



August 4, 2006

Via Electronic Mail (IPOS IPLawFeedback@ipos.gov.sg)

IPOS

51 Bras Basah Road #04-01

Plaza by The Park

Singapore 189554

Dear Sirs:

In response to the notice issued by the Intellectual Property Office of Singapore (IPOS), the International Intellectual Property Alliance (“IIPA”), the private sector coalition representing the copyright industry associations listed below, submits the following comments to the Public Consultation on Exemptions to Prohibition Against Circumvention of Technological Access Controls (Consultation).

IIPA and its member associations have been working for stronger copyright laws and enforcement around the world for more than two decades. IIPA has participated actively in debates concerning the development of copyright law in Singapore throughout this period. IIPA members include:

Association of American Publishers (AAP)
Business Software Alliance (BSA)
Entertainment Software Association (ESA)
Independent Film and Television Alliance (IFTA)
Motion Picture Association of America (MPAA)
National Music Publishers’ Association (NMPA)
Recording Industry Association of America (RIAA).

IIPA is not aware of any justification to modify the Copyright (Excluded Works) Order 2005 (Order) to vary the list of the types of works excluded from the prohibition on circumvention of technological access controls (Section 261C of the Copyright Act). In particular we do not know of any additional classes of copyright material as to which users are, or are likely to be, adversely affected in their ability to make non-infringing uses, due to the prohibition on circumvention of access controls.

However, in the event that other commenters do propose any substantive change to the Order, we urge the IPOS to carry out the remainder of this Consultation in a way that maximizes transparency and the ability of all interested parties to be heard and to have their views considered, and that adheres to the requirements of the Copyright Act and of the US-Singapore Free Trade Agreement. Specifically:

- In the event that the Minister decides to entertain any specific proposal to recognize additional classes or types of works as exempted from the prohibition, the specific proposal should be made public, and a reasonable opportunity for interested parties to comment on the proposal should be provided.
- In considering whether to expand the list, the Minister should require that proponents of the new exemption credibly demonstrate (1) the specific adverse impact on non-infringing use which they claim is occurring or is likely to occur; (2) that the impact is substantial and not a mere inconvenience; and (3) that the impact is caused by the legal prohibition and not by other factors.
- Any exemption should be limited to the specific category of works as to which the requirements of the statute (and of the US-Singapore Free Trade Agreement) have been met, and should be limited in time to at most the lesser of four years or the period during which the adverse impact is likely to persist.

IIPA appreciates the opportunity to provide its views and thanks IPOS in advance for its consideration of them.

Respectfully submitted,

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on behalf of IIPA
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