

# Voluntary notification of copyright in Malaysia



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Several countries have made available a system for voluntary registration of copyright. For example:

- (a) the United States of America centralised copyright activities and copyright registration as far back as 1870, when the indexing of the record of registrations began;
- (b) China's Copyright Protection Center has made available works copyright registration and also a software registration system; and
- (c) the United Kingdom has several unofficial copyright registers which are operated by private parties.

On May 28th, 2012, Malaysia joined the party, enabling voluntary copyright registration, through the passing of the Copyright (Amendment) Act, 2012 (the Act) and the new Copyright (Voluntary Notification) Regulations 2012. Malaysia has adopted the voluntary notification system which allows an individual to make a voluntary notification of copyright informing the public of the rights and ownership of such individual towards his or her copyright.

Prior to the same, there was no formal copyright registration process. Being a party to the Berne Convention, copyrighted works in relation to literary, musical or artistic work will be automatically protected in Malaysia upon the creation and fulfillment of the following conditions:

- (i) that sufficient effort has been expended to make the work original in character;
- (ii) the work has been written down, recorded or reduced to a material form; and
- (iii) the author is qualified person or the work is made in Malaysia or the work is first published in Malaysia.

#### **Persons eligible to file the voluntary notification of copyright**

The voluntary notification of copyright may be made by a citizen or permanent resident of Malaysia:

- (a) who is the author, owner, assignee or licensee of an interest in the copyright; or
- (b) who acts on behalf of the author, owner, assignee or licensee of an interest in the copyright.

A non-citizen or non-permanent resident of Malaysia is required to appoint a representative who is a Malaysian citizen or a permanent resident of Malaysia to file the voluntary notification of copyright on his or her behalf.

#### **Procedure for voluntary notification of copyright**

A voluntary notification of copyright must be made by submitting the following to the Controller of Copyright (the Controller):

- (a) the relevant form(s);
- (b) statutory declaration;
- (c) a clear and durable copy of the work; and
- (d) the prescribed fee (which varies according to the type of notification, the method of storage, size and quantity of the works).

The copyright work must be titled and if it is in a language other than the Malaysian language or the English language, the translation of the work in the Malaysian language or the English language, its transliteration and the name of that language must be provided.

Once the voluntary notification of copyright is in order, the Controller will record the same in the Register of Copyright (the Register) and notify the applicant accordingly. An applicant who is desirous to obtain a certificate stating that the voluntary notification of copyright has been entered into the Register may file the relevant form and pay the corresponding fee.

#### **The benefits of the voluntary notification of copyright**

The availability of voluntary notification of copyright gives an added degree of comfort and assurance to copyright owners. Akin to the registration of other intellectual property rights with the Intellectual Property Corporation of Malaysia (the MyIPO), the evidence of the copyright notification with the MyIPO is prima facie proof of ownership and is admissible as evidence in any proceedings under the Act. This will ease the owner of a copyright to claim its rights and to prove his or her ownership over such copyright in the event of a dispute. Notwithstanding, an interested party may apply to the court for an order to correct, expunge or amend an entry wrongly made in the Register.

Further, the availability of a document trail (as promoted by the voluntary notification of copyright) is believed to promote more transparency and credible transaction.

#### **Conclusion**

Copyright remains as an international right and is automatically protected upon fulfillment of the required conditions without any requirement for formal registration.

Voluntary notification of copyright, although optional, provides substantial advantages to the copyright owner as well as any other person having interest in the copyright to keep an official record of their copyright in the Register, to support their claim towards ownership of the copyright and the particulars of the same in case of dispute.

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