

COPYRIGHT THAILAND





INTELLECTUAL PROPERTY

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Generic considerations & Definitions

Treaties and applicable laws

For copyright matters, Thailand is bound by the following treaties:

Treaty	Monitoring body	Accession date
WIPO Copyright Treaty (WCT) (1996)	WIPO	2022
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (2013)	WIPO	2019
Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) (1995)	World Trade Organization (WTO)	1995
Berne Convention for the Protection of Literary and Artistic Work (1886)	World Intellectual Property Organization (WIPO)	1931

Thailand has not adhered to the following international treaties on copyright:

- Beijing Treaty on Audiovisual Performances (2012)
- Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (1971)
- WIPO Performances and Phonograms Treaty (WPPT) (1996)
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)

Thailand's rules on copyright stem from the Copyright Act B.E. 2537 (1994), amended four times since its adoption and for the last time in 2022 (hereafter referred to as the "Copyright Act"), to comply with the provisions of the WCT that Thailand accessed in 2022.

Definitions and categories of original works

The Thai Copyright Act protects the following categories of works of authorship:¹

1. **Literary work:** includes "*books, pamphlets, writings, printed matters, lectures, sermons, addresses, speeches, including computer programs*".
2. **Dramatic work:** defined as "*a work with respect to choreography, dancing, acting or performance in dramatic arrangement, including pantomimes*".

¹ Sections 4 & 6, Copyright Act.

3. **Artistic work:** includes paintings and drawings, sculptures, lithography works, architecture (building, construction, interior design & landscaping), photographic works, illustrations, maps, structures, sketches or 3D work related to geography, topography or science and applied arts.
4. **Musical work:** defined as *“a song with melody and lyrics or only melody”*.
5. **Audiovisual work:** defined as *“a work consisting of a series of images recorded on any kind of materials and capable of being replayed, including the sounds accompanying such work, if any”*.
6. **Cinematographic work:** defined as *“an audiovisual work consisting of a series of images which can be shown in succession as motion pictures or can be recorded upon other materials so as to be shown in succession as motion pictures”*.
7. **Sound recording:** defined as *“a [recorded] work consisting of a series of music, sound of a performance or any other sounds (...) but not including the sounds accompanying a cinematographic work or another audiovisual work”*.
8. **Broadcasting work:** defined as *“a work which is communicated to the public by means of radio broadcasting, sound and/or video broadcasting on television, or by any other similar means”*.
9. **Other works** in the literary, scientific or artistic domain.

Simple ideas or procedures, processes, methods of use, concepts, discoveries or scientific or mathematic theories, news, legal texts (laws, regulations, judicial decisions, etc.) and their translations (if done by government agencies) are not protected by the Copyright Act.²

Copyright for computer programs

The Thai Copyright Act includes “computer programs” in the list of literary works that are protected by copyright, as per generally accepted international practices. They are defined as being *“instructions, set of instructions or any other things, which are used with a computer so as to operate the computer or to generate an output, whichever the computer language is”*.³

They are not protected under patent regulations and even explicitly listed as being outside the scope of the Thai Patent Act.⁴

² Sections 6 & 7, Copyright Act.

³ Section 4, Copyright Act.

⁴ Section 9, Patent Act B.E. 2522.

Acquisition and terms of copyright



Acquisition of copyright

In principle, a work of authorship (1) whose author is a national or resident of a country that is a member of the Berne Convention; or (2) that is published for the first time in a country that is a member of the Berne Convention, will be **automatically protected from the date of its creation**.

The Copyright Act distinguishes between published and unpublished works of authorship:⁵

- For unpublished works: the author must be a national or resident of a country that is a member of the Berne Convention on copyright.
- For published works: the first publication of the work must occur in a country that is a member of the Berne Convention on copyright or be subsequently published in a country that is a member of the Berne Convention within 30 days from the first publication.

Notification or formal registration of the copyright is therefore not a requirement to benefit from copyright protection, it has more of a practical value for copyright enforcement in case of infringement.

Copyright in the course of employment

If a work of authorship is created during the course of employment, the copyright will be attributed to its author (i.e. the employee), unless it has been specified otherwise in the employment contract. Likewise, the employer will be presumed to have the right to publish the work if it relates to the purpose of employment of the employee who is the author.⁶

If a work of authorship is the result of a commission contract (or outsourcing), the copyright will be attributed to the company who has commissioned the creation of the work, unless it has been agreed otherwise in the commission contract.⁷

⁵ Section 8, Copyright Act.

⁶ Section 9, Copyright Act.

⁷ Section 10, Copyright Act.



Term of copyright

The Copyright Act specifies the term or duration of the copyright protection, which can differ based on the type of author and category of work.⁸

In principle:

- For authors that are **individuals**, copyright protection lasts for the entire lifetime of the author(s) and an additional 50 years after the death of the author(s). In case the work is published for the first time after the death of the author(s), the term will be 50 years from its first publication.
- For authors that are **juristic persons**, copyright will last 50 years from the date of the creation or, if the work has been published during this time, 50 years from the date of the first publication.

There are a few exceptions for some categories of works of authorship:

- For audiovisual and cinematographic works, sound recording, or audio and video broadcastings works, the term of copyright will be 50 years from the date of the authorship or, if it has been published during this period, 50 years from the date of the first publication.
- For works of applied art, the term is 25 years from the authorship or, if it has been published during this period, 25 years from the date of the first publication.

The calculation of the copyright term should take into account the following caveats:

- “Publication” as mentioned in the above paragraphs is to be understood as publication *with* the consent of the author or the owner of the copyright.
- The copyright term always expires at the end of the calendar year in which it is supposed to end.

⁸ Sections 19 to 26, Copyright Act.

Rights and prerogatives attached to copyright

The owner of the copyright will be granted a number of exclusive rights, listed in Sections 15 to 18 of the Copyright Act and that are generally split in two main categories: economic rights and moral rights. Performers, i.e. musicians, vocalists, choreographers, dancers etc. also have specific rights that should be mentioned.

➤ Economic rights

Economic rights relate to the exploitation of the work of authorship. In particular, the owner of the copyright will have the exclusive rights to:

1. Reproduce or adapt the work;
2. Communicate the work to the public;
3. Let the original or copies of a computer program, an audiovisual work, a cinematographic work or a sound recording;
4. Give benefits generated by the copyright to other persons;
5. License any of the rights listed from (1) to (3), provided that the licensing conditions do not unfairly restrict competition;
6. Assign the copyright in whole or in part, for a limited period or until the end of the protection – if the duration of the assignment is not specified, it will be presumed to be for 10 years.

➤ Moral rights

The author of the copyright is granted a number of so-called “moral” rights that cannot be transferred. The main one is the right of attribution, which is the right of being identified as the author of the work.

Moral rights also include the right to prevent any person (including the assignee(s) of the copyright, if any) from modifying the original work in such a way that would cause damage to the reputation or dignity of the author, which may include adaptation, deletion or other manipulation that compromise the integrity of the work.

➤ Performers' rights

A performer is defined by the Copyright Act as a “*musician, vocalist, choreographer, dancer, and a person who acts, sings, speaks, dubs a translation*”

or narrates or gives commentary or performs in accordance with the script or in any other manner”.⁹

Performers benefit from exclusive rights on their performance, as listed in Chapter 2 of the Copyright Act, which are: broadcasting, communication to the public, recording and reproducing the recording material of the performance.

⁹ Section 4, Copyright Act.

Copyright infringement



Acts of infringement

Part 5, Chapter 1 of the Copyright Act defines what constitutes copyright infringement, which varies based on the type of copyright work.

In principle, if done without the permission of the copyright owner, the following acts constitute an infringement of copyright:

1. Reproduction or adaptation of the work;
2. Communication of the work to the public;
3. Letting the original or copies of a computer program, an audiovisual work, a cinematographic work or a sound recording.

Any person who knowingly exploits *for profit* a work that is the result of copyright infringement will also be liable for copyright infringement. This includes the following acts:

1. Selling, occupying for sale, offering for sale, letting for hire, offering for letting for hire, selling by hire purchase or offering for hire purchase;
2. Communication of the work to the public;
3. Distribution in a manner which may cause damage to the owner of the copyrights;
4. Importation of the work into Thailand.



Exceptions to infringement

Exploitation of the copyright work without the prior consent of the copyright owner is allowed by law in a number of cases, mainly for research, educational or judicial purposes, as long as it is not for profit.

These exceptions are listed in Sections 32 to 43 of the Copyright Act. Besides use of the copyright work for research, educational and judicial purposes, the following acts are also allowed:

1. Use for personal benefit and/or for other close relatives, except a reproduction of a cinematographic work in a cinema;
2. Comment, criticism or review of the work with a copyright ownership acknowledgement;

3. News reporting through mass-media, as long as the copyright ownership is acknowledged;
4. A reasonable recitation or quotation of the work with copyright ownership acknowledgement.

Dramatic or musical copyright work may also be publicly performed if the performance is not for profit. Likewise, an artistic work located in a public space may be freely photographed, painted, drawn etc.

Notification filing requirements



Information required

The following information needs to be provided when filing the copyright notification in Thailand:

- The **title** of the work.
- The **full name(s)** (as indicated on passport or company registration certificate) and **current address** of the copyright owner(s).
If the author(s)/creator(s) of the work is/are not the copyright owner(s), the full name, citizenship, passport number, address and date of death (if applicable) of the author(s)/creator(s) must also be provided.
- The **creative process** as the inspiration underlying the creation of the work.
- The **means of acquisition** of copyright ownership: how the owner came to be the copyright owner, e.g. creator/author, employment contract.
- The **type and nature of ownership**: whether the author/creator solely or partially created the work and if partially, what part of the work they created.
- The **place and date of creation**: year and country where the work was completed.
- The **first publication date of the work**: the exact date when and country where the work was made public for the first time, i.e., when the work was widely published with the consent of the author/creator (if already published).
- Any **prior copyright notification(s)**: list of territories where the owner has notified/registered the copyright (if any).
- Any **prior licensing/assignment of the work**: if the copyright has already been licensed or assigned to a third party, in Thailand or abroad.
- **Consent for third parties to access the work**: the copyright owner must indicate whether they allow the public to view the work after the notification has been filed.

Documents required

The following documents should be provided when filing the copyright notification in Thailand:

- A sample of the work; the format depends on the type of work, as indicated in the table below:

Type of work	Type of material
Literary <i>Computer program</i>	Text, in any kind of format <i>Source code in a word document</i>
Artistic	At least one photograph of the work
Musical	MP3 audio file, music score & lyrics (word or PDF)
Audiovisual	MP4 video file
Sound recording	MP3 audio file
Dramatic	One set of photographs of the work or MP4 video file
Cinematographic	MP4 video file
Broadcasting	MP4 video file

- A copy of a **notarized copy of passport** of the copyright owner with an English translation (in case of a natural person) OR a copy of a **notarized copy of the company registration certificate** issued no later than 6 months prior to the application date with an English translation (in case of a juristic person).
- A copy of a **notarized Power of Attorney**.
- A copy of a **notarized certificate of copyright ownership**.
- If the author(s)/creator(s) of the work is/are not the copyright owner(s), a copy of a **notarized Deed of Assignment** and a signed copy of the author(s)/creator(s) ID card or passport.

Notarization is not required for Thai nationals, individuals living in Thailand when signing the documents (who should provide a copy of their Thai visa pages) and companies registered in Thailand.

All electronic files need to be in color with a minimum resolution of 300dpi.

DIP's “Find the copyright owner” service

The DIP offers the possibility for any person to post an official announcement on a dedicated page¹⁰ on the DIP website to find the copyright owner of any work that they wish to use, for instance a song.

¹⁰ <https://www.ipthailand.go.th/th/copyright-012.html> (last accessed 19/02/2025).

Notification procedure

First filing step

The copyright notification can be filed online¹¹ or in person using the form “LorKhor.01”¹² available on the DIP website.

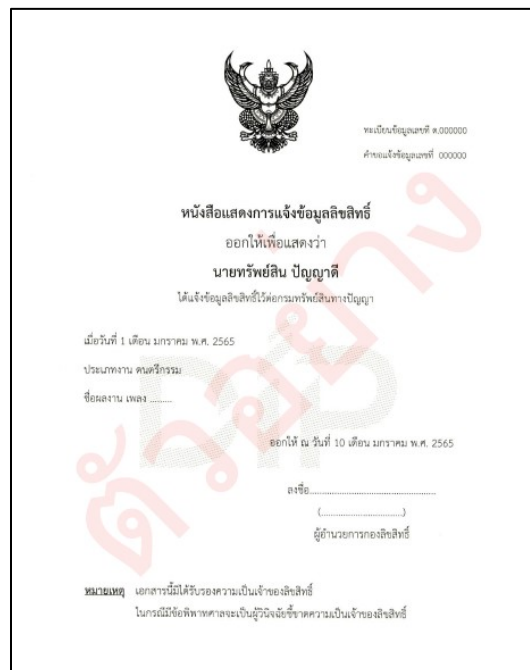
Timeline

If the work meets all requirements set forth in the Copyright Act, the Copyright Office of the DIP will take 1 to 2 months to issue a confirmation that the notification has been registered.

No official fee is charged for the notification process.

Copyright notice

The copyright notice issued by the DIP at the outcome of the copyright notification procedure will look like the following document:¹³



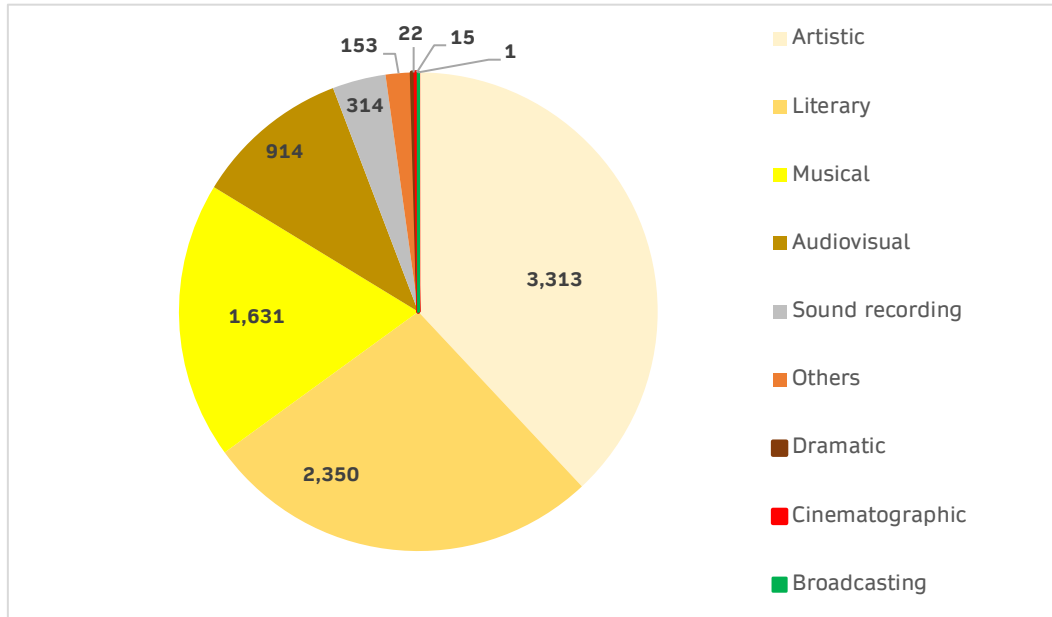
¹¹ <https://copyright.ipthailand.go.th/> (last accessed 19/02/2025).

¹² <https://www.ipthailand.go.th/images/3534/2565/Copyright/Form/CR-01.pdf> (last accessed 19/02/2025).

¹³ Retrieved from <https://www.ipthailand.go.th/th/copyright-005.html> (last accessed 19/02/2025).

Copyright notification statistics in Thailand

In **2023**, 8,713 copyright notifications were filed with the DIP, the majority being artistic works (3,313), literary works (2,350) and musical works (1,631).¹⁴



Rejection of copyright notification

In some cases, the Copyright Office will refuse to record a copyright notification. There are several grounds for such refusal. The most common grounds of refusal include the followings:

- The work lacks creativity; or
- The work should be protected by either design (when the utilitarian aspect of the work supersedes the esthetical concerns) or trademark (for words and sentences, even with stylization).

The applicant will then have 30 days to request a review of the decision by writing a letter to the Director General of the DIP.

¹⁴ Retrieved from: <https://www.ipthailand.go.th/th/copyright-009.html> (last accessed 19/02/2025).



Suspension or revocation of copyright notification

While it is very swift and straightforward to notify the Thai DIP of one's copyright, it is challenging for any third party to request the suspension or the revocation of a copyright notification. Related rules are provided by the Regulations Regarding Receiving Notification of Copyright and Providing Copyright Information Services B.E. 2563 of the Thai DIP.

Revocation should first be ordered by a court or an arbitration tribunal, which means that a third party must file a petition before the IP&IT Court or an arbitration tribunal to demand that the copyright notification be taken down from the records. A copy of the judgment or arbitral award should then be submitted to the Copyright Division, together with supporting evidence.¹⁵

In case the copyright notification has been used dishonestly, a third party may also request its suspension. The following cases constitute “dishonest use”:

1. Situations where it is evident that a certificate is being misused to arrest or extort money through actions that violate the law.
2. Use of a certificate with a work that is not the work for which the copyright notification was issued.
3. Use of a certificate that has been altered.
4. Use of a certificate to accomplish any act against the law, public order or good morals.¹⁶

In such cases, a third party may submit a written complaint to the Thai DIP with evidence of the dishonest use, detailing why the notification should be urgently suspended and that failure to do so will cause serious damage to a person or to the public interest. If the suspension request is approved, the Thai DIP official will request the registered owner of the copyright to return the copyright notification. If the notification certificate is not returned, the Thai DIP will revoke the copyright notification.

¹⁵ Article 17 of Regulations Regarding Receiving Notification of Copyright and Providing Copyright Information Services B.E. 2563.

¹⁶ Ibid, Article 17(1).

Assignment of notified copyright

After the copyright has been recorded at the Thai DIP, the owner of the copyright may still assign it, in whole or in part, for a limited period or until the end of the protection term. If the duration of the assignment is not specified, it will be presumed to be for 10 years.

This further transfer of ownership must be recorded at the Thai DIP. The following documents are required:

- An amendment form;
- The signed copy of either the applicant's national Thai ID card/foreign passport & visa pages (for individuals) or the company registration certificate issued within the past 6 months (for corporation; for foreign entities, the copy must be notarized) – for both assignor and assignee;
- The copyright notification or a duplicate in case of loss of the original;
- A Deed of Assignment (DOA) signed by both the assignor and assignee, specifying the full names, addresses, and citizenship of the assignor and the assignee, the title of the copyright work being assigned and the effective date of the assignment. If the DOA is executed outside Thailand, it is preferable to notarize it.

We assist our clients in protecting their original works and enforcing their copyright in Thailand.

For more information, advice or quotation, please do not hesitate to contact us at contact@tmp-ip.com.

