

# IT1218/IT1769 LAW & ETHICS OF IT

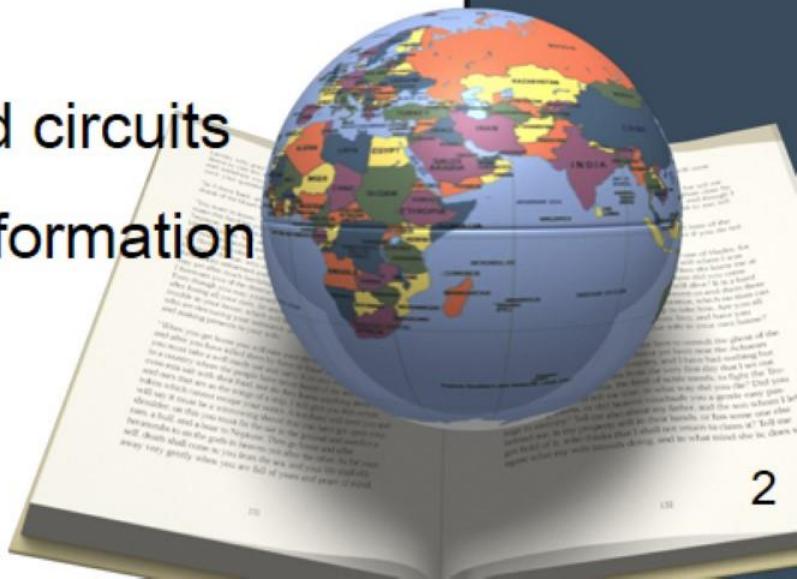
- Lecture 08 : Copyright



# Intellectual Property (IP)

“IP” as the subject-matter of the following rights:

- 1) Copyright and related rights
  - e.g. Copyright © 2013 Nanyang Polytechnic, Singapore
- 2) Trade marks
- 3) Geographical Indications
- 4) Industrial design
- 5) Patents
- 6) Layout-designs of integrated circuits
- 7) Protection of undisclosed information



# IP - Copyright

## Overview

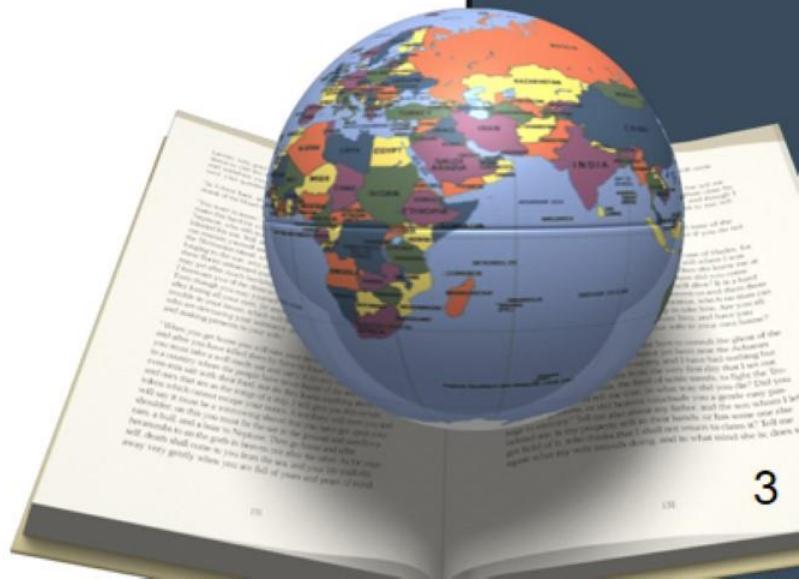
- An introduction to **Copyright**
- An understanding of **legal issues relating to Copyright**

## Outline

### 8.1 Intellectual Property

### 8.2 Copyright Law

- Introduction
- Author's & Entrepreneurial Works
- Duration of Copyright Protection
- Acts Prohibited by Copyright



# About Copyright Law

1

What are the works subjected to  
copyright infringement?

(Rightsholders can exclude others from using their works without  
permission)

# The Copyright Law

- Under Singapore's Copyright Act (Amended Singapore Copyright Act, January 2005), it is a criminal offence for a person or company to conduct wilful copyright infringement.
- The statute of limitations for copyright infringement in Singapore is
- Copyright protects works like literacy, computer programs, plays, music and paintings.
- It is not ideas but their expressions that are protected by copyright law.
- Generally, the author of a copyright work has the right to reproduce, public perform, communicate and adopt his work.
- These exclusive rights form the bundle of rights that we refer to as copyright. These rights enable a copyright owner to control the commercial exploitation of his work. (Other people has no right to use the protected)
- Copyright is a type of property that can be traded just like other types of tangible property. It can be licensed or transferred either as an entire bundle or as a single right (only the right to reproduce).

# About Copyright Law

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Under what circumstances can be considered as copyright infringement?

# Copyright Infringement

- Copyright infringement in Singapore occurs when one of a copyright owner's exclusive rights is violated – e.g. when someone copies, distributes, performs or displays all or part of a copyright work without the permission of the copyright owner.
- To establish copyright infringement, a copyright owner must establish a proof of copyright ownership and proof of copying.

Source: <https://www.guidemesingapore.com/business-guides/managing-business/trademark-registration/an-introduction-to-copyright-law-in-singapore>

Most books will have something like this usually near the beginning:

“All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic, or mechanical including photocopying, recording or any information storage or retrieval system, without prior permission in writing from the publishers.”

Source: <https://www.quora.com/Is-it-illegal-to-copy-content-from-books-and-write-them-on-the-blog>

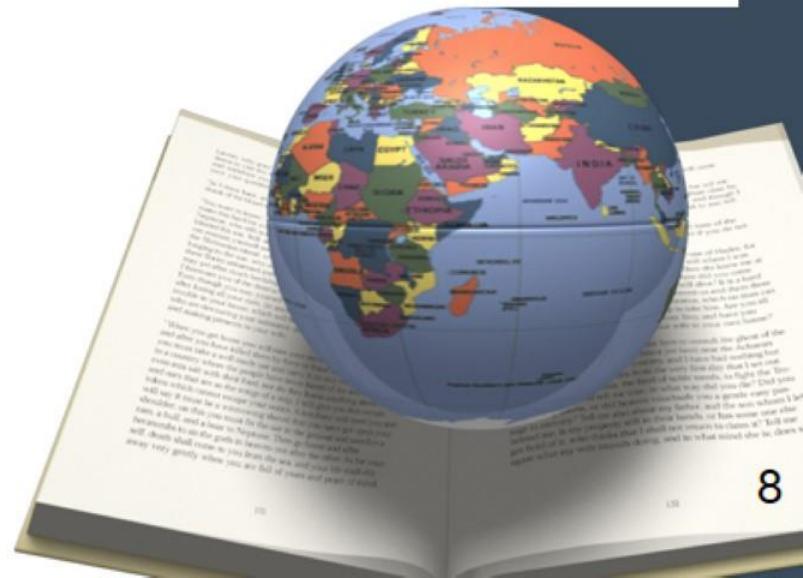
# Overlap of IP Rights (copyright vs trademark)

The logo of a business is a trade mark, but this logo can also be a copyright work (artistic work, an expression).



## IP subject-matters:

- 1) Copyright -Artistic work (design) - expression
- 2) Trademark - Idea



# Overlap of IP Rights (copyright vs trademark)

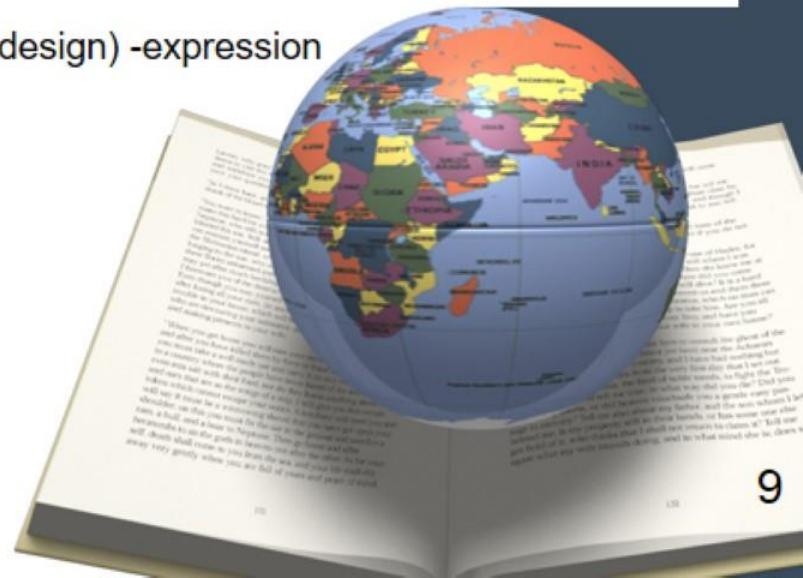
A jingle or tune is a copyright work (musical work), but it can also be used by a trader as his trade mark to promote his goods or services.

A new shape of a product can be an industrial design as well as a trade mark.



## IP subject-matters:

- 1) Copyright -Artistic work (design) -expression
- 2) Trademark - Idea

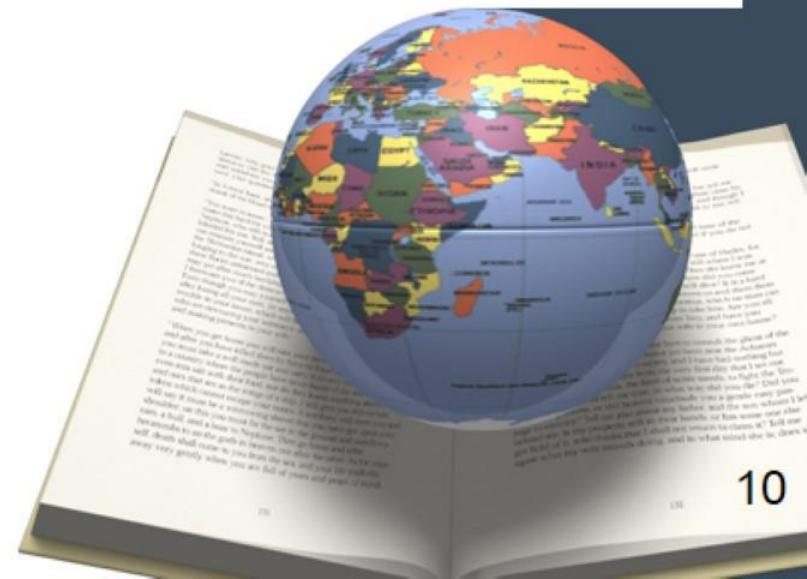
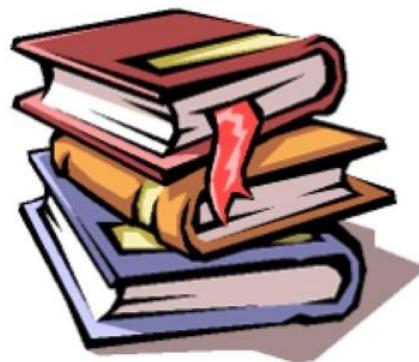


# Intangible IP vs Tangible

(Medium embodying the IP)

A distinction must be made between the intangible IP and the tangible medium embodying the IP.

The copyright is a *novel* (literary work) must be distinguished from the *book*, the tangible medium embodying the literary work.

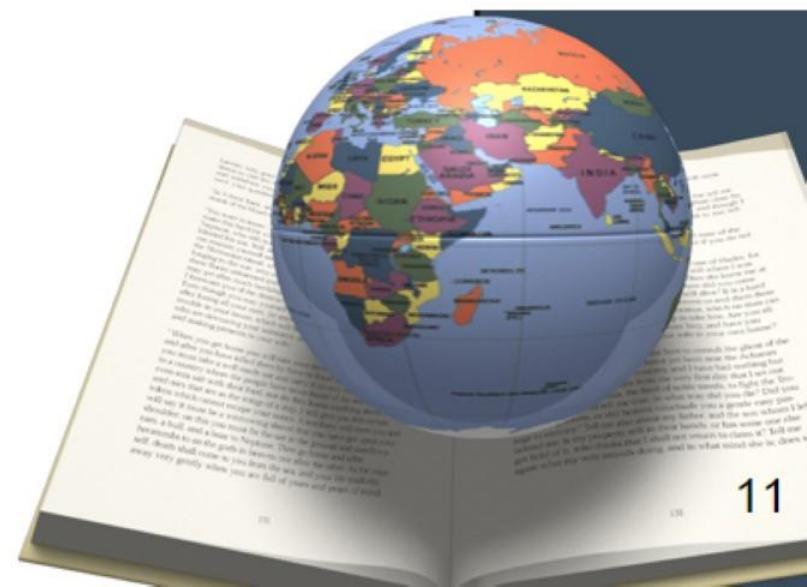
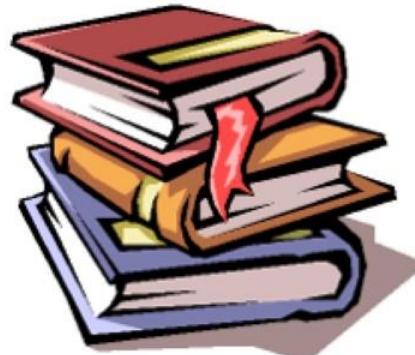


# Intangible IP vs Tangible

(Medium embodying the IP)

The purchaser of a copy of the book owns the property rights in these physical embodiments, but this purchase per se does not confer on him the copyright rights respectively.

Does a person who bought a book own the right to photocopy it?



# About Copyright Law

3

Why some people infringed copyright?

# Copyright Law : Infringement

Source: The Strait Times, 13 Jan 2016

## APOLOGY

to (Articles, an expression)

**Singapore Press Holdings Limited**

for Copyright Infringement on  
<http://therealsingapore.com>

I, Ai Takagi, am the developer, operator, editor, moderator and/or administrator of, and/or did otherwise manage the website known as "The Real Singapore" at the Uniform Resource Locator <http://therealsingapore.com>, and admit to having reproduced and/or substantially reproduced a few hundred Singapore Press Holdings Limited ("SPH") articles published between 2 February 2008 and 29 March 2015, and/or having authorised such reproduction and/or substantial reproduction, without the licence and/or authorisation of SPH, thereby infringing SPH's copyright in such content.

# About Copyright Law

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## Penalties imposed for copyright infringement?

In Singapore, the legal penalties for copyright infringement are :

- Infringer pays the actual dollar amount of damage and profits.
- The law provides a range from \$200 to \$150,000 for each work infringed.
- Infringer pays for all attorneys fees and court costs..

# About Copyright Law

5

Is it still possible to use other's people  
copyright protected literal works?

- Getting permission for use from rightsholders [single/co-owned] or limited scope of use)
- The copyright Act of Singapore allows a person to copy part of a work (not substantial) for private study or research only.

# Copy Content within the limitation

- Literary Works

Books are not usually patented, they are copyrighted.

You can legally copy from a book if:

- The copyright has expired (if the book is old enough, it is in the public domain)
- If you have permission of the copyright owner.
- If you are not taking more than is allowed by fair use (this usually requires advice of someone familiar with copyright law to figure out).

Some special exceptions that apply in the educational field.

Literary and dramatic works (Multiple copying and communication < 5%):

- For a work  $\leq$  500 or fewer pages (soft/hard copy), copying and communication up to 5 pages are allowed.
- For a work  $>$  500 pages, copying and communication up to 5% of the total number of pages are allowed.
- For a work in soft copy and not divided into pages, copying and communication up to 5% of the total number of bytes, words or contents are allowed.

# Copy Content within the Limitation

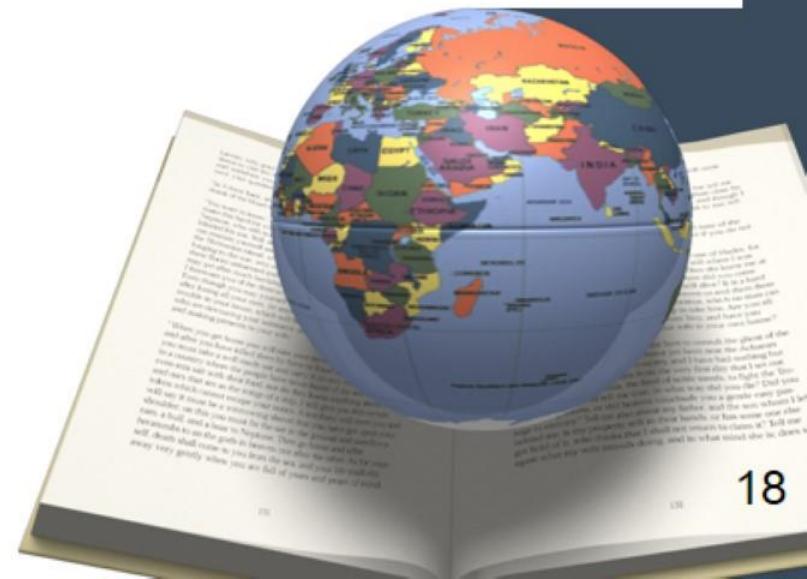
- Literary, dramatic, musical or artistic works  
*(excluding articles within periodic publication,  
(Multiple copying and communication < 10% or a chapter):*
  - For a work < 10 pages (soft/hard copy), the court will decide whether the portion copied or communicated is a reasonable amount on the facts.
  - For a work  $\geq 10$  pages, copying and communication up to :
    - either 10% of the total number of pages
    - or 1 chapter of the work are allowed.
  - For a work in soft copy and not divided into pages, copying and communication up to :
    - either 10% of the total number of bytes, words
    - or contents or 1 chapter of the work are allowed.

Source: [https://www.ipos.gov.sg/docs/default-source/resources-library/copyright/copyright\\_educators-oct-2012.pdf](https://www.ipos.gov.sg/docs/default-source/resources-library/copyright/copyright_educators-oct-2012.pdf)

# Introduction To Copyright Law

## Sources of Law:

- Copyright Act 1987, amended in 2004
- Copyright (International Protection) Regulations
- International Treaties: Berne Convention for the Protection of Literary and Artistic Works.



# About Copyright Law

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## Why We Need Copyright Law ?

Copyright laws let creators control their works. By assigning exclusive rights to copyright holders, the laws ensure that only the originators and those who receive their permission can copy, perform or change the works. Control encourages artists of all disciplines to create original works that enrich public life.

By assigning the exclusive right to copy and distribute original works to creators, copyright laws ensure that the holders of the copyright can earn income from their work. Authors may either sell, rent or license their own works or give permission to others to use them and collect royalties. Such income allows creators to continue their activities and produce new works

# Copyright Law : IP Protection

## Justifications For Protecting IP

Justification grouped into two broad categories:

1. Utilitarian-based arguments (i.e. Economic right)
2. Morality-based arguments (i.e. Moral right)



# Copyright Law : IP Protection

## Economic rights

The copyright owner has the exclusive right to copy the work, issue copies of the work to the public, rent or lend the work to the public, perform, show or play the work in public, communicate the work to the public, edit or adapt the work, sell or license the copyright for use by others.

## Utilitarian-based Arguments

IP rights allow a person to exploit his IP:

- Recoup the investment in terms of the effort, time and/or financial resources expended in creating the IP.

## Protection of IP:

- increases the pool of creative works with new creation.  
(Protection & Motivation)
- improves the quality of life.
- provides employment and otherwise contributing to economic growth.

# Copyright Law : IP Protection

It is important to know that the moral right to be identified as the author of a work does not arise until it has been asserted. As such, it is good practice always to assert this right. You may do this by including a statement such as the following in your work:

*Joe Bloggs has asserted his right under the Copyright, Designs and Patents Act, 1988, to be identified as the author of this work.*

Moral rights also include the right not to have a work falsely attributed to you and the right to privacy of certain photographs and films.

## Morality-based Arguments

Morality-based arguments focus on the individual's natural rights over his creation.

'Moral rights' – is right to be identified with his work (right of paternity) and his right to object to distortion or mutilation of his work (right of integrity).



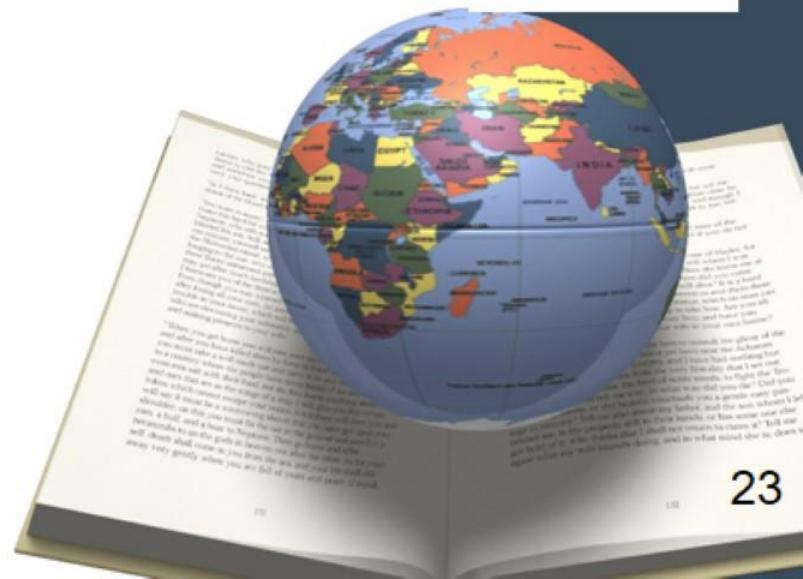
# Copyright Law : Protection Expiry

Because copyright is for the benefit of the society,  
copyright should only last for a limited period.

Copyright is given as an incentive for the creation of copyright works, but at the expiration of this period, these works fall into the public domain so that others are free to use them and/or build upon them to create new work.

## e.g. IP : Patent

- Patent of a new drug.
- Free to produce the drug after expiration period.



# About Copyright Law

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## The 9 categories of Copyright Works

# Copyright Law : The Copyright Works

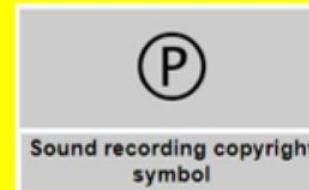
The Copyright Act recognizes 9 categories of copyright works:

Author's 'works' comprising:

1. Literary works (e.g. novels, wordings, lyrics in songs)
2. Dramatic works (e.g. Shows)
3. Musical works (e.g. Tune in Songs ...)
4. Artistic works (Paintings, Sculptures ...)

Entrepreneurial 'works' comprising:

1. Sound recording
2. Cinematographic films (art/process of movie photography)
3. Television broadcasts and sound broadcasts
4. Cable programmes
5. Published editions of work. (e.g. research papers)



# Copyright Law : Author's Works

Example: A horizontal timeline starts with a red circle containing a white letter 'P'. An arrow points left from the 'P' to a vertical tick mark labeled 'Life'. From this tick mark, another arrow points right to a vertical tick mark labeled '70'. A final arrow points right from the '70' mark to an open parenthesis.

A literary copyright lasts for **the life of the author and 70 years thereafter**, and the owner of the literary copyright is given a bundle of exclusive rights ranging from the right to stop reproduction of the literary work, the performance of the literary work in public, broadcasting the literary work etc.

e.g. Literary (Harry Potter is a novel)

By way of contrast, the copyright term for a sound recording is relatively shorter: It lasts only for **70 years after its first production**. Further, the owner of a sound recording copyright has fewer exclusive rights.

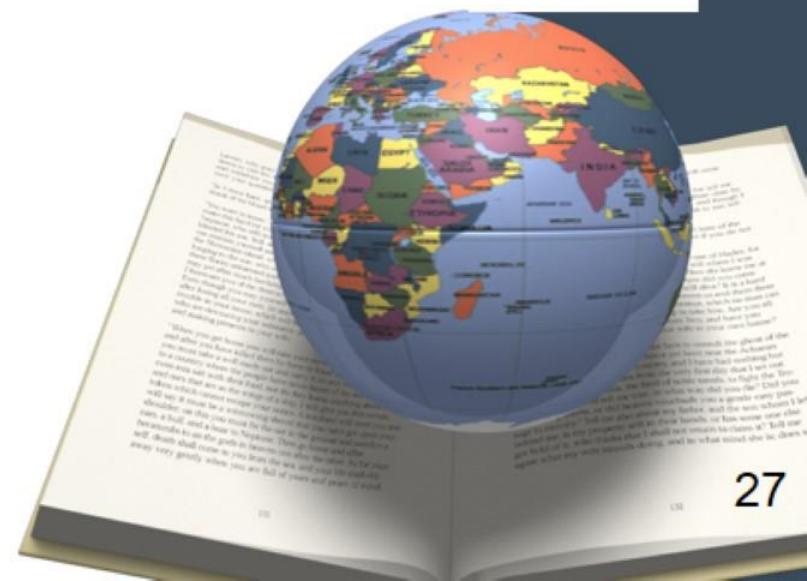


# Copyright Law : Author's Works

## Author's Works (1): Literary Work

The Copyright Act gives two specific examples of such works: **compilation in any form, and computer programs.**

A few local cases provided important guidelines to determine what other works qualify as 'literary work'.



# Copyright Law : Author's Works

## Author's Works: Literary Work

**John Robert Powers School v Tessensohn** [1993] 3 SLR

724: A chart recording food intake for a period of 7 days (with columns for calorie and vitamin count)

**Chua Puay Kiang v Singapore Telecommunications Ltd**

[2000] 3 SLR 640: The plaintiff had conceived an idea for using the keys on a push-button telephone to transmit test messages to a pager, and the conversion table set out the code scheme: \*1=A; 01=B; #1=C...

**Creative Technology Ltd v Aztech Systems Pte Ltd** [1997] 1

SLR 621 (CA): A Computer program includes the object (binary) code and also the source code which is permanently burned into the ROM of a chip (or firmware)

# Copyright Law : Author's Works

## Author's Works: Literary Work

In **Tan Long Kee Impex Pte Ltd v Tan Beng Huwah [2000] 2 SLR 750**, the plaintiff were manufacturers and distributors of backpacks sold under the brand name Hayrer.

The plaintiff claimed that **the defendant had copied several features of its backpacks, including the lifetime warranty that accompanied each of the plaintiff's backpack.**



# Copyright Law : Author's Works

## Author's Works: Literary Work

The 64-worded card stated as follows:

'All hayrer products are designed and manufactured to provide maximum carefree service, hayrer products carry a lifetime guarantee to be free of defects in materials or workmanship. This does not cover wear and tear or abuse. Accordingly, hayrer will repair or replace, without cost to our customers, any product which is defective in materials or workmanship promptly after its return to our sole agent'.



# Copyright Law : Author's Works

## Author's Works: Literary Work

No !

The Court of Appeal held that while the **wording in the warranty was a piece of literary work** in a very broad sense, ***it could not subsist on its own as a literary work*** because in itself, it was '**hardly consequential**', that is, it was '**de minimis**'; trivial matters.

(The lowest baseline)

One Justification could be this: It is undesirable to confer copyright protection on what are **essentially the basic building blocks in a language**.



# Copyright Law : Author's Works

## Author's Works (2): Dramatic Work

Yes !

The Copyright Act (see S.7(1)) defines 'dramatic works' as including:

- Choreographic show or other dumb show if described in writing in the form in which the show is to be presented;

An example of a 'choreographic show' is a **ballet**.



An example of a 'dumb show' in a **mime**.



# Copyright Law : Author's Works

## Author's Works: Dramatic Work

Yes !

The common thread in the specific examples of dramatic works given in the statutory definition is a **performance of the work to convey a plot or theme**, whether through **dance steps, gestures, movements or words**.

- The element of performance and
- The presence of a plot or theme which unifies the dance steps, gestures, movements or words.

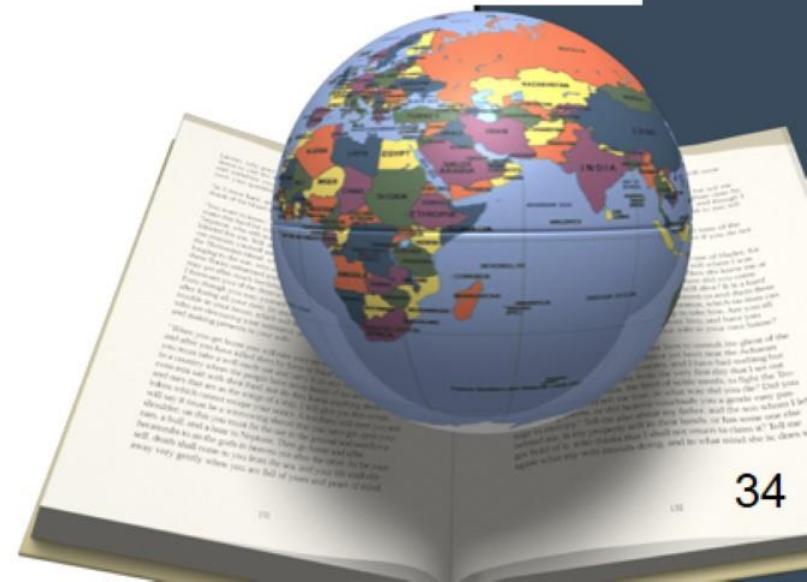
These two features, in effect, define what a '**dramatic work**' is.



# Copyright Law : Author's Works

## Author's Works: Dramatic Work

In **Green v Broadcasting Corporation of New Zealand [1989] RPC 700**:  
The plaintiff was the author and presenter of a television show  
which was a talent contest. There was **no prepared script**; much  
depends on the response of the competitors performing their act.



# Copyright Law : Author's Works

## Author's Works: Dramatic Work

No !

The plaintiff claimed that there was a dramatic work in the ‘format’ of his show.

The Privy Council found otherwise, defining a ‘dramatic work’ to be one which 'must have sufficient unity to be capable of performance'. The features in the ‘format’ of the plaintiff’s show – the use of catch phrases, the ‘clapometer’ etc – lack this essential characteristics because they were unrelated to each other, except as accessories to be used in the presentation of some other copyright work.

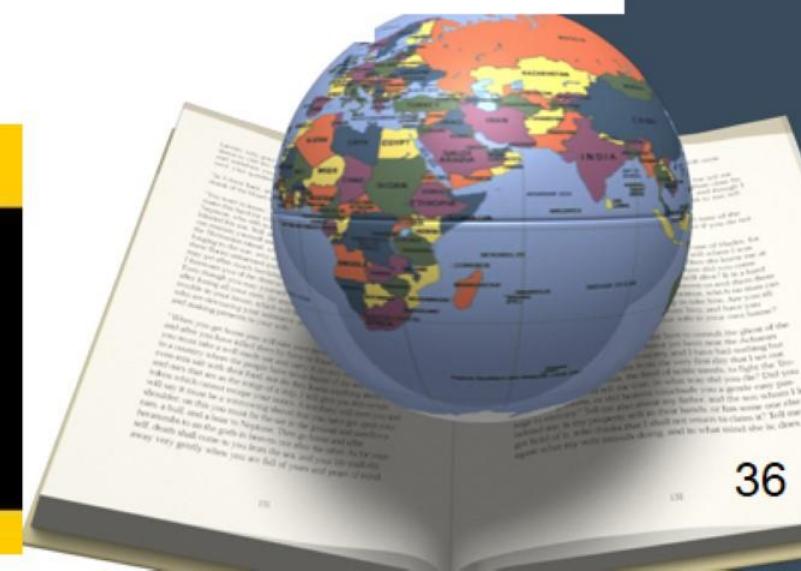
# Copyright Law : Author's Works



## Author's Works: Dramatic Work No !

On the other hand, *acting styles and scenic effects* of a dramatic production in themselves, taken apart from the text of the play, are **not** 'dramatic works'.

The 'drama' which may unfold in the 'TV reality shows', or the exciting 'action' appearing on computer screen when computer games and played, **does not** qualify as a 'dramatic work'.



# Copyright Law : Author's Works

## Author's Works (3): Musical Work

There are actually 2 distinct types of copyright: **subject-matter in a song**: the tune in the song is a musical work, and the **lyrics of the song** is a literary work. Very often, the authors of these 2 works are different people.

Performing the song in public requires 2 licenses: one for the use of the literary copyright, and one for the use of the musical copyright. In cases where the 2 copyrights are owned by different parties, this means that 2 sources have to be approached for 2 separate licenses.

Musical work  
Literacy work

Happy Birthday

www.singing-hall.com

The musical notation consists of two staves. The top staff is in G major and has notes C, G, C. The lyrics for this staff are "Happy birth day to you". The bottom staff has notes B, F, C, G, C. The lyrics for this staff are "Happy birthday dear".



# Copyright Law : Author's Works

## Author's Works (4): Artistic Work

The Copyright Act defines 'Artistic Work' to mean :

- a) A **painting, sculpture, drawing, engraving or photograph**, whether the work is of artistic quality or not;
- b) A **building or model of a building**, whether the building or model is of artistic quality or not; or
- c) A **work of artistic craftsmanship** to which neither paragraph (a) nor (b) applies.

AUVI



Picasso



# Copyright Law : Entrepreneurial Works

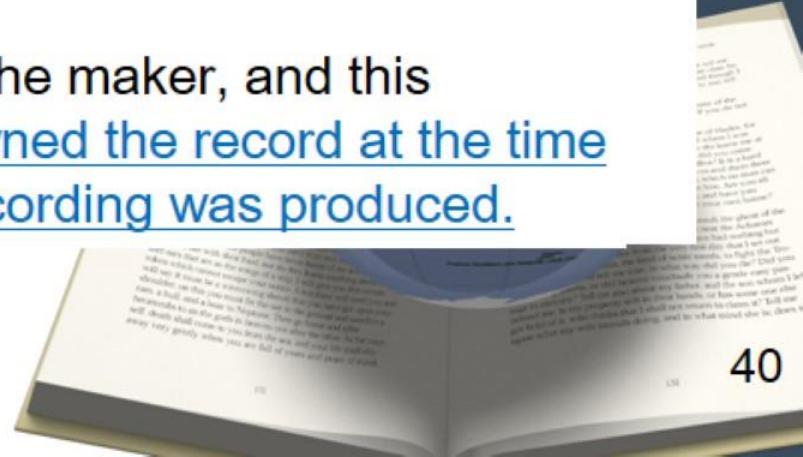
## Entrepreneurial Work (1): Sound Recording

Sound recordings are recognized as a separate and distinct category of copyright work. Often, they are derived from author's work – The most common example will be a song recorded on CD.

Here there are 3 copyright subject matter: the musical work (tune), the literary works (lyrics) and the sound recording.

The recording of the song is usually made by yet another party.

The Copyright Act refer to this party as the maker, and this 'maker' is defined as the person who owned the record at the time the first record embodying the sound recording was produced.



# Copyright Law : Entrepreneurial Works

(e.g. Movies)

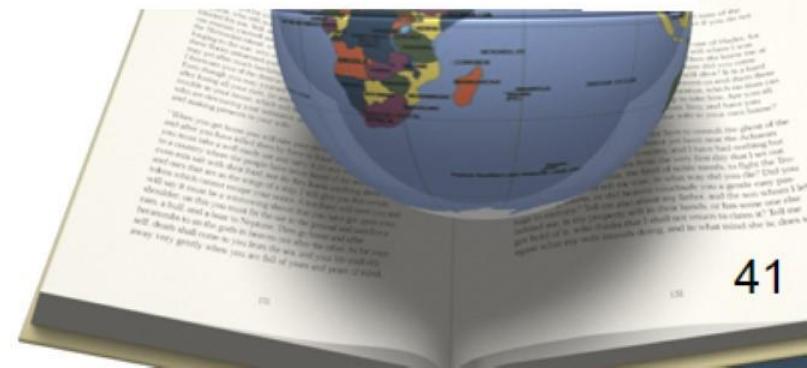
## Entrepreneurial Work (2): Cinematographic Film

'Cinematographic film' is defined in the CRA to mean:

The aggregate of visual images embodied in an article or thing so as to be capable by the use of that article or thing

- of being shown as a moving picture, or
- of being embodied in another article or thing by the use of which it can be so shown,

and includes the aggregate of sounds embodied in a sound-track associated with such visual images.



# About Copyright Law

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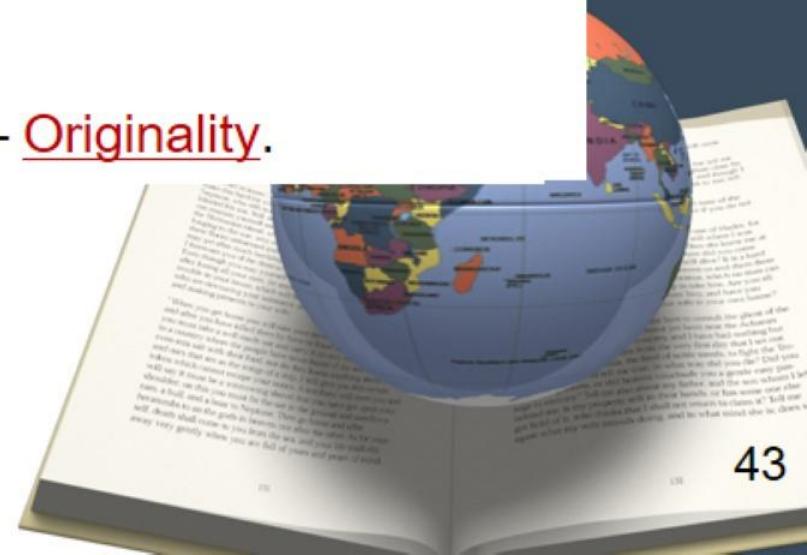
## The Protection Criteria in Copyright Works

# Copyright Law : Author's Works

## Author's Work: Protection Criteria

The protection criteria to be satisfied before copyright subsists in **literary, dramatic, musical or artistic work** are as follows:

- a) The author's work must be 'connected' with Singapore in some relevant way. – Connecting Factors.
- b) The author's work must exist in some material form – Reduction to Material Form.
- c) The author's work must be original – Originality.



# Copyright Protection Criteria – (Author's Works)

## Author's Work: a) Connecting Factors

The combined effect of S.27(1)-(3), read together with the relevant provisions in the Copyright (International Protection) Regulations, is as follows:

- a) An unpublished author's work satisfies the 'connecting factor' requirement if, at the time the work was made, the author
  - ★ ○ was a citizen/resident of Singapore, or
  - a citizen/resident of another country which is a member of the Berne Union or the WTO.

### Berne Union - Berne Union home page

<https://www.berneunion.org/>

The Berne Union is the leading global association for the export credit and investment insurance industry. Our members include government-backed official export credit agencies, multilateral financial institutions, and private credit insurers from 73 countries around the world...

# Copyright Protection Criteria –

## (Author's Works)

### Author's Work: 1) Connecting Factors

- b) A published author's work satisfies the 'connecting factor' requirement if:
  - i. The first publication of the work took place in Singapore, or in another country which is a member of the Berne Union or the WTO.
  - ii. At the time the work was first published (or at the time of the author's death), the author was a citizen/resident in Singapore, or a citizen/resident in another country which is a member of the Berne Union or the WTO.

Note: There are 194 countries : 192 UN members, the Vatican City and Taiwan.

# Copyright Protection Criteria –

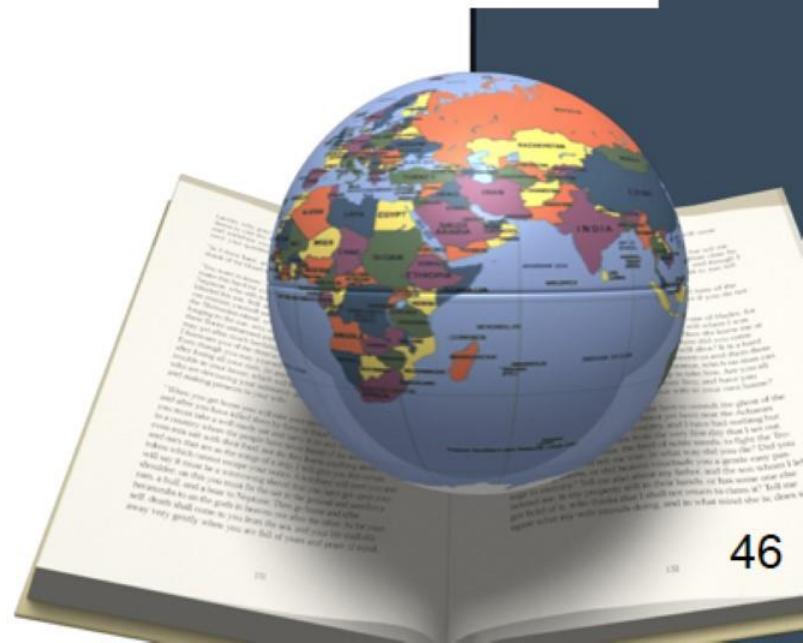
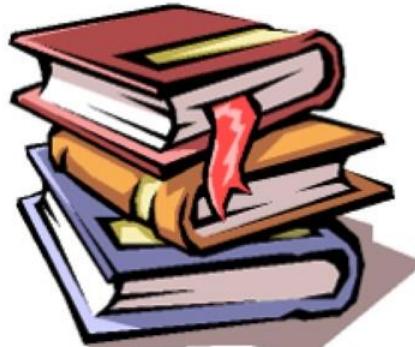
## (Author's Works)

### Author's Work: b) Reduction to Material Form

A literary, dramatic or musical work is treated as having been reduced to material form in the following circumstances:

- It is reduced to 'writing', that is, represented in words, figures or symbols in a visible form. S.16(1)

(Writing: Figures or symbols)



# Copyright Protection Criteria –

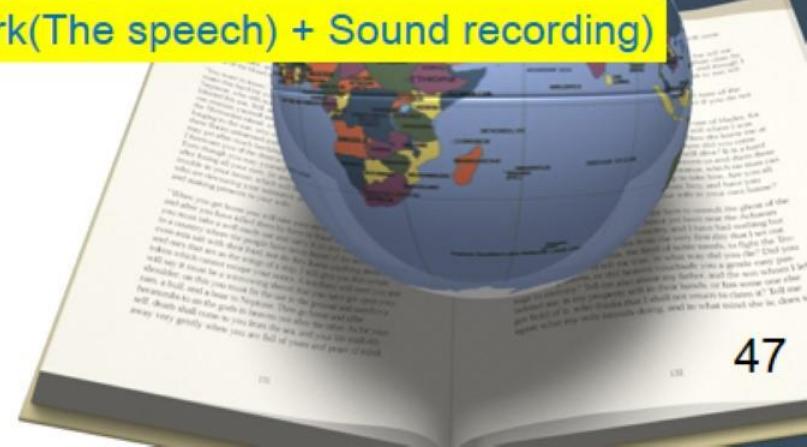
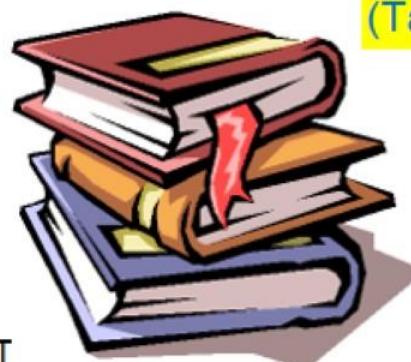
## (Author's Works)

### Author's Work: b) Reduction to Material Form

A literary, dramatic or musical work is treated as having been reduced to material form in the following circumstances:

- It is embodied in a sound recording S.16(2). For example, the literary work in an extempore would have been reduced to material form if it is taped down by a recorder. In such a case, there are two copyright works: the speech ( a literary work which has been reduced to material form), as well as a sound recording.

(Taped record: Literary Work(The speech) + Sound recording)



# Copyright Protection Criteria –

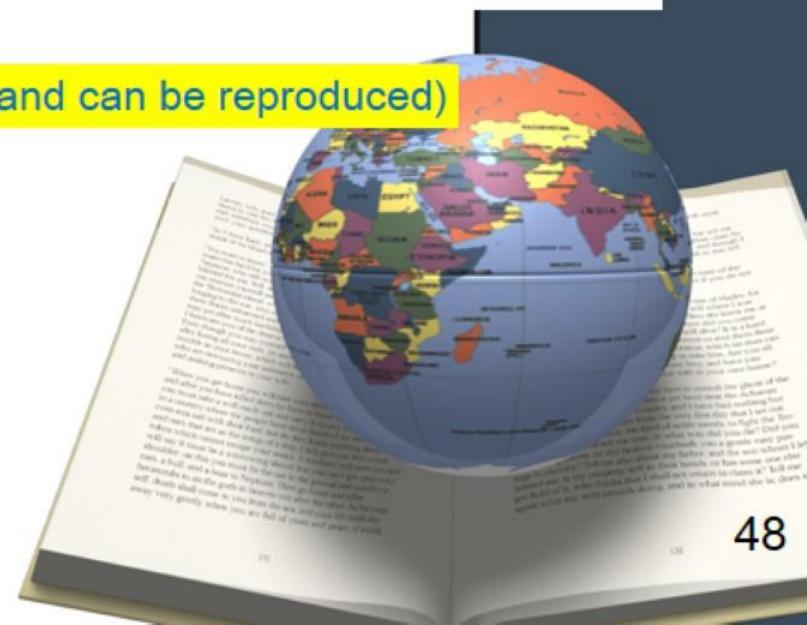
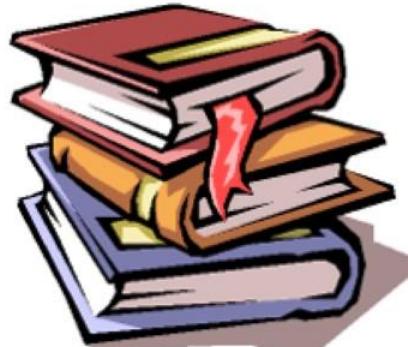
## (Author's Works)

### Author's Work: b) Reduction to Material Form

A **literary, dramatic or musical work** is treated as having been reduced to material form in the following circumstances:

- It is stored in a computer, or any medium by electronic means, or any other medium from which the work, or a substantial part thereof, can be directly reproduced. S.17

(Literary Work: Stored in medium and can be reproduced)



# Copyright Protection Criteria –

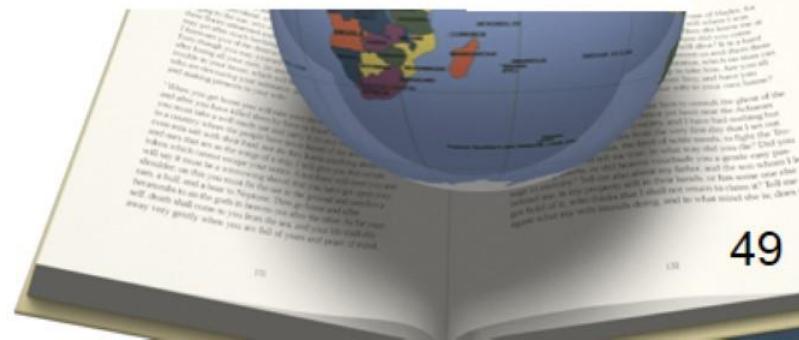
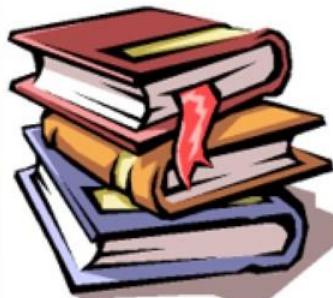
## (Author's Works)

### Author's Work: c) Originality

First, it is not necessary that the ideas or thoughts should be original; rather, the requirement of originality in copyright law relates to the tangible form in which the work is expressed.

This is because copyright is about protecting expressions and not ideas.

In Singapore, an author automatically enjoys copyright protection as soon as he creates] and expresses his work in a tangible form. There is no need to file for registration to get copyright protection.



# Copyright Protection Criteria –

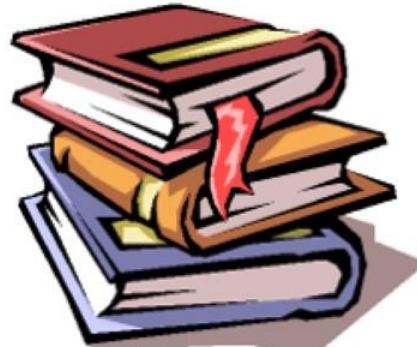
## (Author's Works)

### Author's Work: c) Originality

This principle in copyright law – often referred to as the 'idea / expression' or 'fact / expression' dichotomy – is expressed as follows:

- Copyright protection is limited to the expression of a work and *does not extend to the idea underlying the expression.*

(Expression but not the idea)



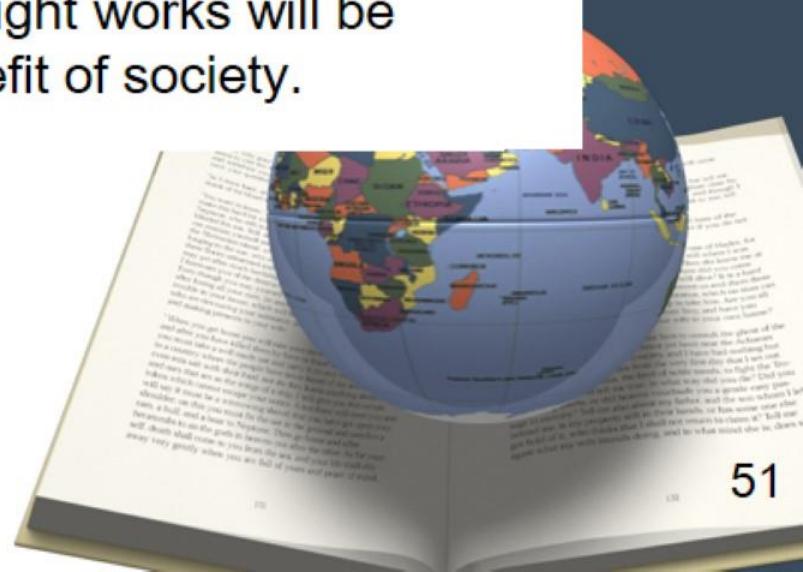
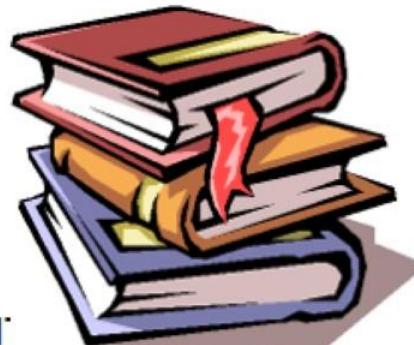
# Copyright Protection Criteria –

## (Author's Works)

### Author's Work: c) Originality

This principle in copyright law – often referred to as the 'idea/expression' or 'fact/expression' dichotomy – is expressed as follows:

- The reason for copyright not protecting ideas or facts **is to allow ideas and facts to remain in the public domain**, so that more works can be created based on the same ideas or facts. In this way, the pool of copyright works will be increased for the enjoyment and benefit of society.



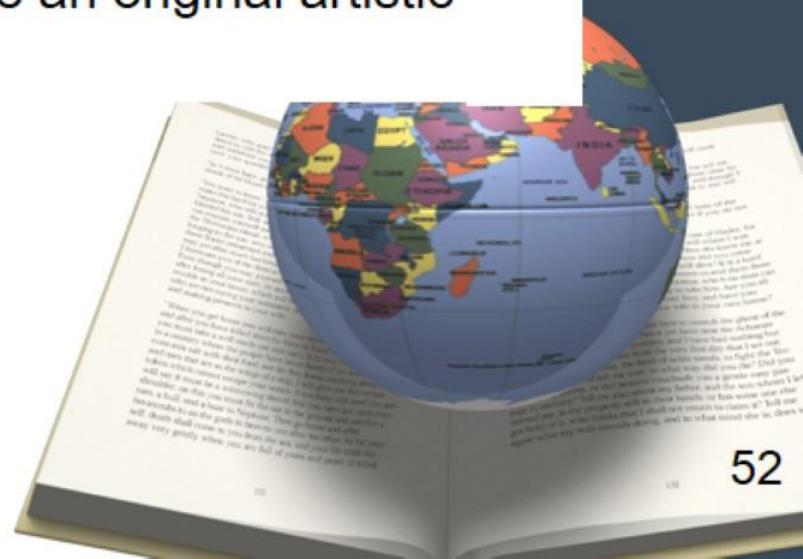
# Copyright Protection Criteria – (Author's Works)

## Author's Work: c) Originality

Second, in **AUVI Trade Mark [1992] 1 SLR 639**, the court said specifically that '**simplicity per se** does not prevent a work from acquiring copyright'. The **copyright subject matter** in this case was a very simple looking **trade logo** essentially comprising 4 letters of the alphabet '**AUVI**'.

- Nevertheless, this logo was held to be an original artistic work.

AUVI



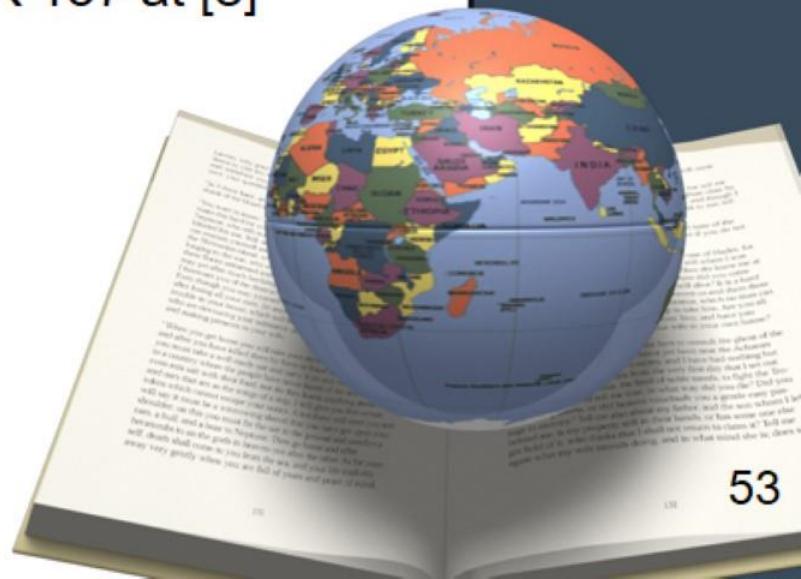
# Copyright Protection Criteria –

## (Author's Works)

### Author's Work: 3) Originality

Third, the expression of an author's work is original if the author has created it and has not copied it from another, if he has expended towards its creation a substantial amount of skill and labour.

See **Virtual Map v Suncool [2005] 2 SLR 157 at [8]**



# Copyright Protection Criteria –

## (Author's Works)

### Author's Work: c) Originality

Fourth, where an author has made used of an existing subject matter (the source material) in creating his own work, his own work (the derivative work) is original if the author has expended sufficient skill, labour or judgment in creating the derivative work and there is some element of material alteration which suffices to make to totality of the derivative work different from the source material.

See **Interlego AG v. Tyco Industries Inc.**, 1 A.C. 217 (P.C. 1989), 3 All E.R. 949, 970 (1988)

# Copyright Protection Criteria –

## (Author's Works)

### Author's Work: c) Originality

**Fifth**, the fact that a derivative work infringes the copyright in the source material **has no impact** on the question **whether the derivative work is original**.

**Sixth**, in cases involving fact-based works, the inquiry for originality is focused on whether **there is sufficient skill, labour and judgment involved in the selection and arrangement of the facts**.

In the case of compilations (a type of literary work), this focus on selection and arrangement of contents is a statutory requirement. S.7(A)

**See Feist Publication v Rural Telephone Service  
(1991 )499 US 340)**

# About Copyright Law

10

## The Duration of Protection For Copyright Works

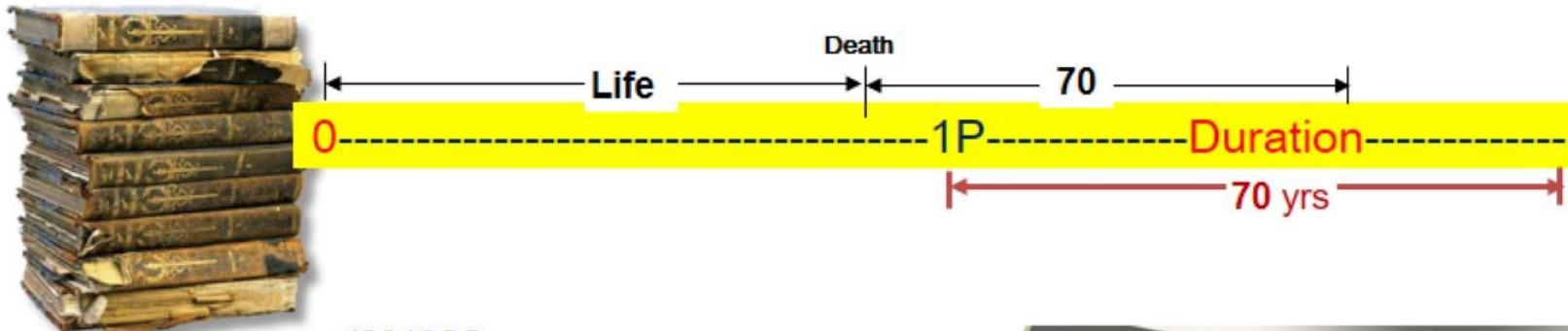
# Copyright Protection Duration – (Author's Works)

## Author's Work: Duration of Protection - 1

S.28 is the main provision setting out the term of copyright for author's works.

The general rule is that 'life + 70 years' formula applies to literary, dramatic and musical works.

In this case where the work **has not been disclosed** to the public (e.g. by publication, performance in public) **before the death (NPb4D)** of the author, copyright shall last until 70 years after the first publication of this work.



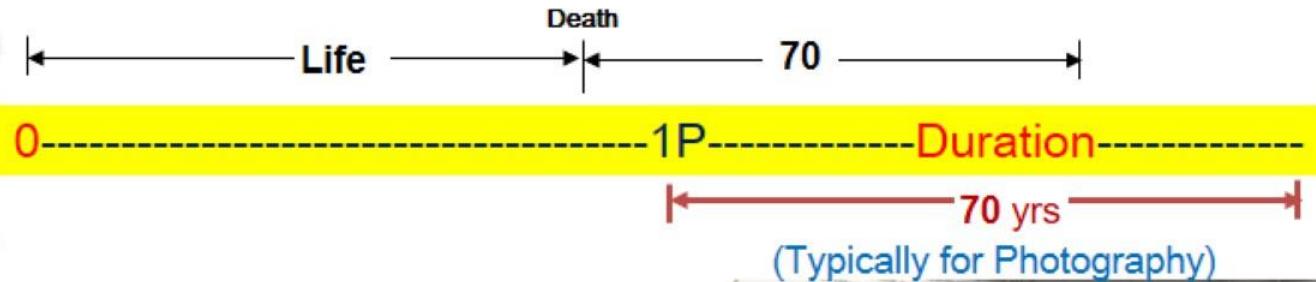
# Copyright Protection Duration – (Author's Works)

## Author's Work: Duration of Protection - 2

The general rule is that the '**life + 70 years**' formula applies to Artistic Works (**engraving** but not **photograph**).

In the case where an **engraving** has not been published before the death (**NotPubB4D**) of the author, **copyright shall last until 70 years** the first publication of this work.

In the case of a **photograph**, copyright **lasts for 70 years after the first publication of the photograph**.



# Copyright Protection Duration – (Author's Works)

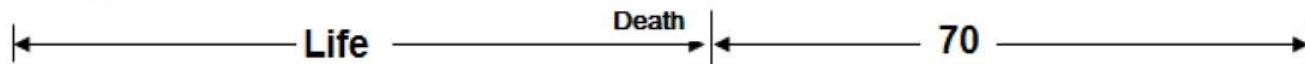
Copyright works	Duration of protection	Exception
Artistic work	'Life' + 70 years	Photographs(70 years)



Original Mona Lisa artwork painted more than 500 years ago. It is in public domain. There is no copyright issue unless it's a more recent artwork based on Mona Lisa by another artist



Picasso died in 1973 so that means his work will still be protected in the US until 2043 - which is 70 years after his death. Here's his painting.



# Copyright Protection Duration –

(Entrepreneurial Works)

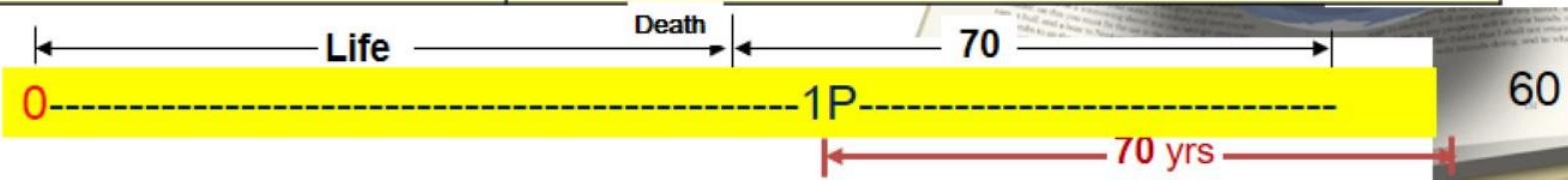
## Entrepreneurial Work: Duration of Protection

S.92-96

Sound recording and cinematographic film: copyright last for 70 years from the first publication of the sound recording or film.

Published edition of works: Copyright lasts for 25 years from the first publication of the edition.

Copyright works	Duration of protection	Exception
Literary work	'Life' + 70 years	NotPubB4D- Pub &70 yrs.
Dramatic work	'Life' + 70 years	NotPubB4D- Pub &70 yrs.
Musical work	'Life' + 70 years	NotPubB4D- Pub &70 yrs.
Artistic work	'Life' + 70 years	Photographs(70 years)
Sound & Cinematographic	70 years from the first publication	
Published edition works	25 years from the first publication	



# COPYRIGHT LAW: ACTS PROHIBITED BY COPYRIGHT

Table 9.1: Prohibited acts

	Literary, dramatic, musical work	Artistic work	Sound recording	Cinemato- graphic film	Broadcast	Cable programme	Published edition of work
(i) Reproduce in material form; make a copy	X	X	X	X	X	X	X
(ii) Publish	X	X	X				
(iii) Perform in public; cause to seen/heard in public	X			X	X (television broadcasts only)	X	
(iv) Communicate to the public; digital audio transmission	X	X	X	X	X	X	
(v) Adapt	X						
(vi) Do (i)-(v) in relation to an adaptation of the work	X						
(vii) Enter into a commercial rental arrangement	X (computer programs only)		X				



# Lesson Summary

- Intellectual Property (IP) includes:
  - Copy rights, trade marks, Geographical indicators, Industrial design, patents, Layout designs, Undisclosed information.
- Justification for protecting IP
  - Utilitarian-based argument
  - Morality-based argument
- The 9 categories of Copyright works
  - Author's work (Literary, Dramatic, Musical, Artistic)
  - Entrepreneurial work (Sound, Cinematographic, TV broadcasting, Cable program, Published edition of works)
- 2 features in dramatic works
  - Element of performance, Presence of a plot/ theme.
- Musical works
  - Song and Lyrics.
- 3 Protection criteria for Author's works
  - Connecting factor, Reduction to material form, Originality.
- Duration of copyright protection for Author's and Entrepreneurial's Works

# Misconception About Copyright

## Misconception 1 – Ideas can be protected by copyright law

A fundamental principle of copyright law is that ideas cannot be protected, but original *expressions* of an idea may be. For example, the idea of extraterrestrials visiting Earth has long fascinated many of us. This one idea has given birth to creative content featuring aliens in a diversity of forms, from the benign E.T. to the oppressed “prawns” in District 9. None of their creators can claim copyright over the idea of extraterrestrials descending on Earth nor stop others from producing content featuring this core idea. However, the characterisations of particular aliens can be original expressions of the core idea, and elements like their visual appearance or their catchphrases (“E.T. phone home”) may be subject to copyright.

Source: <http://learn.asialawnetwork.com/2017/10/12/5-common-misconceptions-copyright-singapore/>



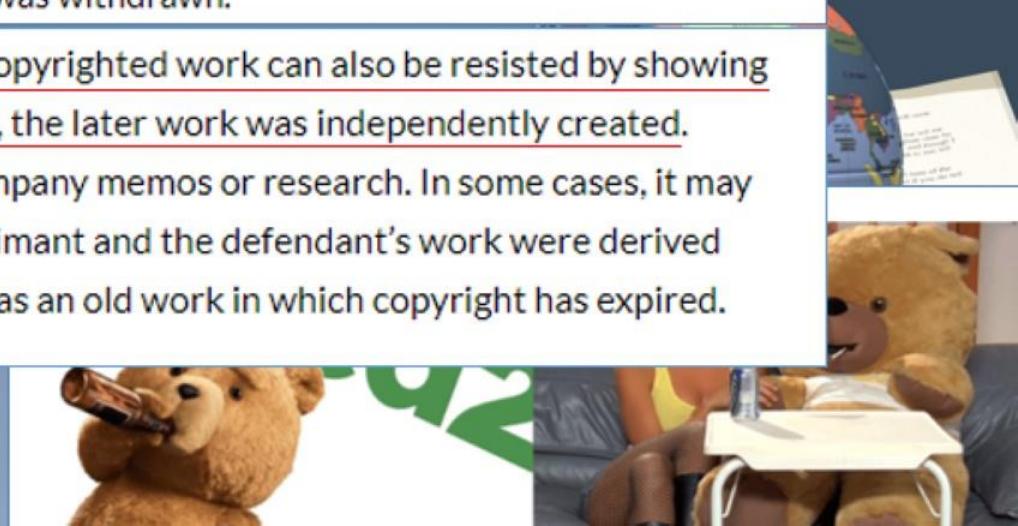
# Misconception About Copyright

## Misconception 2 – I can sue for copyright infringement as long as the other work is similar to mine

In a world with billions of innovative minds and a growing homogenisation of cultures, there may be multiple TV shows, novels, songs, and so on which feature strikingly similar elements. How are they able to co-exist?

Owners of the copyright in the character Charlie brought a claim against Ted's creators, arguing that the visual portrayal of Ted was copied from Charlie (Bengal Mangle Productions LLC v Seth MacFarlane et al.). However, Ted's creators had evidence showing that the character Ted was *independently* created and not copied from Charlie. In light of this evidence, the lawsuit from Charlie's owners was withdrawn.

In Singapore, claims of infringing use of a copyrighted work can also be resisted by showing that despite similarities in certain features, the later work was independently created. Relevant evidence can include internal company memos or research. In some cases, it may even be possible to argue that both the claimant and the defendant's work were derived from another non-copyrighted work, such as an old work in which copyright has expired.



## **Misconception About Copyright**

### **Misconception 3 – The creator of the work is always the owner of the copyright**

In straightforward cases, the person who creates an original piece of work is the copyright owner. However, there are a few special situations which should be observed:

#### **Works created in the course of employment**

If a literary, dramatic or artistic work is created by an employee **in the course of employment**, the employer automatically owns all copyright in the employee's work. However, the distinction between an employee and an independent contractor is not always clear, for example, when it comes to interns. From an employer's perspective, contractual safeguards should be put in place to ensure that rights to any intellectual property are to be assigned to the employer.

#### **Works created while employed as a journalist**

Singapore's current copyright regime also makes an exception for persons who contribute original works in the course of employment with a newspaper or magazine. The employer will be the automatic owner of rights to publication or reproduction of the work in the newspaper or magazine. This means the author cannot publish the work in another newspaper or magazine, *but* can publish the work elsewhere, for example on their website,

# Misconception About Copyright

## Misconception 4 – You need to register your copyright in Singapore

There is no need to register your copyright in Singapore. Unlike trademarks, patents, and designs, copyright *automatically* subsists in an original work. This means that upon creation, the owner of the work immediately has rights to publish the work, make copies, and so on.

Moreover, the copyright owner will have the right to challenge any third parties who infringe on his rights. These rights do not need to be certified or registered by any office or Court of Singapore. However, the scope of the rights which a copyright owner claims can always be challenged by third parties.

### Proving ownership

(to prove it to others that you are actually as the creator of the work)

As mentioned, copyright is granted automatically. Commonly, creators mark their work with the copyright symbol © followed by their name (or names) and the year in which the work was published: © Joe Bloggs 2013. This is not essential but it might be a good idea to show the owner of the work and when protection started.

If you wanted to, you could register your copyright through an online service or log your work with a bank or Solicitor. Some people also send themselves a copy of their work by registered post, or email it to themselves to give clear parentage to their work. However, nowadays this is not as relevant as it used to be, since with computer records the dating of production is almost always possible. Source: <https://www.copyrightuser.org/understand/rights-permissions/protecting/>

# Misconception About Copyright

## Misconception 5 – Only a legitimate owner of copyright in a work can use the © sign

Most people are well acquainted with the © sign, especially when spellcheck gets in the way of placing brackets around a “c”. In practice, use of the © sign shows that the user is claiming copyright – but does not automatically mean they are the true copyright owner or have any rights in the subject matter.

The fact that the © sign does not appear also does not mean the subject matter is not protected by copyright. As there is no copyright registry or any like body, there is no one is policing the use of the © sign!

Nonetheless, the use of the © sign puts third parties on notice that the user is claiming protection over the work under copyright law. While ignorance is not a defence to copyright infringement, it may affect the damages that the Court will order the infringing party to pay the claimant in a successful claim. The use of the © sign is therefore strategic, as infringers will then generally be stopped from arguing that they did not know the subject matter was copyrighted.