

Introduction to Copyright

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- ◆ Basics of Copyright
 - ⇒ How does Copyright come about
 - ⇒ What is protected under Copyright
 - ⇒ Specific Exclusive rights
 - ⇒ Copyright Online
- ◆ New provisions for digital age
- ◆ Infringement
 - ⇒ Civil remedies, Criminal Offences
- ◆ Exceptions
- ◆ Recent criminal cases
- ◆ Useful resources

Copyright law in Singapore

- ◆ The Copyright Act (1987)
 - amended in 1998, 1999, 2004 and 2005 to meet obligations under international treaties and USSFTA

- ◆ Treaties & Agreements
 - ⇒ Berne Convention
 - ⇒ WTO TRIPS Agreement
 - ⇒ WIPO Copyright Treaty
 - ⇒ WIPO Performances and Phonograms Treaty
 - ⇒ US-Singapore Free Trade Agreement

What is Copyright?

- ◆ Bundle of **Exclusive Rights** designed to enable copyright owner to:
 - ⇒ **Exploit** the rights
 - ⇒ **Authorise** others to exercise the rights
 - ⇒ **Restrict** others from exercising the rights

How does Copyright Protection come about?

- ◆ Protection is **automatic**
- ◆ Based on **originality**, not novelty or merit
- ◆ Protects **expression**, not ideas

What is Protected under Copyright?

◆ *Original works*

- ⇒ Literary works (novels, poems, writings, computer programs, “creative” compilations/databases, multimedia works)
- ⇒ Dramatic works (film scripts, choreography in writing)
- ⇒ Musical works (music scores)
- ⇒ Artistic works (painting, sculptures, photographs, buildings)

◆ *Other works (**N**eighbouring works)*

- ⇒ Sound Recordings (CDs, MP3 files)
- ⇒ Films (Movies)
- ⇒ Broadcasts (TV, Radio)
- ⇒ Cable Programmes (SCV channel)
- ⇒ Published Editions (typographical arrangement i.e. the format of a newspaper or book)

Copyright = Specific Exclusive Rights

- ◆ Exclusive rights to do, authorize or restrict the following:
 - ⇒ Copy
 - ⇒ Perform in public
 - ⇒ Publish
 - ⇒ Communicate to the public
 - ⇒ Adapt (including translation)

New Provisions for the Digital Age

Works made available on the Internet are protected

- Copyright works may be communicated to the public over the Internet.
- Enables copyright owners to benefit from exploitation of their works on digital networks or through on-demand electronic platforms
- Also covers traditional broadcast and cable cast rights

Copyright Online

- ◆ Increasingly User & Content driven
 - ⇒ Web 2.0
 - ⇒ User content – made by users, not professionals.
 - Music, films, images, computer programs, games
 - ⇒ e.g. File Sharing, Blogs, Social networking sites (Facebook)

- ◆ Digital environment
 - ⇒ Easy to copy
 - ⇒ Easy to distribute

- ◆ Copyright-based industry
 - ⇒ Increasing importance to Singapore economy
 - ⇒ S\$30.3 billion output in 2003 (18.1% of GDP)
 - ⇒ S\$10.2 billion value added (6.2% of GDP)
 - ⇒ 6.2% of national employment


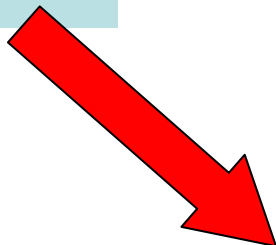
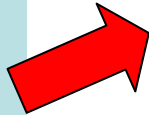
Did you upload songs
onto the Internet?

Did you download the
songs/videos from another
user?

Did you get permission from
the owner of the song? Are
you sure this guy is the
owner?

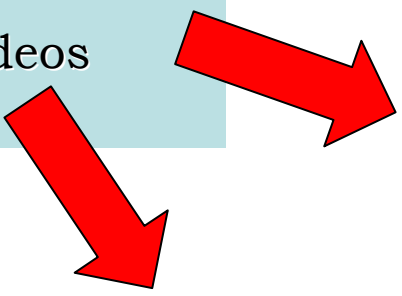
Are you sure that
those are legal copies?

Did you copy
passages or
images from
someone else's
blog?



Did you get
permission from the
owner to copy?

Did you embed
images/songs/videos
onto your site?

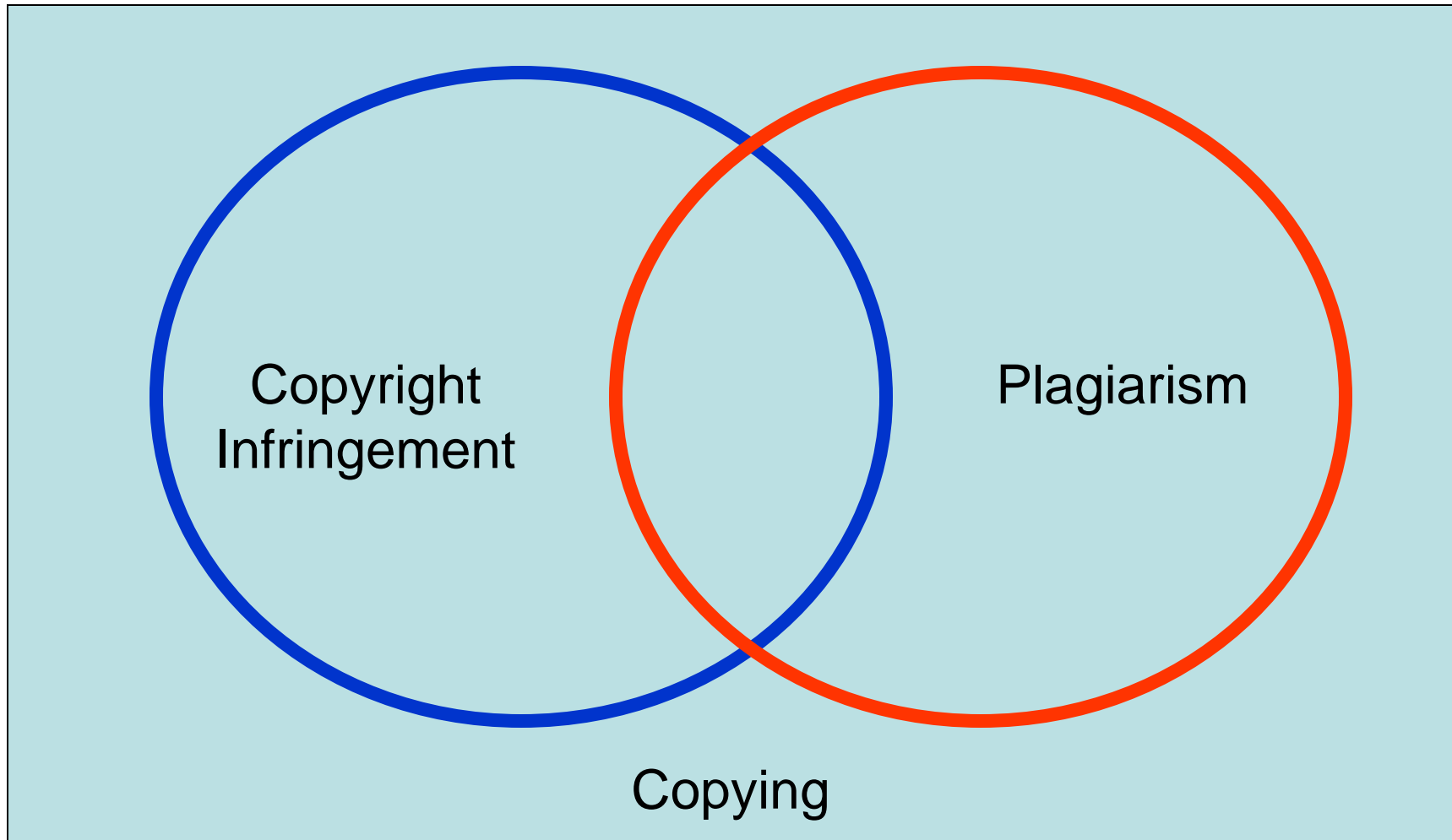
Two large red arrows originate from the bottom corners of the top text box and point towards the top corners of the bottom text box, indicating a flow or relationship between the two questions.

Did you ask for
permission to embed
these works? Was
permission already
given?

Infringement

- ◆ Infringement when you do something that is not authorised by the Copyright owner
 - ⇒ E.g. if the author did not authorise you or give you permission to make a copy, but you still copied the file onto your computer.
 - ⇒ Q: sale = permission or authorisation?
 - ⇒ A: Not always. Look at the terms and conditions of the sale.
- ◆ Copyright is also infringed through commercial exploitation
 - ⇒ E.g. sale, hire or distribution of infringing copies; importing infringing copies for these purposes

Copying and plagiarism



◆ Civil Remedies

⇒ Remedies

- Injunction
- Damages (includes profits earned from infringement)
- Statutory damages (maximum aggregate S\$200,000/-)
- Order for delivery up or destruction

◆ Criminal offences

- ⇒ Makes, sells, lets for hire, exposes, exhibits in public, possesses or imports for sale, hire, distribution for trade infringing copies, knowing that the copies are infringing copies

◆ Penalties

- ⇒ \$10,000/- fine for each infringing copy up to max \$100,000/-; and / or
- ⇒ Max prison term of 5 years

◆ Criminal offences

- ⇒ distribute 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

- ⇒ Max \$50,000/- fine and/or
- ⇒ Max prison term of 3 years

◆ Willful infringement

- ⇒ Criminal Liability: if acts below done WILFULLY and for purpose of commercial advantage or private financial gain
 - Does an infringing act other than those previously mentioned 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

Examples:

- ◆ For the purpose of obtaining commercial advantage
 - ⇒ E.g. Copying original materials from the Internet by advertising company for use in its work for paying clients.
 - ⇒ E.g. Infringement by a business through the purchase of only one licence for use in multiple computers in carrying out business (under-licensing).

- ◆ The extent of the infringement is significant
 - ⇒ E.g. Uploading of infringing copies of film for access by all users of the Internet before release in cinema.

Exceptions

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

Some Fair Dealing Exceptions

- ◆ Fair Dealing for purposes other than for criticism/review/reporting current events (Section 35(2))

Broad exception, taking into account:

- ⇒ Purpose and character of dealing (non-profit etc.)
- ⇒ Nature of work
- ⇒ Amount and substantiality taken
- ⇒ Effect on the right holders potential market
- ⇒ Ability to obtain the work within a reasonable time at ordinary commercial price

Presumption of Fair Dealing

- ◆ Research or Study (Section 35(3))
Presumed non-infringing if
 - ⇒ What is taken is less than 10% of pages in a published edition of the work **OR**
 - ⇒ Where the work is divided into chapters, portion taken is up to one chapter of an edition **OR**
 - ⇒ Portion taken is not more than one whole article in a periodical publication
 - ⇒ Other criteria for work in electronic form not divided into pages (then up to one chapter / 10% bytes / 10% number of words)

Some Fair Dealing Exceptions

- ◆ Criticism and Review (Section 36)
- ◆ Reporting Current events (Section 37)
- ◆ Judicial proceedings or legal professional advice (Section 38)

Recent Criminal Cases

- ◆ Use of P2P networks for UNAUTHORISED distribution of music, films and other copyright materials
 - ⇒ February 2006 - two youths aged 21 and 22 convicted of distributing copyright songs online.
 - Guilty of uploading about 2,000 songs between them for others to download.
 - Sentenced to 3 months and 4 months imprisonment respectively

Public Outreach



◆ Public Awareness

- ⇒ HIP Alliance (Honour Intellectual Property)
- ⇒ A public education campaign which aims to encourage the general public to **RESPECT IP** and **say NO! to Piracy**
- ⇒ www.hipfriends.org.sg

◆ Public Education

- ⇒ To teach students about IP in fun and interactive ways
- ⇒ E-learning modules, school assembly talks, national IP camps and competitions
- ⇒ www.iperckidz.gov.sg



More Information

- ⇒ IPOS website (General Information, FAQs) :
www.ipos.gov.sg

- ⇒ E-learning resource for students :
www.ipercckidz.gov.sg

- ⇒ IP Infosheets & Infopacks

- ⇒ Singapore statutes : <http://statutes.agc.gov.sg>

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Thank You!