What is a database? A database is a collection of data that is organized in a way that allows for efficient access, storage, and management. The protection of databases has been a topic of discussion and legal debate due to the importance of databases in the digital age. The sui generis right, which is a protection for database creators, ensures that the original arrangement of the contents of a database is protected. This protection is distinct from copyright protection, which does not cover the arrangement of contents but rather the original work itself. A database could be a list of football matches, where the selection of the matches and their arrangement in the list is protected by the sui generis right, while the individual matches themselves are protected by copyright, with the database creator obtaining protection for the selection and arrangement of the matches.

The sui generis right is a form of protection that is sui generis (meaning of a kind) and does not fall under the usual rules of copyright law. It was established with the aim to protect the investment in the creation of databases, which is often significant. The Advocate General in the Football Dataco Ltd v. Yahoo! UK Limited case (European Court of Justice, C-444/02) highlighted the importance of sui generis protection, stating that the creation of the database is a collective process involving the selection, arrangement, and investment of the database creator. The Advocate General further emphasized that the protection of a database by copyright law is not always adequate due to the specific circumstances of each database.

The sui generis protection also covers the fixation of the dates of matches and venues, which are relevant for the production of the database. This protection is not necessarily limited to the final date and place of each match but includes the selection of the contents of the database. The Advocate General provided an example of how the selection of the contents could be taken into account for the award of database copyright protection. Indeed, the selection and arrangement of possible dates and venues is relevant for the final stage of the creation of the database.

In the Football Dataco case, the Advocate General referred to the Directive 96/9/EC on databases, which contains provisions on the sui generis protection of databases. The Directive aims to ensure a balance between the interests of database creators and users, allowing for the protection of a database's substantial part while ensuring that users are not denied access to the database's contents.

In conclusion, the sui generis protection for databases is a unique form of protection that complements copyright protection. It is designed to protect the investment in the creation of databases, ensuring that creators are incentivized to produce such content. The protection of databases is crucial in a world where databases are becoming increasingly valuable assets.
If his opinion is followed by the Court the Football Dataco decision might probably have for UK copyright law the same effect as the Feist decision in the USA. This is far more true if it is combined with the answer of the Advocate General in question 2 which states that the Database Directive precludes national law from conferring copyright protection upon a database which does not meet the requirements laid down in article 3 of the Directive, thus which is not the author’s own intellectual creation. Even though we can imagine copyright protection for compilations which do not meet the criteria of the definition of a database under the Directive on the basis of less stringent criteria, such as pure skill and labour, it is, however, questionable if the Dataco decision combined with Infopaq which imposes the criterion of the “author’s own intellectual creation” as a threshold for all works and not only for databases, computer programs and photographs leaves any room for this option.