



COPYRIGHT (AMENDMENT) BILL 2006,
PROPOSED AMENDMENT TO COMMITTEE STAGE AMENDMENT

35 (5)

(AMENDMENT TO SECTION 198 (3))

The Law Society makes the following submission in relation to the proposed Committee Stage Amendment 35(5):

1. Amend the CSA as follows:

"(3) In this Part, "lawfully made" (合法地製作), in relation to a copy of a work made in a country, territory or area –

(a) means that the copy was made by -

(i) a person who is entitled to copyright under this Ordinance in respect of the work that was made in the country, territory or area, as the case may be;

or

(ii) a person who is authorized by the person referred to in subparagraph (i);

but

(b) does not include a work that was made in a country, territory or area where there is no law protecting copyright in the work or where the copyright in the work has expired.";

2. Alternatively, delete CSA 35(5) entirely.

3. CSA 27(5) amended by adding:

“(2D) For the purposes of establishing whether a copy of a work was “lawfully made” an affidavit which purports to have been made by or on behalf of the copyright owner of a copyright work and states -

(a) the name of the copyright owner;

(b) that a copy of the work exhibited to the affidavit is a true copy of the work;

- (c) that the alleged infringing copy of the work exhibited to the affidavit was not made by the copyright owner or by a person authorized by the copyright owner

shall, subject to the conditions contained in subsection (4), be admitted without further proof in any proceedings under this Ordinance and in such case it shall be presumed until the contrary is proved that the alleged infringing copy of the work was not lawfully made.”

4. Delete “or 2(C)” and add after 2(B) in Section 121(6), (7), (8) and (9)
“;2(C) or 2(D)”

**The Law Society of Hong Kong
Intellectual Property Committee
12 June 2007**

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