

Researchers'  
Series



# Copyright and Creative Commons for Educators

Prof. Alice Lee, Assoc. Professor, Faculty of Law, University of Hong Kong

22/10/2020, 12:30-2:00pm

Moderator: Victoria F. Caplan,

Head of Information Instruction & Collection Services, HKUST

# Outline & Approach

Prof. Alice Lee (HKU Faculty of Law)

- Copyright for Everyone
- Copyright for Teachers and Learners
- Copyright for Researchers
- Creative Commons

Victoria Caplan (HKUST Librarian)

- HKUST's IP Policies & Other Information

Q&A

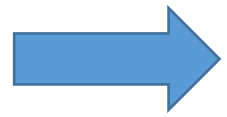
**Jargon-free**  
**User-driven**  
**Skills-based**  
**Takeaways**

# Copyright for Everyone

## Search



“copyright ordinance”



“cap 528”



“HKUST copyright policy”



## Copyright: Introduction

Provides information on copyright for HKUST students & staff

<https://libguides.ust.hk/copyright>

**Introduction**

Basic Info

Fair Dealing for Instructional Purposes

Performing, playing or showing videos

Canvas (LMES)

MOOCs

E-Reserve & Course Packs

Licensed audio or video

Using & Sharing

Help

### HKUST Intellectual Property Policy

You are an information creator, as well as a consumer.

[HKUST's Intellectual Property Policy](#) provides information about how IP is administered in regards to information and innovations created by HKUST staff and students.

- Section 2.2 covers "ownership principles"
- [Appendix 1 - Guidelines for Students and Supervisors on Ownership and Assignment of Intellectual Property Created by Students](#) useful for students and professors

### Teaching & Research in Hong Kong

#### Making & Using Photocopies for Study & Research

[HKUST Library Statement on Copyright](#)

- Personal
- Private Study, Research, & Instruction
- Reasonable extent
- "Should not conflict with a normal exploitation of a work by the copyright owner nor unreasonably prejudice the legitimate interests of the copyright owner"

#### Guidelines on the Use of Photocopies in Classroom Instruction

Check out [Guidelines for Photocopying of Printed Works by Not-for-profit Educational Establishments](#), available from the Intellectual Property Department of Hong Kong and

### Fair Dealing & Fair Use

The [Fair Dealing for Instruction](#) tab of this guide will help

[Fair Dealing](#) - Guide from the University of Leeds

[Copyright and Fair Use](#), Stanford University Libraries

### Copyright Laws in Hong Kong

[Copyright Ordinance \(Cap. 528\)](#)

[Prevention of Copyright Piracy Ordinance \(Cap. 544\)](#)

- Long Title
- Part I Preliminary
- 1. Short title and interpretation
- Part II Copyright
- Div. I Subsistence, Ownership and Duration of Copyright
- 2. Copyright and copyright works
- 3. Rights subsisting in copyright works
- 4. Literary, dramatic and musical works
- 5. Artistic works
- 6. Sound recordings
- 7. Films
- 8. Broadcasts
- 9. Cable programmes
- 10. Published editions
- 11. Authorship of work

### Introductory

#### 2.

#### Copyright and copyright works

- (1) Copyright is a property right which subsists in accordance with this Part in the following descriptions of work—
  - (a) original literary, dramatic, musical or artistic works;
  - (b) sound recordings, films, broadcasts or cable programmes; and
  - (c) the typographical arrangement of published editions.
- (2) In this Part **copyright work** (版權作品) means a work of any of those descriptions in which copyright subsists.
- (3) Copyright does not subsist in a work unless the requirements of this Part with respect to qualification for copyright protection are met (see section 177 and the provisions referred to there).

*[cf. 1988 c. 48 s. 1 U.K.]*

#### 3.

#### Rights subsisting in copyright works

- (1) The owner of the copyright in a work of any description has the exclusive right to do the acts specified in Division II as the acts restricted by the copyright in a work of that description.
- (2) In relation to certain descriptions of copyright work the following rights conferred by Division IV (moral rights) subsist in favour of the author or director of the work, whether

# “HKU copyright classroom”

The screenshot shows the YouTube channel page for 'The Copyright Classroom - HKU'. The channel has 123 subscribers and a red '訂閱' (Subscribe) button. The navigation menu includes '首頁' (Home), '影片' (Videos), '播放清單' (Playlists), '頻道' (Channels), '討論' (Community), and '簡介' (About). The video grid displays 11 lessons, with 'The Basics' highlighted in yellow. Each video card includes a thumbnail, title, and view count.

Lesson Title	Duration	View Count	Time Ago
The Copyright Classroom : Lesson 10 Design	5:23	138次	3 個月前
The Copyright Classroom : Lesson 9 News Reporting	2:49	188次	4 個月前
The Copyright Classroom : Lesson 8 Research and Presentation	2:55	376次	5 個月前
The Copyright Classroom : Lesson 7 Social Media	2:51	417次	5 個月前
The Copyright Classroom: Lesson 6 Merchandising	2:38	163次	7 個月前
The Copyright Classroom: Lesson 5 Performance	3:32	167次	8 個月前
The Copyright Classroom: Lesson 4 Art	2:46	186次	8 個月前
<b>The Copyright Classroom - The Basics</b>	3:36	692次	10 個月前
The Copyright Classroom : Lesson 3 Entertainment	3:37	300次	11 個月前
The Copyright Classroom : Lesson 2 Teaching	2:27	689次	1 年前
The Copyright Classroom : Lesson 1 Learning	2:47	1112次	1 年前



0:40



and typographical arrangement.



# Copyright Duration



+ 50 years



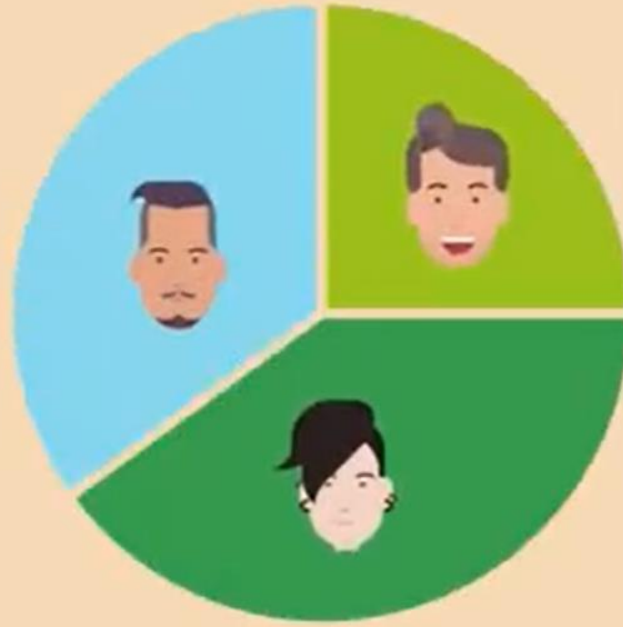
+ 50 years

then it would be 50 years from the author dies.



2:00

## Contribution to the work



There is no need for joint authors to contribute equally

2:30



# Copyright Infringement



make an adaptation such as translating it.

## Section 22

Infringement = without **owner's** consent

(1) **Copy**

(2) **Issue** copies to the public

(3) **Rent** copies to the public

(4) **Make available** copies through the **Internet**

(5) **Perform** in public

(6) **Broadcast**

(7) **Adaptation** – such as translation!

## Section 14

Employee + in the course of employment = **Employer**

- subject to contrary agreement

 **HKUST copyright policy**

## Section 15

Commissioned work e.g. freelance (not on payroll)

- as agreed between payer and freelancer

- no agreement, default position = **freelancer** is owner

# HKUST's Intellectual Property Policies (1) - General

## 2. HKUST Intellectual Property

### 2.1 General

#### Section 2.1.2 - Student as worker

2.1.1 Policy Users agree to abide by the *Intellectual Property Policy* and accept the University's Intellectual Property ownership and publication principles specified below, by accepting the terms of offers of employment (by Employees), of temporary visits to HKUST (by Visitors), of consultancy agreements (by Consultants) and of admission and registration (by Students).

2.1.2 Where a Student (e.g. a Continuing Research Postgraduate Student) is also an Employee, the ownership principles relating to Students as set out in the *Intellectual Property Policy* shall prevail. Where a Student ceases to be a Student and becomes an Employee, or a Student ceases to be both a Student and an Employee and becomes solely an Employee, the ownership principles relating to Employees as set out in the *Intellectual Property Policy* shall prevail.

2.1.3 Intellectual Property owned or controlled by HKUST that is disclosed to Policy Users shall remain owned by HKUST: disclosure of Intellectual Property to Policy Users shall not mean that HKUST has granted any proprietary rights in the Intellectual Property to Policy Users.

2.1.4 Policy Users should declare any HKUST-owned background Intellectual Property which would be used in undertaking sponsored research or contract research projects funded by outside parties, prior to commencement of a project: details are accessible at <http://ipc.ust.hk>.

# HKUST's Intellectual Property Policies - copyright (2) - Employee

## 2.2 Ownership Principles

### Section 2.2.2 - Employees

#### Employees

2.2.1 In general, Intellectual Property created by Employees, whether working alone or with others, shall belong to HKUST. Exceptions would be (a) Intellectual Property created at Other Institutions and (b) where Employees were simultaneously employed by Other Institutions: in both these situations, and as may be specified in institutional agreements, Intellectual Property shall be owned either by HKUST or ownership shall be subject to negotiation between HKUST and Other Institutions. Where appropriate, agreements will specify symmetrical arrangements to ensure equity in the assignment of Intellectual Property ownership between the two institutions.

2.2.2 Notwithstanding 2.2.1 above, the copyright ownership of academic and scholarly works, teaching materials and artistic works created by Employees shall belong to Employees. Authors are entitled to own the copyright and retain any revenue generated from such copyrightable materials. However, the following copyright works will be retained by HKUST:

1. Works that are commissioned by HKUST with use of the University's resources;
2. Works that are subject to contractual obligations to third parties;
3. Computer software and databases that are created in the course of employment;

or

4. Works that are created within the scope of employment by non-academic employees of the University.



3:00

# Plagiarism / Cheating

Unethical

Literary Theft

Disciplinary Consequences



You don't want to get a zero mark or be disqualified, do you?

# Copyright for Teachers & Learners

The Copyright Classroom : Lesson 1 Learning

S 22



Miss Lee said we can't copy, perform, show or play other people's work because it's copyright infringement.

# Fair dealing for education

S 41A



**Purpose &  
Nature of  
dealing**



**How much  
of the work**



**Nature of  
work**



**Effect on  
Market**



(4) the effect of the dealing on the potential market and value of the work.

# Photocopying

S 45

## Reprographic Copying

to a **Reasonable Extent**



of copyright works to a reasonable extent.





# Licensing scheme

## HKEAA

Hong Kong Examinations & Assessment Authority

Secondary  
Schools



Private Tutorial  
Schools



DSE = Diploma of Secondary Education = A Levels

in using or copying past papers.





# Playing video



Well, so long as the playing of other people's work is at an educational establishment



Uploading

*Intranet*

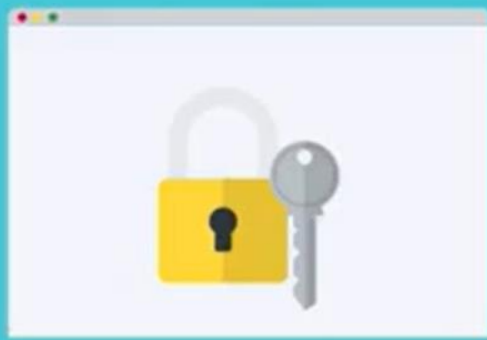


“Canvas” (LMES)



some academic articles and commentaries for students to read in advance.

 Intranet if:



Password  
Protected



X Stored for more  
than 12 months



Dealing is  
**FAIR**



for more than 12 consecutive months, and that your dealing with the work is fair.



Q: upload current edition of a textbook?



**Purpose &  
Nature of  
dealing**



**How much  
of the work**



**Nature of  
work**



**Effect on  
Market**

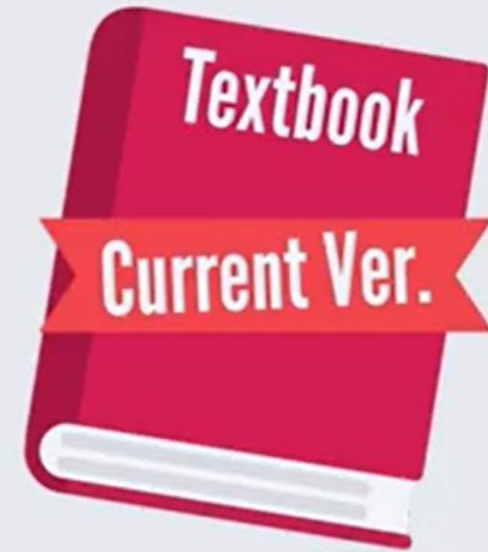
(4) the effect of the dealing on the potential market and value of the work.



**Effect on  
Market**



**Upload Entire**



then it would not be fair to upload the entire book so that students don't have to buy it.



# Exams



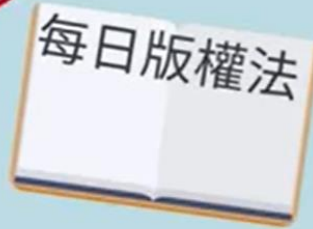
For the  
purpose of exams



copyright is not infringed by anything done for the purposes of examinations.

# Copyright for Researchers

The Copyright Classroom : Lesson 8 Research and Presentation



**Making an adaptation**

translating it without permission of the copyright owner



How much = infringe?

# Substantial Part

Depends on quality, not quantity



and what is substantial depends on the quality, not the quantity!

# Fair dealing for research or private study

S38

Research



Private Study



And you should consider these 4 factors



**Purpose &  
Nature of  
dealing**



**How much  
of the work**



**Nature of  
work**



**Effect on  
Market**



in assessing whether the dealing is fair or not.

# Owner's consent / licence



we can go ahead without going through the four factors then.

## Section 22

Infringement = without **owner's consent**

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(6) **Broadcast**

(7) **Adaptation** – such as translation!

# The Copyright Classroom

## Lesson 7 - Social Media



Creative Commons  
Licences

<https://creativecommons.org/>





### Attribution (BY)

Users of your work must give you credit the way you request



### ShareAlike (SA)

Users of your work must distribute the work under the same license



### NonCommercial (NC)

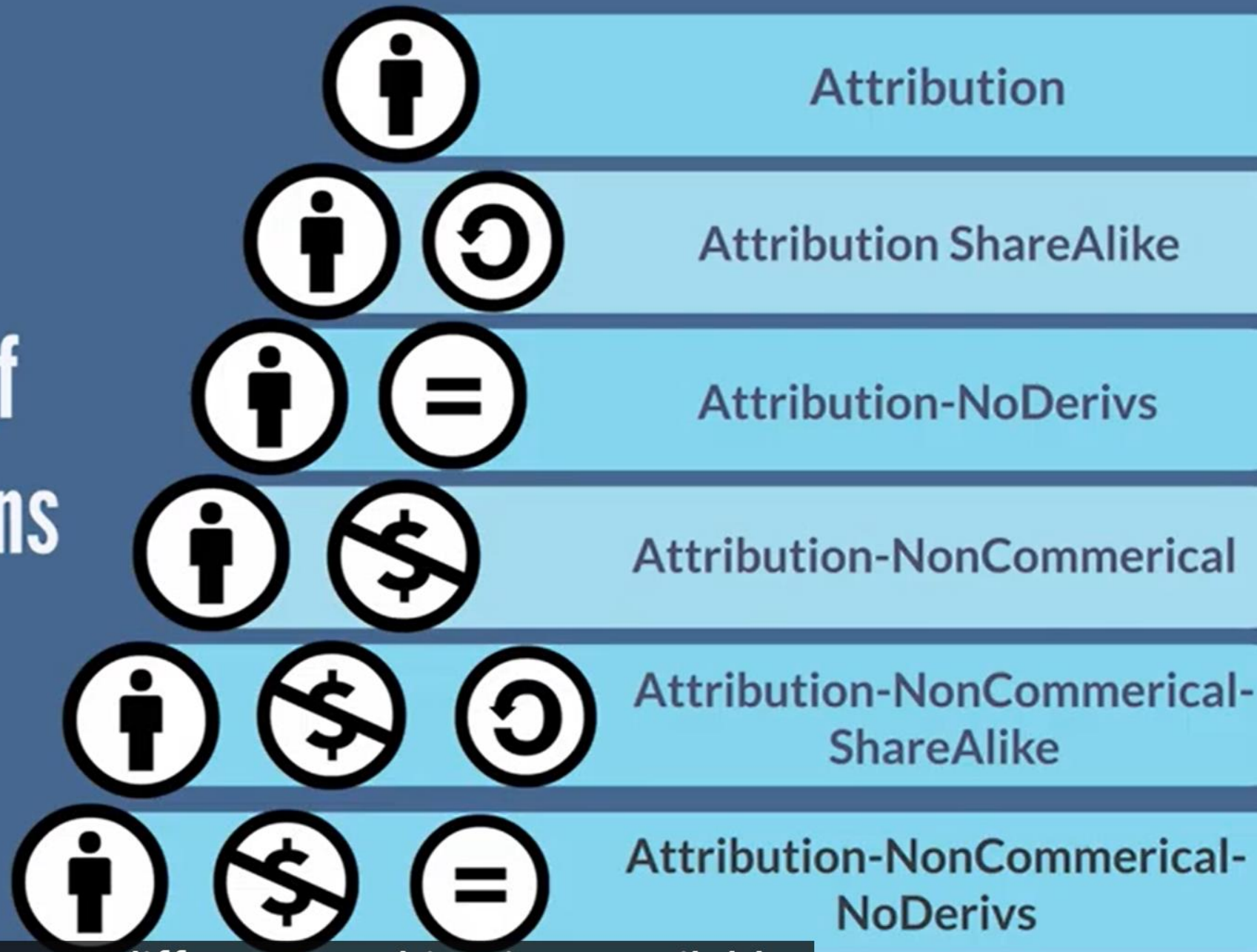
Users of your work can only use the work for non-commercial purpose



### NoDerivatives (ND)

Users of your work cannot modify the work and must use in original form

# Combinations of Licence Conditions



and there are different combinations available.



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What We Do

Blog

Help us build a vibrant, collaborative global commons



# Open access to knowledge is critical—especially during a global health emergency.

Creative Commons [calls](#) on organizations around the world to make their patents and copyrights freely available in the fight against the COVID-19 pandemic.

[CC's Response to COVID-19](#)



Image: "State Public Health Laboratory in Exton Tests for COVID-19" by Governor Tom Wolfe (CC BY)



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- Wikimedia Commons
- WOCinTech Chat
- World Register of Marine Species

- Image Type
- Photographs
  - Illustrations
  - Digitized Artworks

- File Type
- JPEGs
  - PNGs
  - GIFs
  - SVGs

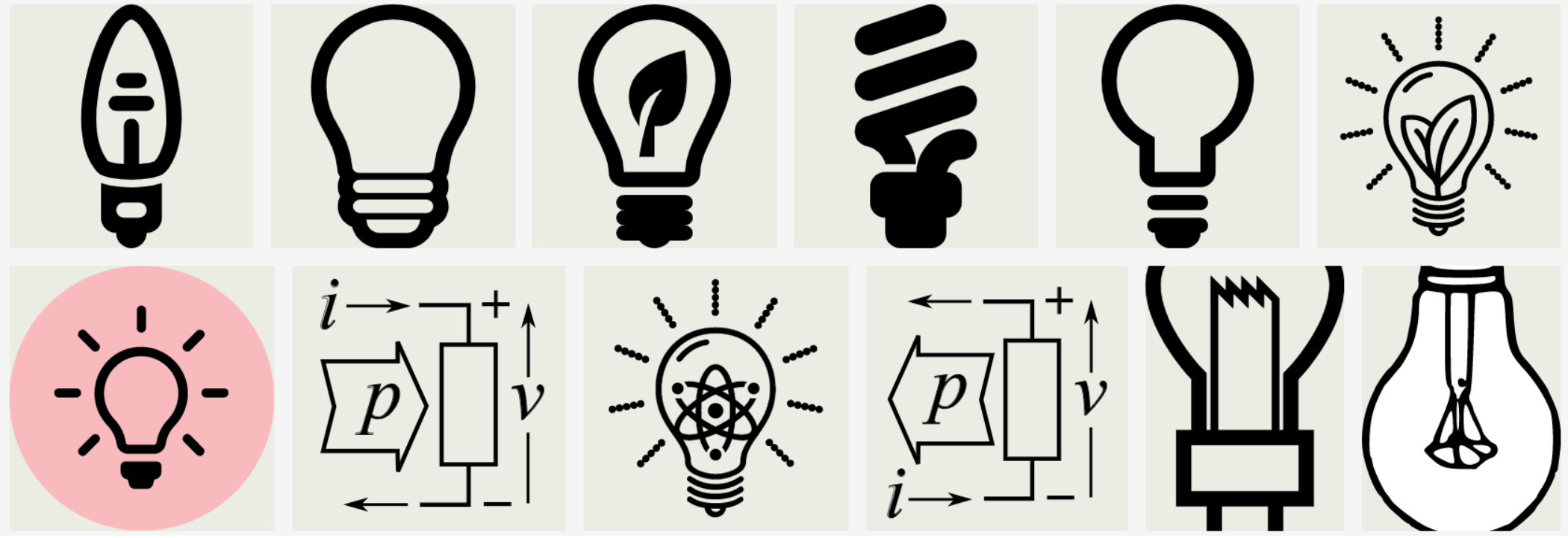
- Aspect Ratio
- Tall

light bulb SEARCH

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Filter By Illustrations

103 images Are these results relevant? Yes No



Safer Browsing






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