

38TH ANNUAL

AIRPORT LAW WORKSHOP



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First Amendment,
Advertising, Media Rights,
and Public Communications

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Introduction / overview



First Amendment

Intellectual Property

Open Records

Privacy



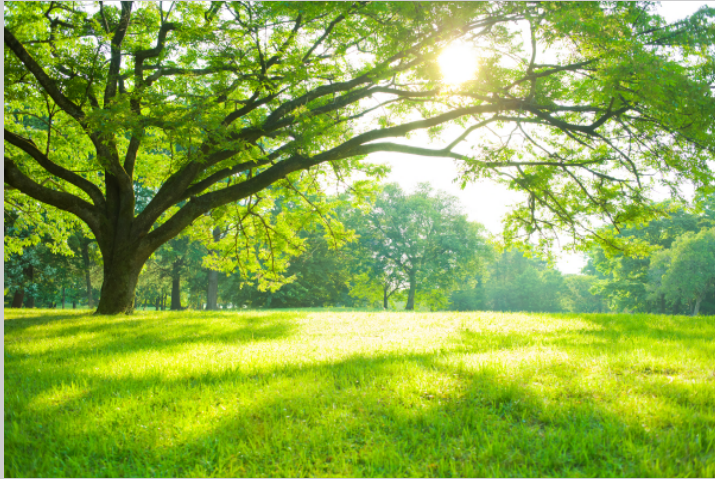
The First Amendment



Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.



Forum analysis



Traditional public forums



Limited public forums



Nonpublic forums



Airports are (generally) nonpublic forums



Airport terminals



Areas outside airport terminals



Advertising areas?



Regulation of nonpublic forums



Viewpoint neutral



Reasonable, in light of the purposes of the forum and the surrounding circumstances



What is reasonable?



- Policies should be in writing, not ad hoc.
- Policies cannot “confer unbridled discretion” on officials.
- There must be a reasonable opportunity to exercise rights.
- Courts have upheld permit requirements, speech zones, crowd/sign size, and prohibitions on voice amplification.
 - Safe and efficient movement of passengers and employees
 - Security implications
 - Coordination with parking, security, other contractors



What is viewpoint neutral?



**Welcome to America, home to
5% of the world's people &
25% of the world's prisoners.**

Let's build a better America together. [NAACP.org/smartandsafe](https://naacp.org/smartandsafe)

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Source: aclu.org



Oops, we designated a public forum...now what?



Content-neutral regulation

- Must be narrowly tailored to further a legitimate government interest while leaving open alternative channels for communication.

Content-based regulation

- Restrictions must be narrowly drawn to serve a compelling state interest.



A recent example at DEN...



Source: [Denver Post](#)



Source: [Westword](#)



Helpful Resources



- J. Howick, [Regulations Affecting the Exercise of First Amendment Activities at Airports](#) (2015)
- AAAE [Member Hub](#)
- Industry colleagues



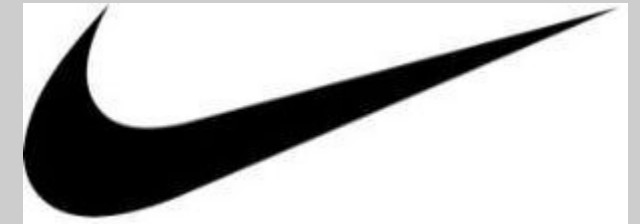
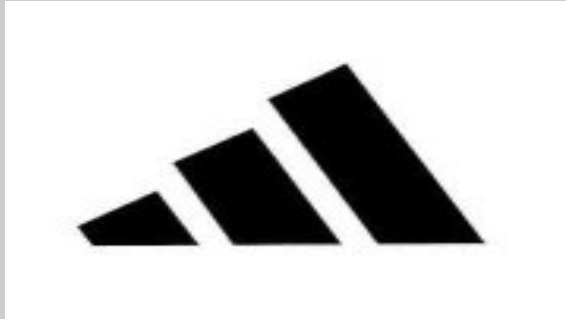
Airport intellectual property (IP)



- Original creations of the mind.
- Your airport likely engages in branding that generates IP.



Trademarks – identify the source of goods or services



Trademarks – stylized word marks and slogans



Names/Word

Google



FedEx



Exclusive use

Phrase/Slogan

“Don’t Be Evil”

“When it absolutely
positively
has to be there
overnight”



What is an airport sponsor likely to trademark?



STYLIZED AIRPORT NAME



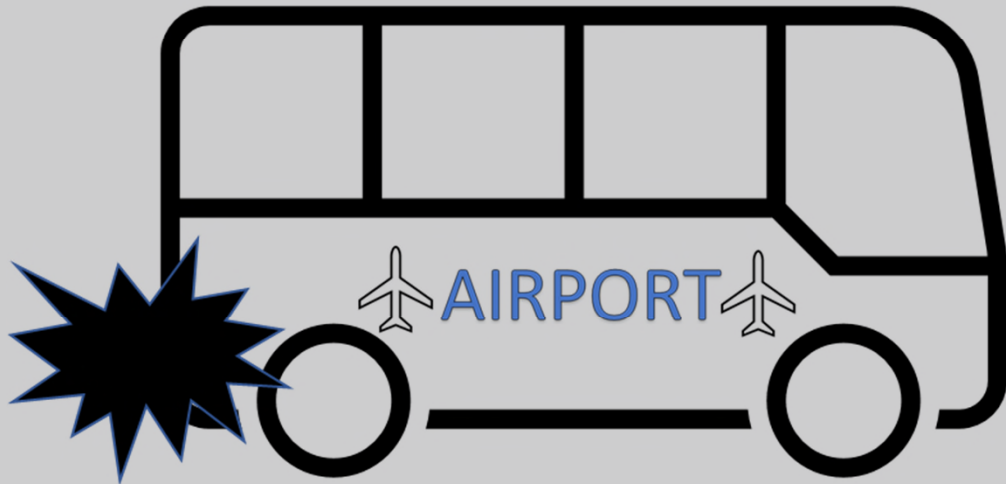
EZ APP



Why should airport sponsors discourage infringement?



Imply airport as source



Imply "airport approval"



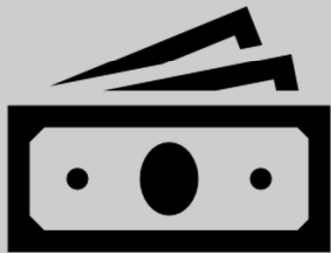
Benefits of federally registering trademarks



LEGAL PRESUMPTION



NOTICE



STATUTORY DAMAGES



SIMILAR MARKS



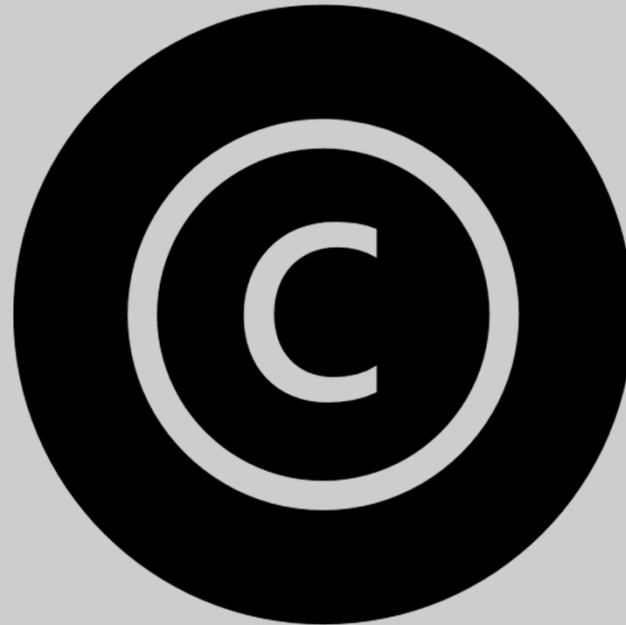
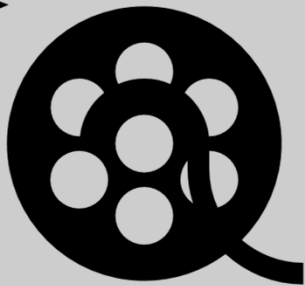
CEASE AND DESIST



What does a copyright protect?



Works of Authorship



What would an airport sponsor copyright?



Manuals



Safety or Training Videos



Website Content

Benefits of federal copyright registration



PRESUMPTION OF OWNERSHIP



INFRINGEMENT ACTIONS



DAMAGES



CEASE AND DESIST



Issues related to information and privacy



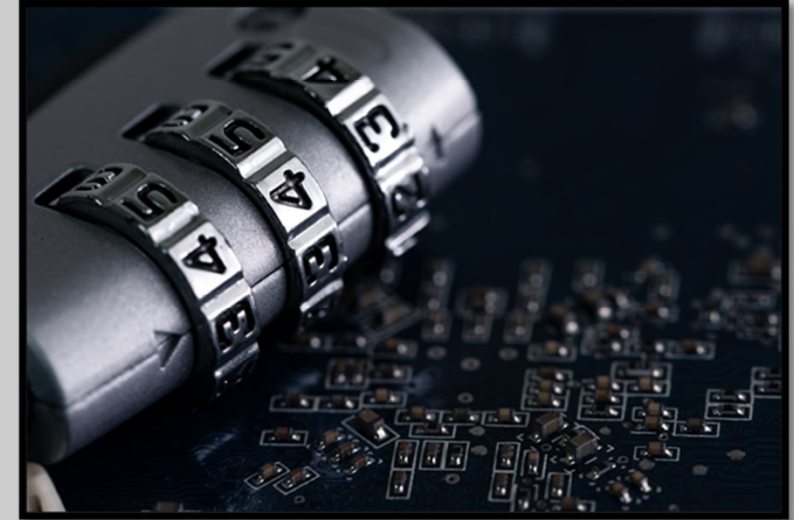
OPEN RECORDS & PROPRIETARY INFORMATION



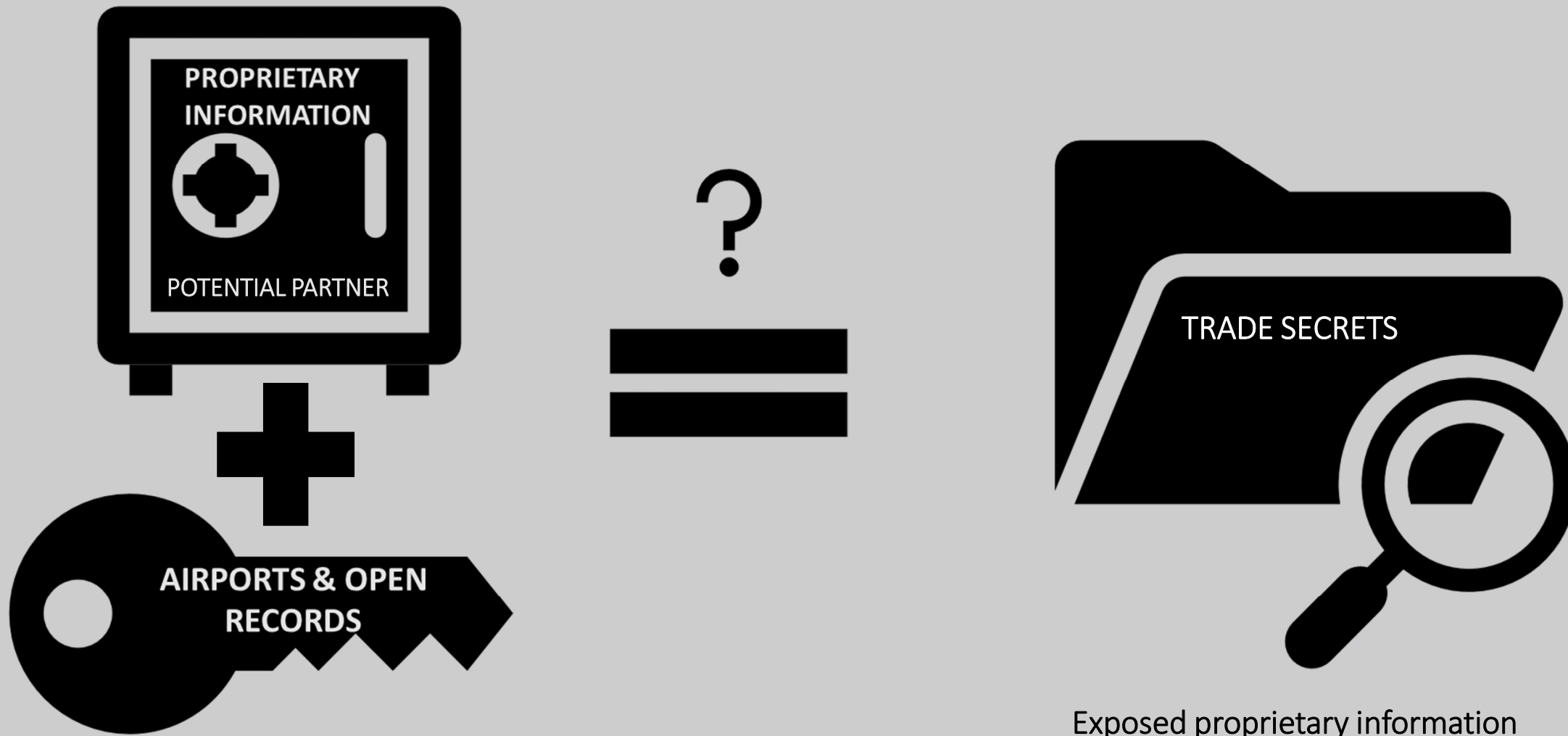
PAYMENT CARD INFORMATION



CUSTOMER PRIVACY



How do open records laws in your state treat proprietary information?



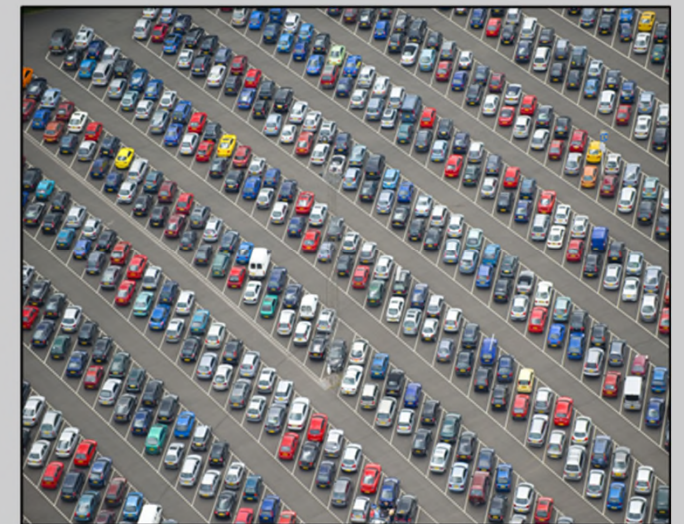
Payment card information



ENSURE CUSTOMER'S PAYMENT CARD INFORMATION IS SECURE



SHARE PAYMENT
CARD INFORMATION



Payment Card Industry Security Standards Council



PCI SSC



PCI STAKEHOLDERS



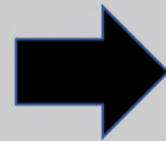
MERCHANTS



CARD COMPANIES



BANKS



SECURITY STANDARDS



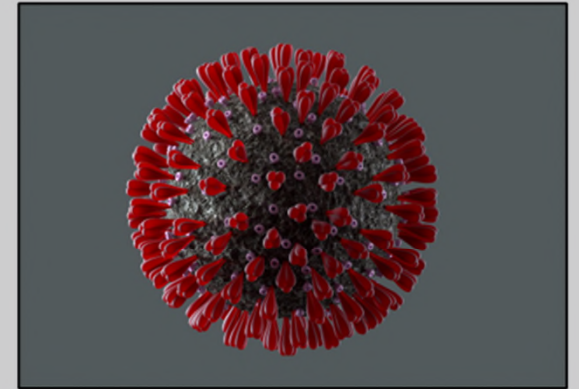
Payment Card Data Industry Security Standards



FIREWALLS



PROTECT STORED DATA



ANTIVIRUS SOFTWARE/PROGRAMS



RESTRICT PHYSICAL ACCESS



MONITOR ACCESS TO DATA



What should an airport do?



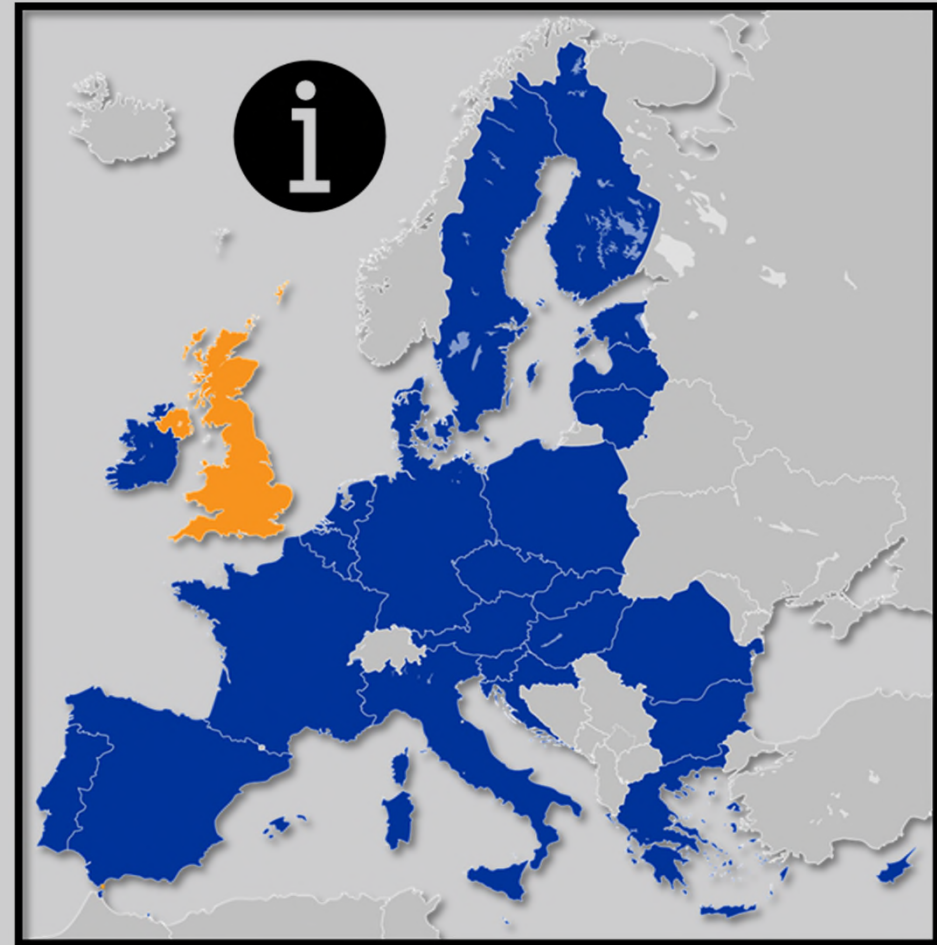
CONTRACTOR/VENDOR RESPONSIBILITIES



Privacy - General Data Protection Regulation (GDPR)



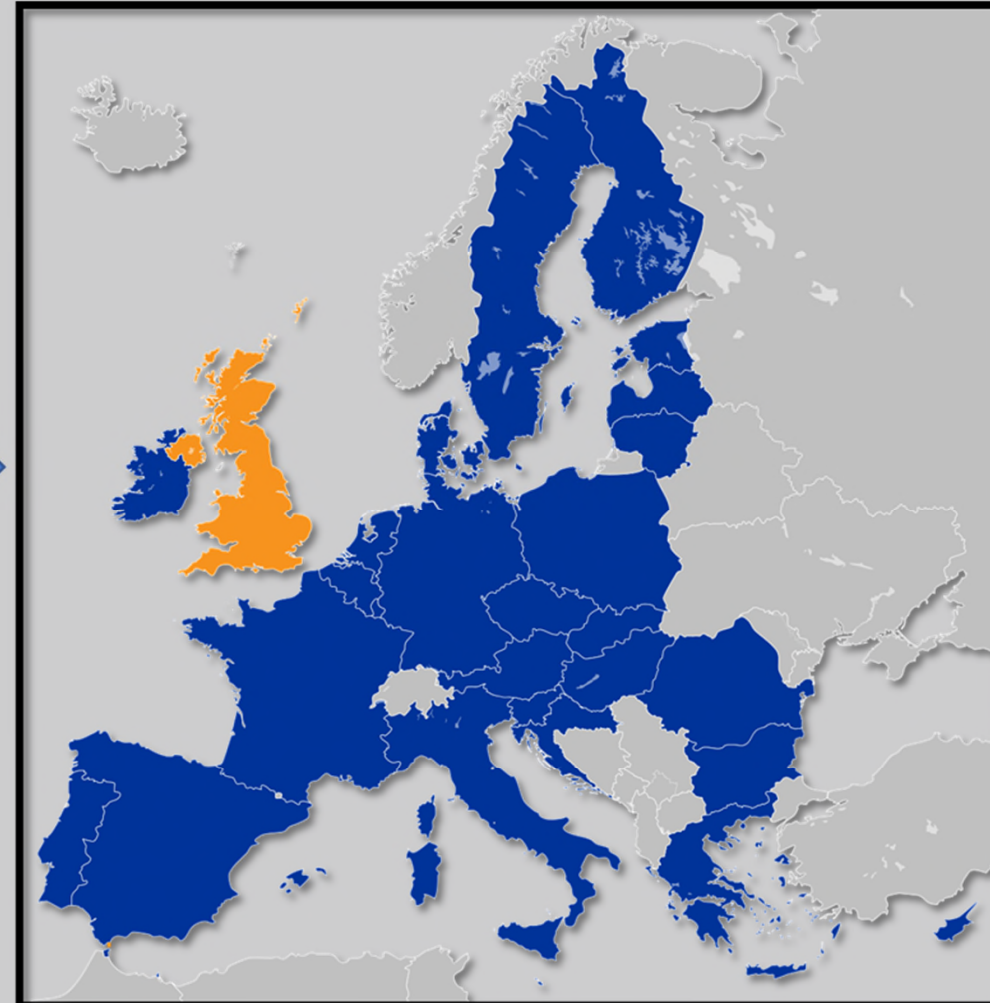
- Primarily applies to countries in the European Union
- Residents and citizens own personal data - Information that directly or indirectly identifies someone
- “Anonymous” data
- Standards for collection and handling personal data



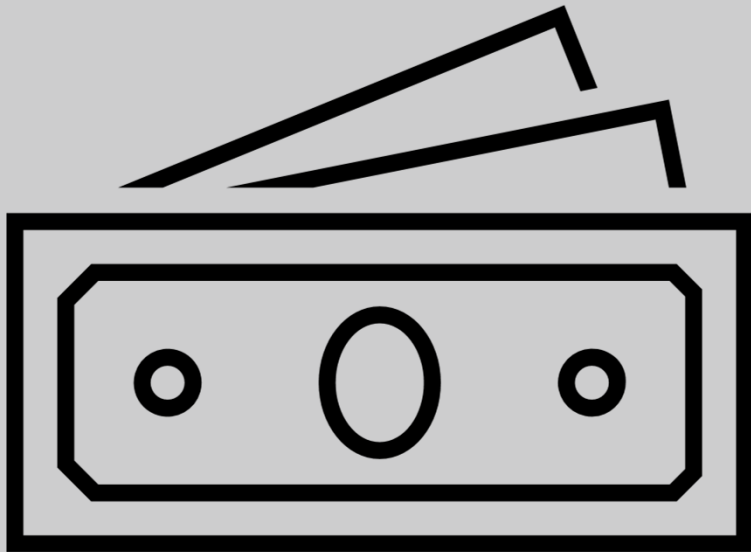
Does the GDPR apply to U.S. airports?



Offers goods and services



GDPR non-compliance





Questions?

www.kaplankirsch.com | www.aaae.org | www.imla.org

