Proposed Reforms to Malaysia's Copyright Act 1987: Rebalancing Protection, Innovation and Creative Value

Malaysia is considering a wide-ranging reform of the Copyright Act 1987 in response to digital technology, artificial intelligence, the creative economy and changing methods of distributing and commercialising copyright works. On 3 July 2026, the Intellectual Property Corporation of Malaysia ("MyIPO") issued its Public Consultation Paper on proposed amendments to the Act. The proposals are intended to strengthen the existing framework, improve enforcement, clarify the rights and responsibilities of copyright owners and maintain a fair, balanced and sustainable copyright ecosystem.

The existing statutory position is considered by reference to the Copyright Act 1987.[1]

This article distinguishes the present law from the proposals and evaluates their likely implications for creators, rights holders, technology businesses, online intermediaries, financiers and cultural institutions. Taken together, the proposals point to a broader shift: copyright law would increasingly govern not only rights and remedies, but also how creative value is created, financed, distributed, enforced and accessed.

[1] Copyright Act 1987 (Act 332), updated text as at 30 June 2022, 2.

International alignment: closing gaps for performers and satellite signals

Malaysia is considering accession to the Beijing Treaty on Audiovisual Performances 2012 to strengthen the moral and economic rights of actors, singers, dancers and other audiovisual performers, while supporting investment, domestic creative industries and international cooperation. The Treaty grants performers moral rights to be identified and to object to distortions, mutilations or other modifications that prejudice their reputation.[2] For performances fixed in audiovisual media, it grants rights of reproduction, distribution and making available, together with a qualified right of commercial rental, and it addresses broadcasting and communication to the public subject to the options and reservations permitted by the Treaty.[3] Protection must last for at least 50 years from the end of the year in which the performance was fixed.[4]

Section 25A of the Copyright Act presently confers moral rights in respect of a performance or a performance fixed in a phonogram, but the definition used for that section excludes a fixation incorporated in a film or other audiovisual work.[5] The most evident statutory gap is therefore the absence of equivalent moral-right protection for performances fixed in audiovisual media.[6] Accession would address a gap in the present framework rather than merely adding another international commitment.[7]

Article 12 permits national law to provide that specified economic rights are owned, exercised by or transferred to the producer once the performer consents to the audiovisual fixation, subject to any agreement to the contrary.[8] It also permits national law or agreements to provide performers with royalties or equitable remuneration notwithstanding such a transfer.[9]

WIPO identifies stronger domestic audiovisual industries, increased investment, improved professional recognition and better access to international markets as potential benefits of the Treaty.[10] Accession may also improve reciprocal protection for Malaysian audiovisual performers when their performances are exploited in contracting states.

Malaysia is also considering accession to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite 1974, commonly known as the Brussels Convention. The Convention requires contracting states to take adequate measures against the unauthorised distribution of a derived programme-carrying signal where the originating organisation is a national of another contracting state and the emitted signal was not intended for the distributor.[11] It does not apply where the originating signal is intended for direct reception from the satellite by the general public.[12] Article 4 permits limited exceptions for current-event extracts, quotations compatible with fair practice and, in qualifying developing countries, distribution solely for teaching or scientific research, while article 6 preserves other protection available under domestic law or international agreements.[13]

The Convention therefore targets the unauthorised distribution of programme-carrying satellite signals, [14] while preserving other protection available under domestic law or international agreements.[15]

[2] Beijing Treaty on Audiovisual Performances (adopted 24 June 2012) ('Beijing Treaty') art 5.
[3] Beijing Treaty (n 2) arts 7–11.
[4] Beijing Treaty (n 2) art 14.
[5] Copyright Act 1987, s 25A(1) and (3).
[6] Copyright Act 1987, s 25A(1) and (3); Beijing Treaty (n 2) art 5.
[7] Copyright Act 1987, s 25A(1) and (3); Beijing Treaty (n 2) art 5.
8] Beijing Treaty (n 2) art 12(1).
[9] Beijing Treaty (n 2) art 12(3).
[[10] World Intellectual Property Organization, Main Provisions and Benefits of the Beijing Treaty on Audiovisual Performances (2012) (WIPO 2016) 5–7.
[11] Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (done 21 May 1974) ('Brussels Convention') art 2(1).
[12] Brussels Convention (n 11) art 3.
[13] Brussels Convention (n 11) arts 4 and 6.
[14] Brussels Convention (n 11) arts 1–4.
[15] Brussels Convention (n 11) art 6.

AI and copyright: defining authorship, training rules and responsibility

The proposals address the subsistence and ownership of copyright in AI-generated and AI-assisted works, the use of protected material for AI training, infringement arising from AI outputs and the respective responsibilities of AI developers and users. The Copyright Act contains no express AI-specific regime.[16] Its definition of "author" identifies the writer, composer, artist, person making the relevant arrangements or, in other cases, the person by whom the work was made, while section 7(3) requires sufficient effort to make a literary, musical or artistic work original in character and requires the work to be reduced to material form.[17]

Those provisions do not expressly resolve whether an autonomously generated output can attract copyright or the degree of human contribution required where AI forms part of the creative process.[18] The consultation therefore asks whether AI-generated works should receive copyright protection and who should own copyright in AI-assisted creations.

AI training raises a separate question. The consultation highlights concerns about the use of protected works without permission, the absence of compensation for creators and insufficient transparency concerning training datasets. It presents four broad approaches: a purpose-based model similar to Japan's, a lawful-access model similar to Singapore's, a hybrid model adapted to Malaysia and a full-protection model requiring express authorisation from the rights holder. Under the purpose-based model described in the consultation, information analysis would be permitted where it does not unreasonably prejudice rights holders, while the lawful-access model would permit computational analysis where access to the work is lawful.

These choices will determine how far AI developers may use protected works for training, the degree of control retained by rights holders and the safeguards needed to balance innovation with creator protection.

Digital enforcement: stronger safeguards, faster takedowns and dynamic relief

The consultation proposes stronger protection for technological protection measures ("TPMs") and rights management information ("RMI"). TPMs include encryption, access codes, digital rights management and anti-copying technology, while RMI includes electronic information identifying a work, its creator or rights holder, or the applicable conditions of use. Sections 36A and 36B already prohibit specified acts of circumvention, dealings in circumvention devices and services, and the unauthorised removal or alteration of electronic RMI.[19] The existing provisions preserve exceptions for interoperability, encryption research, computer security, law enforcement, specified institutional activities and accessible-format copies for persons with print disabilities.[20]

The consultation frames the reform as extending the focus of TPM protection from copy controls to access controls. The consultation also considers whether stronger TPM and RMI protection would encourage investment in local digital content and whether the benefits of such protection outweigh the risk of restricting lawful access.

[16] Copyright Act 1987, ss 3 and 7(3).
[17] Copyright Act 1987.
[18] Copyright Act 1987, ss 3 and 7(3).
[19] Copyright Act 1987, ss 36A–36B.
[20] Copyright Act 1987, ss 36A(2)(a)–(g) and 36B(2).

The consultation also proposes dynamic judicial injunctions to address piracy websites that evade blocking orders by changing domain names, adopting new URLs or operating through mirror sites. A dynamic injunction would allow an existing order to be extended to a replacement domain, URL or mirror site carrying on substantially the same infringing activity without fresh substantive proceedings on every occasion.

The practical attraction is speed: rights holders could avoid repeated applications each time an infringing site migrates, reducing enforcement cost and delay. Judicial supervision, proportionality and protection of lawful parties would remain essential safeguards.

A separate proposal would strengthen the notice-and-takedown regime for online service providers while retaining safe-harbour protection for providers that act promptly, in good faith and in accordance with statutory requirements. Section 43H presently requires a service provider to remove or disable access to an infringing electronic copy within 48 hours after receiving the prescribed notification.[21] The affected person may issue a counter-notification, after which the material must generally be restored not less than ten business days later unless the copyright owner has commenced proceedings for a restraining order.[22] The consultation invites views on whether action should be taken as soon as possible or within 6, 12 or 48 hours.

The consultation identifies notice abuse and overblocking as implementation risks. Section 43H already provides a counter-notification mechanism, while section 43I imposes criminal and civil consequences for knowingly false material statements.[23] Compliance costs and technological challenges are further implementation concerns. A further enforcement proposal would empower the court to order the seizure or forfeiture of a domain name used primarily for copyright infringement, subject to due legal process. Wrongful seizure, overseas-jurisdiction issues and implementation costs are among the principal implementation concerns identified by MyIPO.

Copyright as an economic asset: financing, resale value and creator control

Three proposals shift the focus from infringement to the economic life of copyright: IP financing, Artist's Resale Right and reversion rights. Together, they ask how copyright value should be recognised, financed and shared while preserving commercial certainty and investment incentives.

Copyright financing: unlocking the value of intangible rights

The consultation recognises that copyright may have commercial value through licensing, royalties and other forms of exploitation of music, films, books, software, visual works and digital content. The proposed intellectual property financing ecosystem would support the identification and valuation of commercially valuable copyright so that financial institutions and investors may take it into account when considering financing. This builds on section 27, which already treats copyright as movable property transferable by assignment, testamentary disposition or operation of law.[24]

The proposal would not make every copyright asset automatically usable as collateral or guarantee financing approval. Financing would remain subject to institutional policies, risk assessment and applicable requirements, with the commercial value of the copyright asset forming only part of that assessment. Key implementation challenges include valuation methodology, the absence of common valuation standards, limited familiarity among financial institutions and financing risk.

[21] Copyright Act 1987, s 43H(2).
[22] Copyright Act 1987, s 43H(3)–(4).
[23] Copyright Act 1987, ss 43H(3)–(4) and 43I.
[24] Copyright Act 1987, s 27(1).

Artist's Resale Right: sharing in downstream value

The proposed Artist's Resale Right ("ARR") would allow a visual artist to receive a royalty when an original artwork is resold in the secondary market through a gallery, auction house or other qualifying commercial transaction. The consultation illustrates the issue with an artwork first sold for RM5,000 and later resold at auction for RM500,000, from which the artist presently receives no share of the resale value. The core design questions are the royalty rate, minimum resale value, collection mechanism, reporting transparency, administrative cost and the burden on galleries and auction houses. Other jurisdictions generally confine ARR to qualifying commercial resales above a minimum threshold rather than ordinary private transactions. A proportionate Malaysian model should likewise target meaningful commercial resales and keep collection costs below the value transferred to artists. The case for ARR is strongest as a mechanism for fair participation in substantial downstream value, not as a levy on every change of ownership.

Reversion rights: restoring long-term control to creators

The consultation proposes reversion rights under which a creator or original copyright owner could recover copyright previously assigned to another party after a prescribed period and subject to statutory conditions. The proposal responds to situations in which a creator assigned copyright to a publisher, recording company, producer or other commercial party but the work continues to generate value many years later. The consultation states that reversion would not automatically invalidate the original agreement, disturb lawful transactions completed before reversion or terminate every existing licence or right of use. Implementation would require a clear statutory period, notice requirements, protection for existing investments, defined legal conditions and an effective dispute-resolution mechanism. The central policy challenge is to protect creators' long-term interests without undermining contract certainty, industry investment or the position of parties that acquired rights lawfully.

Access and accountability: unlocking works and strengthening copyright administration

Orphan works and exceptions: controlled access without loss of protection

An orphan work is protected by copyright, but its owner cannot be identified or located despite a reasonable or diligent search. The absence of an identifiable rights holder may prevent libraries, archives, museums, universities and other institutions from preserving, digitising or making culturally significant material available because no person can grant permission. The proposed mechanism would permit specified uses for preservation, research, education, digitisation and other public-interest purposes. Suggested safeguards include a diligent search, retention of search records, restriction to authorised purposes, compensation if the owner later appears and supervision by a public authority.

The legislation would need to define the required search, the sources to be consulted, who may rely on the mechanism, the permitted purposes and the remedies available if an owner is later identified. The principal implementation risks are whether a search is sufficiently diligent, exposure to later claims, lack of guidance, implementation cost and limited awareness. A well-designed regime would convert legal uncertainty into controlled access without treating an unavailable owner as equivalent to an absence of copyright.

A separate proposal considers expanding statutory exceptions for education, libraries, archives, museums, research, persons with disabilities and other public-interest uses. The Copyright Act already contains fair-dealing provisions and specific exceptions for teaching, educational institutions, public institutions, accessible-format copies and other defined uses.[25] The materials do not identify precisely which provisions would be amended or how far the exceptions would extend. Any expansion should improve socially valuable access without displacing licensing markets where permission is reasonably available; the key balance is between public access and creators' rights, including the potential effect on licensing income.

Collective management organisations: transparency from collection to distribution

Collective management organisations ("CMOs") license works on behalf of copyright owners and performers, collect royalties from users and distribute those royalties to the persons represented. The consultation proposes stronger governance, transparency, accountability, reporting, licensing and royalty-distribution requirements. Section 27A already requires a body corporate to obtain a declaration from the Controller before operating as a CMO and permits refusal of a declaration in the circumstances specified in subsection (4), and revocation in circumstances including inadequate functioning, lack of authority, failure to act in members' interests and non-compliance with the Act or applicable guidelines.[26]

The consultation considers measures including independent annual audits, annual reports to members, transparent distribution methods, complaint and appeal mechanisms, improved board governance and disclosure of administrative deductions. The intended benefits are fairer royalty distribution, greater rights-holder confidence, fewer disputes, easier licensing and stronger transparency, weighed against compliance costs, administrative burden, system changes and technological constraints.

Copyright Tribunal: faster specialist dispute resolution

The consultation proposes strengthening the Copyright Tribunal as a faster, more accessible and cost-effective specialist dispute-resolution mechanism. The measures include improved administration and case management, clarification of the Tribunal's role in High Court proceedings, expanded jurisdiction over royalty disputes between CMOs and their members, and decisions within 60 days after proceedings conclude. Section 59C presently permits the Tribunal to hear a royalty dispute between a "licensing body" and one of its members only with both parties' agreement.[27] The proposal would allow either party to refer the dispute without the other party's consent.

Section 30A already permits the Tribunal, on its own motion or at a party's request, to refer a question of law arising from concluded proceedings to the High Court.[28] The consultation also proposes that a Federal Counsel authorised by the Attorney General may represent the Tribunal in such a reference. Together, the measures are intended to improve access to justice, accelerate dispute resolution and strengthen confidence in the Tribunal.

Evidence and design boundaries: strengthening certainty in administration and commercialisation

Copyright Voluntary Notification: stronger evidence, simpler administration

The consultation proposes modernising the Copyright Voluntary Notification ("CVN") system to make it more efficient, modern and user-friendly.

[25] Copyright Act 1987, ss 13(2)(a), (f), (g), (gggg), (ggggg), (i), (r) and (s), and 13(2A)–(2C).
[26] Copyright Act 1987, s 27A(1), (4) and (6)–(8).
[27] Copyright Act 1987, s 59C(1).
[28] Copyright Act 1987, s 30A.

The proposed changes include simplifying documentation requirements, recognising the CVN certificate and certified extracts from the Register of Copyright as admissible evidence, enabling the Controller to correct administrative or technical errors that do not affect substantive rights and clarifying amendments made pursuant to court orders. The existing law already provides that certified extracts from the Register are prima facie evidence of the particulars recorded and are admissible in court, while section 26C permits the Controller to correct clerical errors and allows broader correction, amendment or expungement by order of the High Court.[29]

The principal additions therefore appear to be express evidential recognition of the CVN certificate, a more streamlined notification process and broader administrative correction powers where no substantive right is affected. The practical objective is a faster, more reliable and increasingly digital copyright record system.

Copyright and industrial design: drawing a clearer line for mass-produced works

The final major proposal concerns the boundary between copyright and industrial design protection where an original artistic work is applied to products manufactured commercially or through an industrial process. Section 7(5) already provides that copyright does not subsist under the Copyright Act in a design registered under written law relating to industrial designs.[30] Section 13A separately limits infringement claims based on design documents or models for designs relating to articles other than artistic works or typefaces.[31] Section 13B provides that, after 25 years from the end of the year in which industrially produced articles were first marketed, the artistic work may be copied through the making of articles without infringement.[32]

Section 13B(4) also empowers the Minister to prescribe when an article is regarded as made by an industrial process and to exclude articles of a primarily literary or artistic character.[33]

The reform is therefore best understood as a clarification or refinement of an existing boundary rather than the creation of an entirely new division between copyright and industrial design law. Clearer criteria should help creators, designers and manufacturers choose the appropriate form of protection before commercialisation, reduce disputes over mass-produced articles and support more predictable enforcement.

Conclusion: implementation will determine the reform's impact

The proposed reforms extend across the full life cycle of copyright, from creation and ownership to licensing, financing, enforcement, preservation and dispute resolution. They would strengthen international protection for audiovisual performers and programme-carrying satellite signals, modernise online enforcement, support the commercial use of copyright assets and improve the administration of royalties, copyright records and copyright disputes.

The reform's success will depend less on the number of new rights created than on whether the final legislation draws clear and workable lines between protection and access, creators and intermediaries, and enforcement and due process. The strongest proposals are those directed at identifiable market failures, including evasive piracy sites, opaque royalty administration, unavailable rights holders and the long-term loss of control by creators. Those reforms should be accompanied by safeguards that preserve lawful innovation, access, investment and procedural fairness.

[29] Copyright Act 1987, ss 26B(5) and 26C.
[30] Copyright Act 1987, s 7(5).
[31] Copyright Act 1987, s 13A.
[32] Copyright Act 1987, s 13B(1)–(2).
[33] Copyright Act 1987, s 13B(4).

A carefully calibrated Act could strengthen Malaysia's creative economy while giving creators, investors, users and intermediaries greater confidence in the rules governing the use, value and protection of copyright. That outcome will require clear drafting, proportionate remedies and institutions capable of administering the new framework consistently in practice.

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