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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

Original: English/  
anglais/  
inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

The present document reproduces the text<sup>1</sup> of the Copyright Law, as last amended on 12 November 2001, as notified by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, under Article 63.2 of the Agreement (see document IP/N/1/TPKM/1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

TERRITOIRE DOUANIER DISTINCT DE TAIWAN, PENGHU, KINMEN ET MATSU

Le présent document contient le texte<sup>1</sup> de la Loi sur le droit d'auteur, modifiée en dernier lieu le 12 novembre 2001, qui a été notifiée par le Territoire douanier distinct de Taiwan, Penghu, Kinmen et Matsu au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TPKM/1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELLECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

TERRITORIO ADUANERO DISTINTO DE TAIWÁN, PENGHU, KINMEN Y MATSU

En el presente documento se reproduce el texto<sup>1</sup> de la Ley de Derecho de Autor, modificado por última vez el 12 de noviembre de 2001, notificado por el Territorio Aduanero Distinto de Taiwán, Penghu, Kinmen y Matsu de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TPKM/1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte, dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

## THE COPYRIGHT LAW

[Translation]<sup>2</sup>

1. 40 Articles adopted and promulgated in full on 14 May 1928 by Order No. 212 of the National Government.
2. 37 Articles amended and promulgated in full on 27 April 1944 by Order Yu-Wen-Tzu No. 251 of the National Government.
3. Articles 30, 31, 32, 33, and 34 amended and promulgated by Presidential order on 13 January 1949.
4. Articles 30, 31, 32, 36, and 41 newly adopted by Presidential order on 10 July 1964; original Articles 22-29 became Articles 23-30; original Articles 30-32 became Articles 33-35; original Articles 33-36 became Articles 37-40; original Article 37 became Article 42; and Articles 25, 26, 33, 35, 37-40 amended.
5. 52 Articles amended and promulgated in full on 10 July 1985 by Presidential Order No. (74) Hua-Tzung-(1)-Yi-Tzu 3318.
6. Articles 50-51 newly adopted and promulgated and Articles 3, 28 and 39 amended and promulgated on 24 January 1990 by Presidential Order No. (79) Hua-Tzung-(1)-Yi-Tzu 0427.
7. 117 Articles amended and promulgated in full on 10 June 1992 by Presidential Order No. (81) Hua-Tzung-(1)-Yi-Tzu 2805.
8. Article 53 amended and promulgated on 6 July 1992 by Presidential Order No. (81) Hua-Tzung-(1)-Yi-Tzu 3285.
9. Article 87 amended and promulgated and Article 87-1 newly adopted and promulgated on 24 April 1993 by Presidential Order No. (82) Hua-Tzung-(1)-Yi-Tzu 1841.
10. 117 Articles amended and promulgated in full on 21 January 1988 by Presidential Order No. (87) Hua-Tzung-(1)-Yi-Tzu 87000126405.
11. Articles 2, 34, 37, 71, 81, 82, and 90bis amended and promulgated on 12 November 2001 by Presidential Order No. (90) Hua-Tzung-(1)-Yi-Tzu 9000219510.

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<sup>2</sup> Translator's note: In this translation, the word "it" has been used as a substitute for "he/she." Unless the context indicates otherwise, the singular may be read to include the plural and vice versa. Text within brackets "[]" is added to improve clarity and readability. This is not an "official translation" in that, should there be any discrepancy between the original text and this English translation, the original Chinese text shall govern, and in all instances of interpretation the Chinese original text should be consulted.

## **CHAPTER I GENERAL PRINCIPLES**

### ***Article 1***

This Law is specifically enacted for the purposes of protecting the rights and interests of authors with respect to their works, harmonizing society's common benefit, and promoting the development of national culture. For matters not provided for by this Law the provisions of other laws shall apply.

### ***Article 2***

The "competent authority" under this Law is the Ministry of Economic Affairs.

The Ministry of Economic Affairs shall set up a specialized agency charged with handling matters under the preceding paragraph.

### ***Article 3***

For purposes of this Law the following terms are defined as follows:

1. "Work" means a creation that is within a literary, scientific, artistic or other academic domain.
2. "Author" means a person who creates a work.
3. "Copyright" means the moral rights and economic rights subsisting upon the completion of a work.
4. "The public" means unspecified persons or multiple specified persons. This does not apply to multiple persons of a household and the household's normal social acquaintances.
5. "Reproduction" means to reproduce a tangible copy of a work by printing, reprography, sound recording, video recording, photography, handwritten notes, or other means. This definition also applies to the sound recording or video recording of scripts, musical works or works of similar nature during their performance or broadcast; and also includes the construction of a building based on architectural plans or models.
6. "Public recitation" means to communicate the contents of a work to the public by spoken words or other means.
7. "Public broadcast" means to communicate to the public the contents of a work through sounds or images by wire, wireless, or other equipment, where such communication is for the purpose of public reception of information. This includes any communication, by wire or wireless, to the public of an original broadcast of sounds or images by any person other than the original broadcaster.
8. "Public presentation" means to use single or multiple unit audiovisual devices, or other methods of transmitting images, to simultaneously communicate the contents of a work to the public at the place of transmission or at a specified place outside the place of transmission.
9. "Public performance" means to communicate the contents of a work to the public at the scene by acting, dancing, singing, playing a musical instrument, or other means. This includes any communication to the public of an original broadcast of sounds or images through loudspeakers or other equipment.

10. "Adaptation" means to create another work based upon a pre-existing work by translation, musical arrangement, revision, filming or other means.

11. "Distribution" means, with or without compensation, to provide the original or a copy of a work to the public for the purpose of trade or circulation.

12. "Publication" means the distribution of [a sufficient number of] copies [of a work] by the rights owner to satisfy reasonable demands of the public.

13. "Public release" means to publicly issue the content of a work to the public, by the rights owner [of a work], through publication, broadcast, presentation, recitation, performance, display, or other means.

14. "The original" means the object to which a work is first fixed.

"Place of transmission or at a specified place outside the place of transmission" as referred to in subparagraph 8 of the preceding paragraph includes motion picture cinemas, clubs, places where videos or discs are presented, hotel rooms, public transportation vehicles, or other places that may be accessed by unspecified persons.

#### ***Article 4***

Works of foreign persons that comply with one of the following conditions may enjoy copyright under this Law; provided, where the terms of a treaty or an agreement that has been approved by resolution of the Legislative Yuan provide otherwise, such terms shall govern:

1. Works that are first published in the territory under the jurisdiction of the Republic of China, or are published in the territory under the jurisdiction of the Republic China within thirty days after their first publication in the territory outside the jurisdiction of the Republic China. Provided, this shall only apply to where the country of such foreign person protects the [copyrights of] the works of persons of the Republic of China under identical circumstances, and such protection has been verified.

2. Where by treaty, agreement, or under the domestic law, regulation or practice of a foreign country, works of persons of the Republic of China enjoy copyright in such country.

## **CHAPTER II WORKS**

#### ***Article 5***

For purposes of this Law "works" are illustrated as follows:

1. Oral and literary works.
2. Musical works.
3. Dramatic and choreographic works.
4. Artistic works.
5. Photographic works.
6. Pictorial works.
7. Audiovisual works.
8. Sound recordings.
9. Architectural works.
10. Computer programs.

The examples and content of each category of works set forth in the preceding paragraph shall be set by the competent authority.

***Article 6***

A creation adapted from one or more pre-existing works is a derivative work and shall be protected as an independent work.

Protection of a derivative work shall not affect the copyright in the pre-existing work.

***Article 7***

A compilation work is a work formed by the creative selection and arrangement of materials, and shall be protected as an independent work.

Protection of a compilation work shall not affect the copyright of the work from which the material was selected and arranged.

***Article 7bis***

A performance by a performer of a pre-existing work shall be protected as an independent work.

Protection of a performance shall not affect the copyright in the pre-existing work.

***Article 8***

A joint work is a work that has been completed by two or more persons where the creation of each person cannot be separately exploited.

***Article 9***

The following items shall not be the subject matter of copyright:

1. The constitution, laws, regulations or official documents.
2. Translations or compilations by central or local government agencies of works referred to in the preceding subparagraph.
3. Slogans and common symbols, terms, formulas, numerical charts, forms, notebooks and almanacs.
4. Oral and literary works that are unadorned communications of facts for news reports.
5. Questions from all kinds of examinations and their supplementary questions held pursuant to laws or regulations.

The term "official documents" referred to in the first subparagraph of the preceding paragraph includes proclamations, text of speeches, news releases and other documents prepared by civil servants in the course of carrying out their duties.

## **CHAPTER III AUTHORS AND COPYRIGHT**

### **Section 1 General Provisions**

#### ***Article 10***

The author of a work shall enjoy copyright upon completion of the work; provided, where this Law provides otherwise, such provisions shall govern.

#### ***Article 10bis***

Protection for copyright that has been obtained in accordance with this Law shall only extend to the expression of the work in question, and shall not extend to the work's underlying ideas, procedure, production process, system, method of operation, concept, principle or discovery.

### **Section 2 Authors**

#### ***Article 11***

Where a work is completed by an employee within the scope of employment, such employee is the author of the work; provided, where an agreement stipulates that the employer is the author, such agreement shall govern.

Where in accordance with the provisions of the preceding paragraph the employee is the author of the work, the economic rights to such work shall be enjoyed by the employer; provided, where an agreement stipulates that the economic rights shall be enjoyed by the employee, such agreement shall govern.

The term "employee" referred to in the preceding two paragraphs includes civil servants.

#### ***Article 12***

Where a work is completed by a person under commission, except in the circumstances set out in the preceding article, such commissioned person is the author of the work; provided, where an agreement stipulates that the commissioning person is the author, such agreement shall govern.

Where in accordance with the provisions of the preceding paragraph the commissioned person is the author, the economic rights to such work shall be enjoyed by the commissioning person or the commissioned person in accordance with an agreement to such effect. Where there is no agreement regarding the enjoyment of economic rights, the economic rights shall be enjoyed by the commissioned person.

Where the economic rights are enjoyed by the commissioned person pursuant to the provisions of the preceding paragraph, the commissioning person may exploit the work.

#### ***Article 13***

Where a person's name or a pseudonym familiar to the public is represented in a normal way as the author on the original of a work, or on a published copy of the work, or in connection with a public release of a work, the person shall be presumed to be the author of the work.

The provisions of the preceding paragraph shall apply mutatis mutandis to presumptions concerning the date, place of publication and ownership of economic rights of a work.

**Article 14**  
(deleted)

### **Section 3 Moral Rights**

**Article 15**

The author of a work shall enjoy the right to publicly release the work. Provided, this shall not apply to a civil servant where such person is the author, and where the juristic person employing such author enjoys the economic rights to the work, pursuant to the provisions of article 11 or 12.

In the following circumstances the author shall be presumed to have consented to the public release of the work:

1. In situations where, prior to publicly releasing its work, the author has transferred, or licensed to exploit, the economic rights of a work, the work is publicly released as a consequence of the exercise or exploitation of the economic rights.
2. In situations where, prior to the public release of an artistic work or a photographic work, the author transfers the original or a copy of such work and the transferee publicly displays the original or copy of the work.
3. Masters or doctoral theses written under the "Law Governing the Granting of Scholastic Degrees" where the author has obtained a degree.

Where, in accordance with the provisions of paragraph 2 of article 11 or paragraph 2 of article 12, an employer or a commissioning party, ab initio, obtained economic rights to a work that has never been publicly released, and where such work is publicly released in conjunction with the transfer, exercise or exploitation of the economic rights of such work, it will be deemed that the author consents to the public release of the work.

The provisions of the preceding paragraph shall apply mutatis mutandis to paragraph 3 of article 12.

**Article 16**

The author of a work shall have the right to use its name, a pseudonym or to be anonymous on the original or copies of the work, or when the work is publicly released. The author has the same right to a derivative work adapted from its work.

The proviso in the first paragraph of the preceding article shall apply mutatis mutandis to the preceding paragraph.

The person exploiting a work may use its own cover design and may add the name or appellation of the designer or editor-in-chief; provided this shall not apply where the author has specifically indicated to the contrary, or where the addition would contravene social customary practices.

When, in accordance with the purpose and method of exploitation, there is no likelihood of harm to the author's benefit and no violation of social customary practices, the author's name or appellation may be omitted.

***Article 17***

The author has the right to prohibit others from distorting, splitting, mutilating or otherwise changing the contents, form or name of the work which results in damage to the author's reputation.

***Article 18***

The protection of moral rights of an author who has died or been extinguished shall be deemed to be the same as when the author was living or continuing in existence and shall not be infringed upon by any person; provided, where according to the nature and degree of the acts of exploitation, social changes, or other circumstances it can be considered that the author's intent has not been contravened, the act shall not constitute an infringement.

***Article 19***

Moral rights in a joint work may not be exercised without the consent of all the joint authors. A joint author shall not refuse consent without a legitimate reason.

Authors of a joint work may select an author from among the joint authors to be their representative for purposes of exercising moral rights.

Limitations imposed on the representative powers of the representative referred to in the preceding paragraph can not be asserted against a third party acting in good faith.

***Article 20***

Except being the object of a sale or the principal having given its consent, the original of a work that has not been publicly released and the economic rights thereof shall not be the object of compulsory execution.

***Article 21***

Moral rights belong exclusively to the author and shall not be transferred or succeeded.

**Section 4 Economic Rights**

**Sub-Section 1 Categories of Economic Rights**

***Article 22***

Except as otherwise provided under this Law, authors have the exclusive right to reproduce their works.

Authors of performances have the exclusive right to reproduce their performances by means of sound recording, video recording or photography.

***Article 23***

Authors of oral and literary works have the exclusive right to publicly recite their works.



***Article 24***

Authors have the exclusive right to publicly broadcast their works; provided, this shall not apply to public broadcasts of a performance after such performance has been reproduced or publicly broadcast.

***Article 25***

Authors of audiovisual works have the exclusive right to publicly present their works.

***Article 26***

Except as otherwise provided by this Law, authors of oral and literary, musical, and dramatic/choreographic works have the exclusive right to publicly perform their works.

Authors of performances have the exclusive right, by means of loudspeakers or other equipment, to publicly perform their performances; provided, this shall not apply to public performances by means of loudspeakers or other equipment after the performance has been reproduced or publicly broadcast.

***Article 27***

Authors of unpublished artistic or photographic works have the exclusive right to publicly display the original and copies of their works.

***Article 28***

Authors of works have the exclusive right to adapt their works into derivative works or to compile their works into compilation works; provided, this shall not apply to performances.

***Article 29***

Authors of works have the exclusive right to lease their works; provided, this shall not apply to performances.

***Article 29bis***

An employer or commissioner that has obtained the economic rights in a work in accordance with the provisions of paragraph 2 of article 11 or paragraph 2 of article 12 shall have the exclusive rights as set out in the provisions of articles 22 through 29.

**Sub-Section 2 Term of Protection for Economic Rights**

***Article 30***

Except as otherwise provided in this Law, economic rights endure for a term consisting of the life of the author and fifty years after the author's death.

Where a work is first publicly released between the fortieth and fiftieth year after the author's death, the economic rights shall endure for a term of ten years beginning from the time of the first public release.

***Article 31***

Economic rights in a joint work subsist for fifty years after the death of the last surviving author.

***Article 32***

In the case of a pseudonym work or an anonymous work, the economic rights endure for a term of fifty years from the time of public release; provided, the economic rights shall be extinguished where it can be proven that the author has deceased for over fifty years.

The provisions of the preceding paragraph shall not apply when the pseudonym of the author is well known to the public.

***Article 33***

Economic rights for works authored by a juristic person endure for fifty years after the public release of the work; provided, if the work is not publicly released within fifty years from the date of completing the creation, the economic rights shall subsist for fifty years after completion of the creation.

***Article 34***

Economic rights for photographic works, audiovisual works, sound recordings, and performances endure for fifty years after the public release of the work.

The proviso of the preceding article shall apply mutatis mutandis to the preceding paragraph.

***Article 35***

All terms of duration specified in articles 30 through 34 terminate as of the last day of the last year of the term.

For works that are released to the public continuously or successively, the calculation of the term of economic rights is based upon the date of the public release of the work, if each public release could constitute an independent work, the term of economic rights of each work shall be calculated from the date of each public release; if each public release could not constitute an independent work, the term shall be calculated from the date when the public release could independently constitute work.

In circumstances described in the preceding paragraph, if the continuing part has not been publicly released within three years of the date of public release of its preceding part, the term of the economic rights shall be calculated from the date of public release of its preceding part.

**Sub-Section 3 Transfer, Exercise and, Extinguishment of Economic Rights**

***Article 36***

Economic rights may be transferred in whole or in part to another person and may be jointly owned with other persons.

The transferee of economic rights obtains economic rights within the scope of the transfer.

The scope of the transfer of the economic rights shall be in accordance with the parties' agreement; portion of which the parties' agreement is unclear shall be presumed to have not been transferred.

**Article 37**

The economic rights owner may license others to exploit the work. The territory, term, contents, method of exploitation and other matters of the license shall be in accordance with the parties' agreement; any portion of the parties' agreement that is unclear shall be presumed to have not been licensed.

The license referred to in the preceding paragraph, after being drawn up by a notary in the form of a notarial deed, shall not be affected by subsequent assignment of economic rights or further licensing by the economic rights owner.

A non-exclusive licensee may not sub-license the rights inherent in the license to any third party for exploitation without the consent of the economic rights owner.

An exclusive licensee may, within the scope of the license, exercise rights in the capacity of the economic rights owner. The economic rights owner may not exercise rights within the scope of said exclusive license.

The provisions of paragraphs 2-4 shall not apply to any license conferred prior to the enforcement of the amendment to this Law.

The provisions of Chapter VII shall not apply where musical works are licensed for reproduction on computer karaoke machines and where an exploiter uses such a karaoke machine to publicly perform the works; provided, this shall not apply in the case of musical works managed by copyright intermediary organizations.

**Article 38**

(deleted)

**Article 39**

Where the economic rights are the object of a pledge, unless otherwise agreed to at the time of establishing the pledge, the economic rights owner may exercise the economic rights to the work.

**Article 40**

The share of economic rights of each of the authors in joint works shall be determined in accordance with an agreement among the joint authors; if there is no agreement, the shares shall be determined according to the degree of each author's creative contribution. Where the degree of each author's creative contribution is not clear, it shall be presumed that each author should enjoy an equal share.

Where an author of a joint work abandons its share of economic rights of the work, that share shall be apportioned among the other joint authors in proportion to their respective shares.

The provisions of the preceding paragraph shall apply *mutatis mutandis* where the author of a joint work dies with no successor or where there is no receiver following extinguishment.

**Article 40bis**

Joint economic rights in a work shall not be exercised except with the consent of all the joint economic rights holders; no economic rights owner shall transfer its share to another person or establish a pledge of its share on behalf of a third party, without the consent of all other joint

economic rights holders. A joint economic rights holder shall not refuse consent without a legitimate reason.

The joint economic rights holders of a work may select a representative from among themselves to exercise their economic rights. Limitations imposed on the representative powers of such representative may not be asserted against a third party acting in good faith.

The second and third paragraphs of the preceding article shall apply *mutatis mutandis* to joint ownership of economic rights.

#### ***Article 41***

Where an economic rights owner makes a submission to a newspaper or magazine, or licenses the public broadcast of the work, it shall be presumed, unless otherwise agreed, that the economic rights holder has licensed one printing or one public broadcast only, and shall have no effect on the other rights of the economic rights owner.

#### ***Article 42***

Economic rights are extinguished upon expiration of the term of protection. Economic rights are also extinguished where any of the following circumstances occurs during the term of protection:

1. The economic rights have reverted to the national treasury in accordance with law upon the death of the economic rights holder.
2. Where the economic rights owner is a juristic person, the economic rights should divest to the local autonomous organization in accordance with law following the juristic person's extinguishment.

#### ***Article 43***

Except as otherwise provided by this Law any person may freely exploit a work for which the economic rights have been extinguished.

### **Sub-Section 4 Limitations on Economic Rights**

#### ***Article 44***

Within a reasonable scope, central or local government agencies may reproduce the works of another person, if it is considered necessary for internal reference for the purpose of legislation or administration, provided, this shall not apply where, in consideration of the type and use of the work and the volume and method of reproduction, the interests of the economic rights owner would be injured.

#### ***Article 45***

Within a reasonable scope, and for the sole purpose of the use necessary to judicial proceedings, the works of another person may be reproduced.

The provisions of the proviso of the preceding article shall apply *mutatis mutandis* to the circumstances set forth in the preceding paragraph.

***Article 46***

Within a reasonable scope, and where necessary for purposes of teaching in schools, all levels of legally established schools and their teachers may reproduce the works of another person which have already been publicly released.

The provisions of the proviso of article 44 shall apply mutatis mutandis to the circumstances set forth in the preceding paragraph.

***Article 47***

Within a reasonable scope and for the purpose of editing textbooks used for teaching and which are required by laws or regulations to be reviewed and approved by education administrative agencies, or to be edited by the educational administrative agency itself, the works of another person that have been publicly released may be reproduced, adapted or compiled.

The provisions of the preceding paragraph shall apply mutatis mutandis to the editing of supplementary aids which are ancillary to the aforesaid textbooks and which are exclusively provided to teachers for teaching purposes; provided, this shall be limited to editing by the editor of such textbooks.

Within a reasonable scope and for the purposes of education necessarily, all levels of legally established schools or educational institutions may publicly broadcast the works of another person that have been publicly released.

In the circumstances set forth in the preceding three paragraphs the exploiter of the work shall notify the economic rights holder and pay compensation for use. The rate of the compensation shall be set by the competent authority.

***Article 48***

Libraries, museums, history museums, science museums, art museums or other cultural institutions provided for the public access may reproduce works in their collections in any of the following circumstances:

1. At the request of a patron for personal research purposes, and limited to one copy per person, a part of a work that has been publicly released, or a single article from a seminar paper or a single article from a periodical that has been publicly released.
2. Where necessary to preserve materials.
3. At the request of another similar institute, works which are out of print or difficult to purchase.

***Article 48bis***

Central or local government agencies, educational agencies that have been established by law or libraries open to the public may reproduce abstracts appended to the following works where such works have been publicly released:

1. Masters or doctoral theses written under the "Law Governing the Granting of Scholastic Degrees" where the author has obtained a degree.

2. Academic articles and papers published in periodicals.
3. Collection of seminar papers or research reports that have been publicly released.

***Article 49***

When reporting current events by means of broadcasting, photography, film, newspaper or otherwise, works that are seen or heard in the course of the report may be exploited within the scope necessary to the report.

***Article 50***

Works publicly released in the name of a central or local government agency or a public juristic person may, within a reasonable scope, be reproduced or publicly broadcast.

***Article 51***

Within a reasonable scope, where for the nonprofit use for individual or family, a work that has been publicly released may be reproduced by machine either located in a library or provided not for public use.

***Article 52***

Within a reasonable scope, works that have been publicly released may be quoted where necessary for reports, comment, teaching, research or other legitimate purposes.

***Article 53***

Works that have been publicly released may be reproduced in Braille for the blind.

For the purpose of promoting the welfare of the blind, institutions or organizations approved by government agencies may, by means of sound recordings, computers or otherwise, and for exclusive use by the blind, exploit works that have been publicly released.

***Article 54***

Works that have been publicly released may be reproduced for use in examination questions on all kinds of examinations held by central or local government agencies and all levels of schools or educational institutions established in accordance with law; provided, this shall not apply to works that have been publicly released as examination questions.

***Article 55***

The work of another person that has been publicly released may be publicly recited, publicly broadcast, publicly presented, or publicly performed in the course of an activity of non-profit nature, in which no fee is directly or indirectly collected from the viewers or listeners, and no compensation is given to the performers.

***Article 56***

For the purposes of broadcasting, a radio or television broadcasting organization may, with its own equipment, sound record or video record the work; provided, this shall be limited to [situations where] the broadcasting has been licensed by the economic rights owner, or [situations] otherwise comporting with the provisions of this Law.

Except where custody of the recording referred to in the preceding paragraph has been approved for a designated place by the competent authority, such sound or video recordings shall be destroyed within one year from the time of recording.

#### ***Article 56bis***

For the purposes of enhancing receiving effect, a community antenna may simultaneously rebroadcast works broadcast by wireless television stations that have been established in accordance with law; the form and contents of such broadcasts shall not be changed [in the course of the rebroadcast].

Cable television system operators may provide basic channels and simultaneously rebroadcast works broadcast by wireless television stations that have been established in accordance with law; the form and content of such broadcasts shall not be changed [in the course of the rebroadcast].

#### ***Article 57***

The owner of the original legal copy of an artistic work or photographic work, or a person authorized by the owner, may publicly display the original or a legal copy of the work.

The public displayer referred to in the preceding paragraph may reproduce the work in a descriptive writing in order to provide viewers with an explanation or introduction.

#### ***Article 58***

Artistic works or architectural works on outdoor long term displays on the streets, in parks, on outside walls of buildings, or other outdoor locales open to the public, may be exploited by any means except as specified in the following circumstances:

1. Reproduction of a building by construction of another building.
2. Reproduction of a work of sculpture by another sculpture.
3. Reproduction for the purpose of long term public display in locales specified in this article.
4. Reproduction of artistic works solely for the purpose of selling copies.

#### ***Article 59***

The owner of a legal copy of a computer program may alter the program where necessary for utilization in a machine used by such owner, or may reproduce the program as necessary for a backup; provided, this is limited to the owner's personal use.

If the owner referred to in the preceding paragraph loses ownership of the original copy for any reason other than the destruction or loss of the copy, all altered and backup copies shall be destroyed unless the economic rights holder otherwise consents.

#### ***Article 60***

The owner of a legal copy of a work may rent such copy; provided, this shall not apply to copies of sound recordings and computer programs.

The proviso of the preceding paragraph shall not apply to copies of computer programs incorporated in products, machinery or equipment to be legally rented, and where such computer programs do not constitute the essential object of such rental.

#### ***Article 61***

Commentary on questions of political, economic, or social current events that have appeared in a newspaper or magazine may be republished by other newspapers or magazines, or be publicly broadcast by radio or television; provided, this shall not apply where there is clear indication that republishing or broadcasting is not authorized.

#### ***Article 62***

Public speeches on politics or religion and public statements in legal proceedings and central or local government agencies may be exploited by any person; provided, consent of the economic rights holder shall be obtained when compiling a compilation work that is dedicated to the speeches or statements of specified persons.

#### ***Article 63***

Persons that may exploit the work of another person in accordance with the provisions of article 44, article 45, subparagraph one of article 48, articles 48bis through 50, articles 52 through 55, article 61 and article 62 may translate the work.

Persons that may exploit the work of another person in accordance with the provisions of articles 46 and 51 may adapt such work.

#### ***Article 64***

A person who exploits the work of another person pursuant to the provisions of articles 44 through 47, articles 48bis through 50, article 52, article 53, article 55, article 57, article 58, and articles 60 through 63 shall clearly indicate the source of the work.

With regard to clear indications of the source referred to in the preceding paragraph, except where the work is anonymous or the author is not known, the name or appellation of the author shall be indicated in a reasonable manner.

#### ***Article 65***

Fair use of a work shall not constitute infringement on the economic rights of the work.

In determining whether the exploitation of a work complies with the provisions of articles 44 through 63, or other conditions of fair use, all circumstances shall be taken into account, in particular the following facts shall be noted as the criteria for determination:

1. The purposes and nature of the exploitation, including whether such exploitation is of a commercial nature or is for nonprofit educational purposes.
2. The nature of the work.
3. The amount and substantiality of the portion exploited in relation to the work as a whole.
4. Effect of the exploitation on the work's current and potential market value.



**Article 66**

The provisions of articles 44 through 63 and article 65 shall not affect the author's moral rights.

**Sub-Section 5 Compulsory Licensing**

**Article 67**  
(deleted)

**Article 68**  
(deleted)

**Article 69**

Where a sound recording of a musical work recorded for purposes of selling has been published for six months, a person who wishes to exploit the aforementioned musical work to record and produce other sound recordings for sale may apply to the competent authority for a compulsory license, and after paying compensation, may exploit such musical work and record and produce other sound recordings.

Regulations governing the procedures and compensation payment of the compulsory license as provided for in the preceding paragraph shall be prescribed by the competent authority.

**Article 70**

Copies of sound recordings which exploit musical works pursuant to the provisions of the preceding article shall not be sold outside of the territory under the jurisdiction of the Republic of China.

**Article 71**

The specialized agency charged with handling copyright matters shall revoke the approval for a compulsory license obtained in accordance with the provisions of article 69 if the application is found to contain misrepresentations.

The specialized agency shall revoke the approval for a compulsory license obtained in accordance with the provisions of article 69 if the work is not exploited in the manner approved by the specialized agency.

**Article 72**  
(deleted)

**Article 73**  
(deleted)

**Article 74**  
(deleted)

**Article 75**  
(deleted)

**Article 76**  
(deleted)

*Article 77*  
(deleted)

*Article 78*  
(deleted)

#### **CHAPTER IV PLATE RIGHTS**

*Article 79*

For a literary and artistic work that has no economic rights or for which the economic rights have expired, a plate maker who arranges and prints the said literary work, or in the case of an artistic work, a plate maker who photocopies, prints or uses a similar method of reproduction and first publishes such reproduction based on such original artistic work, and duly registers in accordance with this Law, shall have the exclusive right to photocopy, print or use similar methods of reproduction based on the plate.

The rights of the plate maker shall subsist for ten years from the time the plate is completed.

The last day of the term of protection referred to in the preceding paragraph shall be the last day of the last year of such term.

The regulations of registration as provided for in paragraph 1 of this article shall be prescribed by the competent authority.

*Article 80*

The provisions of article 42 and article 43 concerning the extinguishment of the economic right, articles 44 through 48, article 49, article 51, article 52, article 54, article 64 and article 65 concerning limitations on the economic right shall apply mutatis mutandis to plate rights.

#### **CHAPTER V COPYRIGHT INTERMEDIARY ORGANIZATIONS AND COPYRIGHT REVIEW AND MEDIATION COMMITTEES**

*Article 81*

Economic rights holders may, with the approval of the specialized agency charged with handling copyright matters, establish copyright intermediary organizations for the purposes of exercising rights or for collecting and distributing compensation for use.

Exclusive licensees may also join copyright intermediary organizations.

The approval for establishment and the organization and capacities of the organizations referred to in paragraph 1, as well as the supervision and guidance thereof, shall be otherwise provided for by law.

**Article 82**

The specialized agency charged with handling copyright matters shall establish a Copyright Examination and Mediation Committee to handle the following matters:

1. Examination of the rate of the compensation for use under the provisions of paragraph 4 of article 47.
2. Mediation of disputes between copyright intermediary organizations and users concerning the compensation for use.
3. Mediation of disputes concerning copyright or plate rights.
4. Other consultation in connection with copyright examination and mediation.

Dispute mediation referred to in subparagraph 3 of the preceding paragraph, when involving criminal matters, shall be limited to cases actionable only upon complaint.

**Article 83**

The organic charter for the Copyright Examination and Mediation Committee referred to in the preceding article, and the regulations concerning dispute mediation shall be drafted by the competent authority and promulgated after review and approval by the Executive Yuan.

**CHAPTER VI  
REMEDIES FOR INFRINGEMENT OF RIGHTS**

**Article 84**

The copyrights owner or the plate rights owner may request the removal of infringement of its rights; where there is a likelihood of infringement, a request may be made for prevention.

**Article 85**

A person who infringes on the moral rights of an author shall be liable to compensate for injury incurred. The injured party may request a commensurate amount of compensation for non-pecuniary damage.

In infringement matters referred to in the preceding paragraph the injured party may request the disclosure of the author's name or appellation, correction of contents or other appropriate measures necessary for the restoration of its reputation.

**Article 86**

After the death of the author, unless otherwise specified by a will, the following persons, in the order indicated, shall be entitled to request remedies in accordance with article 84 and the second paragraph of the preceding article for actual or likely violations of article 18:

1. Spouses
2. Children
3. Parents
4. Grandchildren
5. Brothers and sisters
6. Grandparents

***Article 87***

In any of the following circumstances, except as otherwise provided under this Law, infringement of copyright or plate rights will be deemed to have occurred:

1. To exploit a work by means of infringing on the reputation of the author.
2. Distribute, or display or possess with the intent to distribute, or deliver with the intent to profit, infringing articles that are known to infringe on copyright or plate rights.
3. To import any copies produced without the authorization of the economic rights holder or the plate rights holder.
4. To import the original or any copies of a work without the authorization of the economic rights owner.
5. For direct profit, to make use of a copy of a computer program with the knowledge that it infringes on the economic rights of such computer program.

***Article 87bis***

The provisions of subparagraph 4 of the preceding article do not apply to any of the following circumstances:

1. To import the original or copies of a work for the use of central or local government agencies; provided, this does not apply to importation for use in schools or other educational institutions, or importation of any audiovisual work for purposes other than archival use.
2. To import the original or a specified number of copies of any audiovisual works in order to supply such works to nonprofit scholarly, educational or religious organizations for archival purposes, and to import an original or specified number of copies of works other than audiovisual works for library lending or archival purposes where the use of such copies conforms with the provisions of Article 48.
3. To import the original or a specified number of copies of a work, where such copy is for the private use of the importer, not for distribution, or where the import is by a person arriving from outside the territory, the copy forms a part of such person's personal baggage.
4. To import the original or copies of a work incorporated into any legally imported goods, machinery, or equipment; such original or copies of the work cannot be reproduced during the use or operation of the goods, machinery or equipment.
5. To import an instructional or operational manual accompanying any legally imported goods, machinery, or equipment; provided, this does not apply where the instructional or operational manual are the principal objects of the importation.

The "specified number" set forth in subparagraphs 2 and 3 of the preceding paragraph shall be prescribed by the competent authority.

**Article 88**

A person who intentionally or negligently unlawfully infringes on another persons economic rights or plate rights shall be liable to compensate for the damages. Where more than one person engages in unlawful infringement, they are jointly liable for the damages.

With regard to the compensation referred to in the preceding paragraph, the injured party may select one of the following when making a claim:

1. To make a claim in accordance with the provisions of article 216 of the Civil Code; provided, when the injured party is unable to prove its losses, it may base the damages on the difference between the amount of expected benefit derived from exercising such rights under normal circumstances and from exercising the same rights after the infringement.
2. To claim the amount of benefit obtained by the infringer on account of the infringing activity; provided, where the infringer is unable to prove its costs or necessary expenses, the total amount of income derived from the infringement shall be deemed to be its benefit.

If it is difficult for the injured party to prove its actual losses in accordance with the provisions of the preceding paragraph, it may request the court, based on the seriousness of the matter, to determine the compensation at an amount between ten thousand and five hundred thousand New Taiwan Dollars; if the damaging activity was intentional and the matter serious, the compensation may be increased to one million New Taiwan Dollars.

**Article 88bis**

Where a claim is made pursuant to Article 84 or paragraph 1 of the preceding Article, the injured party may request the destruction or other necessary disposition of goods made by means of the infringing act or articles, the predominant uses of which are for the commission of infringing acts.

**Article 89**

The injured party may request that the infringer bear the costs of printing all or part of the court judgment in a newspaper or magazine.

**Article 89bis**

The right to request compensation for infringement as specified in articles 85 and 88 shall be extinguished if not exercised within two years from the time the person having the right to make the request knows of the loss and the [identity of] the obligor, or within ten years from the time of the infringement occurred.

**Article 90**

Each copyright owner of a joint work may separately request remedies for infringement based upon the provisions of this chapter, and may also request compensation for damages based on its share of the rights infringed.

The provision of the preceding paragraph shall apply mutatis mutandis to joint economic rights owners and plate rights owners that arise from the establishment of other relations.

***Article 90bis***

With regard to the import or export of goods that infringe on copyright or plate rights, the copyrights owner or the plate rights owner may apply to the customs authorities to suspend the release of the goods.

The application referred to in the preceding paragraph shall be filed in writing, stating the facts of the infringement, and with a bond in an amount equivalent to the customs authorities-assessed landed cost of imported goods or the F.O.B. price of exported goods to serve as a security for the party whose goods are subject to the suspension of release.

Customs shall immediately inform the applicant when processing an application to suspend the release of goods. Where Customs determines that the conditions in the preceding paragraph have been met and suspends the release of goods, it shall give written notification to the applicant and to the party whose goods are suspended from release.

The applicant or the party whose goods are suspended of release may apply to the customs authorities for inspection of the detained goods.

Detained goods shall be confiscated by the customs authorities where the applicant has obtained a final and non-appealable civil judgment that determined the goods infringe on copyright or plate rights. The owners of the detained goods shall be held liable for all expenses incurred as a result of the delay of containers, storage, loading and unloading, destruction of the goods and other related expenses.

If the expenses incurred as a result of the destruction of the goods referred to in the preceding paragraph are not paid within the period prescribed by customs authorities, the case may be referred to the court for compulsory execution.

In any of the following circumstances, a suspension of release order shall be voided by the customs authorities and the detained goods shall be processed in accordance with applicable import and export regulations; in addition, the applicant shall compensate the party whose goods were detained for damage incurred on account of the suspension of release:

1. The goods, the release of which was suspended, have been determined to be non-infringing of copyright or plate rights by a final and non-appealable judgment of the court.
2. Within twelve days of the date on which the applicant is informed of the suspension of release, the customs authorities have not received notification that litigation proceedings with regard to infringement by the detained goods has been initiated.
3. The applicant applies for voidance of suspension of release.

The period referred to in subparagraph 2 of the preceding paragraph may be extended by another twelve days, if customs authorities deem necessary.

Customs authorities shall return the security bond in accordance with an applicant's request in any of the following circumstances:

1. There is no need to continue posting the bond either because the applicant has obtained a favorable final and non-appealable judgment or because the applicant has reached a settlement with the party whose goods were detained.

2. After the suspension of release is revoked, the applicant proves that more than twenty days have elapsed since the applicant notified the party whose goods are subject to the suspension of release to exercise its rights and such party has failed to exercise its rights.

3. The party whose goods were detained agrees to the return.

With regard to the bond referred to in the second paragraph of this article, the party whose goods are subject to the suspension of release has the same rights as a pledgee.

#### ***Article 90ter***

The implementing regulations for the preceding article shall be prescribed by the competent authority in consultations with the Ministry of Finance.

### **CHAPTER VII PENAL PROVISIONS**

#### ***Article 91***

A person who infringes without authorization on the economic rights of another person by means of reproducing the work shall be imprisoned not less than six months and not more than three years, and in addition thereto, may be fined up to two hundred thousand New Taiwan Dollars.

A person who infringes without authorization on the economic rights of another person by means of reproducing the work with the intent to sell or rent shall be imprisoned not less than six months and not more than five years, and in addition thereto, may be fined up to three hundred thousand New Taiwan Dollars.

#### ***Article 92***

A person who infringes without authorization on the economic rights of another person by means of public recitation, public broadcast, public presentation, public performance, public display, adaptation, compilation, or leasing, shall be imprisoned not more than three years, and in addition thereto, may be fined up to one hundred and fifty thousand New Taiwan Dollars.

#### ***Article 93***

In any of the following circumstances, a sentence of up to two years imprisonment shall be imposed, and in addition thereto, a fine may be imposed of up to one hundred thousand New Taiwan Dollars:

1. Infringement of the author's moral rights as set forth in the provisions of articles 15 through 17.

2. Violation of the provisions of article 70.

3. Infringement of another person's copyright by any of the means specified in the subparagraphs of article 87.

#### ***Article 94***

A person who commits a crime specified in article 91, article 92 or article 93 as a vocation shall be imprisoned between one year and seven years, and in addition thereto, fined not more than four hundred and fifty thousand New Taiwan Dollars.

**Article 95**

In any of the following circumstances a sentence of up to one year's imprisonment may be imposed, and in addition thereto, a fine may be imposed of up to fifty thousand New Taiwan Dollars:

1. Violation of the provisions of article 18.
2. Infringement on the plates right under the provisions of article 79.
3. Infringement on the plate rights of another person by means specified in any of the subparagraphs of article 87.
4. Violation of the provisions of article 112.

**Article 96**

A fine of up to fifty thousand New Taiwan Dollars shall be imposed for violations of the provisions of the second paragraph of article 59 or the provisions of article 64.

**Article 97**  
(deleted)

**Article 98**  
(deleted)

**Article 99**

Upon application of the injured party or another party having the right to file a complaint, the infringer of articles 91 through 95 may be ordered to print all or part of the court judgment in a newspaper and bear the costs thereof.

**Article 100**

Prosecution for offenses specified in this chapter shall be instituted only upon complaint; provided, this shall not apply to offenses specified in article 94 and subparagraph 1 of article 95.

**Article 101**

Where the representative of a juristic person, or the agent, employee or other servant of a juristic or natural person, commits any of the offenses specified in articles 91 through 96 in the performance of its duties, in addition to punishing the infringer in accordance with the aforesaid articles, such juristic or natural person shall also be fined in accordance with said articles.

In circumstances specified in the preceding paragraph, where a complaint is filed or withdrawn against either the infringer or the juristic or natural person, the effect of such filing or withdrawal shall apply to the others.

**Article 102**

An unrecognized foreign juristic person may file a complaint or bring a private prosecution against the offenses specified in articles 91 through 96.



**Article 103**

Upon complaint or information of an infringement of a person's copyright or plate rights, judicial police officials or judicial police may seize the infringing articles in accordance with the law and refer the matter to the prosecutor.

**Article 104**  
(deleted)

**CHAPTER VIII**  
**SUPPLEMENTARY PROVISIONS**

**Article 105**

Persons who apply under this Law for a compulsory license, registration of plate rights, dispute mediation, inspection of the register of plate rights or issuance of a transcript thereof, shall pay a filing fee.

The amount of the fee referred to in the preceding paragraph shall be prescribed by the competent authority.

**Article 106**

Except as otherwise provided for in this chapter, this Law shall apply to works that were completed prior to the implementation date of the June 10, 1992 amendment to this Law<sup>3</sup> where such works comply with any one of the provisions of articles 106 through 109 of the law<sup>4</sup> in effect prior to the implementation of the amendment.

This Law shall apply to works that were completed after the implementation date of the June 10, 1992 Copyright Law amendment.

**Article 106bis**

Except as otherwise provided under in this chapter, this Law shall apply to works that were completed prior to the date on which the World Trade Organization Agreement takes effect in the territory under the jurisdiction of the Republic of China where such works did not enjoy copyright under the provisions of the respective versions of this law but where the term of protection for economic rights has not expired in accordance with this Law; provided, this shall not apply to works of foreign nationals for which the term of protection has expired in their country of origin.

The term "country of origin" as used in the proviso of the preceding paragraph shall have the meaning ascribed to the term in article 5 of the Berne Convention for the Protection of Literary and Artistic Works (Paris Act 1971).

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<sup>3</sup> Translator's note. The June 10, 1992 Copyright Law amendment was implemented ( ) by its terms (Article 117) on the date of promulgation ( ). The amended law was promulgated on June 10, 1992. Pursuant to Article 13 of the Law Governing Central Laws and Regulations, laws which are to be implemented as of the date of promulgation become effective ( ) on the third day following the promulgation date. Thus, the effective date of the June 10, 1992 Copyright Law amendment was June 12, 1992.

<sup>4</sup> Translator's note. For purposes of the translation of this Chapter VIII, the word "law" is written in lower case when the term refers to the Copyright Law prior to the June 10, 1992 amendment.

***Article 106ter***

Except as otherwise provided for in this chapter, a person who, prior to the date on which the World Trade Organization Agreement takes effect in the territory under the jurisdiction of the Republic of China, has begun the exploitation, or has made significant investment for the exploitation, of works protected pursuant to the provisions of the preceding article, may continue to exploit such works during the two-year period which commences on the aforementioned effective date of the Agreement; the provisions of Chapter VI and Chapter VII of this Law shall not apply.

***Article 106quater***

Exploitation of a derivative work may continue after the date on which the World Trade Organization Agreement takes effect in the territory under the jurisdiction of the Republic of China, where the preexisting work upon which such derivative work is derived is a work under article 106bis, where the completion of the derivative work occurs prior to the aforementioned effective date, and where such derivative work was protected under respective versions of this law; the provisions of Chapter VI and Chapter VII of this Law shall not apply.

Upon the expiration of the two-year period following the aforementioned effective date, the person exploiting the derivative work shall pay to the economic rights owner of the underlying work a use compensation that is equivalent to a freely negotiated amount appropriate to such work.

The provisions in the preceding two paragraphs shall not affect the protection of the derivative work.

***Article 107***  
(deleted)

***Article 108***  
(deleted)

***Article 109***  
(deleted)

***Article 110***

The provisions of article 13 shall not apply to works completed and registered prior to the implementation date of the June 10, 1992 Copyright Law.

***Article 111***

The provisions of article 11 and article 12 shall not apply in the following situations:

1. The copyright is obtained pursuant to the provisions of articles 10 or 11 of the law prior to the implementation date of the June 10, 1992 Copyright Law.
2. The copyright is obtained pursuant to articles 11 or 12 of the law prior to the implementation of this Law.

***Article 112***

With regard to works of foreign persons that are protected pursuant to the law [which was in effect] prior to the implementation date of the June 10, 1992 Copyright Law, translations that were based on such works before the implementation of the June 10, 1992 Copyright Law, after the implementation

of the June 10, 1992 Copyright Law shall no longer be reproduced without the consent of the copyright holder of such works;<sup>5</sup> provided, this shall not apply to exploitation in conformity with article 44 through article 65 [of this Law].

Copies of translations of works referred to in the preceding paragraph shall no longer be sold after the expiration of the two-year period following the implementation date of the June 10, 1992 Copyright Law.

***Article 113***

This Law shall apply to plate rights that were obtained prior to the implementation of to this Law.

***Article 114***

(deleted)

***Article 115***

Agreements to protect copyright signed by organizations and agencies of this country and of a foreign country, such agreements having been approved by the Executive Yuan, shall be deemed "agreements" as that term is used in article 4.

***Article 115bis***

The register of copyright or plate rights registered prior to the implementation of this Law may be made available by the competent authority to the public for inspection.

***Article 115ter***

For the purpose of handling copyright litigation, courts may establish a specialized court or appoint specialized judges.

The courts shall deliver to the competent authority a copy of decisions in copyright litigation cases.

***Article 116***

(deleted)

***Article 117***

This Law shall take effect from the date of promulgation. Provided, the provisions of articles 106bis through 106quater shall take effect from the date upon which the World Trade Organization Agreement takes effect in the territory under the jurisdiction of the Republic of China.

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<sup>5</sup> Prior to June 12, 1992 (the effective date of the June 10, 1992 Copyright Law), works by foreign nationals did not enjoy translation rights in principle. Therefore, even if an original work by a foreign national was protected, translations of such work could be (and were) freely and legally exploited prior to June 12, 1992. This article 112 applies to those works that were created prior to June 12, 1992 but that, pursuant to the Copyright Law that took effect on that date, became protected with respect to translation rights.