

**INTELLECTUAL PROPERTY**

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**Decree No. 165/94**

**Setting out a legal framework of protection for the different expressions of works of software and databases, and their various means of reproduction.**

Buenos Aires, February 3, 1994

HAVING REGARD to the provisions of Law No. 11.723 and Decrees Nos. 41.233/4 and 31.964/39, and

CONSIDERING:

that technological advances in computer hardware require the setting-out of a legal framework of protection which ensures respect for the intellectual property rights in works produced in that field.

that consequently, it is appropriate to specify the different expressions of works of software and databases, and their various means of reproduction for effective enforcement of the Law on Intellectual Property.

that the peculiar characteristics of this class of works, with respect to the frequent change of versions, physical volume of information and data confidentiality, require a special regime for its registration with the NATIONAL DIRECTORATE OF COPYRIGHT.

that this Decree is issued using the powers conferred by Article 86(2) of the NATIONAL CONSTITUTION

Therefore,

THE PRESIDENT OF THE ARGENTINE NATION

DECREES:

**Article 1** -- For the purposes of administering this Decree and other current legislation on the matter:

(a) Works of software, included among the works of Article 1 of Law No. 11.723, and the productions consisting of one or more of the following expressions, shall mean:

- I. designs, both general and detailed, of the logical flow of data in a computer system;
- II. Computer programs, both in their 'source' version, principally for human readers, and in their 'target' version, principally aimed at being executed by a computer;
- III. Technical documentation, for such purposes as explanation, support or training, for the development, use or maintenance of software.

(b) Database works shall mean those works included in the category of literary works, productions consisting of an organized set of interrelated data, compiled with a view to its storage, processing and recovery by means of computer technologies and systems.

(c) Suitable procedures for reproducing works of software or databases shall include written media or diagrams directly or indirectly perceptible to the human senses, as well as recordings made by means of any technology, directly or indirectly readable by means of information processing hardware.

Translated from Spanish

(d) A work of software or database shall be considered to have been published when it has been made available to the general public, whether by means of its reproduction on multiple copies distributed commercially or by means of the widespread provision of its remote transmission for final use.

(e) A work of software or database shall be considered to be unpublished when its author, owner or right holder does not disclose it or negotiates the assignment of its intellectual property rights by entering into contracts with interested parties.

**Article 2** — To register published database works, for use via remote transmission, extensive extracts of its contents and a written record of its structure and organization, as well as its principal features, shall be deposited, which in the applicant's view and at his/her risk sufficiently individualize the work and provide the most faithful possible meaning of its contents.

**Article 3** — To register works of software or databases which are unpublished, the applicant shall include in sealed and signed envelopes all those expressions of the work which he deems advisable and sufficient to identify his creation and to guarantee that his secret information remains undisclosed.

**Article 4** — For communication, publication and submission to the National Directorate of the Official Registry and for recording.

MENEM. -- Jorge L. Maiorano.