

# **Protecting Databases in Israel – A Comparative Perspective**

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## **Abstract**

This article examines the issue of databases protection in Israel from an economic and comparative perspective, while questioning the assumption that manufacturers will stop producing databases if the law does not protect them, and that the databases industry would consequently experience a market failure.

The article opens with an introduction of the economic dilemma regarding the protection of factual information: On the one hand – the need to provide incentives to create databases, and on the other hand – the concern with distribution of factual information and of databases that include that type of information. Next, the article examines and analyzes the empirical data that relate to this economic dilemma, exploring the legal regimes in different countries. Finally, the article examines whether additional protection is required, either by means of intellectual property protection or other types of protection, and asserts that there exist many ways to protect databases within Israeli law and other judicial systems, and that these ways significantly undermine the claim that special legal protection is required for factual databases.

Specifically, the article presents a variety of protective measures: de facto protection of databases that stems from their features and the way they are traded in the market for informational products; business and technological models that are common in the databases market; and a variety of legal mechanisms that provide direct and indirect protection for databases. The conclusion is that Israel should adopt the American policy regarding databases protection, rather than providing special legal protection by means of intellectual property laws or other legal regimes.