

CC0002 Navigating the Digital World

Module 6:

# Intellectual Property and Rights Licensing

Presented by Teo Yi-Ling







# Overview

- Overview of intellectual property rights and copyright law
- Basics of contract law
- Dealing with IP/copyright contractually: Licensing and assignment



# OVERVIEW OF DIFFERENT IP RIGHTS

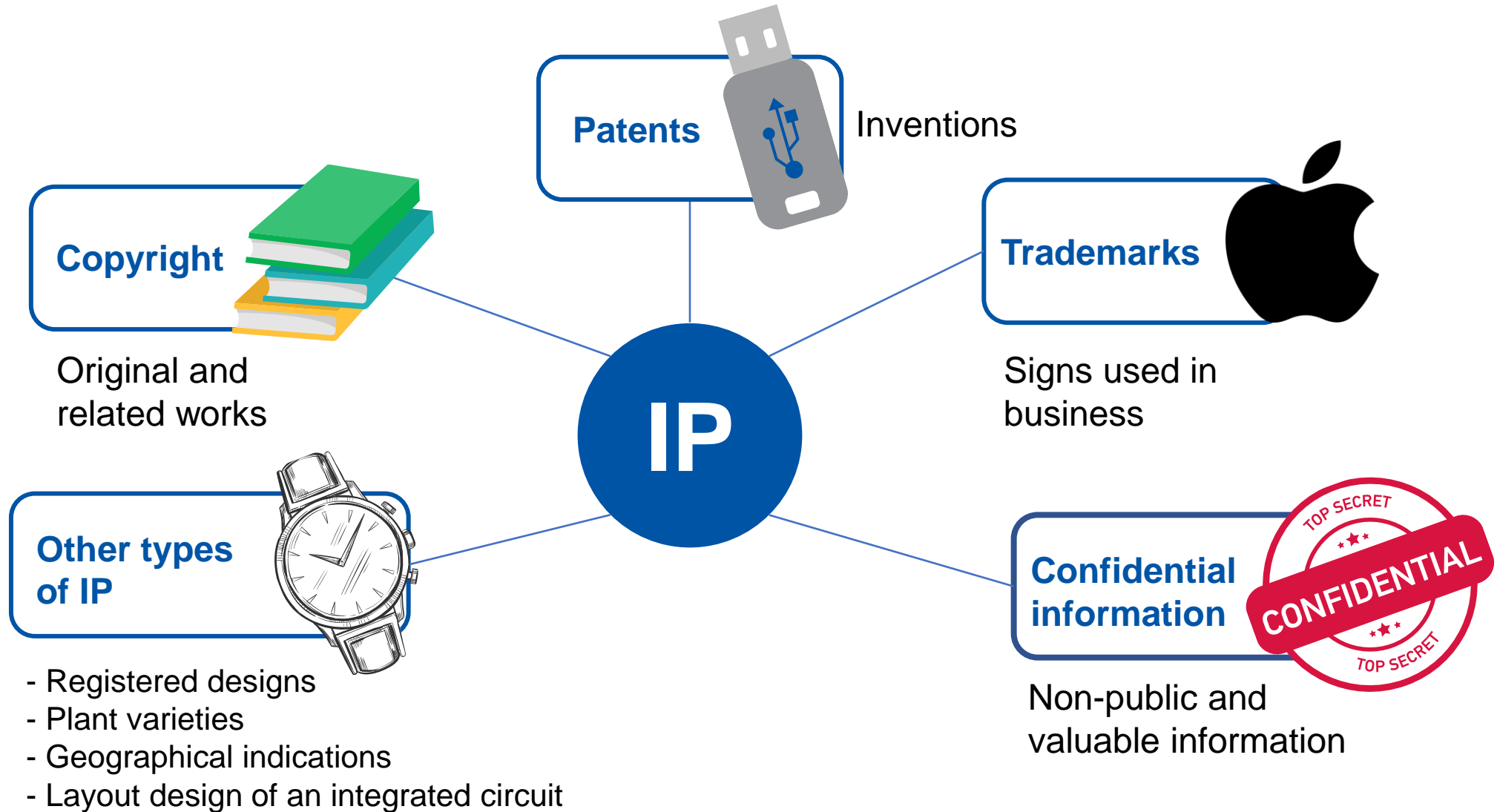


# What is Intellectual Property (IP)?

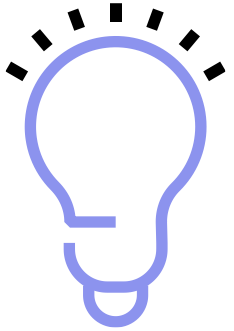
- Creations resulting from the exercise of the human brain
  - Examples include inventions, designs, ideas, plant hybrids, music, poems, paintings, photographs, logos, books, films, cartoon characters, trade secrets.
- Bundle of legal rights protecting such creations, i.e., intellectual property rights (IPRs)
- IP law recognises that creators have the right to protect their work.
  - IP law gives legal rights to IP creators, allowing them to control and exploit the use of their IP for a specific period of time.



# Different Types of IP



# Why Protect IP?



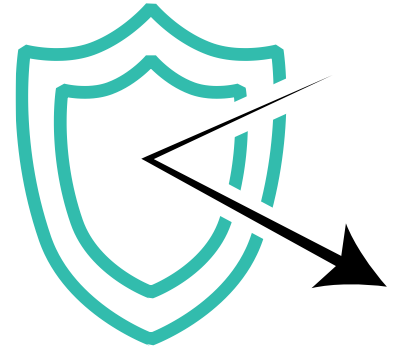
Provides  
motivation for  
creators



Encourages  
constant  
creation and  
innovation



Allows creators  
to exploit their  
works for  
commercial gain



Allows creators  
to defend their  
works from  
infringement



# COPYRIGHT BASICS

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# A Quick Exercise!

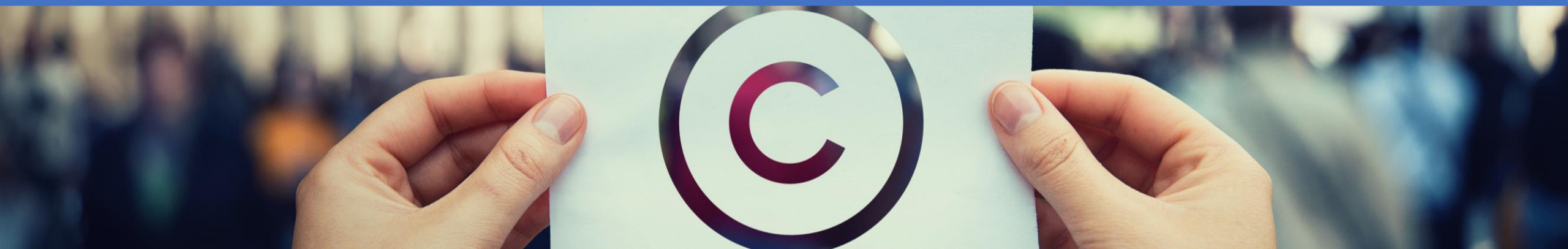
- Draw a tropical island including
  - a palm tree,
  - the sun,
  - the sea, and
  - sand!
- Write your name, the © symbol and the year on it.
- We will discuss fundamental copyright concepts as you are drawing.





# What is Copyright?

- Copyright is the right to prevent the unauthorised **copying** of the **tangible form** in which a person has chosen to express his ideas, for example in a:
  - Short story, musical composition, theatre script, painting, computer programme, photograph, movie or video game
- It can be described as a ***bundle of exclusive rights belonging to the copyright owner***.
  - Allows owners to enforce their rights against infringement
- Singapore's copyright law is governed by the Copyright Act.



# Criteria for Protection

Copyright protection arises automatically by operation of law, so long as certain basic criteria are satisfied:

- Falls within the categories of protection
- Fixed in tangible form
- Original
  - Work was created independently by the author.
- Author/creator is a Singapore citizen or PR



# How Does Copyright Protect?



***Form of expression, and not the idea or information itself.***



Idea or information is protected by different means.



Many different media or forms of expression can be protected.



Expression must, as a general rule, be original.



No need for registration formalities.



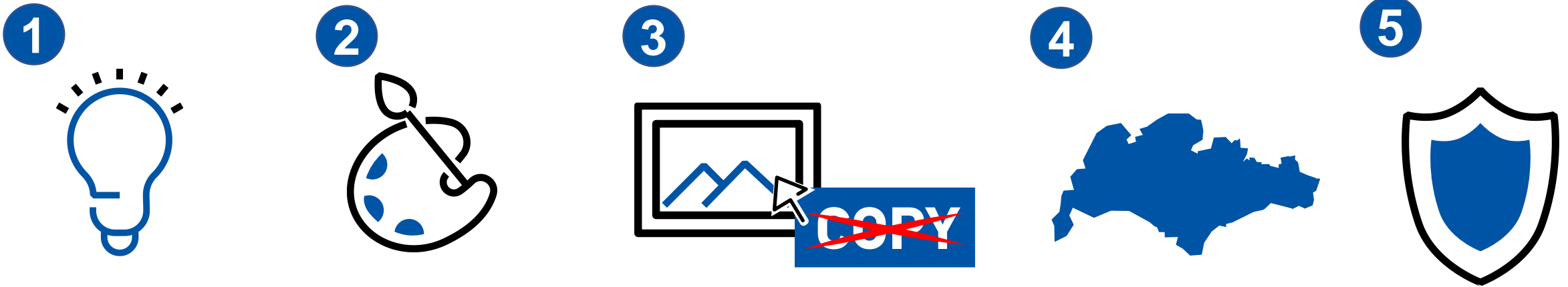
Copyright arises “as soon as the ink dries”.



# The Idea–Expression Dichotomy

- Copyright protects the “**form**” of an idea and **NOT the idea itself**.
- No need for novelty so long as there is independent creation.
- Artistic merit is not a requirement for copyright to attach to a work—too subjective.

Let’s think about your tropical island drawings!



**Ideas and  
concepts**

**Discoveries**  
(e.g., a research finding)

**Procedures**  
(e.g., steps in applying for  
a grant)

**Methods**  
(e.g., solution to a  
mathematical problem)

**Any subject matter  
that has not been  
reduced to a  
tangible form**

**Works in the  
public domain**

# Unprotectable Matter

# Exclusive Rights in Copyright

Exclusive rights applicable to different types of subject matter:



## Literary, dramatic or musical works

- Reproduce the work in a material form
- Publish the work if the work is unpublished
- Perform the work in public
- Communicate the work to the public
- Make an adaptation of the work
- Do any of the above in relation to an adaptation of the work



## Sound Recordings

- Make a copy of the sound recording
- Enter into a commercial rental arrangement in respect of the recording
- Publish the sound recording if it is unpublished
- Make available to the public a sound recording by means of, or as part of, a digital audio transmission



## Cinematograph films

- Make a copy of the film
- Cause the film, insofar as it consists of visual images, to be seen in public
- Communicate the film to the public



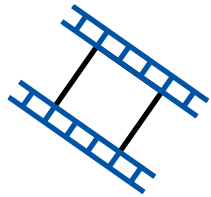
## Artistic Works

- Reproduce in material form
- Publish the work if the work is unpublished
- Communicate to the public



# Exclusive Rights in Copyright

Exclusive rights applicable to different types of subject matter:



## TV and sound broadcasts

- Make a cinematograph film of TV broadcast or a copy of film
- Make a sound recording of TV/sound broadcast or a copy of recording
- Cause it to be seen/heard in public by paying audience
- Communicate the work to the public



## Cable programmes

- Make a film of visual images, or a copy of such film
- Make a sound recording of the work or a copy of such sound recording
- Cause work to be seen or heard by paying audience
- Communicate to the public



## Published editions

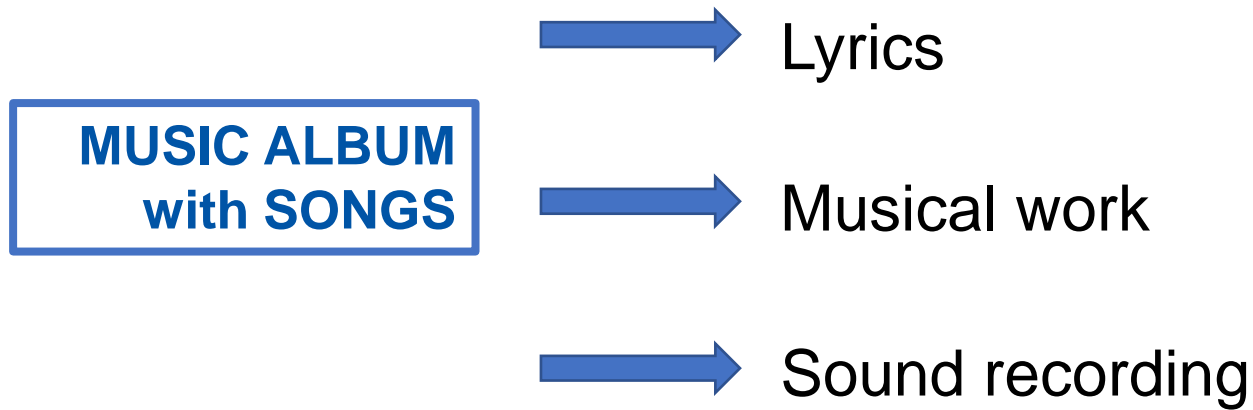
- Make a reproduction of the edition, including by way of a photographic process

# Duration of Protection

<b>Literary, dramatic, musical and artistic works</b>	Life of author plus 70 years from the end of the year in which the author died
<b>Published editions</b>	25 years from the end of the year in which the edition was first published
<b>Sound recordings and films</b>	70 years from the end of the year of release
<b>Broadcasts and cable programmes</b>	50 years from the end of the year of first broadcast
<b>Performances</b>	70 years from the end of the year of the performance

# Overlapping Copyright

- One product may contain a variety of copyright works



- Purchasing a physical product does not give rights to underlying copyright work(s) (e.g., purchasing an original music CD does not give right to make copies)





# Who Owns the Copyright?



**\*Person who creates/authors the work automatically owns it from the moment of creation\***



**EXCEPT:**



**Employment:** If the work is created by an employee pursuant to the terms of his employment, the employer owns the copyright in the work.



**By agreement:** The author can agree to transfer some or all of his rights.

# Who Owns the Copyright?

## Joint authors:

Where work is created jointly by more than one author, the authors are all co-owners of the copyright in the work

## Concept of joint authorship:

Where more than one author creates inseparable or interdependent parts of a whole work

*E.g., two trainers involved in creating the training materials for a course*

**Contributions must be original material expression, not just ideas or non-copyrightable materials.**



# BASICS OF CONTRACT LAW





# What is a Contract?

- Definition of a contract:  
“An agreement giving rise to obligations which are enforced or recognised by law”
- It is a voluntary agreement between two or more parties.
- The law exists to *govern and regulate* the parties' relationship in such agreements.
- It can be verbal or written, simple or complicated.





# Function of Contracts

All these go towards overall risk management of the situation that is the subject of the contract:

Set out extent of agreement

Identify and clarify rights and obligations

Allocate risk

Provide certain guarantees

Set performance standards

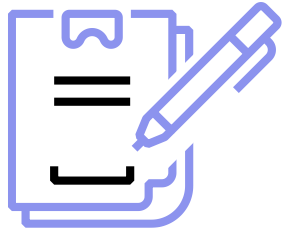
Provide how non-fulfillment of obligations should be dealt with

# What the Law of Contract Covers

- Formation of contracts
  - *Elements required for a contract to exist*
- Contents (*terms*) of a contract
- Performance of terms of the contract by its parties
- Remedies when there is non-fulfillment of either party's obligations (*breach*)



# Elements of a Contract



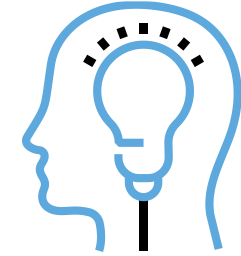
## OFFER

Indication by offeror of willingness to contract



## ACCEPTANCE

Absolute and unqualified—must be communicated to offeror



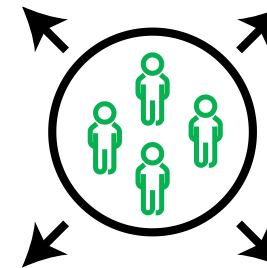
## CONSIDERATION

Usually indicated by price or the carrying out of an act in return for the benefit



## INTENTION TO CREATE LEGAL RELATIONS

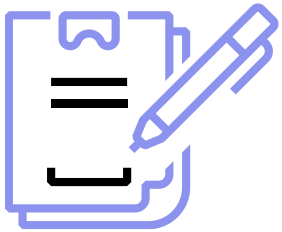
Reasonable to conclude from conduct of parties of their intention to be legally bound



## CAPACITY

- Parties must have the capability to enter a contract
- Issue of minors (below age of 18) and impaired mental capacity

# Elements of a Contract



OFFER



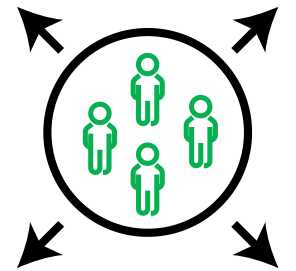
ACCEPTANCE



CONSIDERATION



INTENTION TO  
CREATE LEGAL  
RELATIONS



CAPACITY

Once all these elements are in place, a contract is deemed to be **FORMED**.

Absence of any one of these means that no contract is in existence.

# Contractual Terms and Performance



Set out and determine the rights and obligations of respective parties



Provide for how obligations are to be performed



Provide for how risks are to be allocated



Provide for how the contractual relationship is to be regulated

How it begins, carries on, ends or is renewed



# Common Terms in Contracts

- **Purpose of contract/description of collaboration**

- What is the aim of the contract?

- **Payment/Fees**

- How much and how is payment to be made?

- **Rights and obligations of each party**

- **Duration/Termination**

- How long is the contractual relationship going to last? How will the contract end?

- **Warranties (fundamental promises)**

- Basic assurance that the contract can be carried out effectively

- **Dispute resolution**

- How will disagreements be resolved?

# Breach and Remedies

- Contract is breached when there is non-performance of a term.
- Does not automatically terminate contract!
- Breach entitles the wronged party to demand cure of the breach from the other party, as well as financial compensation (damages) if there is loss.
  - May also be entitled to terminate contract



# DEALING WITH IP AND COPYRIGHT





# Using Contracts With IP



You already have an understanding of the law of contract.



You now have a general understanding of IP, and copyright.



Contracts combined with IP enables you to transact/deal with IP usage.



Words you need to be familiar with:  
Permission, release, licence, assignment,  
clearance

# Dealing With IP

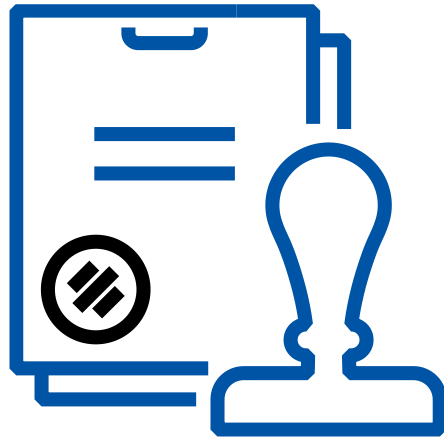
- The law regards intellectual property as a type of personal or movable property
- IP is capable of being owned and dealt with as other types of personal property.
- In other words, you can buy, sell, lease/hire out, or give away IP.
  - It has commercial value.



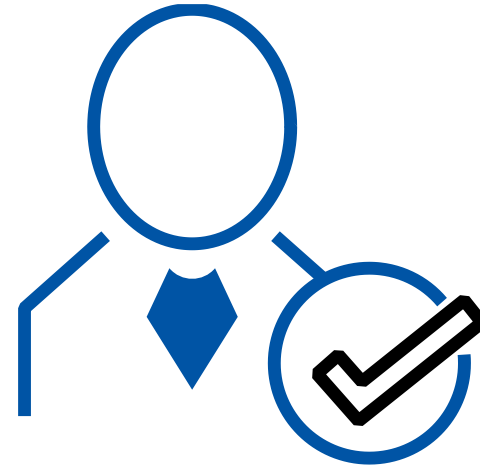


# Dealing With IP

Two KEY methods that are used in dealing with IP:



**License (verb)**  
Licence (noun)



**Assign (verb)**  
Assignment (noun)

# Licence: Definition

- A licence is a type of contract that gives permission to the holder/recipient to carry out a certain act, which would be infringing in nature otherwise.
- A licence gives the owner the ability to use or exploit intellectual property commercially, most commonly requiring a fee in return for the grant of the licence.



# Licence: Types and Uses

- Non-exclusive licence
  - Granted to more than one person
- Exclusive licence
  - Granted to one person only
- Where do you see licences being used?
  - All social media platforms
  - All SaaS platforms
  - All media aggregation platforms where works can be accessed for use



# Assignment: Definition

- An assignment is another type of contract.
  - Legal meaning of “assign”: To regard as belonging to
  - Must be in writing and signed by or on behalf of the assignor





# Assignment: Legal effect

- Under the assignment, the assignor (person making the assignment) transfers all entitlement and ownership rights that are the subject of the assignment to the assignee (the person receiving these rights).
- The assignee is now the new owner of the property.





## Licensing

Grants someone else (other than the IP owner) the right to use the IP

Less costly

IP owner remains in control

**V  
S**



## Assignment

Transfers the entire title and interest in someone's IP to another

More costly

IP owner gives up control

# Licensing vs. Assignment

- Consider at the outset if you want to own or license (“hire”).
  - Remember the difference between assignment and license of IP rights.
- If someone is creating something new for you, and you wish to have complete control over it, you may want to take an assignment of the IP rights in the thing created.
- If there is an IP already created by someone else that you wish to USE for a specific reason, you may want to just license the IP.
- There will be cost differences!

# Assignment of Rights

“

The Writer hereby assigns to the Company all copyright, title, interest and all other rights (including all vested future and contingent interests and rights) concerning the Story, the characters depicted in it and all other output of the Writer's Services conferred under the laws of any country throughout the world (whether now in force or which may be enacted, promulgated or come into effect in the future) for the use and benefit of the Company fully for the entire period or periods of copyright protection including all reversions, renewals and extensions, provided by the laws of any country throughout the world.

”

# License of Rights

“

In consideration of the Publisher paying the Advance Payment and the Royalty to the Author, the Author grants to the Publisher for a period of \_\_\_\_\_ years, beginning on \_\_\_\_\_ or date of this Agreement] until \_\_\_\_\_, the sole and exclusive right to publish, use, and license the Work and any parts of it in all media now known and yet to be invented, including but not limited to all methods of publication and reproduction including hardback, paperback, e-book/digital, serialization, translations, anthologies, quotations, mechanical reproduction, television, radio, theatre, film, media merchandising and the Internet in the Territory for the entirety of the Licence Period.

”



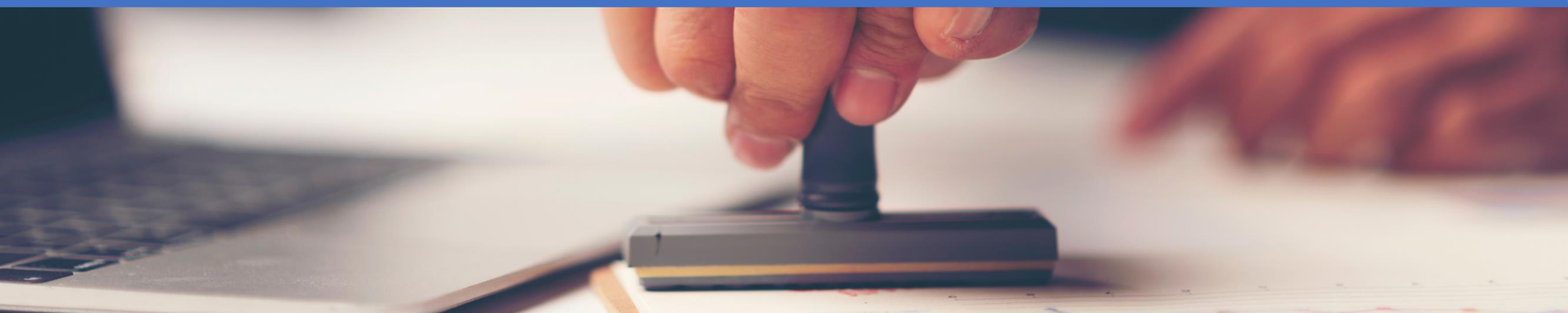


## Please Note...

- The way a licence is worded can make it almost as strong or effective as an assignment
- Thus, it is important to understand the language used in licences and assignment agreements.

# Licensing and Assignment IRL

- Now that you understand IP rights, licensing, and assignment, find out more from the following sites how IP rights are managed online as well as offline:
  - Creative Commons licences: <https://creativecommons.org/>
  - Collective Management Organisation: <https://www.wipo.int/copyright/en/management/>



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## Acknowledgements

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