

# COPYRIGHT

## 1. What is copyright?

Any original work produced with sufficient skill and effort and expressed in material form is entitled to copyright. A book, manual, song, drawing, film, sound recording, computer software can all be protected by copyright.

## 2. What is the purpose of copyright?

Copyright entitles the owner to control the doing of various acts in relation to his created work and to prevent or restrict any use without his consent.

## 3. What does not amount to copyright?

Copyright protection does not extend to any idea, procedure, method of operation or mathematical concept. Copyright does not subsist in any design which is registered under any written law relating to industrial design. Further, copyright in any design which is capable of being registered but which has not been so registered, ceases as soon as any article to which the design has been applied has been reproduced more than fifty times by any industrial process by the owner of the copyright or by any person under the licence of the owner.

## 4. Is copyright registration necessary to obtain protection in Malaysia?

No. Under Malaysian law, copyright protection is conferred in an original work once it is expressed in material form provided that:-

- (a) the author is a citizen or permanent resident of Malaysia or a citizen or resident of any of the Berne Convention member countries at the time his work was made, or
- (b) the work is first made available to the public in Malaysia or in any of the Berne Convention member countries, or

- (c) if the work is first made available to the public elsewhere, it is subsequently made available within 30 days, to the public in Malaysia or in any of the Berne Convention member countries, or
- (d) the work (other than published editions) is made in Malaysia or the work (other than sound recordings, broadcasts and published editions) is made in any of the Berne Convention member countries.

## **5. Is copyright protection limited to Malaysia only?**

By Malaysia's accession to the Berne Convention for the protection of Artistic and Literary Works, a work that is eligible for copyright in Malaysia is accorded reciprocal protection in other member countries.

## **6. How long can copyright protection last?**

Generally, for literary, musical or artistic works published during the author's lifetime, the protection period is for the life of the author plus fifty years after his death. However, for such works published after the death of the author, copyright shall subsist until fifty years from the publication of the work.

## **7. I have published a book in Malaysia last month. Do I have worldwide copyright protection?**

Yes. Malaysia is a Berne Convention member country and with first publication in Malaysia, your book is protected by copyright in more than 150 Berne Convention countries.

## **8. I have devised a story line for a novel. Is my idea protectable under copyright law?**

Copyright does not protect the mere ideas underlying a work. You should express the details of your story by having them written down, recorded or reduced to material form.

## **9. Our company has a play for the theatre, what copyright do we have? How can we exploit these rights?**

You have a right in the literary, musical and / or artistic work and maybe even adaptation of the work. For example, you have exclusive control over the reproduction of the script of the play and the performance. If the play is recorded, you have control over the distribution of copies of the work to the public by sale or other transfer of ownership and the commercial rental to the public.

## **10. What is the benefit of copyrighting my work?**

By virtue of having a copyright, one is able to transfer this copyright by assignment, testamentary disposition or by operation of law for monetary value just as one could for property. One could also grant licences for certain acts such as reproducing the literary or musical work, performing, showing or playing the work in public in exchange for royalty.

## **11. How do I prove I have copyright?**

Affirm an affidavit or statutory declaration before a commissioner for oaths in respect of any of the works eligible for copyright stating that, at the time stated therein copyright subsisted in such works and annex a copy of the work.

## **12. Why do I need to check on licensing of copyright if I am translating a piece of work into the national language?**

The owner of the copyright has the exclusive right of making or authorising a translation of his work into any language. The right to translate a work into the national language (Bahasa Malaysia) is available for only a year following the first publication of the work. If no such translation has been published by the owner, the Copyright Tribunal may, on application grant a non, exclusive licence to translate and publish the work in the national language.

## **13. What's new?**

The Malaysian Copyright Licensing Tribunal has been set up. Among its most important functions, is that the terms of a proposed licensing scheme can be

referred to the Tribunal for its decision. The Tribunal also settles disputes between the operator of the licensing scheme and the person who requires a licence.

Live performances of a dramatic work, puppet show, musical work, reading, recital or delivery of a literature, dance, circus act, folklore dances or shows are now protected under the Malaysian copyright law and entitled to all the benefits of copyright protection.

Database copyright protection is available as long as it satisfies the requirement of selection, coordination and arrangement of the works eligible for copyright.

In 2003, criminal sanctions and punishment (in terms of fines and imprisonment) for infringement of copyright have been hardened and increased in order to deter such acts.

*(The information contained in this booklet is presented in good faith for general information and does not constitute legal advice. For specific matters, you are required to seek advice from professionals.)*

*Statement of the law as at 01 July 2006.*