

# FUNDAMENTAL OF MULTIMEDIA PROFESIONAL ETHICS

By  
**Dr. Rahmah Mokhtar**  
Faculty of Computer Systems & Software  
Engineering  
[drrahmah@ump.edu.my](mailto:drrahmah@ump.edu.my)



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# Assignment



- **Expected Outcomes**

- In this chapter, Student will discussed what are the ethical concerns to the multimedia projects?
  - Should multimedia be protected by patents or copyright?
  - What constitutes "fair use" of copyrighted material that can be incorporated into an educations multimedia?
  - Are there ethical concerns and considerations that need to be aware of privacy and confidentiality issues?

- **References**

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# Introduction

- Multimedia is a combination of several different technologies, such as video, audio, graphics, and computer generated interaction.
- Ethical issues pertaining to audio, film and software's intellectual property rights have also produce a great deal of research over recent years.



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# Intellectual Property

VS

# Real Property



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# Intellectual Property

- Intellectual Property is a way to protect its author's work.
- The intent of protecting these works is to provide motivation to the author share their work.
- There are 4 key sections of Intellectual Property are :

PATENTS

COPYRIGHT

TRADEMARK

TRADE SECRET



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# Patents

- **What is patent??**
  - A patent is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.
- **Who may Apply?**
  - Any person may make an application for a patent or for a utility innovation either alone or jointly with another person. The word "person" is not limited to natural persons and thus also includes, for example, a company
- **How can a patent or utility innovation be protected?**
  - An applicant must file a patent or utility innovation application with the Intellectual Property Corporation of Malaysia which will assess whether it meets the requirements of the [Patents Act 1983](#).



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- **Why Protect an Invention?**

- A patent or utility innovation protection gives the owner of the patent/utility innovation the exclusive right to stop others from manufacturing, using and/or selling the owner's invention in Malaysia without the owner's consent or permission.

- **Term of protection**

- A patent is protected 20 years from the date of filing and a utility innovation is protected 10 + 5 + 5 years from the date of filing subject to use.

- **Patentable Inventions**

- For a patent to be granted an invention must be :
  - New, which means that the invention has not been publicly disclosed in any form, anywhere in the world;
  - involve an inventive step, that is to say the invention must not be obvious to someone with knowledge and experience in the technological field of the invention; and
  - industrially applicable, meaning it can be mass produced



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# What is Copyright ??

- Exclusive right given to the owner of a copyright for a specific period.
- Copyright protection in Malaysia governed by the Copyright Act 1987.
- There is no system of registration in Malaysia.



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# What is Copyright

A work that is eligible is protected automatically upon fulfillment of the following conditions :

Sufficient effort has been expended to make the work original in character;

The work has been written down, recorded or reduced to a material form; and

The author is a qualified person or the work is made in Malaysia or the work is first published in Malaysia



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# What does Copyright Protected?

- Works eligible for protection are :
  - Literacy works
  - Musical works
  - Artistic works
  - Film
  - Sound recording
  - Broadcasts; and
  - Derivative works



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- Who Owns Copyright?

- How long does copyright last?

- Copyright subsists during the life of the author plus 50 years after his death.
- However, if a work has not been published during the life time of the author, copyright in the work continues to subsist until the expiration of 50 years, following the year in which the work was first published.
- In the case of a work with joint authorship, the life of the author who dies lasts is used for the purpose of calculating the copyright duration of the works.



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# The legal rights of Copyright Owner

- The reproduction of the work in any form (including photocopying, recording, etc.)
- The performing, drawing or playing to the public
- The communication to the public
- The distribution of copies to the public by sale or other transfer of ownership; and
- The commercial rental to the public.



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# What Constitutes Copyright Infringement

- The copyright in a work infringed when a person who, not being owner of the copyright, and without license from the owner, does or authorizes any of the following acts:-
- reproduces in any material form, performs, shows or plays or distributes to the public,
- communicates by cable or broadcast of the whole work or a substantial part thereof either in its original or derivative form;
- imports any article into Malaysia for the purpose of trade or financial gains;
- makes for sale or hire any infringing copy;
- sells, lets for hire or by way of trade, exposes or offers for sale or hire any infringing copy;



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- distributes infringing copies;
- possesses, otherwise than for his private and domestic use, any infringing copy;
- by way of trade, exhibits in public any infringing copy;
- imports into Malaysia, otherwise than for his private and domestic use, an infringing copy;
- makes or has in his possession any contrivance used or intended to be used for the purpose of making infringing copies; or
- causes the work to be performed in public



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- Who enforces Copyright??
  - The copyright Act 1987 provides for the enforcement of the law by the Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs. (Apart from the police)
- Copyright Tribunal?
  - The *Malaysian Copyright Act provides for a Copyright Tribunal*

whose function is to grant licenses to produce and publish in the National Language a translation of literacy work written in any other language and arbitration of disputes relating use of copyright works.



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# Trademarks

- **WHAT IS A TRADE MARK?**

- A trade mark is a sign which distinguishes the goods and services of one trader from those of another. A mark includes words, logos, pictures, names, letters, numbers or a combination of these.
- A trade mark is used as a marketing tool to enable customers in recognizing the product of a particular trader.

- **FUNCTIONS OF TRADE MARK**



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# Function of trademark

- **Origin Function** - A trade mark helps to identify the source and those responsible for the products and services sold in the market.
- **Choice Function** - A trade mark enables consumers to choose goods and services with ease while shopping.
- **Quality Function** - Consumers choose a particular trade mark for its known quality.
- **Marketing Function** - Trade marks play an important role in advertising. Its normal for consumers to make purchases based on continuous influence of advertising.
- **Economic Function** - Established trade mark is a valuable asset. Trade marks may be licensed or franchised.



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# Importance of trademark registration

- Trade marks registration provides for:
  - **Exclusive Rights** - Registered trade marks owners have exclusive right to use their marks in trading. They also have the rights to take legal action for infringement under the Trade Mark Law against others who use their marks without consent. They can either take civil action or lodge complaints to Enforcement Division for appropriate actions under the Trade Description Act 1972.



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# Importance of trademark registration

***Legal Evidence*** - Registration certificate issued by Registrar Office is a prima facie evidence of trade mark ownership. A certificate of registration serves as an important document to establish the ownership of goods exported to other countries.



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# DOES MALAYSIAN REGISTRATION GIVE PROTECTION ABROAD?

- No, if protection of trade mark is required in other countries, it will be necessary to apply for registration separately in each countries. However, a Malaysian application can be used a basis for claiming priority in countries which are party to the Paris Convention and World Trade Organization (WTO).



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# Trade Secret

- **What is a Trade Secret?**

- Trade secrets encompass manufacturing or industrial secrets and commercial secrets
- The unauthorized use of such information by persons other than the holder is regarded as an unfair practice and a violation of the trade secret
- Depending on the legal system, the protection of trade secrets forms part of the general concept of protection against unfair competition or is based on specific provisions or case law on the protection of confidential information.



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# How are trade secrets protected?

- Contrary to patents, trade secrets are protected without registration, that is, trade secrets are protected without any procedural formalities.
- Consequently, a trade secret can be protected for an unlimited period of time.
- For these reasons, the protection of trade secrets may appear to be particularly attractive for SMEs.
- However, some conditions for the information to be considered a trade secret.



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# Fair use

- Fair Use Guidelines for Educational Multimedia was published in Liberal Education to assist educators in understanding the legal uses of various works within multimedia.
- Fair Use is a legal technicality that provides limited use of copyright material to educators and students.
- Copyright Act provides four factors for consideration of what constitutes fair use.
  - The purpose or character in which the material is being used.
  - The nature of the copyrighted work
  - The amount and portion of the copyrighted work
  - The effect of the use on the market value of the original material.



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# Fair Use Guidelines for Educational Multimedia

Material	Maximum (which ever is less)	Special Note
Motion Media	10 % or 3 minutes	
Text Material	10% or 1,000 words	Poems < 250 words = Entire work, 3 per poet Poems > 250 word = 250 words, 3 per poet Anthology of poems = 5 poems/different poets
Music, Lyrics, and Music Video	10 % or Less than 30 seconds	No alterations that change the “basic melody” or “fundamental character” or the musical works.
Illustrations and Photographs	5 images by same artist or 10% or 15 images in published collective work	Difficult to define as the image usually requires the entire works
Numerical Data Sets	10% or 25 fields/cell entries	



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# GOVERNMENT BODIES

- Every county have its own government bodies who in charge of copyright, trademark and patent.
- The intellectual property should be protected.



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