

## IP TOOLS & RESOURCES FOR BUSINESSES

### IP Searches and Filing

You can do IP searches and file your IP applications online at the IPOS website <http://www.ipos.gov.sg> (Services>Online Services)

SurfIP, at [www.surfip.gov.sg](http://www.surfip.gov.sg), is a public sector initiative to ensure that basic IP information services are freely available to all. SurfIP can help lay users conduct prior art searches on patents, trade marks and industrial designs registered with IP organisations from the world's major economies.

### IP Management

SCOPE IP, which stands for "Strategies for Creation, Ownership, Protection and Exploitation of Intellectual Property" is a national IP management programme designed to help your company diagnose the adequacy of your existing IP management practices. Strategic options for the maximum exploitation of your company's intellectual assets will be generated as part of the programme as well. E-mail [enterprise@ipos.gov.sg](mailto:enterprise@ipos.gov.sg) for more details.

### Resources for Education

Visit the Intellectual Property Education and Resource Centre (iper) at IPOS and peruse through the collection of the latest IP journals, books and publications.

The IP Starter - A guide to help you make IP decisions for your business from the type of IP protection required to practical ideas on preventing copycats can be viewed at the IPOS website. (Programmes>For businesses)

The Infopacks - Handbooks that provide an overview on each form of IP. The Copyright Infopack can be downloaded from the IPOS website. (Resources>Infopacks>Copyright Infopack)

IP Consult - IPOS offers a platform for you to get in touch with IP professionals via the IP Consult. The monthly IP Consult sessions are free-of-charge and open to all. To sign up for an IP Consult session, visit the calendar of events at the IPOS website.

### Getting Professional Help

Singapore Network of IP Service Providers (SNIPS), IPOS' web-based directory of IP service providers, is accessible from the IPOS website. (Services>Online Services>Singapore Network of IP Service Providers (SNIPS))

The latest IP workshops, seminars and conferences, can be found on the calendar of events at the IPOS website.

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# COPYRIGHT infosheet

## Copyright @ Work



## What is Copyright

Copyright is a private property right that protects original works such as novels, computer programmes, music and photos. Generally, copyright owners enjoy various exclusive rights over their copyright works (such as the rights to reproduce, perform and communicate their works). These different exclusive rights form the bundle of rights that we call copyright. They enable a copyright owner to control the commercial exploitation of his work.

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## What does Copyright Protect

Our Copyright Act protects:

Literary works such as	<ul style="list-style-type: none"> <li>• Written works/ Books</li> <li>• Articles in journals or newspapers</li> <li>• Lyrics in songs</li> <li>• Source codes of computer programmes</li> </ul>
Dramatic works such as	<ul style="list-style-type: none"> <li>• Scripts for films &amp; drama (as applied)</li> <li>• Choreographic scripts for shows or dance routines</li> </ul>
Musical works	<ul style="list-style-type: none"> <li>• Music, i.e. melody</li> </ul>
Artistic works such as	<ul style="list-style-type: none"> <li>• Paintings</li> <li>• Drawings</li> <li>• Photographs</li> <li>• Sculptures</li> <li>• Engravings</li> <li>• Buildings or models of buildings</li> <li>• Works of artistic craftsmanship, e.g. designer furniture that is not mass produced</li> </ul>
Published editions of	<ul style="list-style-type: none"> <li>• Literary, dramatic, musical or artistic works, i.e. typographic arrangements of a published work</li> </ul>
Sound recordings	<ul style="list-style-type: none"> <li>• An aggregate of sounds recorded on tapes, CDs etc</li> </ul>
Films	<ul style="list-style-type: none"> <li>• Cinematographic works including video, digital videodisks and television productions</li> </ul>
Television and radio boardcasts	<ul style="list-style-type: none"> <li>• Broadcasts by way of television or radio</li> </ul>
Cable Programmes	<ul style="list-style-type: none"> <li>• Programmes (visual and sound) included in a cable programme service sent by means of a telecommunication system</li> </ul>
Performances	<ul style="list-style-type: none"> <li>• By performers such as musicians, singers and comedians</li> </ul>

## How to Get Protection

For a work to be protected by copyright, it has to be original and expressed in a tangible form.

Originality simply means that there is a degree of independent effort in the creation of the work. It is not a question of whether the work has creative merit.

Expression in a tangible form includes expression in a recording or in writing. Basically, the work should be able to be reproduced from this tangible form.

An original work by a Singapore citizen or resident automatically enjoys copyright protection as soon as it is expressed in a tangible form. There is no need to file for registration to get copyright protection.

## Rights of the Copyright Owner

Here are the bundles of exclusive rights copyright owners may enjoy:

Literary, dramatic, musical, artistic works	<p>Authors enjoy the exclusive rights to</p> <ul style="list-style-type: none"> <li>• reproduce the work;</li> <li>• publish the work;</li> <li>• perform the work in public;</li> <li>• communicate the work to the public; and</li> <li>• make an adaptation of the work.</li> </ul>
Published editions of literary, dramatic, musical or artistic works	<p>The publisher has the exclusive right to make a reproduction of the edition.</p>
Sound recordings	<p>The producer of a sound recording enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a copy of the sound recording;</li> <li>• rent out the sound recording</li> <li>• publish the sound recording if it is unpublished; and</li> <li>• make available to the public a sound recording by means or as part of a digital audio transmission.</li> </ul>
Films	<p>The producer of a film enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a copy of the film;</li> <li>• cause the film to be seen in public; and</li> <li>• communicate the film to the public.</li> </ul>
Television and radio boardcasts	<p>The broadcaster enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a recording of the broadcast;</li> <li>• rebroadcast;</li> <li>• communicate the broadcast to the public; and</li> <li>• cause the broadcast to be seen or heard by a paying audience.</li> </ul>

Cable Programmes	<p>The producer of the cable programme enjoys the exclusive rights to:</p> <ul style="list-style-type: none"> <li>• make a recording of the cable programme;</li> <li>• rebroadcast;</li> <li>• communicate the cable programme to the public; and</li> <li>• cause the cable programme to be seen or heard by a paying audience.</li> </ul>
Performances	<p>The performer has the right to authorise the following uses:</p> <ul style="list-style-type: none"> <li>• allow the performance to be seen and heard, or seen or heard, live in public;</li> <li>• make a direct or indirect sound recording of his live performance</li> <li>• make available a recording of the performance to the public in such a way that the recording may be accessed by any person from a place and at a time chosen by him;</li> <li>• distribute or sell or import for distribution or sale such recordings;</li> <li>• publish a recording of a performance (if not previously published); and</li> <li>• communicate the live performance to the public (including broadcast, internet dissemination and inclusion of the performance in a cable programme).</li> </ul>

## Extent/Territory of Protection

Our Copyright Act gives copyright protection within the territory of Singapore.

In addition, a copyright work created by a Singapore citizen or resident is protected in many countries overseas. Under various international agreements, the work of a Singapore citizen or resident would be protected in signatory countries (e.g. USA, UK). Conversely, many overseas copyright works from these signatory countries are protected by copyright law in Singapore.

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>> "Communicate" means to transmit by electronic means a work or other subject matter, whether or not it is sent in response to a request and includes:

- (a) Broadcasting;
- (b) Inclusion in a cable programme; and
- (c) The making available of the work or other subject matter in such a way that the work or subject matter may be accessed by any person from a place and at a time chosen by him (e.g. access over the Internet).

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## Fair Dealing

There are some "fair dealing" exceptions to copyright infringement under our copyright law. A certain amount of copying, for example, is permissible as long as it is a situation of "fair dealing" as determined by the Court.

Factors the Court may consider in determining "fair dealing" include:

- (a) the purpose and character of the dealing (e.g. commercial or non-profit educational purposes)
- (b) the nature of the work
- (c) the amount and substantiality of the part copied in relation to the whole work
- (d) the effect of the dealing upon the potential market for, or value of, the work
- (e) the possibility of obtaining the work within a reasonable time at an ordinary commercial price.

In other cases, fair dealings for the purposes of criticism, review or reporting current events would not constitute copyright infringement. In most of such cases, a sufficient acknowledgment of the work is required.

## Exceptions in Educational Settings

Our Copyright Act also contains exceptions to copyright infringement in certain educational settings. Please refer to our infosheet on "Copyright for Educators" for more information.

## Common Scenarios at Work

### 1. Can I forward emails and file attachments from external parties to my colleagues?

Forwarding emails and file attachments results in copies made of the copyright material and you can do so with the consent of the copyright owners or if it is a situation of "fair dealing" (see Fair Dealing on Page 4).

The consent of copyright owners can be express or implied. For example, some emails expressly invite you to forward them to your contacts who you think may be interested (e.g. publicity on a product launch). Other emails, by their nature (e.g. where social awareness or public education is involved), may imply that forwarding is allowed. When in doubt, you should check with the source.

## 2. Can I install original software bought by my company on my home PC?

Every time computer software is installed on a PC, a copy is made. This should take place with the copyright owner's consent, which can usually be checked from the terms and conditions accompanying the original software your company bought.

Whether you can install this software on your home PC depends on these terms and conditions. It cannot be assumed that legitimate software bought for office use can also be installed on home PCs.

Usually, there is a variety of licences for a company to choose from when buying software. In general, the higher the licence fee, the wider the scope of permitted use.

## 3. I am writing a proposal for my company. Can I

(a) Insert images from websites or clipart from legally purchased software in my proposal?

(b) Annex copies of newspaper / magazine / journal articles to my proposal?

(a) You can use these images and clipart in your proposal if the terms and conditions of use so allow. Look for these terms and conditions on the website and in the software agreement that comes with the software. Copyright in images and clipart includes the right to make copies, such as when you electronically copy and paste them in your proposal. Making copies without the copyright owner's permission will infringe his copyright, so make sure your use is covered by the terms and conditions, or otherwise with the copyright owner's consent.

(b) Similarly, newspaper / magazine / journal articles are also protected by copyright. You need the copyright owners' consent to make copies before annexing them to your proposal, unless it is a situation of "fair dealing" (see Fair Dealing on Page 4). On the other hand, you can annex the actual articles, as clipped from the newspaper / magazine / journal, to your proposal without making copies.

## 4. During my presentation at the department meeting, can I screen the opening scene from an original movie DVD to grab my colleagues' attention? The scene takes only 1 minute.

Owning an original movie DVD allows you to enjoy the movie privately in a domestic setting. On the other hand, the copyright owner of a movie has the exclusive right to show it in public. The concept of "public" may include workplaces.

Although you do not plan to screen the entire movie, if the opening scene is a substantial part of the movie (in quality, rather than quantity), you still need to get the copyright owner's consent before playing it at your department meeting.

## 5. During our company's Family Day held at a park, can we play music over the PA system?

Your company needs the consent of the copyright owners to do this as public performance of copyright works is involved, even though your company's Family Day is an ad-hoc event. You should approach COMPASS (Composers and Authors Society of Singapore). More details can be found on its website at <http://www.compass.org.sg>.

Alternatively, your company can choose to simply connect the PA system to a local radio station instead of playing music independently. Doing so is allowed under our copyright law.

## 6. My company is organising a seminar. Can I make a copy of the map showing the seminar venue and print it on the invitation cards and publicity material?

A map is an artistic work protected by copyright. With the copyright owner's consent, you can reproduce the map in your invitation cards and publicity material. This could be something as straightforward as checking with the owner of the venue (e.g. if the seminar is held on rented premises like a hotel ballroom) whether it has its own map which it can allow your company to use.

Alternatively, your company can produce its own map for use in its invitation cards and publicity material.

## 7. My company engaged a vendor to give us training. Since we paid for the training, can we

(a) Make copies of the materials and distribute them to staff who did not attend the training?

(b) Make a video-recording of the training sessions to show the staff who did not attend the training?

(a) As original training materials are protected by copyright, they can only be reproduced with the permission of the copyright owner or if it is a situation of "fair dealing". Check the agreement between your company and the vendor. For example, was it agreed that the training fee includes the right for your company to make copies of the training

materials and a video-recording of the training? Or, during the training, did the trainer indicate on behalf of the vendor that your company is free to make copies of the materials for internal use?

(B) Further, the trainer may deliver the training based on a prepared script, which is also protected by copyright. Video-recordings of such training are considered to reproduce the underlying literary work. Hence, when in doubt, you should check with the company whether video-recording is allowed.

**8. My company commissioned a graphics designer to design the invitation cards and publicity posters for a product launch. To save costs, can I "recycle" the artwork for another event e.g. by simply changing the event details on the material?**

It depends on what was agreed between your company and the graphics designer on the use of the artwork and/or ownership of copyright in the artwork.

If there was no agreement on this issue, the default position is that the graphics designer (or his company, if he is an employee) owns the copyright. If so, you should only "recycle" the designs with permission as this involves making copies of the artwork. Even though the event details will be changed, a substantial part of the artwork would have been copied and this is enough to infringe copyright.

In general, it is best to ensure at the outset that the terms of the engagement suit your company's needs e.g. with allowance for multiple use in future or with copyright to be owned by your company, at an agreed price.

**9. I was interviewed by a journalist who then published a feature in the newspaper on my company. Can I use the published feature for my company's publicity e.g. in emails to business associates, in our annual report, on our company website etc.?**

It depends on what you mean by "use". If, in your publicity, you merely refer to the fact that the newspaper featured your company, you do not need the newspaper's permission to do so.

However, if you reproduce the newspaper feature in your publicity material, you will need the copyright owner's consent to do so unless it is a situation of "fair dealing" (see Fair Dealing on Page 4). The copyright owner may be the newspaper itself, or the feature writer, especially if he / she is a freelancer. You should check with the newspaper if in doubt.

**10. I provide photography services. Do I own the copyright to the photos that I take for my clients? If I don't, is there any way that I can own the copyright? I want to showcase the best photos in my website and brochures.**

In general, clients who pay for your services own the copyright to the photos taken. However, you have limited rights in that if the photos are required for any particular purpose (e.g. a corporate client wants glamour shots of the senior management, to use in its annual report), your clients should tell you and you are entitled to prevent the photos from being used for other purposes.

In practice, however, many photographers have their own terms of engagement with clients. The parties are free to have their own agreement, which automatically overrides the above default position. Thus, for example, you and your clients can mutually agree that you will own the copyright in the photos but that your clients can use the photos for certain purposes; or that your clients own the copyright but you have the license to reproduce the photos in your website and brochures.

**11. I own a music CD retail shop. To promote the latest music CDs, I often play them in my shop. I was told recently that I may be infringing copyright. Is this true? If so, what should I do?**

When you play music CDs in your retail shop, you are actually "performing" the copyright works in public. This is something that only the copyright owners of the music and lyrics have the right to do, so you will need their consent.

You may wonder how to get consent when there are so many different music CDs sold in your shop. There is a relatively easy way to do so. COMPASS (Composers and Authors Society of Singapore) represents most of these song writers and lyricists and is authorised to collect royalties for them in return for consent to play the music publicly. You can get more details from its website at <http://www.compass.org.sg>.

**12. What can I do if I suspect that another company has infringed my company's copyright? On the other hand, what can I do if I am accused of infringing another company's copyright?**

If you suspect that your company's copyright has been infringed, you should get legal advice on the options available in your particular case. As copyright is a private right, copyright owners generally have to take action themselves. There is no government body as such to help you get your compensation.

As a practical point, you should get as many facts about the suspected infringement as possible so that your legal advisor can better advise you. If you threaten legal action without grounds, the party you suspect has infringed your copyright can sue you for groundless threats of legal proceedings. This is why it is important to get your facts right and to have a legal advisor properly advise you.

If you are accused of infringing another company's copyright, you should likewise get hold of the relevant facts and seek legal advice.

Finally, whether you suspect or are suspected of copyright infringement, going to court is not the only way to deal with the matter. For example, in cases of unintentional infringement, both parties may be more willing and find it more cost- and time-effective to negotiate a private settlement out of court. They may also wish to rope in a mediator in their talks. Mediation services are provided by the Singapore Mediation Centre, whose website is at <http://www.mediation.com.sg>.

**13. If my employee infringes copyright, e.g. while at work, he illegally uploads music to the Internet, as the employer, am I also responsible for my employee's action?**

In general, an employer may be held responsible for an employee's wrongdoing committed in the course of employment. Copyright owners might sue both the employee and employer for copyright infringement committed by the employee.

Furthermore, if a criminal offence is committed by a company, its directors, managers, secretaries and other similar officers are also personally responsible if the infringement is committed with their consent or connivance.

Practically, an employer should foster a working environment that respects intellectual property rights to minimise the risk (see next FAQ).

**14. As an employer, what can I do to ensure that my employees do not infringe copyright?**

An employer is in the ideal position to take the lead in honouring intellectual property rights in the workplace. Simple measures go a long way in establishing the right work culture for a productive and legal work environment.

Insisting on only original software, having a system of tracking software installation and un-installation to keep within the limits of the software licence, running regular internal software audits are some of the things you can do. It is also important to impress upon employees the value of respecting copyright as part of a virtuous cycle that benefits everybody.

For more ideas, you can visit the Business Software Alliance's homepage at <http://w3.bsa.org/singapore/> or its dedicated Software Asset Management (SAM) site at <http://www.bsa.org/singapore/events/besamready/Additional-Resources.cfm>

**15. I own a graphics design firm. I am told that I can exploit the copyright in my works by licensing it to other companies. How I should go about doing so?**

Indeed, copyright, like many other types of property, can be licensed by the copyright owner to others. Licensing is a useful way to get more mileage from your copyright (another way is to sell it outright).

As copyright is a private right, it is up to you and your potential licensees to negotiate the terms of the licence.

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For further information about Copyright, please refer to the IPOS website [www.ipos.gov.sg](http://www.ipos.gov.sg) or email [ipos\\_enquiry@ipos.gov.sg](mailto:ipos_enquiry@ipos.gov.sg)

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