

Recent Development of Amendment to the Copyright Act of Thailand: New Exemptions to Copyright Infringement for Disabled Persons

Thailand has finally enacted Copyright Act (No. 4) B.E. 2561 (A.D. 2018) (“**Copyright Act No. 4**”) to bring the Copyright Act B.E. 2537 (A.D. 1994) in line with the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (“**Marrakesh Treaty**”). The Copyright Act No. 4 was published in the Royal Gazette on 11th November 2018 and will be effective on and from 11th March 2019.

The Copyright Act No. 4 introduces new Section 32/4 which sets forth certain basic requirements and conditions for reproduction, adaptation, and/or the making available of copyrighted works to disabled persons to be exempted from copyright infringement under the Act.

Previously, the exemption of copyright infringement for disabled persons was stipulated under Section 32 (9) of the Copyright Act only for "reproduction or adaptation of copyrighted works for the benefit of a person with disabilities unable to access copyrighted works due to visual or hearing or intellectual or learning impairments or other disabilities, provided it is not done for profit." Section 32(9) of the Act will be repealed and replaced by the new Section 32/4 after the Copyright Act No. 4 comes into force.

Section 32/4 of the amended Copyright Act says that reproduction, adaptation, or the communication to the public of copyrighted works to disabled persons must be done only by an authorized or approved entity and it must be for the benefit of disabled persons who cannot access the copyrighted work due to their visual or hearing or intellectual or learning impairments or other disabilities or other disabilities as prescribed by the Ministerial Regulation of Ministry of Commerce. Moreover, Section 32/4 also requires the reproduction, adaptation, or the communication to the public of copyrighted works to be done on the condition that the copyrighted work provided by the authorized entity is already available to the public and legitimately obtained.

Furthermore, the exception under Section 32/4 remains subject to the requirements for general copyright exceptions under Section 32 of the Copyright Act, i.e. the acts of reproduction, adaptation, and communication to the public of the copyrighted works must not be in conflict with the normal exploitation of the work or unreasonably prejudice the legitimate rights of the owner of the work.



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