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Copyright FAQs

A. Writers

S/N	Section	Content
1.	Who is a writer?	<p>A writer is an author who creates work that explains, describes, or narrates a particular subject, theme, or idea using narrative, descriptive, or explanatory text, rather than dialogue or dramatic action. A writer is also called a “literary artist” under the Copyright Act 2021, which recognises copyright protection for “literary works”.</p> <p>Generally, literary works are written and are intended to be read; they are not intended to be performed before an audience. A script written to be performed as a play would be protected as a “dramatic work” rather than a “literary work”.</p>
2.	Can others use my work without my permission?	<p>Although the Copyright Act 2021 provides you with control over who may use your work and how they might do so, you are not able to prohibit all uses.</p> <p>Fair dealing and fair use are defined as “permitted uses” under the Copyright Act 2021 and are hence not copyright infringement. This can include any copying of copyrighted material (even verbatim) for a limited purpose, such as education, commentary, criticism, education, or parody. Such uses may be done without permission from the copyright owner. Ultimately, whether an act qualifies as fair use depends on the specific facts and circumstances.</p> <p>Please refer to Copyright 101 – 9. Copyright Infringement for more information on what constitutes fair use.</p> <p>Examples of fair use of literary works</p> <ul style="list-style-type: none"> The book <i>The Wind Done Gone</i> is an example of fair use as illustrated in the US case of <i>Suntrust Bank v Houghton Mifflin Co.</i> Although the book “appropriate[d] numerous characters, settings, and plot twists” of Margaret Mitchell’s novel <i>Gone With the Wind</i>, the

		<p>court allowed publication of a fictional book which critiques another non-fictional book based on alleged copyright violations.</p> <ul style="list-style-type: none"> • The usage of still images and clips of Abraham Zapruder’s film of JFK’s assassination have been considered fair use as it is considered the use of a prominent historical fact. The original Zapruder film is also part of the Kennedy Collection and is in the custody of the Motion Picture Sound and Video staff, at the National Archives of the United States of America. dr • A book that supposedly made fun of the O.J. Simpson trial based on <i>The Cat In The Hat</i> by Dr. Seuss was not fair use. The US court ruled, in the case of <i>Dr Seuss Enterprises v Penguin Books USA</i>, that the writer could use <i>The Cat in The Hat</i> to ridicule the book itself, but not for making fun of something else. • In the US case of <i>Campbell v Acuff-Rose Music</i>, 2 Live Crew’s rap-style rewrite of Roy Orbison’s <i>Oh, Pretty Woman</i> was considered a parody and fair use because it was not considered an original piece of work and merely poked fun at the original song itself.
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B. Composers

S/N	Section	Content
1.	Who is a composer?	The composer is the person who writes the arrangement of the music down in a material form., and who writes music to be played or performed by musicians. Lyrics to a song are also protected separately as “literary works”. Copyright can also arise in new arrangements of old musical works or transcription. You may refer to section 18 of the Copyright Act 2021 for further information.
2.	How is a piece of music protected by copyright?	<p>The protection of musical compositions in copyright is contentious. However, as a general guideline, every piece of music is protected by copyright, and can be broken down into three important parts:</p> <ol style="list-style-type: none"> (1) Copyright in the music itself; (2) Copyright in the lyrics of a song (as a literary work); and (3) Copyright in any sound recording of the music.
3.	What are adaptation rights for composers?	An adaptation is created when someone re-writes your song such that the tune is played with different instruments or when someone changes your song by adding new parts to it. A composer has the right to control any adaptation of his/her work. Individuals who wish to make adaptations

		to your work require your permission in the form of granting a licence to create work based on your original compositions. Copyright is important in this context because it: (1) protects your work and; (2) allows you to obtain royalties (payment) for your work.
4.	How do I sample music without infringing copyright laws?	<p>Music sampling is a common practice in composing. It is about using a part of another musician's work, such as their lyrics, melodies, rhythms, or the recording itself to create a work of your own. However, it is important to note that music sampling is only legal if you have been given permission to use the sampled material from the owner of the respective music, lyrics, or sound recordings whose work you are sampling. Sampling can infringe on the reproduction right in copyright.</p> <p>In the US, a court ruled that the musical composition <i>Blurred Lines</i> by Pharrell Williams and Robin Thicke infringed copyright because the song was substantially similar to the Marvin Gaye song <i>Got to Give It Up</i>. In creating new works, it is important to take additional care when taking inspiration from an already existing song. You have sampled someone's work if it is still noticeable as that person's work, especially if it is a distinctive tune or musical motif. Even if you have changed the rest of the song, you are required to ask for their permission.</p>
5.	Can I make use of music in the public domain?	<p>Copyright protection for musical compositions lasts during the lifetime of the author, the remainder of the calendar year in which the author dies, and an additional 70 years. Once this term expires, the work is in the public domain. Masterpieces of classical composers like Mozart or Beethoven may be freely copied, distributed, adapted, or performed in public without permission or paying a fee because they are in the public domain.</p> <p>However, do not assume a classical music piece is in the public domain because as there could still be copyright in the "sound recording". For example, while a music score could be in the public domain, a recording of it by the London Symphony Orchestra or Berlin Philharmonic would not be in the public domain. To make proper use of classical music in the public domain, it is important to understand how copyright law works in Singapore and the differences between musical works and sound recordings.</p> <p>To conclude, do not assume that a sound recording is in the public domain just because the composer of the underlying musical work died 70 years ago. Even when a composition is in the public domain, the sound recording is still protected, and its copyright owner has exclusive rights to that arrangement for 70 years after the first publication of the sound recording. However, copyright law does not prevent you from performing, copying, distributing, and recording your</p>

		own arrangement or recording of Beethoven’s Fifth Symphony or any other any musical composition found in the public domain. It is always a best practice to ask for permission and consult your lawyer if you are unsure.
6.	Can a film producer use my composition?	In a related content, if a film producer wishes to use your song in a film, he/she will require permission from you (the composer), and master use recording rights to use a specific pre-existing recording (there is separate copyright in a sound recording).

C. Choreographers

S/N	Section	Content
1.	Who is a choreographer?	A choreographer designs and directs the dance or stylised movement in musical productions, working closely with the director and musical director. A choreographer works with dancers to interpret and develop ideas, and transforms them into the finished performance. Choreographers can fix their work through dance notation, video recording or textual descriptions or photographs.
2.	What are the elements of choreography?	The Copyright Act 2021 does not stipulate an exact definition of a “choreographic work”. However, as a general guideline, common elements of choreography include: <ol style="list-style-type: none"> a. Rhythmic movements of one or more dancers’ bodies in a defined sequence and a defined spatial environment, such as a stage b. A series of dance movements or patterns organized into an integrated, coherent, and expressive compositional whole c. A story, theme, or abstract composition conveyed through movement d. A presentation before an audience e. A performance by skilled individuals with musical or textual accompaniment
3.	Is my choreography protected by copyright laws?	In Singapore, “choreographic works” fall under the category of “dramatic works”. Although the Copyright Act 2021 does not explicitly state the elements of a dramatic or choreographic work, it is commonly understood that the choreography for dance performances are referred to as choreographic works. The performance by dancers may be a “protected performance” that is different from the sequences of dance steps which is the “choreographic work” within the category of “dramatic works” in the Copyright Act.

		<p>To obtain copyright protection, the choreography must be both original and expressed in a material form. The “material form” requirement means that the choreography must be written down or documented in some way. Writing it down using dance notation or recording it on a video are examples of how dancers and choreographers can satisfy this criterion. Interestingly, when choreography is in its material form, other avenues of protection are available under copyright because the process of writing it down produces a “literary work” and the task of filming it enables it to be classified as a cinematograph film.</p>
4.	<p>Do I need permission to use music when my choreography is performed?</p>	<p>The use of pre-existing music in public dance performances is a complicated area for copyright permissions. This is because there may be copyright in the sound recording even if the musical composition as a “musical work” itself is out of copyright (e.g. the New York Philharmonic Orchestra’s 2005 recorded performance of Beethoven’s Fifth Symphony will still be protected by copyright even though the musical composition itself is not). Always check in advance that the venue for your choreographic performance has the right licences to play the chosen music. If it does not, you will need to obtain the appropriate licences ahead of the performances taking place. Under the Copyright Act 2021, you must obtain a licence for the public performance of a sound recording in addition to the licence for the public performance of the underlying music scores and lyrics. The following are general guidelines for the use of pre-existing music in in your choreography:</p> <p>If you are using music (being played live) You need ...</p> <ol style="list-style-type: none"> 1. Permission from the copyright owner to use the music (if in copyright). <p>If you are using music directly from a commercial CD/recording You need ...</p> <ol style="list-style-type: none"> 1. Permission from the copyright owner to use the music (if in copyright); and 2. Licences to use the sound recording and the music embodied therein. <p>If you are dubbing (re-recording) a commercial CD/recording, onto your own show tape You need ...</p> <ol style="list-style-type: none"> 1. Permission from the copyright owner to record the music (if in copyright); 2. A licence to publicly perform the sound recording (unless exempt);

		<ol style="list-style-type: none"> 3. Permission from the record company to use the sound recording and the performances embodied therein (if in copyright); 4. Permission to record the music (if in copyright); and 5. A licence to publicly perform the music at a specific venue (unless the venue already has a licence).
5.	<p>What categories of choreography are not protected by copyright?</p>	<p>Some categories of dance and non-dance movements, such as sports activities and performance art, do not fall within the subject matter protected under the Copyright Act 2021 even though they may be unique. These categories of movements are therefore not given protection under copyright.</p> <p>(a) Commonplace Movements or Gestures</p> <p>A specific individual movement or simple dance steps by themselves are not copyrightable, such as the basic waltz step, the hustle step, the grapevine, or the jete and pirouette in classical ballet.</p> <p>Examples of commonplace movements or gestures that do not qualify for copyright protection as choreographic works include:</p> <ul style="list-style-type: none"> • A set of movements whereby a group of people spell out letters with their arms • Yoga positions • A celebratory end zone dance move or athletic victory gesture (e.g. Usain Bolt’s victory pose) <p>(b) Social Dances</p> <p>Social dances, simple routines, and other uncopyrightable movements are not considered separate and distinct works of authorship, even if they contain a substantial amount of creative expression.</p> <p>Examples of social dances not protected by copyright include:</p> <ul style="list-style-type: none"> • Ballroom dances • Folk dances • Line dances • Square dances • Swing dances

		<p>(c) Ordinary Motor Activities and Athletic Movements</p> <p>Functional physical movements, feats of physical skill or dexterity, and ordinary motor activities—in and of themselves—are not eligible for registration as choreography because these movements do not represent the type of authorship that the Copyright Act intended to protect as choreography.</p>
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D. Visual Artists

Painter / sculptor / illustrator / engraver

S/N	Section	Content
1.	What if someone takes a picture of my work in a gallery and posts this picture on their social media without my permission? What can I do?	<p>This constitutes copyright infringement as this person has (1) made a copy of your work without authorization; (2) communicated your work to the public without your permission; and (3) communicated a visual image of your work to the public without identifying you as the author.</p> <p>You may wish to first contact this person online to inform him/her of the infringement of your rights, and ask this person to take down the post. You may even wish to pursue an action in Court for an injunction, damages, or an account of profits if this person’s social media account is monetized (please refer to Copyright 101 – 9. Copyright Infringement on potential remedies).</p>
2.	What happens if images of my artwork (which is located in a private gallery) are captured on film? Do I have any right to be identified in the film as the author of that work?	<p>If the inclusion of your artistic work in the film is incidental to the plot of and/or scene within the film, and not the main content of the film, then this is permitted use of your work, and no infringement has occurred.</p> <p>Your right to be identified has also not been infringed even if the film does not identify you as the author of that particular work.</p> <p>However, you may wish to re-examine your contractual arrangement with the gallery and/or speak with them to see if you are entitled to any remuneration because of this film.</p>
3.	What if someone makes a sculpture based on my painting without my permission? Have my rights been infringed?	<p>This depends on how similar this sculpture is to your painting. A reproduction of a 2-dimensional work in 3-dimensional form still constitutes copying, which is an infringement of your rights.</p>

		However, the copying of a 2-dimensional work in 3-dimensional form is fair use if the sculpture does not appear to non-experts to be a copy of your work.
4.	What if someone makes a dance based on my painting and uses the title of my painting as the name of the dance without my permission? Do I have any legal remedies?	Copyright owners of artistic works have no adaptation rights. Therefore, your copyright does not operate to prevent this person from creating a dance with the same name as your painting, or that is inspired by your painting.

Photographer

S/N	Section	Content
1.	Can I take a photograph of an artwork that is displayed in public and use that photograph without infringing any rights?	You are allowed to take a picture of sculptures, buildings, and other artistic craftsmanship that are located in public places, or on premises open to the public without infringing anyone's rights. This permitted use, however, does not extend to paintings, drawings, or engravings.
2.	As a freelance photographer, can I use pictures I have taken of past clients to advertise my services to the public?	<p>From 21 November 2021 onwards, absent any other agreement, the copyright of any photographs you take while under any contract for service (as opposed to employment) belongs to you. Under the Copyright Act 2021, you can copy, publish, and communicate your work to the public freely.</p> <p>However, you should be mindful of Singapore's Personal Data Protection Act ("PDPA") if your photographs contain images that can identify specific individuals (for example portrait photographs). In these cases, the consent of these individuals must be obtained before you can legally publish or communicate your work to the public (such as posting them on your website or social media).</p> <p>It is suggested that this issue be addressed under the terms of your initial contract for service.</p>
3.	What if someone creates a painting that is strikingly similar to a portrait photograph I have taken without permission, and sells their painting for a significant sum of money? Am I entitled to any proceeds of the sale?	<p>The painting of your photograph may constitute a copying of your photograph. This would be infringement of your reproduction right, and you are entitled to legal remedies.</p> <p>However, proving the infringement of your reproduction right may not be so straightforward. To prove infringement, you must first prove that this person copied your work. This may be hard to do if your photograph does not contain any distinctive features, and if your work has not been communicated to the public.</p>

		On the other hand, if your photograph is on a blog or social media online, and the painting contains all of the distinctive features of your picture, then the Court will be more willing to find that the person infringed your rights.
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E. Performers

S/N	Section	Content
1.	Am I considered a performer?	A performer is a person who performs an authorial work. This performance can include any mode of visual or aural presentation of the copyrightable work. These include works like a play, a dance choreography, or a musical composition. Hence, common examples of performers are actors, dancers, singers, or musicians.
2.	What are my rights as a performer?	The author of the underlying work has copyright protection for the work. The performer of the work, however, also has (1) a special performer right to a “protected performance”; and a (2) right of identification to a “protected performance” as a performer.
3.	Performer Right	<p>(a) What is the performer right?</p> <p>The performer of the work has a special performer right to a “protected performance”.</p> <p>The performer right allows the performer of a qualifying performance that is given live in Singapore or by a qualified individual to control certain dealings (both commercial and non-commercial). This is independent of, and does not affect, copyright in the work that is performed.</p> <p>(b) What is a “protected performance”?</p> <p>The performance is considered a “protected performance” when it is: 1) a qualifying performance; and 2) the performance is either given live in Singapore, or by a qualified individual (a Singapore citizen or resident).</p> <p>Most performances by artists, such as a dance, circus act, playing music, acting, reading of a literary work, the performance of a dramatic work or even variety acts are considered as qualifying performances.</p>

		<p>However, there are some notable exceptions - e.g. performances by students or staff during activities done by the institution, a delivery of news or information, performances in a National Day Parade are not considered qualifying performances.</p> <p>(c) What is the duration of the performer right?</p> <p>It starts on the day that the performance is given and ends 70 years after the end of the year in which the performance was given.</p> <p>(d) When is my performer right infringed?</p> <p>The circumstances under which your performer right is infringed is found in sections 175 and 176 of the Copyright Act 2021. They include: (i) while the performance is live, recording the performance and then making it available to the public (e.g. posting on the internet); and (ii) dealing commercially in a recording of the protected performance when the person ought reasonably to know that the recording was made without the rights owner's permission.</p> <p>(e) How can I enforce my performer right?</p> <p>A performer of a protected performance can bring an action in the Court against any person who makes an infringing use of the performance within 6 years of the infringing use taking place. You can also request the person to remove the infringing content from the internet.</p>
4.	Right of Identification	<p>(a) What is the right of identification?</p> <p>Under the Copyright Act 2021, you have the right to be properly acknowledged for your performances. These are provided to individual creators to protect the personal connection that you have to your works. This means that when you perform a piece, you have a right to be acknowledged in the work.</p> <p>Your right to be identified generally lasts 70 years after the performance is given.</p>

		<p>You can either consent to not be identified or waive your right to be identified. Consent can be done verbally or in writing, but waiving your right requires written proof of the waiver. (See part (e) below).</p> <p>(b) How should I be identified?</p> <p>You can be identified in a few different ways. Examples of proper identification of a performer would be either: 1) the performer’s true name; 2) the performer’s stage name; or 3) any reasonable form of identification, assuming that it is not known how the performer would want to be acknowledged.</p> <p>For performers in a group, proper identification can take place in the form of the group’s name.</p> <p>The identification must be clear and reasonably prominent. This means that the identification must be noticeable, and is likely to be noticed by a person viewing the performance or acquiring any copy of the recording of the performance.</p> <p>On social media, the kind of identification can vary. Examples of clear and reasonably prominent identification are as follows:</p> <ul style="list-style-type: none"> • Facebook “share” function which includes the performer’s name • Twitter “retweet” function which includes the performer’s name • “Tagging” the performer in an Instagram post • Naming the caption or content in a way that identifies the performer <p>(c) In what situations do I have the right to be identified?</p> <p>You have the right to be identified when: 1) the performance is given in public and produced by someone else; 2) the performance is communicated live to the public; 3) the performance is made available to the public in a recording; or 4) a recording of the performance is published.</p> <p>You do not have a right of identification in certain scenarios. These scenarios are listed below:</p> <ul style="list-style-type: none"> • When the identity of the performer is not generally known, and could not reasonably be confirmed by the infringing party
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5.	<p>What can I do if my performer right or right of identification is infringed?</p>	<p>You can ask the infringing party to either; 1) credit you; or 2) take down their use of the work, assuming that it was published online.</p> <p>If they do not comply, you may be able to take legal action. Any claim for copyright infringement must be brought within 6 years of the alleged infringement.</p> <p>If the court finds that there is an infringement, the court may order for remedies, such as:</p> <ul style="list-style-type: none"> • An order to the other party to refrain from certain acts, known as an injunction. • An award of monetary damages to you if you are able to show a loss in potential income because of the infringement. <p>Please refer to Copyright 101 – 9. Copyright Infringement for more information on potential remedies.</p>