

SUPPORTING THE DIGITAL ENVIRONMENT

THE COPYRIGHT (AMENDMENT) BILL 2014

A note from Indranee Rajah S.C.,
Senior Minister of State for Law



The digital revolution has opened up opportunities but also poses challenges for creative industries.

A 2012 survey ranked Singapore 12th out of 38 countries in terms of number of downloads of infringing content per internet user. A 2013 survey showed that 74 % of our youth aged 19-24 consume copyright infringing material.

Parliament passed the Copyright (Amendment) Bill in July 2014. The amendments aim to:

- allow copyright owners to more effectively protect their content in the online space;
- give those with reading disabilities greater access to copyrighted material.

My 2nd reading speech and the Copyright (Amendment) Bill 2014 can be accessed [here](#). Highlights are set out below.

NEW JUDICIAL AVENUE TO BLOCK PIRATE WEBSITES

The amendments introduce a new judicial avenue for rights holders, or their exclusive licensees, to apply directly to the High Court for a blocking order against a “flagrantly infringing online location” (“pirate website”). The Bill contains a non-exhaustive list of factors to assist the Court in determining if it is a blatantly infringing website (in section 193DDA), which includes:

- Whether the primary purpose of the website is to commit or facilitate copyright infringement?
- Whether the owner or operator of the website demonstrates a disregard for copyright generally? and
- Whether the website makes available or contains directories, indexes or categories of the means to commit or facilitate copyright infringement?

Rights holders can now apply for a site blocking order without first having to sue and establish liability of the internet service providers (“ISPs”) for copyright infringement, unlike before. The new framework is a “no-fault” regime.

This reduces uncertainty, time and costs, which were bugbears of the previous framework.

Site blocking is a remedy targeted at entire websites.

Rights holders who wish to remove only specific infringing content or webpages should rely on existing take-down notice mechanisms in sections 193C and 193D of the Act.

APPLICATION PROCEDURE (S 193DDB)

Pre-Application

Before applying for a blocking order, rights holders must first notify:

- the owner of the subject pirate website; and
- the ISP(s) which are expected to implement the blocking order.

Application

This is to allow both the website owner and the ISP(s) an opportunity to address the rights holder's concerns before the Court process is invoked.

We are cognizant of the problems posed by internet anonymity. The Court may dispense with notification to the website owner if the Court is satisfied that the rights holder is unable to:

- (a) ascertain the identity or address of the website owner; or
- (b) send the notices to the website owner, despite reasonable effort.

Regulations as to what constitutes such reasonable efforts will be issued in due course, after consultation with industry stakeholders and IP practitioners.

Application

ISPs and the website owners have the right to be heard at the application. Relevant objections by the ISPs would include matters such as:

- technical feasibility of implementing the blocking order;
- any burden that the order may place on the ISP; and
- any adverse effect the order may have on the ISP's business or operations.

VARIATION AND REVOCATION OF AN ORDER (S 193DDC)

The rights holder, ISPs, and the website owner may apply to vary or revoke a blocking order. Variation or revocation can be considered if there is a relevant change in circumstances e.g.:

- if the website has ceased to be flagrantly infringing;
- if the website has changed its location (e.g. its domain name or IP address) to circumvent the block.

INTERFACE WITH CURRENT NOTICE AND TAKE-DOWN REGIME

Site blocking gives rights holders an additional means of protecting their copyright online. It does not prejudice a party's rights under the original notice and take-down regime.

ROLL-OUT

Site blocking is targeted to be available for use by end 3Q 2014.

MARRAKESH TREATY – GREATER ACCESS FOR THOSE WITH READING DISABILITIES

The other amendments to the Copyright Act give persons with reading disabilities greater access copyrighted material, in line with our obligations under the Marrakesh Treaty, which will be signed and ratified at end 2014.

These amendments provide for:

- a broader category of persons and institutions to create accessible format copies without the need for permission from the rights holder;
- copyrighted material to be converted into any format so long as these formats are accessible to persons with reading disabilities;
- artistic works, sound recordings and sound broadcasts to be converted into formats friendly to persons with reading disabilities;
- educational institutions and institutions assisting person with reading disabilities to not only reproduce but also distribute, import or produce for export such copies.

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