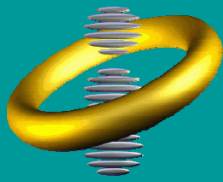


**NSS Enriching Knowledge for Information  
and Communication Technology (ICT)  
Curriculum Series (4): Intellectual Property,  
Copyright and Internet Piracy**

**(CDI020071850)**

**22 Feb 2008**



香港特別行政區政府  
知識產權署

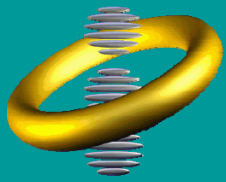
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教育與版權  
*COPYRIGHT*  
*IN*  
*EDUCATION*

倪振邦律師  
知識產權署  
**Dominic Ngai**  
**Solicitor**

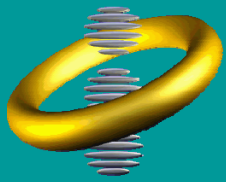
**Intellectual Property Department**

**22.02.2008**



# 大綱 Outline

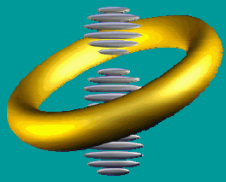
- 版權的本質 Nature of copyright
- 版權作品 Copyright works
- 受限制的作為 Restricted acts
- 法定允許作為 Statutory permitted acts
- 特許協議／指引  
Licences/Guidelines
- 平行進口作品 Parallel imported copies
- 特許機構 Licensing bodies



# 背景

## Background

- 版權保護始於 1.7.1912  
Copyright protection began on 1.7.1912
- 本地化及全面現代化的版權條例於 27.6.1997  
生效  
Localised, comprehensive and modernised  
copyright law came into operation on 27.6.1997



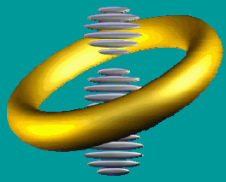
香港特別行政區政府  
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# 版權的本質

## Nature of copyright

- 無形資產  
Intangible property
- 保障表達形式，並非意念  
Protect form of expression, not ideas
- 香港保護源自世界各地的版權作品  
Hong Kong protects copyright works from anywhere in the world
- 不需註冊  
No registration required





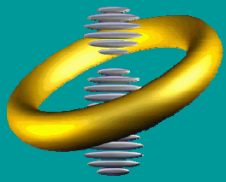
# 版權作品 (一) Copyright works (1)

- 文學作品  
Literary works
- 藝術作品  
Artistic works
- 戲劇作品  
Dramatic works
- 音樂作品  
Musical works



版權期限: 作者在生之年 + 50 年

Duration of copyright: life of author + 50 years



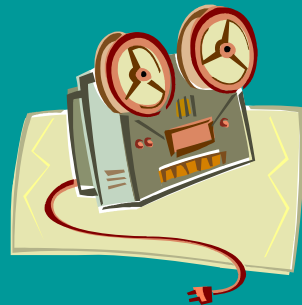
# 版權作品 (二) Copyright works (2)

- 聲音紀錄

Sound recordings

- 影片

Films



- 廣播

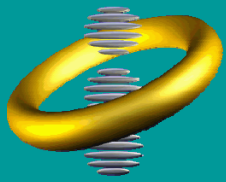
Broadcasts

- 有線傳播節目

Cable programmes

版權期限: 製作後50年(影片除外)

Duration of copyright: 50 years after work is made  
(except films)



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知識產權署

# 版權作品 (三)

## Copyright works (3)

- 排版

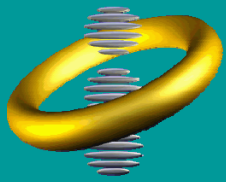
Typographical arrangement of published edition

- 版權期限: 首次發表後25年

Duration of copyright: 25 years from 1st publication

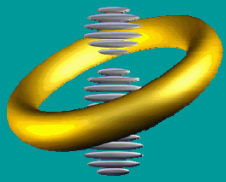






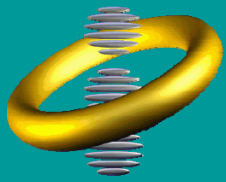
# 擁有權 (一) Ownership (1)

- 作者 – 第一擁有人  
Author - first owner
- 僱主為版權人  
Employer as owner
  - 僱員於僱用期內的作品  
Employee's work made in course of employment
- 政府版權 – 政府是版權的第一擁有人  
Government copyright – government as first owner



# 擁有權 (二) Ownership (2)

- 委託作品  
Commissioned work
  - 合約決定權屬  
Ownership depends on contract
  - 專用特許使用權  
exclusive licence to use



# 受版權所限制的作為(一) Restricted acts (1)

- 複製

Copy

- 向公眾發放

Issue to the public

- 租賃予公眾(電腦程式或聲音紀錄)

Rent to the public (computer program and sound recording)

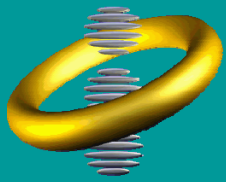
註：影片、漫畫書新增租賃權

NB: New rental rights for films & comic books

- 向公眾提供(例如透過互聯網)

Make available to the public (e.g. through the Internet)



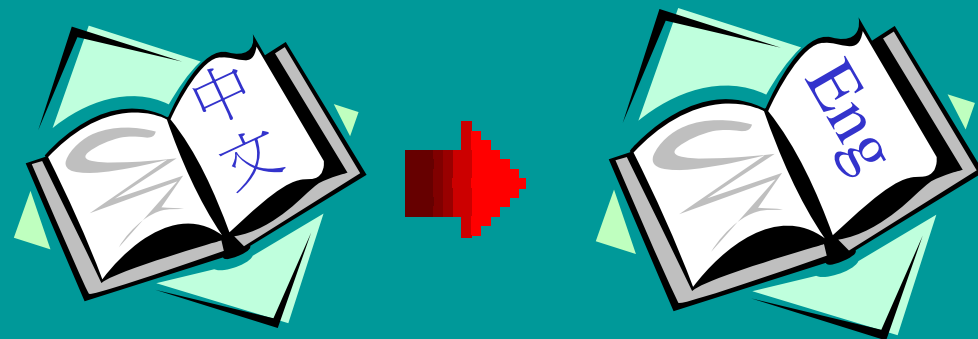


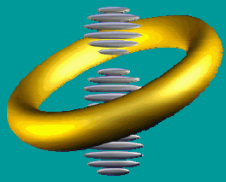
# 受版權所限制的作為 Restricted acts (2)

- 公開表演、放映或播放  
Perform, show or play in public

- 廣播、有線傳播  
Broadcast, cable programme

- 製作改編本  
Make an adaptation





# 何謂複製？

## What constitutes a copy ?

- 不只限“硬本複製品”

Not limited to “hard copies”

- 包括電子方法貯存

Include storage by electronic means

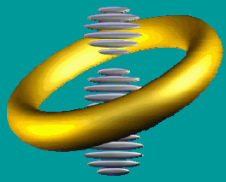
– 傳真、掃描、下載至硬磁碟、列印

fax, scan, download to hard disk, print

- 包括手抄

Include copying by hand





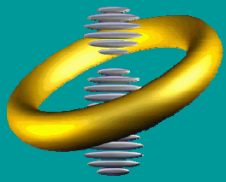
香港特別行政區政府  
知識產權署

# 複製多少才算侵權？

## When will copying constitute infringement ?

- 整項作品或實質部份  
Whole or substantial part
- 質與量  
Quality & quantity
- 沒有規定的比例  
No prescribed %



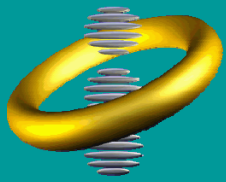


# 直接侵權

## Primary Infringement

- 未獲版權擁有人的特許，而自行或授權他人作出任何受版權所限制的行為

without the licence of the copyright owner does, or authorizes another to do, any of the restricted acts



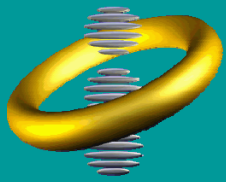
# 間接侵權

## Secondary infringement

- 在知情下管有侵權品，作業務上使用  
Knowingly possess infringing copies for use in business
- 刑事責任  
Criminal liability
  - computer program 電腦程式
  - movie 電影
  - TV drama 電視劇或電視電影
  - musical recording 音樂紀錄
- 民事責任 – 其他類別的侵權品  
Civil liability - other types of works







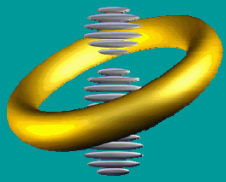
# 法定允許作為 (一)

## Statutory permitted acts(1)

### Primary consideration

### 基本因素

- 沒有抵觸版權擁有人正常利用作品  
do not conflict with normal exploitation of work
- 亦不損害其合法權益  
do not prejudice legitimate interest of copyright owner



# 法定允許作為 (二) Statutory permitted acts (2)

## 特定目的

### Specific Purposes

- 研究及私人研習

### Research and private study

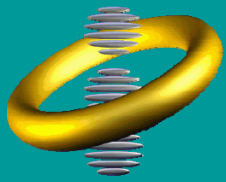
- 批評、評論

### Criticism and review

- 教育

### Education

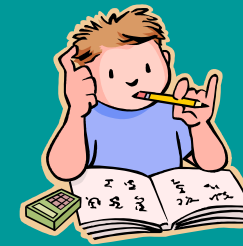




# 研究及私人研習 (s38)

## Research & private study

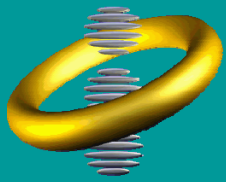
- 研究者或學生作公平處理  
Fair dealing by researcher or student



- 是否公平就須考慮：

Whether any dealing is fair depends on:

- 處理的目的及性質： purpose and nature of dealing
  - 作品的性質 nature of work
  - 處理的量與質 quantity and quality dealt with
- 2007年7月6日起增加一項考慮因素  
One additional factor included since 6 July 2007

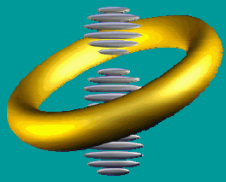


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# 批評、評論 (s39) Criticism & review

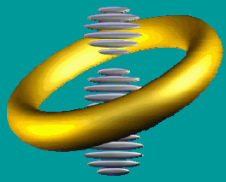
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- 公平處理  
Fair dealing
- 確認聲明  
Acknowledgement



# 為教學目的 (s41) For purposes of instruction

- 老師或學生在教學／教學準備過程中複製  
Teachers or students copy in the course of instruction/  
preparation for instruction
- 在合理範圍內  
To a reasonable extent
- 不能作機印  
Not by reprographic means

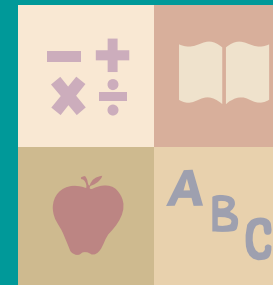


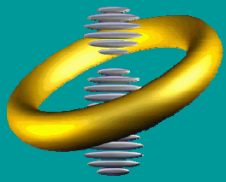
# 為考試目的 (s41)

## For purposes of examination

- 擬出試題或解答試題

Setting questions or answering questions



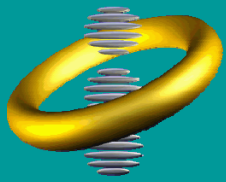


# 教育機構 (表演) (s43)

## Educational establishments (performance)

- 觀眾/聽眾 – 教師、學生、家長／監護人  
Audience – teachers, students, parents/guardians
- 在教育機構的活動過程中由教師或學生表演  
Performed by teacher or student in course of activities of establishment
- 在教育機構中由任何人為教學的目的而表演  
Performed by any person at the establishment for the purpose of instruction
- 2007年7月6日起，擴大觀眾／聽眾的範圍  
Scope of audience extended since 6 July 2007

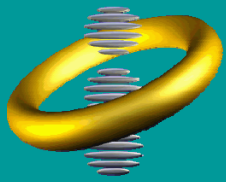




# 教育機構 (播放/放映) (s43) Educational establishments (playing/showing of work)

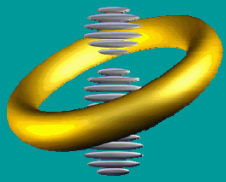
- 聲音紀錄、影片、廣播、有線傳播節目  
Sound recording, film, broadcast, cable programme
- 觀眾/聽眾 – 教師、學生、家長/監護人  
Audience – teachers, students, parents/guardians
- 為教學目的  
For purpose of instruction
- 2007年7月6日起，擴大觀眾/聽眾範圍  
Scope of audience extended since 6 July 2007





# 教育機構(紀錄廣播) (s44) Educational establishments (recording of broadcast)

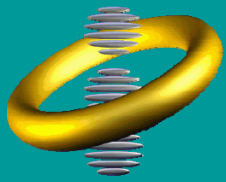
- 為教育目的  
Educational purpose
- 確認作者或創作努力的聲明  
Acknowledgement of authorship/creative effort
- 非圖利  
Not for gain
- 沒有特許計劃  
in the absence of licensing scheme



# 翻印複製 (s45)

## Reprographic copying

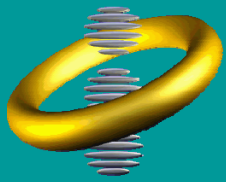
- 教育機構  
By educational establishments
- 為教學目的  
For purpose of instruction
- 在合理範圍內複製  
Copying to a reasonable extent
- 若有特許計劃授權複製，不適用  
Not applicable if licensing schemes available
- 2007年7月6日後，擴大豁免範圍  
Scope of exemption extended since 6 July 2007



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# 新增「公平處理」允許作為 New “fair dealing” permitted act

- 自2007年7月6日起生效  
Came into operation since 6 July 2007

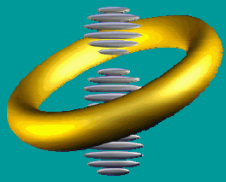


# 非牟利教育機構影印印刷品指引 (1) Guidelines for Photocopying of Printed Works by Not-for-profit Educational Establishments (1)

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- 代表有關版權擁有人和教育界使用者對為教學目的可影印幅度的共識

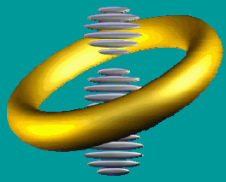
represent the consensus among the relevant copyright owners and educational users on the extent of permissible photocopying for instruction purpose



# 非牟利教育機構影印印刷品指引 (2)

## Guidelines for Photocopying of Printed Works by Not-for-profit Educational Establishments (2)

- 涵蓋範圍 Scope
  - 不適用於「消耗性」作品，如作業、練習、測驗簿等  
Do not apply to “consumable” e.g. exercises, test booklets, etc.
  - 不容許製作「套裝教材」  
Do not allow production of course pack
- 複製必須是“即興”  
Copying must be “spontaneous”
- 其他詳細條款  
Other detailed conditions



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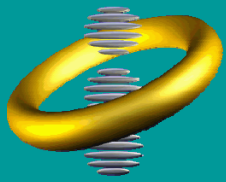
## 複印印刷作品特許協議

## Licence for Copying Printed Works

- 香港版權影印授權協會有限公司  
*Hong Kong Reprographic Rights Licensing Society (HKRRLS)*
- 涵蓋已發表的印刷作品  
Covers published works in printed form
- 請向教育局查詢協議詳情  
Please consult EDB for terms of the licence

# 複印報章及雜誌特許協議 Licence for Copying Newspapers and Magazines

- 香港複印授權協會有限公司  
*The Hong Kong Copyright Licensing Association Ltd  
(HKCLA)*
- 涵蓋某些報章、雜誌  
Covers certain newspapers and magazines
- 請向教育局查詢協議詳情  
Please consult EDB for terms of the licence



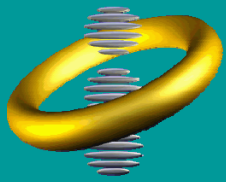
香港特別行政區政府  
知識產權署

# 平行進口版權作品 Parallel Imported Copyright Works

- 入口／知情的情況下管有平行進口作品，作業務上使用  
Import/knowingly possess parallel imported copies for use in business
- 民事／刑事責任  
Civil/Criminal liability
- “業務”可涵蓋教育機構某些活動  
“Business” could include certain activities in educational establishments
- 2007年7月6日起放寬限制  
Prohibitions relaxed since 6 July 2007







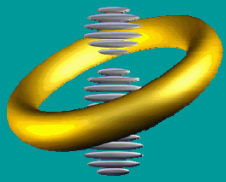
# 特許機構(一) Licensing Bodies (1)

- 香港作曲家及作詞家協會有限公司  
Composers and Authors Society of Hong Kong Ltd.  
(CASH)

<http://www.cash.org.hk>

- 香港音像版權有限公司  
Phonographic Performance (South East Asia) Ltd.  
(PPSEAL)

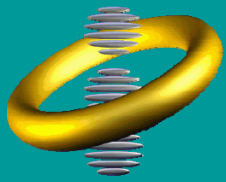
<http://www.ppseal.com>



# 特許機構(二)

## Licensing Bodies (2)

- 香港版權影印授權協會有限公司  
The Hong Kong Reprographic Rights Licensing Society Ltd.  
(HKRRLS)  
<http://www.hkrrls.org>
- 香港複印授權協會有限公司  
The Hong Kong Copyright Licensing Association Ltd.  
(HKCLA)  
<http://www.hkcla.org.hk>



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# 進一步資料

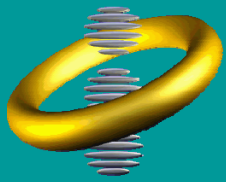
## Further Information

若需要更多有關版權的資料, 歡迎瀏覽本處之網站:

<http://www.ipd.gov.hk>

- For further information on copyright, please browse the website of the Intellectual Property Department:

<http://www.ipd.gov.hk>



香港特別行政區政府  
知識產權署



- Thank You!
- 謝謝