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## **Malaysia's Proposed Amendments to the Copyright Act 1987**

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# Malaysia's Proposed Amendments to the Copyright Act 1987

*A Summary on Intellectual Property Corporation of Malaysia ('MyIPO')'s 2026 Public Consultation*

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## At a Glance

- On 3 July 2026, MyIPO an agency under the Ministry of Domestic Trade and Cost of Living ('MDTC') opened public consultation on the proposed amendments to the Copyright Act 1987 ('the Act') since 2022, the first step towards modernising a statute drafted for an analogue market.
- Five (5) areas of reform are **treaty commitments, digital economy, economic value, governance and legal certainty**.
- AI rests on three (3) principles: **consent, compensation, transparency**.
- No Amendment Bill has been tabled.

## Where We are Now

Malaysia's creative economy now moves faster than the law that governs it. AI models train on local music, writing and design without asking permission or paying for it. Pirate sites reappear under new domains faster than court orders can block them. Artwork resells for many times its original price while the artist receives nothing.

Against all of this stands the Copyright Act 1987: a statute written for the photocopier era, assuming a human author, a physical copy and a slow market. On AI, it says nothing.

Closing that gap is what MyIPO's consultation paper addresses and why it matters for Malaysia.

## The Gaps

Six (6) gaps in the Act drive the reform, one for each pressure point:

- **AI is Unregulated.** Nothing in the Act addresses AI training, data mining, or whether machine-generated output attracts copyright at all.
- **Protection is Reactive.** The section 3 of the Act definition of a technological protection measure covers only technology stopping acts that result in infringement, so the lock is protected only after the copying starts.
- **Enforcement is Outpaced.** One site needs one court order, so every mirror domain sends the rights holder back to court, and section 43H(2) of the Act still allows service providers 48 hours to take content down.
- **The Tribunal can be Vetoed.** Section 59C(1) of the Act allows a royalty dispute to be heard only with the agreement of both the licensing body and its member, so either side can simply refuse.
- **Value sits Idle.** Visual artists earn nothing on resale, orphan works stay locked in archives, and copyright is not treated as a financeable asset.
- **Copyright and Design Blur.** Section 13B(4) of the Act lets the Minister define industrial process or means by order but no order has ever been made.

## The Balancing Act

The paper is an exercise in balance, not maximum protection. Its stated aims are legal certainty, innovation, creator protection, investment confidence and proportionate regulation.

On AI it studies two models. Japan asks what the use is for, allowing information analysis unless it unreasonably prejudices the rights holder. Singapore asks only whether the copy was lawfully accessed and if so, permits computational analysis for any purpose. Buy 10,000 e-books to train a model and Singapore may permit it while Japan may not.

Malaysia has not chosen yet and asks whether to go purpose-based, lawful-access or hybrid. What it has settled is the threshold doctrine: **copyright subsists only where there is sufficient human creativity and authorship**. AI used as a tool by a human creator may well qualify; however, the output generated from a bare prompt may not. Ownership is a separate question: **copyright must exist before anyone can own it**.

## What Changes

Each row sets out one change compared against the text of the Act.

| Copyright Act 1987 today                                                                               | What is Proposed                                                                                                            | Why Malaysia needs it                                                                  |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| <b>1. Treaty Commitments</b>                                                                           |                                                                                                                             |                                                                                        |
| Malaysia is outside the Beijing Treaty on Audiovisual Performances.                                    | Accede to the Treaty and reinforce the moral and economic rights of audiovisual performers.                                 | Secures royalties for Malaysian performers and draws international productions here.   |
| No protection for programme-carrying satellite signals.                                                | Accede to the Brussels Convention 1974 and protect signals against unauthorised retransmission.                             | Stops revenue leaking from Malaysian broadcasters through cross-border signal piracy.  |
| <b>2. Technology and the Digital Economy</b>                                                           |                                                                                                                             |                                                                                        |
| No provision on AI, machine learning or text and data mining.                                          | An AI framework built on consent, compensation and transparency, with copyright turning on sufficient human creativity.     | Gives Malaysian creators and AI developers one clear rule instead of guesswork.        |
| The definition of TPM in section 3 covers only technology preventing acts that result in infringement. | Widen TPM to any technology that effectively prevents or limits infringement, including passwords, paywalls and encryption. | Protects the lock itself, shifting Malaysian enforcement from reactive to pre-emptive. |
| Section 36B prohibits removing or altering rights management information (RMI).                        | Extend liability to trafficking in devices or services that strip or alter RMI.                                             | Keeps ownership data intact so royalties reach the right Malaysian rights holder.      |
| Injunctions cover one site per order.                                                                  | Dynamic judicial injunctions covering mirror, clone and successor sites under continuing court oversight.                   | Ends the whack-a-mole cycle that currently exhausts rights holders and the courts.     |
| Section 43H(2) gives service providers 48 hours to remove notified content.                            | Cut the window to 12 hours, with safe harbour contingent on acting promptly.                                                | Reduces the time pirated Malaysian content stays online and earning.                   |
| The Act is silent on domain names used for infringement.                                               | Create a criminal remedy of seizure and forfeiture of infringing domain names.                                              | Gives MDTC a tool to disable rogue sites at the infrastructure level.                  |
| <b>3. Economic Value</b>                                                                               |                                                                                                                             |                                                                                        |

| Copyright Act 1987 today                                                                                       | What is Proposed                                                                                                                                                     | Why Malaysia needs it                                                                                         |
|----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| An artist's economic participation ends at the first sale.                                                     | Introduce an Artist's Resale Right (ARR) giving an inalienable royalty on resales through galleries and auction houses above a threshold, at a rate yet to be set.   | Over 90 countries already do this; it lets Malaysian visual artists share in the rising value of their works. |
| No lawful way to use works whose owners cannot be traced.                                                      | Introduce an orphan works framework permitting use after a diligent search fails, for preservation, research and education.                                          | Unlocks Malaysian heritage held in libraries and archives without weakening copyright.                        |
| Copyright is treated as a legal right only.                                                                    | Recognise copyright as an economic asset capable of valuation and financing.                                                                                         | Turns Malaysian creative catalogues into collateral for growth.                                               |
| <b>4. Governance and Administration</b>                                                                        |                                                                                                                                                                      |                                                                                                               |
| CMO governance under section 27A lacks structural safeguards.                                                  | Mandate constitutions, board standards, AGMs, audits, transparent distribution rules and annual reporting.                                                           | Rebuilds trust that royalties collected in Malaysia are fairly distributed.                                   |
| No clarity when a CMO's declaration expires without renewal.                                                   | Transitional rules for existing licences, undistributed royalties and rights-holder protection.                                                                      | Prevents Malaysian rights holders losing income in a regulatory vacuum.                                       |
| Section 59C(1) requires both parties to agree before a royalty dispute is heard.                               | Allow either party to refer a royalty dispute unilaterally.                                                                                                          | Removes the veto that lets one side stonewall indefinitely.                                                   |
| No statutory deadline binds the Tribunal.                                                                      | Decisions within 60 days of the conclusion of proceedings.                                                                                                           | Makes the Tribunal a credible alternative to litigation.                                                      |
| Section 30A routes questions of law to the High Court through the Tribunal.                                    | A new subsection allowing an aggrieved party to refer directly, with Federal Counsel authorised by the Attorney General appearing for the Tribunal.                  | Improves access to justice and consistency in Malaysian copyright interpretation.                             |
| Section 42 leans on affidavits and statutory declarations to prove ownership.                                  | Make the CVN Certificate itself admissible in evidence and simplify filing.                                                                                          | Cuts cost and delay for Malaysian creators proving what they own.                                             |
| Section 26C(1) lets the Controller correct only clerical errors.                                               | Extend the power to clerical, administrative and non-substantive errors, on application or on the Controller's own motion.                                           | Avoids High Court applications over harmless slips in the Register.                                           |
| <b>5. Legal Certainty</b>                                                                                      |                                                                                                                                                                      |                                                                                                               |
| Section 13B(4) lets the Minister define industrial process or means by order, but no order has ever been made. | Gazette an Industrial Process or Means Order with objective criteria, such as more than 50 copies made for sale or hire.                                             | Tells Malaysian businesses which regime protects their product before they invest.                            |
| Artistic works risk losing copyright once applied industrially.                                                | Exclude articles of a primarily literary or artistic character, such as artistic craftsmanship, limited editions and calligraphy, from the operation of section 13B. | Protects Malaysian craft and heritage work from being treated as mere industrial design.                      |

**Notes on abbreviations**

**AGM:** Annual General Meeting.

**AI:** Artificial Intelligence.

**ARR:** Artist's Resale Right, a royalty paid to an artist when an original work is resold.

**CMO:** Collective Management Organisation, a body that licenses works and collects royalties on behalf of rights holders.

**Controller:** the Controller of Copyright, designated under section 5(1) of the Act and responsible for the Register of Copyright.

**CVN:** Copyright Voluntary Notification, the system under section 26A of the Act for recording a claim to copyright with MyIPO.

**MDTC:** the Ministry of Domestic Trade and Cost of Living.

**MyIPO:** Intellectual Property Corporation of Malaysia.

**RMI:** Rights Management Information, the electronic data identifying a work, its owner and the terms of its use.

**TPM:** Technological Protection Measure, technology such as encryption, a password or a paywall that restricts unauthorised use of a work.

## What Happens Next

The reform is structural not incremental. Creators gain a say in how AI uses their work. Rights holders gain enforcement that moves at the speed of the internet. Artists gain a stake in their own appreciating value. Institutions gain lawful access to orphaned heritage. Businesses and enforcement officers gain a boundary they can actually see.

What remains open is the detail on which AI model Malaysia adopts the resale royalty rate, the diligent search standard and the criteria in the Industrial Process or Means Order. That is what the consultation is for and why stakeholders should respond while the text is still being drafted.

## Key Takeaways

- **Protection moves from reactive to pre-emptive.**
- **Human creativity remains the gateway to copyright, with or without AI.**
- **Enforcement is rebuilt for network-scale piracy, not single sites.**
- **Two new rights appear: resale royalties and orphan works access.**
- **The Tribunal loses its consent veto and gains a 60-day deadline.**
- **It is still only a consultation.**

This legal update is by Kenneth Chong Kheng Aik (Partner) and Ong Li Jun of Mah-Kamariyah & Philip Koh's Intellectual Property & TMT team. This legal update contains general information only and does not constitute legal advice. For further information please get in touch with a member of MKP's Intellectual Property & TMT team at [general@mkp.com.my](mailto:general@mkp.com.my).