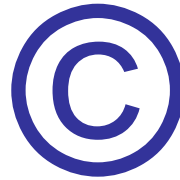
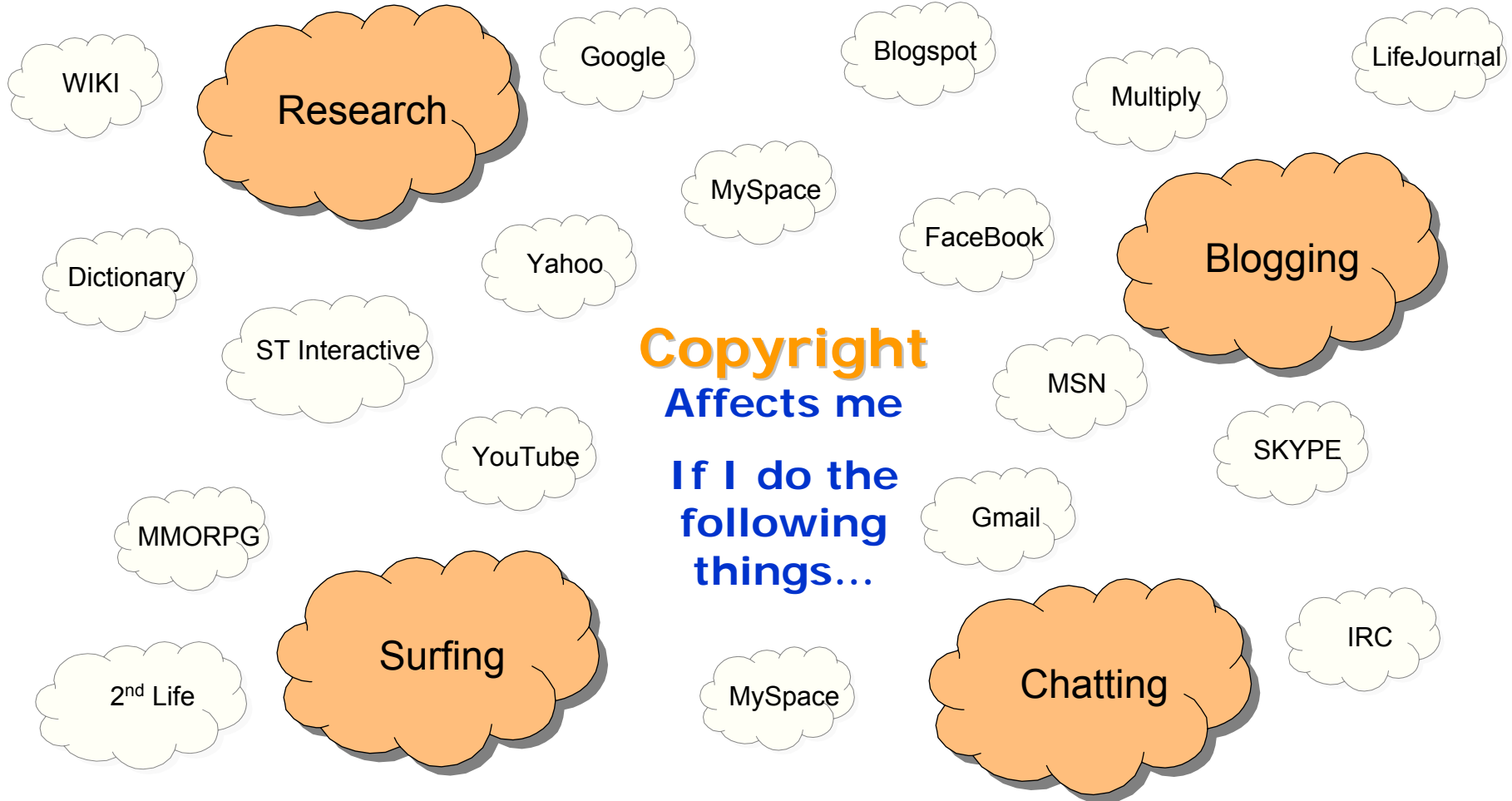


# Introduction to COPYRIGHT



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# What's the Relevance?



# Websites and Copyright

The screenshot shows the IPOS Singapore Government website. At the top left is the IPOS logo. At the top right is the Singapore Government logo with the tagline 'Integrity • Service • Excellence'. Below the logo is a search bar and navigation links: 'Contact Us | Feedback | Site Map'. A main navigation bar contains links: 'Home | About | Services | Programmes | Legislation | Resources | Forms & Fees | News & Events | Careers | Useful Links | FAQs'. Below this are five main category tiles: 'Patents' (with a gear icon), 'Trade Marks' (with a TM icon), 'Copyright' (with a C icon), 'Designs' (with a design icon), and 'Bulletin' (with an ip icon). Each tile lists sub-topics like 'About', 'Application process', and 'Forms'. Below the tiles is a 'WHAT'S NEW' section with a red circular icon. It contains two items: 'PCT Fees with effect from 1 July 2008' and 'A 90% reduction in certain PCT fees...'. To the right is an 'Events' section with a box titled 'All You Need to Know About Patent and Design Protection in China' dated 30 May 2008. A blue arrow points to the Patents tile, and a red arrow points to the 'All You Need to Know About Patent and Design Protection in China' event box.

Artistic Work

Literary  
Work

# Copyright can be my friend

Copyright is not a  
bad thing...

Copyright can be  
helpful, especially if  
you create your own  
work

# Overview

- A. What is Copyright?
- B. How does Copyright Protection come about?
- C. What is Protected Under Copyright?
- D. How long is the Protection?
- E. Copyright Ownership
- F. Specific Exclusive Rights
- G. Infringement of Copyright
- H. Civil & Criminal Liability
- I. Exceptions
- J. Obtaining Permission

## A. What is Copyright?

- A **Bundle of Exclusive Rights** designed to enable the copyright owner to:
  - ✓ **Use** his/her work
  - ✓ **Authorize** others to use his/her work
  - ✓ **Restrict** others from using his/her work

## B. How does Copyright Protection come about?

- Copyright protection is **automatic**
- Based on **originality**, not novelty or uniqueness
- Copyright protects **expressions** not ideas

## B. How does Copyright Protection come about?

- **Expression**
- Copyright will only be given to the **expression** of an idea.
- Ideas and facts (e.g. ideas for a play, scientific formulas, theories, inventions) are **not** protected by copyright.
- Expression required to be fixed or reduced into some **material form**, i.e. written or recorded on a tangible medium.

## C. What is Protected Under Copyright?

Two main types:

### 1. Original works

- Literary works  
*e.g. novels, poems, writings, computer programs, lyrics, any textual expression*
- Dramatic Works  
*e.g. screenplay, choreography in writing*
- Musical works  
*e.g. music scores*
- Artistic works  
*e.g. paintings, sculptures, photographs, buildings*

## C. What is Protected Under Copyright?

Two main types:

### 2. Other Subject Matter

- Sound Recordings  
*e.g. CDs, digital music files*
- Films  
*e.g. Motion Pictures and soundtracks*
- Broadcasts  
*e.g. TV, Radio*
- Cable Programmes  
*e.g. StarHub Cable TV*

## C. What is Protected Under Copyright?

Two main types:

### 2. Other Subject Matter

➤ Composite Works

*e.g. web page, multimedia CDs*

➤ Published Editions (Typographical Arrangements)

*e.g. the format of a newspaper or book*

➤ Performances

*e.g. Live Concerts*

## D. How Long is the Protection?

### Published Literary, Musical, Dramatic, Artistic Works

- 70 years from end of year which Author died; or
- 70 years from end of year when work was first published, whichever is later

Special case: For photographs, duration of copyright is 70 years from end of year when the photograph was first published only

## D. How Long is the Protection?

### Sound Recordings, Films

- 70 Years from release to public

### Broadcasts, Cable Programs

- 50 Years from release to public

### Published Editions

- 25 Years after publication

### Performances

- 70 years from performance

## E. Copyright Ownership

- Generally, the **AUTHOR** of a copyright work is the first owner
- However, the **EMPLOYER** will be first owner if the copyright work is done by the employee in the course of employment (unless otherwise agreed)
- The **COMMISSIONER** of a *photograph, painting or drawing of a portrait* is the owner (but photographer, painter, artist may object to use) unless otherwise agreed
- Subsequent ownership may be altered by assignments of rights between parties through contracts.

## F. Specific Exclusive Rights

- Copyright owners have the **Exclusive** rights to do, authorise or restrict the following acts:
  - Copy
  - Perform in public
  - Publish
  - Communicate the work to the public
  - Adapt the work (including translation)

## F. Specific Exclusive Rights

### Right of Communication

- Includes Traditional Broadcast and Cable Cast
- Copyright Owners can control how their works are communicated over the **Internet**
- Enables copyright owners to benefit from exploitation of their works on digital networks

## F. Specific Exclusive Rights

### Making of Digitized Copies

- Creation of digitized versions of analogue works
  - Equivalent to making copies
  - Infringement if digitize without prior permission unless exceptions apply

## F. Specific Exclusive Rights

### Using the Internet

- Making copies of materials made available on the Internet
  - There is no implied licence to make copies

## F. Specific Exclusive Rights

### Using the Internet

- Browsing Exception
  - Copyright in work not infringed by making of **temporary** reproduction of the work
  - However, the following conditions must be satisfied before the exception can apply:
    - Reproduction must be incidental; **and**
    - Communication did not constitute an infringement
  - No subsequent use of temporary reproduction of work

## F. Specific Exclusive Rights

### Using the Internet

- Transfer of electronic materials
  - Involves Reproduction. Check terms & conditions of use.
- Hyper-linking to web-sites
  - Check terms & Conditions of use for website and copyright material

## G. Infringement of Copyright

- **What is Primary Infringement**

- When you do something that only the copyright owner is entitled to do, such as

*Copying, Publishing, Performing, Adapting, Communicating, and Purporting to authorise others to do any of the above*

- Questions of fact:
  1. Is there copying?
  2. If there is copying, is it substantial?

## G. Infringement of Copyright

- **What is Secondary Infringement**
  - Copyright is also infringed through **commercial exploitation**  
i.e. sale, hire or distribution of infringing copies; importing infringing copies for these purposes

## H. Civil & Criminal Liability

- **Civil Enforcement**
  - Copyright owner can commence legal action for an infringement
- **The Courts may grant**
  - Injunction
  - Damages
    - Actual or Statutory
  - Account of profits
- **Other Remedies**
  - Order for delivery up of infringing copies
  - Order for disposal of infringing copies

## H. Civil & Criminal Liability

### Criminal Offence

- Makes for sale or hire; sells or lets for hire
  - Possesses or imports for sale, hire, distribution for trade
  - distributes for trade or other purposes to such an extent as to affect prejudicially the owner of the copyright
- ⇒ infringing copies, knowing that the copies are infringing copies

⇒ **Penalties: fine and/or jail**

# H. Civil & Criminal Liability

## Criminal Offence

- A person who infringes copyright may also be committing an offence
  - Infringes copyright **WILFULLY** and
    - The extent of the infringement is significant and/or
    - For the purpose of commercial advantage
- Penalties:
  - Max \$20,000 /- fine and / or max prison term of 6 months
  - Subsequent Offence – Max \$50,000/- fine and / or max prison term of 3 years

## H. Civil & Criminal Liability

- Courts will determine whether “the extent of the infringement is significant”, taking into account the following factors:
  - Volume of the infringing articles;
  - Value of infringing articles;
  - Whether infringement has substantial prejudicial impact on copyright owner;
  - Other relevant matters
- Meaning of “commercial advantage”:
  - Direct advantage, benefit or economic gain for a business or trade carried on by the infringer

## H. Civil & Criminal Liability

- **Examples:**
- **(for the purpose of obtaining a commercial advantage)**
  - Copying original materials from the Internet by advertising company for use in its work for paying clients.
  - Infringement by a business through the purchase of only one licence for use in multiple computers in carrying out business (under-licensing).
- **(where the extent of infringement is significant)**
  - Uploading of infringing copies of film before theatrical release for access by all users of the Internet.

# I. Exceptions

## Rationale for Exceptions

- Copyright is not a complete monopoly right
- Copyright is an incentive to promote and facilitate the creation and dissemination of creative works
- But **balance** is needed to ensure flow of information and knowledge to promote further creation. Thus, there are **exceptions**

# I. Exceptions

## Some Fair Dealing Exceptions:

- For Original Works
  - Research and study (Section 35(1A))
  - Criticism and Review (Section 36)
  - Reporting Current events (Section 37)
  - Judicial proceedings or legal professional advice (Section 38)
- For Audio-visual Items
  - Research and Study (Section 109(2))
  - Criticism and Review (Section 110)
  - Reporting Current events (Section 111)

## I. Exceptions

### Research or Study (Section 35)

- Presumed non-infringing if **reasonable** portion of the **published** literary, dramatic or musical work is taken,

- $\leq 10\%$  of the no. of pages in a published edition of the work, not less than 10 pages; **OR**
- where the work is divided into chapters, up to 1 chapter of the edition; **OR**
- not more than one whole article in a periodical publication; **OR**
- for work in electronic form not divided into pages, up to 1 chapter / 10% bytes / 10% no. of words

Whichever is greater

# I. Exceptions

## Broad Fair Dealing Exception: Other Dealings

- The Courts will determine if dealing was fair, based on the fact situation, using the following factors:
  - Purpose and character of dealing (i.e. non-profit etc.)
  - Nature of work (i.e. is it possible to take a portion only?)
  - Amount taken (substantiality)
  - Effect on the right holders' potential market
  - Ability to obtain within a reasonable time at ordinary commercial price

# I. Exceptions

- Special Exception for “**Educational Institutions**”
  - Performance of a musical work by students or staff of an educational institution does not constitute public performance **provided**:
    - Performance is done in the course of the activities of the institution
  - Performance of a literary work, dramatic work, cinematograph film, broadcasts, cable programmes or recordings of performances by students or staff of an educational institution does not constitute public performance **provided**:
    - Audience is limited to staff, students, parent, guardian, sibling of student who receives instruction at that place
    - Performance is done in the course of the activities of the institution

## J. Obtaining Permission

- Direct Licensing Arrangement
- Licensing Bodies
  - For Books : Copyright Licensing and Administration Society of Singapore (CLASS)
  - For Music : Composers and Authors Society of Singapore Limited (COMPASS) & Music Publishers (Singapore) Ltd (MPS)
  - For Sound Recordings, Karaoke & Music Videos: Recording Industry Performance Singapore Pte Ltd (RIPS); InnoForm Entertainment Pte Ltd

# Useful resources

- IPOS website: [www.ipos.gov.sg](http://www.ipos.gov.sg)
- iperckidz website: [www.iperckidz.gov.sg](http://www.iperckidz.gov.sg)
- IPOS email: [ipos\\_enquiry@ipos.gov.sg](mailto:ipos_enquiry@ipos.gov.sg)
- IP infosheets and infopacks