



# International Copyright Legal Framework

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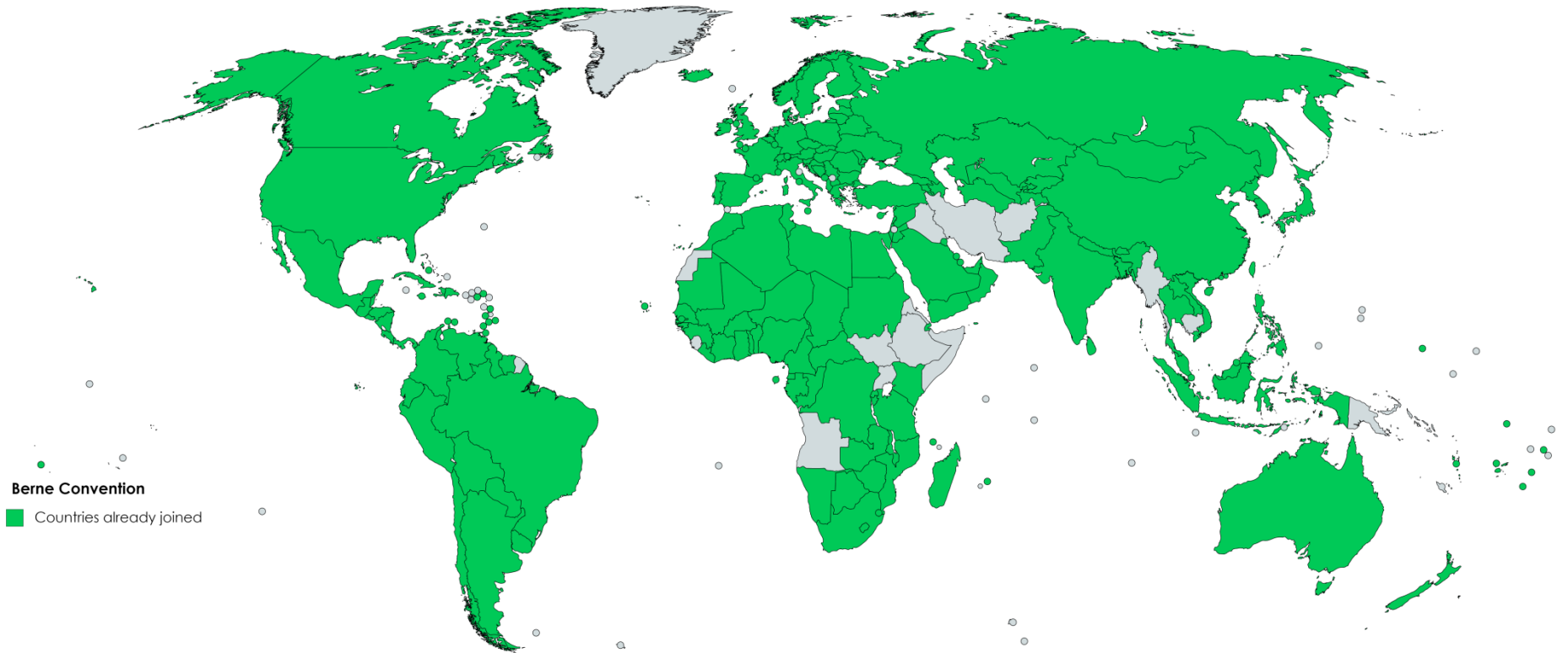
**Singapore**  
**November 1, 2017**

# Copyright and Related Rights Multilateral Treaties

- Berne Convention (1886-1971)
- Rome Convention (1961)
- Phonograms Convention (1971)
- Satellites Convention (1974)
- TRIPS Agreement (1994)
- **WIPO Copyright Treaty (1996)**
- **WIPO Performances and Phonogram Treaty (1996)**
- **Beijing Treaty on Audiovisual Performances (2012)**
- **The Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled (2013)**

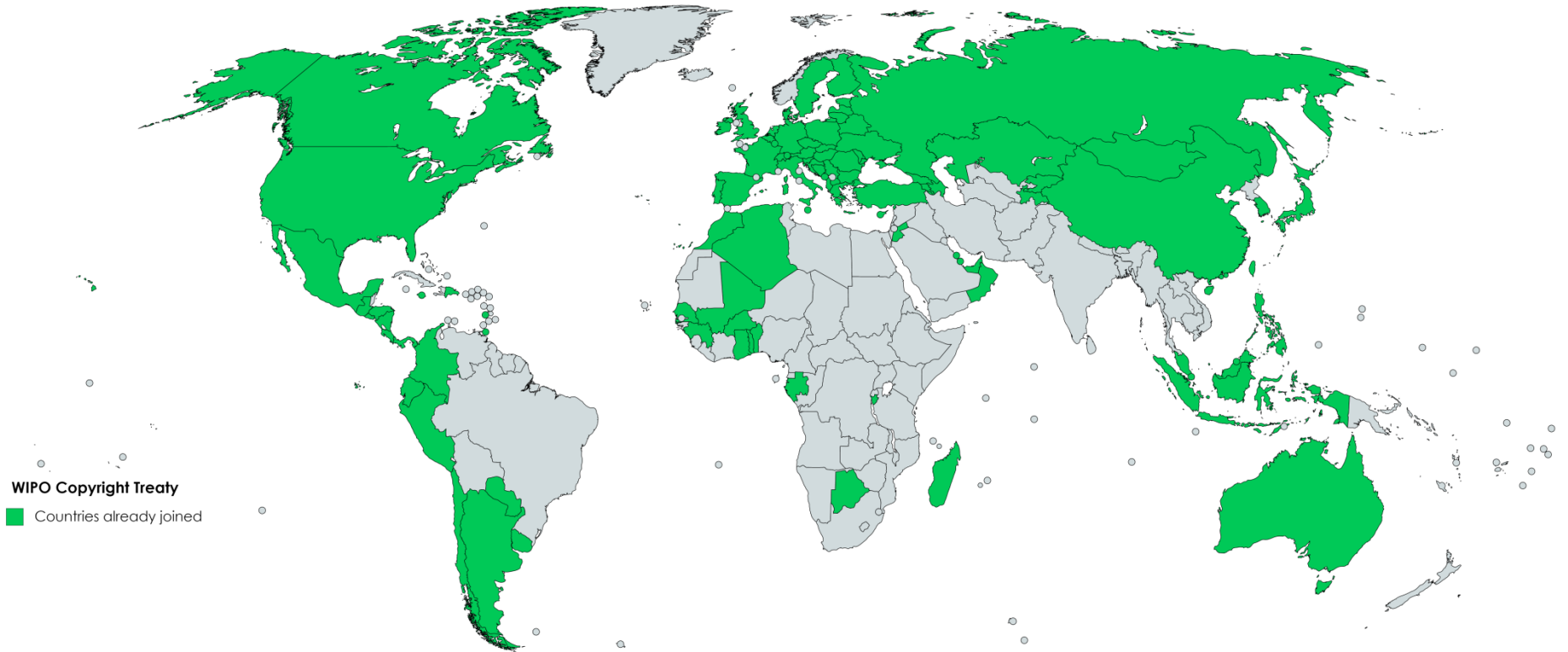


# Berne Convention



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# WCT



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# Membership

- Brunei Darussalam: Berne, TRIPS WCT, WPPT
- Cambodia: TRIPS, *MVT Signature*
- Indonesia: Berne, TRIPS, WCT, WPPT, *MVT Signature*
- Lao People's Democratic Republic: Berne, TRIPS
- Malaysia: Berne, TRIPS, WCT, WPPT
- Myanmar: TRIPS
- Philippines: Berne, Rome, Phonogram, TRIPS, WCT, WPPT
- Singapore: Berne, Brussels, TRIPS, WCT, WPPT, **MVT**
- Thailand: Berne, Rome, TRIPS,
- Viet Nam: Berne, Rome, Phonogram, Brussels, TRIPS

# Outline

- International legal framework, beyond IP treaties
- Rights granted
- Digital Rights Management
- Flexibilities / Limitations and Exceptions
- Relationship between treaties
- Rules of interpretation

# Preamble

## Universal Declaration of Human Rights;

Article 27 “1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

## United Nations Convention on the Rights of Persons with Disabilities

Article 30.3 “*States parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural material*”

# International Treaties

- Principles of **non-discrimination**, **equal opportunity**, **accessibility** and full and **effective participation** and inclusion in society
- **...challenges** that are prejudicial to the complete development of persons with visual impairments or with other print disabilities, which limit their freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds ...



# Copyright

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graph TD; Copyright[Copyright] --> MoralRights[Moral Rights]; Copyright --> EconomicRights[Economic Rights]; MoralRights --> MRList["• Paternity<br>• Integrity"]; EconomicRights --> ERList["▪ Reproduction (Art 9 BC)<br>▪ Translation (Art 8 BC)<br>▪ Adaptation, Alterations (Art 12 BC)<br>▪ Public Performance and Public Communication (Art 11 BC)<br>▪ Public Recitation (Art 11ter BC)<br>▪ Broadcasting (Art 11bis BC)<br>▪ Droite de Suite (Art 14ter BC)"];
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## Moral Rights

- Paternity
- Integrity

## Economic Rights

- Reproduction (Art 9 BC)
- Translation (Art 8 BC)
- Adaptation, Alterations (Art 12 BC)
- Public Performance and Public Communication (Art 11 BC)
- Public Recitation (Art 11ter BC)
- Broadcasting (Art 11bis BC)
- Droite de Suite (Art 14ter BC)

# WIPO Internet Treaties



<http://www.thousandtyone.com/blog/default,month,2007-01.aspx>

..ensure that copyright applies in the digital environment facilitating access to and use of creative content. They introduced:

- Right of making available;
- Limitations and exceptions for the digital age;
- Technological protection measures;
- Rights management information;
- General updates: software and databases; distribution and rental rights; economic and moral rights for performers; economic rights for producers of phonograms; photos.

# Right of Making Available to the Public

## Interactive transmission of Content

- Exclusive right;
- Different views on legal characterization
  
- Neutral description of the act of transmission over interactive network:  
*“...the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them”*



The Internet offers users the ability to easily copy material; however, by doing so we may be breaking the law. Keep in mind that being able to copy others work does not give us the right to.

<http://www.state.sc.us/newsletter/ciocs/200712636403028.3416.jpg>

# Digital Rights Management



- **Technological Protection Measures (TPM):** “any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts in respect of works or objects of related rights, which are not authorized by the owner of rights or permitted by the law.”

# Limitations and Exceptions

## Article 10 WCT

- Application of 3-step test to rights granted by the Treaty;
- Application of 3-step test in relation to all rights granted by the Berne Convention;
- (Agreed statement) Member States can extend existing L&Es or create new ones to adapt national legislation to the digital environment.

# Copyright Flexibilities in WIPO Treaties

- Scope of copyright protection: ideas, theories, simple data;
- Duration of protection;
- Exclusion of some categories of works;
- Permitted uses without authorization and remuneration;
- Permitted uses by law with remuneration: mandatory or compulsory licensing system.

*In general those are legislative options for Member States; the 3-step-test golden rule applies.*

# STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

**Fifteenth Session**

**Geneva, September 11 to 13, 2006**

STUDY ON COPYRIGHT LIMITATIONS AND EXCEPTIONS  
FOR THE VISUALLY IMPAIRED

*prepared by*

*Judith Sullivan\**

*Consultant, Copyright and Government Affairs*

# Relation between Treaties

- TRIPS Article 9.1 imposes respect of Berne Convention Articles 1 – 21 Berne (except 6bis);
- WCT is a special agreement within the meaning of Berne Convention Article 20 (i.e. more extensive rights or other provision not contrary to this Convention);
- MVT is a stand-alone treaties (but..)



# Interpretation of International Treaties



# Vienna Convention on the Law of Treaties

## Art. 31 General Rule of Interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition **to the text, including its preamble** and annexes:
  - (a) **any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;**
  - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
  - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
  - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
  - (c) any relevant rules of international law applicable in the relations between the parties.
4. (..)

# Vienna Convention on the Law of Treaties

## Article 32 Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including **the preparatory work of the treaty and the circumstances of its conclusion**, in order **to confirm** the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd or unreasonable.

# Preamble

I- Universal Declaration of Human Rights; United Nations Convention on the Rights of Persons with Disabilities

VII- principle of territoriality creates barriers to cross-border exchange

VIII- importance of rights holders initiative (“built-in accessibility”)

X- 3-step test



[www.wipo.int/copyright](http://www.wipo.int/copyright)

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