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RESEARCH ARTICLE

Comparative Analysis of Copyright Protection for Digital Works in Indonesia, Malaysia and Singapore

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ABSTRACT

Knowledge-based economic development and information technology around the Strait of Malacca have turned conventional works into digital creations, with a high risk of infringement across platforms. There is a gap in the effectiveness of enforcement and in legal certainty for content creators between the civil law system of Indonesia and the common law systems of Malaysia and Singapore. Indonesia still faces bureaucratic supervision, enforcement across platforms, and domestic regulation that cannot keep pace with new technology such as artificial intelligence (AI) and blockchain. The article asks how copyright in digital works is regulated in the three countries and how the legal constructions differ. It uses normative legal research with a statute approach and a comparative approach. It finds that Singapore leads in effectiveness through a self-assessment approach and an efficient specialist intellectual property court, that Malaysia has joined the Copyright Act 1987 to specific enforcement mechanisms, and that Indonesia, under Law No 28 of 2014, still needs implementing regulations and stronger technological protection measures. The article offers five recommendations to Indonesia, including regional harmonisation within ASEAN.

Keywords: copyright; digital works; legal protection; comparative law; ASEAN

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1. Introduction

Knowledge-based economies in Southeast Asia, above all along the Strait of Malacca, are changing quickly. Works of creativity that were once physical are now dynamic digital works. Electronic platforms let creators publish globally, but they also bring a high risk of piracy, unauthorised copying and infringement across

platforms. Certain legal protection of copyright is therefore a pillar for the creative economy's contribution to growth.

At the international level, protection of digital works is addressed by the TRIPS Agreement and the WIPO Internet Treaties, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).[1] Indonesia has moved from the colonial *Auteurswet* 1912 to Law No 28 of 2014 on Copyright (the Copyright Law).[2] The Law recognises moral and economic rights in digital works, but enforcement meets serious practical problems: technological protection measures (TPM) are weakly implemented, law enforcement has limited resources, and the positive law is not ready for AI and blockchain.

The weakness stands out against Malaysia and Singapore. As a common law country, Singapore has a specialist intellectual property court and a self-assessment approach that gives a faster and more efficient route for settling disputes in global markets. Malaysia has joined its Copyright Act 1987 to specific enforcement mechanisms and investigation procedures. Indonesia, a civil law country, relies on a rigid formal registration system (first to file) and faces bureaucratic challenges and a supervisory authority that is not yet independent on digital platforms.

2. Method

The research is normative juridical research, which treats law as a system of norms made up of principles, rules, legislation and court decisions. A statute approach answers the first question, on how copyright protection of digital works is regulated in the three countries. A comparative approach answers the second, on how the legal constructions differ, by comparing how a civil law system (Indonesia) and common law systems (Malaysia and Singapore) respond to the same challenge of enforcement.

The data are wholly secondary. The primary materials are the TRIPS Agreement, the WIPO Internet Treaties, Law No 28 of 2014, the Malaysian Copyright Act 1987 and the Singapore Copyright Act 2021. The secondary materials are books on intellectual property, journal articles on the effectiveness of digital protection, and comparative legal studies; the tertiary materials are dictionaries and encyclopaedias. The materials were collected by library research and analysed qualitatively by deductive reasoning, and the legal construction of each country is described and analysed to map similarities, differences, strengths and weaknesses of enforcement.

3. Results and Discussion

3.1 How digital works are protected in the three countries

All three countries rest on the same international standard, but their national constructions differ (Table 1).

Table 1. Copyright protection of digital works in the three jurisdictions. Source: the authors' analysis of the legislation.

[1]Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Annex 1C, Marrakesh Agreement Establishing the World Trade Organization (1994); WIPO Copyright Treaty (1996); WIPO Performances and Phonograms Treaty (1996).

[2]Law of the Republic of Indonesia No 28 of 2014 on Copyright, State Gazette 2014 No 266.

	Indonesia	**Malaysia**	**Singapore**
Main statute	Law No 28 of 2014	Copyright Act 1987 (Act 332), amended by the Copyright (Amendment) Act 2022	Copyright Act 2021 (a complete rewrite)
Legal system	Civil law	Common law	Common law
Digital protection	Technological protection measures (Article 52); means of production and storage of data based on information technology (Article 53); electronic rights management information (Article 6)	New offence in Section 43AA for streaming technology that facilitates infringement; online sharing without permission an infringement under Section 41(1)(k); wider investigation powers	No registration; protection arises automatically; site-blocking orders (Sections 325–326)
Disputes	Commercial Court; alternative dispute resolution and arbitration	Investigation by the Assistant Controller, including search, seizure and test purchase	High Court with specialist intellectual property judges; simplified process for small claims

MANUSCRIPT IN REVIEW

In Indonesia, the Copyright Law protects digital works through technological protection measures under Article 52, defined as any technology, device or component designed to prevent or restrict acts that the creator or holder has not permitted.[3] Article 53 adds the means of production and storage of data based on information technology, including optical discs, servers, cloud computing, secret codes and encryption and decryption technology. The Law also protects electronic rights management information, by prohibiting its removal, alteration or destruction. Protection is declarative and does not depend on registration, and disputes go to the Commercial Court, alongside alternative dispute resolution and arbitration.

Malaysia regulates digital works through the Copyright Act 1987, strengthened by the Copyright (Amendment) Act 2022. A new Section 43AA makes it an offence to produce, import, sell, rent, distribute or offer streaming technology that facilitates infringement, and online sharing of a work without permission is an infringement under Section 41(1)(k). The amendment widened the investigation powers of the Assistant Controller, including search and seizure without waiting for a request from the right holder, and the power to order a test purchase. The Intellectual Property Corporation of Malaysia (MyIPO) has said that stronger enforcement is meant to answer digital piracy and to raise public awareness of legitimate platforms.[4] Malaysia also moved its collective management bodies to the model of collective management organisations and prepared the legal framework for accession to the Marrakesh Treaty.

Singapore took a different path, with a complete rewrite of its copyright law in the Copyright Act 2021, in full force from November 2021. Its system has no copyright registration, so protection arises automatically

[3]Elucidation of Article 52 of Law No 28 of 2014, Supplement to the State Gazette No 5599.
[4]Shook Lin & Bok, 'Copyright (Amendment) Act 2022 [Implementation date: 18th March 2022]' (21 March 2022); Eugene Ee and Kok Eu Jin, 'The Copyright (Amendment) Act 2022 (CAA)' (Mondaq, 20 October 2022).

if the work is original and made by a qualified person. To meet online infringement, Part 6 Division 2 provides for site-blocking by court order against a flagrantly infringing online location (Section 325, with the procedure in Section 326). Enforcement is supported by a High Court with specialist judges and procedures for intellectual property cases, and by a simplified process under the Supreme Court of Judicature (Intellectual Property) Rules 2022 that speeds up the settlement of small disputes at lower cost. The first prosecution under the 2021 Act, against a retailer of illegal streaming devices in October 2024, shows how seriously piracy is treated.[5]

3.2 Differences in legal construction and in effectiveness

The basic difference lies in the character of the legal system. Indonesia places digital copyright in a rigid, codified framework. Its rules on technological protection measures are normative but lack adequate implementing regulations: under Article 53(1), the technical verification of means of production and storage of data based on high technology still needs a separate Government Regulation. This gap makes the rule against circumventing technological protection measures prone to uncertainty, above all in telling fair use by a person in good faith from real infringement, as a comparative study with the more flexible triennial rulemaking process in the United States has shown.[6]

Malaysia and Singapore, as common law countries, adapt more responsively to technology. Malaysia showed that its legislation can follow streaming technology quickly, although commentators note that the amendment does not yet state the principle of contributory liability, so a third party that indirectly facilitates infringement, such as a platform, is still hard to hold liable. Singapore's self-assessment approach lets right holders and users judge for themselves the status of a use before a dispute, while a fast route in litigation remains through the specialist court and site-blocking, which respond to the borderless nature of digital infringement. The absence of compulsory registration speeds up enforcement, because right holders need not go through the administrative bureaucracy that is usual under Indonesia's first-to-file system.

On AI the three countries stand at much the same point, without definitive legal certainty. In Singapore, although the 2021 Act is a comprehensive reform, whether works made by generative AI can be the subject of copyright is still debated, since the decision in *Asia Pacific Publishing Pte Ltd v Pioneers & Leaders (Publishers) Pte Ltd* states that an author must be a human. Indonesia and Malaysia have not yet regulated expressly the status of works made by AI systems or blockchain, which leaves a gap that must be answered by new norms or by progressive interpretation by the courts.

3.3 Strategies to strengthen regulation in Indonesia

Five strategies follow from the comparison. First, the Government should issue the Government Regulation that Article 53(2) of the Copyright Law calls for, to give technical certainty on the standard of technological protection measures and of means of production and storage of data, so that enforcement no longer depends on case-by-case interpretation. Second, Indonesia could consider a faster and cheaper route for intellectual property disputes in the Commercial Court, adapting Singapore's simplified process for digital copyright disputes of small to medium value. Third, a site-blocking mechanism should be considered, integrated between the Ministry of Law, the Ministry of Communication and Digital Affairs and internet

[5]Intellectual Property Office of Singapore, 'Copyright Factsheet on Copyright Act 2021' (24 November 2022); ICLG, 'Copyright Laws and Regulations Report 2026: Singapore'.
[6]Study of circumvention of technological protection measures for personal use under Law No 28 of 2014, Universitas Indonesia Library, https://lib.ui.ac.id/detail?id=20520963.

MANUSCRIPT IN REVIEW

service providers, on the model of Sections 325–326 of Singapore's Copyright Act 2021, so that infringement on cross-border platforms can be dealt with without waiting for full litigation.

Fourth, following Malaysia's Section 43AA, Indonesia could write a more specific criminal provision on providing technology or applications designed to facilitate piracy of digital works, and could make clearer the principle of contributory liability, which is a weakness noted in the Malaysian regulation itself. Fifth, to meet the regulatory challenge of AI and blockchain, Indonesia should push for harmonisation within ASEAN, since none of the three countries yet has legal certainty on works made by AI. This is in line with the TRIPS Agreement and the WIPO Internet Treaties that the three countries share, and Indonesia could take an active part in the ASEAN Working Group on Intellectual Property Cooperation to set a minimum standard for protecting AI-based digital works.

4. Conclusion

All three countries follow the TRIPS Agreement and the WIPO Internet Treaties but put them into effect through different national constructions: Indonesia through Law No 28 of 2014, with technological protection measures and declarative electronic rights management information; Malaysia through the Copyright Act 1987 as strengthened in 2022, with an offence for streaming technology and wider investigation powers; and Singapore through the Copyright Act 2021, with no registration, site-blocking and a specialist intellectual property court.

The difference between Indonesia's civil law and the common law of Malaysia and Singapore bears directly on the effectiveness of enforcement. Singapore leads in the speed and efficiency of dispute settlement through self-assessment and the simplified process, and Malaysia in the responsiveness of its legislation to streaming through the specific offence in Section 43AA, while Indonesia still needs stronger implementing regulation, above all a Government Regulation on technological protection measures, and a digital enforcement mechanism that responds better to cross-platform infringement. The Directorate General of Intellectual Property should complete the implementing regulations of Law No 28 of 2014, study site-blocking and fast dispute resolution as practised in Singapore, and draft a specific offence for technology that facilitates digital piracy, while supporting regional harmonisation within ASEAN on works made by AI and blockchain.

Bibliography

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Annex 1C, Marrakesh Agreement Establishing the World Trade Organization (1994).

Copyright Act 1987 (Act 332), Laws of Malaysia, as at 30 June 2022, Intellectual Property Corporation of Malaysia (MyIPO), https://www.myipo.gov.my.

Copyright Act 2021 (Act No 22 of 2021), Singapore Statutes Online, Attorney-General's Chambers, https://sso.agc.gov.sg/Act/CA2021.

Copyright Comparative Guide: Singapore (Mondaq, 9 January 2025), https://www.mondaq.com/intellectual-property/1567150/copyright-comparative-guide.

Ee E and Jin KE, 'The Copyright (Amendment) Act 2022 (CAA)' (Mondaq, 20 October 2022), https://www.mondaq.com/copyright/1241598/the-copyright-amendment-act-2022-caa.

ICLG, 'Copyright Laws and Regulations Report 2026: Singapore', https://iclg.com/practice-areas/copyright-laws-and-regulations/singapore/.

MANUSCRIPT IN REVIEW

Intellectual Property Office of Singapore (IPOS), 'Copyright Factsheet on Copyright Act 2021' (24 November 2022).

Jaringan Dokumentasi dan Informasi Hukum Kota Semarang, 'Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta: Perlindungan dan Pengaturan Karya Kreatif di Indonesia', https://jdih.semarangkota.go.id.

Law of the Republic of Indonesia No 28 of 2014 on Copyright, State Gazette 2014 No 266, https://peraturan.go.id/id/uu-no-28-tahun-2014.

Lung CK and Wei JCX, 'Copyright (Amendment) Act 2022' (Lexology, 21 March 2022).

Perpustakaan Universitas Indonesia, 'Hak Pengguna dalam Penerobosan Sarana Kontrol Teknologi untuk Penggunaan Pribadi dalam Perlindungan Hak Cipta Operating System dan Firmware Produk Elektronik di Indonesia dan Amerika Serikat', https://lib.ui.ac.id/detail?id=20520963.

Shook Lin & Bok, 'Copyright (Amendment) Act 2022 [Implementation date: 18th March 2022]' (21 March 2022), https://shooklin.com.my.

Soyacincau, 'The Copyright (Amendment) Act 2022 Finally Brings the Hammer Down on Digital Piracy' (4 July 2022), https://soyacincau.com/2022/07/04/copyright-amendment-act-2022-digital-piracy-criminal-offence-astro-isd-ezadu/.

WIPO Copyright Treaty (WCT) (1996) and WIPO Performances and Phonograms Treaty (WPPT) (1996).

WIPO Lex, 'Copyright Act 2021, Singapore', https://www.wipo.int/wipolex/en/legislation/details/23201.

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