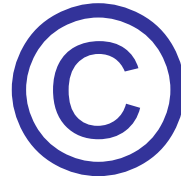


Introduction to COPYRIGHT



Mr. Melvyn Loey
Senior Executive,
Legal Policy & International Affairs Department

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
 - ✓ **Allow** others to use his/her work
 - ✓ **Stop** others from using his/her work
- Copyright owners are able to **earn income** from their works.

QUESTION!

You need to go down to IPOS and register your Copyright Work!

No need to register your work to enjoy copyright protection, lah.

- **How** do I protect my work using Copyright?

B. How does Copyright Protection come about?

- Copyright protection is **automatic**
- Copyright protects **original** works
- Copyright protects **expressions** not ideas

B. How does Copyright Protection come about?

- Expression has to be reduced into **material form** i.e. written or recorded on a tangible medium.
- Ideas and facts (e.g. ideas for a play, scientific formulas, theories, inventions) are **not** protected by copyright.

Activity 2: Expression versus idea

Name the work

A pair of lovers separated by the feudal warring of their respective families, but yet their love will transcend the conflict and become a shining model of true love, that will inspire the end of conflict between the rival families

Expression

idea

Expression

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.

E. Copyright Ownership

Ah Beng works in a car company. He is asked by the company to create a script in Singaporean accented English for a radio advertisement.

Who is the owner of the script?

Ans: The company (employer)

E. Copyright Ownership

Kelvin commissions David to take a photograph of him. Kelvin tells David that it is for his personal collection, and pays David \$40,000 for it.

Who is the owner of the photograph?

Ans: Kelvin (commissioner of photograph)

E. Copyright Ownership

Sally paints a pretty painting, and sells it to Andy. Andy takes the painting and leaves it in his attic. Years later, Andy dies, and his son inherits all his property.

Who is the owner of the copyright in the painting?

Ans: The son

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
 - When one browses a webpage, an automatic copy is made in your computer
 - Permissible only for viewing, listening or other utilization and if no permanent copy made
 - The content viewed must also have been uploaded with permission

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**
 - Infringement when you do something that only the copyright owner is entitled to do
 - Questions of fact:
 1. Was there copying?
 2. If there was, was it substantial?
 - Substantiality – qualitative & quantitative assessment
 - Taking one key sentence will sometimes do!

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

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

- Specific Fair Dealing provisions for purposes of criticism/review/reporting current events / judicial proceedings

I. Exceptions

Broad Exception

The court will take into account the following factors:

- 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

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

Special Exception for “Educational Institutions”

- Performance 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
- Iperckidz website: www.iperckidz.gov.sg
- IPOS email: ipos_enquiry@ipos.gov.sg
- IP infosheets and infopacks