



IP ITeasers Post 011:

Wordle Wrangle

For those who love puzzles, Wordle has become a relished daily ritual. The addictive word game, which was created by Brooklyn-based software engineer Josh Wardle, has a worldwide following which now numbers in the millions.

Wordle was sold to the New York Times in late January for an undisclosed seven-figure sum. But although Wordle eventually earned its creator a handsome financial reward, Mr Wardle never sought to 'monetise' the game itself, which he deliberately kept free from advertising and free to play.

In the circumstances, it was perhaps inevitable that others would seek to capitalise on Wordle's popularity. As Wordle's fame grew, a string of copycat games sprung up. At least one such game took advantage of Mr Wardle's failure to trade mark 'Wordle', and used the name in an app which featured an optional paid 'premium' subscription. This particular copycat sparked outrage in some quarters (and was eventually taken offline). Others, however, observed that Wordle itself seemed to have been inspired by the US game show Lingo.

Notwithstanding Mr Wardle's failure to register 'Wordle' as a trade mark, would he have been able (under English law) to establish unregistered rights in his mark? Could Mr Wardle have established goodwill in the mark despite the fact that he was apparently not using it in pursuit of commercial gain? And how does the law of copyright protect the format of a game?