



# **KOREA-ASEAN IP COOPERATION CONFERENCE**

**Legal Framework, Policy and Governance of Intellectual Property in Singapore  
Amid the Changes of the AI Era**

**Dedar Singh Gill**

**Judge of the High Court of Singapore**

**SG  
Courts**

[www.judiciary.gov.sg](http://www.judiciary.gov.sg)

# INTRODUCTION

# GOVERNANCE FRAMEWORK IN SINGAPORE

## Singapore as a Smart Nation:

- In 2014, Singapore set an ambition to become a Smart Nation. The aim was to build up capabilities and encourage the use of technology.
- In October 2024, Singapore launched Smart Nation 2.0, with a refreshed vision to use technology more effectively. Singapore continues to extend the frontiers with AI, harnessing its transformative potential while creating a safe, trustworthy environment for AI development and deployment.

## Singapore's IP Strategy:

- To build a world-class IP regime that stays ahead of technological advancements
- To support technology advancements through constant policy reviews

**EVOLUTION OF  
SINGAPORE'S STRATEGIES  
AND POLICY TRENDS**

# NATIONAL AI STRATEGY (PUBLISHED IN NOVEMBER 2019)

The National AI Strategy sets out a vision for Singapore to be a leader in developing and deploying AI solutions in key sectors by 2030.

Aim: To provide a top-class IP regime and accelerated patent initiatives for AI

- Intellectual Property Office of Singapore (“IPOS”) has an enterprise engagement arm, IPOS International, to provide AI companies with customised intangible asset solutions and programmes.
- IPOS introduced the Accelerated Initiative for AI, the world’s fastest patent-acceleration programme that grants applicants an AI patent within six months.
- A new ASPEC AIM (Acceleration for Industry 4.0 Infrastructure and Manufacturing) initiative by the ASEAN IP offices also allows applicants to fast-track patent applications for key emerging technologies in the region.

# SINGAPORE IP STRATEGY REPORT 2030 (PUBLISHED IN APRIL 2021)

Review Singapore's IP regime to support AI innovation and adoption

- IPOS studies how big data impacts IP laws and whether further changes to Singapore's IP laws are necessary to help our innovators and enterprises.
- The aim is to find a balance between the interests of creators and ensuring access by third parties to maximise the benefits of original works.

Study the interface between AI & IP policy to encourage creation and deployment of new AI technologies

- IPOS has embarked on a research collaboration with Singapore Management University Centre for AI and Data Governance and Infocomm Media Development Authority to gather views from key stakeholders in the AI field.

# COMPUTATIONAL DATA ANALYSIS EXCEPTION (CAME INTO FORCE ON 21 NOVEMBER 2021)

In November 2021, Singapore amended the Copyright Act to introduce ss 243 and 244 to permit a copy of a work to be made for computational data analysis.

By way of example, Second Minister for Law Edwin Tong (as he then was) stated during the second reading of the Copyright Bill on 13 September 2021 that:

- The permitted use under s 244 “can be relied on when training an Artificial Intelligence programme or using computers to analyse large databases of materials, without needing to seek permission from each rights owner. It will apply in both commercial and non-commercial contexts.”

The rationale for this exception is to “support our Smart Nation initiatives, our push towards data-driven innovation and Singapore’s efforts to grow our Artificial Intelligence and technology sectors.”

# COMPUTATIONAL DATA ANALYSIS EXCEPTION (CAME INTO FORCE ON 21 NOVEMBER 2021)

## Section 243 of the Copyright Act 2021

243. In this Division, “computational data analysis”, in relation to a work includes —

- a) using a computer program to identify, extract and analyse information or data from the work; and
- b) using the work as an example of a type of information or data to improve the functioning of a computer program in relation to that type of information or data.

### Illustration

An example of computational data analysis under paragraph (b) is the use of images to train a computer program to recognise images.

# COMPUTATIONAL DATA ANALYSIS EXCEPTION (CAME INTO FORCE ON 21 NOVEMBER 2021)

## Section 244 of the Copyright Act 2021

It is permitted for a person (“X”) to make a copy of a work if the following conditions in s 244(2) are satisfied:

- a) The copy is made for the purpose of computational data analysis;
- b) The copy is not used for any other purpose;
- c) The copy must not be supplied to any person other than for the purpose of verifying the results of the computational data analysis;
- d) X must have lawful access to the material (“the first copy”) from which the copy is made; and
- e) The first copy is not an infringing copy; and if it is an infringing copy, it has to satisfy other requirements.

### Illustrations under s 244(2)(d)

- X does not have lawful access to the first copy if X accessed the first copy by circumventing paywalls.
- X does not have lawful access to the first copy if X accessed the first copy in breach of the terms of use of a database.

# AMENDED FAIR USE FACTORS (CAME INTO FORCE ON 21 NOVEMBER 2021)

## Section 191 of the Copyright Act 2021

191. Subject to sections 192, 193 and 194, all relevant matters must be considered in deciding whether a work ... is fairly used, including —

- (a) the purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes;
- (b) the nature of the work ...;
- (c) the amount and substantiality of the portion used in relation to the whole work ...; and
- (d) the effect of the use upon the potential market for, or value of, the work ... .

The issue of copyright infringement in the training of AI models is being keenly litigated in the United States. A number of judgments have been delivered by the United States courts. Given that Singapore's fair use factors are similar to the United States', the Singapore courts will be able to benefit from the cases decided in the United States. The Singapore Court of Appeal in *Global Yellow Pages Ltd v Promedia Directories Pte Ltd and another matter* [2017] 2 SLR 185 (at [76]) has also emphasised that American jurisprudence will be helpful in shaping our law on fair use (previously known as fair dealing).

# COMPARISON OF FAIR USE FACTORS (SINGAPORE AND UNITED STATES)

## Factor 1

	<b>Global Yellow Pages Ltd v Promedia Directories Pte Ltd and another matter [2017] 2 SLR 185</b>	<b>Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc., 765 F. Supp. 3d 382</b>
<b>What is factor 1?</b>	The purpose and character of the dealing, including whether such dealing is of a commercial nature or is for non-profit educational purposes	The use's purpose and character, including whether it is commercial or nonprofit
<b>Analysis of factor 1</b>	<p>[77]: The first factor has received more attention than the other factors.</p> <p>[77]: The court was required to compare the purposes of the infringing work and the original work.</p> <p>[77]: Generally, the fact that the original and infringing works shared the same purpose or the fact that a dealing was driven by commercial exploitation would tend to weigh against a finding of fair dealing.</p> <p>[81]: However, the commerciality of the dealing was but one of the factors to be considered and it would be neither presumptively unfair nor necessarily fatal to a finding of fair dealing.</p>	<p>The court looks mainly at whether it was commercial and whether it was transformative. If the parties use copyright material for very similar purposes and the alleged copier's use is commercial, this factor likely disfavors fair use.</p> <p>Transformativeness is about the purpose of the use. "If an original work and a secondary use share the same or highly similar purposes, and the second use is of a commercial nature, the first factor is likely to weigh against fair use, absent some other justification for copying."</p>

# COMPARISON OF FAIR USE FACTORS (SINGAPORE AND UNITED STATES)

## Factor 2

	<b>Global Yellow Pages Ltd v Promedia Directories Pte Ltd and another matter [2017] 2 SLR 185</b>	<b>Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc., 765 F. Supp. 3d 382</b>
<b>What is factor 2?</b>	Nature of the work	The copyright work's nature
<b>Analysis of factor 2</b>	[82]: This factor drew on the “value of the materials used”. Some works were closer than others to the core of intended copyright protection. Thus, a dealing was less likely to be fair in cases involving fiction-based (as opposed to fact-based) copyright works, because copyright protection was not as “thin”, and in cases involving unpublished works, because of the need to respect an author’s right to confidentiality and to release the work into the public domain.	<b>Factor two matters less than the others.</b>  This factor involves “focus[ing] on the degree of creativity inherent to the work.” More creative works get more protection.

# COMPARISON OF FAIR USE FACTORS (SINGAPORE AND UNITED STATES)

## Factor 3

	<b>Global Yellow Pages Ltd v Promedia Directories Pte Ltd and another matter [2017] 2 SLR 185</b>	<b>Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc., 765 F. Supp. 3d 382</b>
<b>What is factor 3?</b>	The amount and substantiality of the part copied taken in relation to the whole work	How much of the work was used and how substantial a part it was relative to the copyright work's whole
<b>Analysis of factor 3</b>	[83]: This factor entailed asking whether the quantity and value (meaning its qualitative importance) of the materials used were reasonable in relation to the purpose of the copying.	<p>Courts consider both “the quantity of the materials used” and “their quality and importance.” To win on this factor, the alleged copier must not take the “heart” of the work.</p> <p>What matters is not “the amount and substantiality of the portion used in making a copy, but rather the amount and substantiality of what is thereby made accessible to a public for which it may serve as a competing substitute.”</p> <p>The percentage of a total work copied is neither necessary nor sufficient to decide factor three.</p>

# COMPARISON OF FAIR USE FACTORS (SINGAPORE AND UNITED STATES)

## Factor 4

	<b>Global Yellow Pages Ltd v Promedia Directories Pte Ltd and another matter [2017] 2 SLR 185</b>	<b>Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc., 765 F. Supp. 3d 382</b>
<b>What is factor 4?</b>	The effect of the dealing upon the potential market for, or value of, the work	How the alleged copier's use affected the copyright work's value or potential market
<b>Analysis of factor 4</b>	[84]: This factor entailed an inquiry as to the extent of market harm caused by the alleged infringer's action, and whether the defendant's conduct, if "unrestricted and widespread", would adversely and substantially impact the potential market for the original, taking into account not only harm to the original but also harm to the market for derivative works.	<p><b>Factor four "is undoubtedly the single most important element of fair use."</b></p> <p>For this factor, the court considers the "likely effect [of the alleged copier's copying] on the market for the original." The court must consider not only current markets but also potential derivative ones "that creators of original works would in general develop or license others to develop." The court will also consider any "public benefits the copying will likely produce."</p> <p><u>Note:</u> In <i>Bartz et al., v. Anthropic PBC</i>, 24-cv-05417 (ND Cal.), Judge Alsup likened the market impact of using copyright works for generative AI training to the market impact of using the same works to train schoolchildren to write well. However, in <i>Kadrey et al., v. Meta Platforms, Inc.</i>, 23-cv-03417 (ND Cal.), Judge Chhabria noted that unlike human learning, AI can rapidly generate numerous competing works. Judge Chhabria suggested that unauthorised AI training would likely infringe copyright if market harm could be proven, regardless of how transformative the use was.</p>

# NATIONAL AI STRATEGY 2.0 (PUBLISHED ON 4 DECEMBER 2023)

Given the recent advances in AI, especially in generative AI, the National AI Strategy 2.0 was published to outline the vision for Singapore to be a place where AI serves as a force for good.

The National AI Strategy 2.0 sets out the following aims:

- To anchor new AI Centres of Excellence in Singapore-based companies to create new IP
- To strengthen the AI start-up ecosystem, including attracting more venture builders and developing more accelerator programmes
- To nurture globally-oriented AI innovators to create IP

The National AI Strategy 2.0 also recognises IP infringement as one of the potential risks that needs to be addressed in AI development and deployment.

**CURRENT AND FUTURE  
TRENDS AND  
CHALLENGES**

# EMERGING AI-IP ISSUES

As of now, there is no Singapore case law on AI-related IP issues.

However, there seems to be an emergence of AI-related IP issues in various jurisdictions, e.g.,

- whether AI can be named as an inventor of a patent;
- whether there is copyright protection for works generated by AI; and
- whether copyrighted materials may be used for AI model training.

# CONTINUAL REVIEW OF IP REGULATIONS

Mrs Josephine Teo, Minister for Digital Development and Information (known previously as Minister for Communications and Information), stated on 10 January 2024 that:

- Copyright concerns raised by recent advancements in generative AI is an area that Singapore is studying. The Ministry of Law and IPOS “have been engaging stakeholders and will develop an appropriate response in due time”.
- Given the fast-evolving developments in AI, Singapore does not adopt a one-size-fits-all approach for regulation. Instead, Singapore reviews the regulations and governance frameworks to ensure that they remain fit-for-purpose.



**THANK YOU**