cyber security. Often documentation needs to be created to deal with concepts that are new to the market.

Some of the areas that often come up are:

- “Can I stop someone copying my idea?” – this is not always easy. Although some ideas can be protected by patents many cannot – that is why there are so many ‘copycat’ apps around. So confidentiality is often key in the early stages before ‘going live’
- “Can I protect the name I have for my business, idea or product” – some names can be protected formally by the use of trade marks but not all. If someone else is using the name you



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select (even if you aren’t aware of it) that can be problematic

- “Who owns my website/software/logo?” – this can still be an area of confusion and there are many examples where the person commissioning the work does not actually own it but merely has a licence
- “Where’s my data and what happens if there’s a data breach” – there are many legal requirements about storing data (for example, outside Europe) and using it (e.g. for marketing). Data breaches were one of the major stories of 2015 (think TalkTalk and Sony for just a couple of high profile examples) and there can be financial penalties
- “What does 99% actually mean in my service level agreement?” – a service guaranteed to be running 99% of the time still doesn’t have to work for over 3.5 days per year

● “Is my data and privacy policy sufficient?”

● “What am I liable for if things go wrong?” – for example recent stories around damage to AirBnB rentals

Often practical considerations are as important as a legal document. If you’re using a cloud provider what happens if the system is down or your cloud provider has gone out of business? What do you actually do to retrieve your data and get up and running again.

And social media should not be forgotten. Just because it’s on Facebook or Twitter doesn’t mean the law doesn’t apply and it’s often easier to defame someone online than in print.

There are many areas where existing laws such as contract law will cover new technology; in other areas such as drones and self-driving cars, new laws will be needed. Ethical and public

policy considerations may come into play such as what should happen when a self-driving car can’t avoid crashing into one of two people.

In 2016, there will be a lot of focus on data and cyber security. Personal data has become easily obtainable via smartphones, wearables, social media, browsing and purchasing history and consumers readily give it away. Significant harm can occur from its loss or disclosure, particularly where the data is sensitive such as medical or financial. The EU has been focussing on this and is expected to finalise new data protection laws in the first half of 2016 although they won’t be in force for some time.

*If you’re interested in finding out more about tech law contact Clive: [cjhalperin@gscsolicitors.com](mailto:cjhalperin@gscsolicitors.com)*