Programming language can't be copyrighted: EU court

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The EU's advocate general Yves Bot says programming languages -- different digital vocabularies such as HTML and Java used to make a computer perform certain tasks -- should be compared to the language used by a novelist.

A computer programming language cannot be protected by copyright, the adviser to the EU's top court said on Tuesday in an opinion that could affect the competitive IT industry.

Advocate general Yves Bot argued that programming languages -- different digital vocabularies such as HTML and Java used to make a computer perform certain tasks -- should be compared to the language used by a novelist.

The functionalities of a computer programme should also not be eligible for [copyright](), Bot said, adding that they are the equivalent of ideas and

that protecting them would "amount to making it possible to monopolise ideas."

The advocate general's opinions are not binding but the Luxembourg-based European Union Court of Justice follows his advice in 80 percent of cases.

The opinion arises from a case pitting North Carolina-based SAS Institute, which provides business analytics software and services, against British software firm World Programming Ltd.

SAS launched a complaint in Britain against WPL after the US company created a product that can execute programmes written in SAS language.

The High Court of Justice in Britain asked the EU judges to issue a preliminary ruling to clarify the scope of EU legal protection for computer programmes.

"The functionalities of a computer program and the programming language cannot be protected by copyright," Bot said.

Bot said however that copyright can cover "the means for achieving the concrete expression" of the functionalities.

"The way in which formulae and algorithms are arranged -- like the style in which the computer program is written -- will be likely to reflect the authors own intellectual creation and therefore be eligible for protection," he said.

But the holder of a programme license can reproduce or translate a source code without the author's authorisation, under certain conditions, so as to ensure different elements of a programme work together, Bot said.

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