

US COMMENTS - Copyright

Regarding Section 2(g) on amendments addressing the application of the term extension to existing works (§§262-67)] and the addition of a Section 268 to the Copyright Act, we have the following questions and comments:

1. What happens to works of foreign authors where the work is still protected in the country of origin but has gone to the public domain through expiration of the shorter term in Singapore? Will such works will be restored to protection in Singapore? The draft Section 268 suggests that this is the intent, but we would like to get confirmation and clarification that this is the case and that the language clearly achieves this.
2. We would like some additional clarification regarding draft Section 268.

Is this intended to simply allow those who have begun to use a work in reliance on the work already being in the public domain to sell off their existing stock within a limited time period, given that copyright protection is being restored? If this is the intent, we think the language needs to be further clarified and would be willing to make recommendations on how to do so.

Or is this intended to be a permanent license for all reliance parties? It appears to us that this may be the case, and if so, we do not think the current draft is consistent with the three-step test. We are concerned that the language, as it currently reads, appears to allow any reliance party who has started to use works now being restored to copyright protection to continue using them regardless of the restoration of copyright.

Furthermore, we are disturbed by the requirement that the copyright owner pay the user in order to stop the user from further uses of the work.

Also, we would like further clarification as to what will occur with regard to the creation of derivative works based on the once-public domain work.