

Ministerial Regulation, B.E. 2540

Issued under the Copyright Act B.E. 2537

Translation

By virtue of Section 5 and Section 15 paragraph 2 of the Copyright Act, B.E. 2537, the Minister of Commerce hereby issues the Ministerial Regulation as follows:

Clause 1

Whether any licensing condition pursuant to Section 15 (5) is of the manner of unfair restriction of competition or not must be considered on a case by case basis by taking into account the purposes or the intent to cause the unfair restriction of competition as well as the result which occurs or may occur from such condition.

Subject to the foregoing paragraph, licensing conditions pursuant to Section 15 (5) of the following manners shall be deemed the conditions that unfairly restrict competition.

- (1) A condition binding the licensee to obtain materials used in the production of the licensed work in whole or in part from the copyright owner or from the seller specified by the copyright owner either with or without remuneration, unless the condition is necessary to make the copies fulfill the standard as set by the copyright owner, or the materials are not available from other sources within the territory and the remuneration is not higher than the price of materials of equal quality which are obtainable from other persons.
- (2) A condition prohibiting the licensee to obtain materials used in the manufacture of the licensed work in whole or in part from one or several sellers specified by the copyright owner, unless the omission of the condition would make the produced copies fail to fulfill the standards set by the copyright owner, or the materials are not obtainable from other sources in the territory.
- (3) A condition or restriction binding the licensee concerning the employment of persons to produce the copies of work under the license, unless it is necessary to make the copies fulfill the standard as set by the copyright owner or to keep the trade secret of the copyright owner or to render necessary technical service.
- (4) A condition stipulating a royalty rate for the copyright license which is unfair when compared to the rate stipulated by the copyright owner in another license for the same copyright work in which the said licensee has similar relationship or status and the license takes place at the same period of time.
- (5) A condition or restriction binding the licensee concerning the research or study of the licensed copyright work.
- (6) A condition binding the licensee to assign the copyright in the work adapted or developed from the licensed copyright work to the copyright owner or to any other person, or to authorize the copyright owner or another person to hold exclusively the right with respect to the adapted or developed work unless the copyright owner or the said person shall pay reasonable remuneration to the licensee.
- (7) A condition in favor of the licensor to terminate the license arbitrarily and without reasonable cause.

Clause 2

Licensing conditions pursuant to Section 15 (5) of the following characteristics shall be deemed the conditions that are in the manner of unfair restriction of competition.

- (1) A condition binding the licensee to use other copyright works of the copyright owner with remuneration for such use, unless it is necessary to use those

copyright works together or to connect a technology work system or to make the copies of work fulfill the standard as set by the copyright owner.

- (2) A condition prohibiting the licensee to use a copyright work of another person, unless it is necessary to lay down such condition in order that the utilization of the licensed work would generate a result as set by objectives or goals, or to connect a technology work system.

Given on 14th February B.E. 2540

Signed by Mr. Narongchai Akaraseranee

Minister of Commerce

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