



**EXCHANGE OF BEST PRACTICES ON
ENHANCED COPYRIGHT PROTECTION AND
NEW DIGITAL TECHNOLOGIES**

Copyright Office of Vietnam

Hanoi - Nov 15, 2023



CONTENT

1. RECENT DEVELOPMENTS

2. ISP LIABILITY FOR COPYRIGHT INFRINGEMENT IN VIETNAM



1. RECENT DEVELOPMENTS



Introduction of Copyright Office of Vietnam

Function and duties

- ✓ Making legislation and policies on copyright and related rights and the development of cultural industries;
- ✓ Implementation of measures to protect the rights and legitimate interests of stakeholders;
- ✓ Managing the operations of Collective management organizations
- ✓ Granting the Certificate of Copyright and Related Rights Registration
- ✓ ...



RECENT DEVELOPMENTS

- ❑ Law amending and supplementing a number of articles of Intellectual Property Law (2022) - content on copyright and related rights

- ❖ Decree 17/2023/ND-CP detailing a number of articles and measures to implement Intellectual Property Law on copyright and related rights (April 26, 2023)

- Circular 08/2023/TT-BVHTTDL stipulating forms of registration of copyright and related rights (June 2, 2023)



CONTENTS OF AMENDING AND SUPPLEMENTING

- Right of communication to the public, including the making available to the public
- Limitations and exceptions on copyright and related rights for researching, learning, education and libraries
 - Copyright exceptions applied to visual impairment persons
- Legal liability of intermediary service providers on copyright and related rights**
- Assumption of copyright and related rights, RMI and TPM
- Protection of copyright and related rights on the Internet
- Collective management organizations
- Registration of copyright and related rights



Legal system of Copyright and Related Rights

- Intellectual Property Law
 - ✓ Enacted 2005
 - ✓ Revised: 2009, 2019, 2022

- Decrees 17/2023/NĐ-CP detailing a number of articles and measures to implement Intellectual Property Law on copyright and related rights (April 26, 2023)
- Circular 08/2023/TT-BVHTTDL stipulating forms of registration of copyright and related rights (June 2, 2023)
 - ✓ *Decree 131/2013/ND-CP (sanctioning of administrative violations of copyright and related rights)*

- *The Criminal Code* 2015, amended in 2017: Article 225 on copyright and related rights



Copyright and Related rights Future

➤ **The Legal system:**

- ✓ New Decree on administrative sanction of Copyright and Related Rights (replace the current Decree No. 131/2013/NĐ-CP)
- ✓ Research and Prepare to develop Copyright law like most countries

➤ **Raising public awareness**

➤ **The Management system:**

- ✓ To provide focus knowledge and skill to creative owners
- ✓ To apply e-government; to coordinate with specialization agencies...

➤ **The Enforcement system:**

- ✓ Capacity building for enforcement agencies at provincial level
- ✓ Strengthen CMO's operations
- ✓ To apply the information technology



Recent developments

Being member of

- WIPO Copyright Treaty - WCT (2022)
- WIPO Performances and Phonograms Treaty - WPPT (2022)
- Marrakesh treaty (2023)



3 Bilateral Agreements

- Agreement between Vietnam - USA on Copyright relations (1997)
- Agreement between Vietnam - Switzerland on Protection of IPR and IPR cooperation (1999)
- Agreement between Vietnam - USA on Trade relations (2000)

8 Multilateral treaties

- Berne Convention (2004)
- Geneva Convention (2005)
- Brussels Convention (2006)
- Rome Convention (2007)
- TRIPS Agreement (2007)

- **WCT (2022)**
- **WPPT (2022)**
- **Marrakesh treaty (2023)**



6 Free Trade Area Agreements

- ASEAN Free Trade Area (AFTA)
- ASEAN - China Free Trade Area (ACFTA)
- ASEAN - South Korea Free Trade Area (AKFTA)
- ASEAN - Japan Free Trade Area (AJFTA)
- ASEAN - Australia - New Zealand Free Trade Area (AANZFTA)
- **RCEP**

5 Free Trade Agreements

- Economic Partnership Agreements Vietnam - Japan (VJEPA) (2008)
- Vietnam - Korea Free Trade Agreement (VKFTA) (2015)
- Vietnam and Asia - Europe Economic Union Free Trade Agreements (VCUFTA) (2015)
- **Comprehensive and Progressive Trans - Pacific Partnership Agreement (CPTPP) (2018)**
- **Vietnam - EU Free Trade Agreement (EVFTA) (2019)**



2. ISP LIABILITY FOR COPYRIGHT INFRINGEMENT IN VIETNAM



ISP Liability for Copyright Infringement in Vietnam

Article 198b of Amended IP Law & Decree No.17 (April 26, 2023) provide that an Intermediary Service Provider is exempt from liability for copyright infringement by users of its service if ISP takes certain steps when informed of alleged infringement

- If ISP complies with provisions, *exempt from liability* for copyright infringement by users
- If ISP does not comply with provisions, it can be *jointly liable* for copyright infringement by users



Notice & Takedown Procedure

- Copyright owner must provide notice of alleged infringement
 - *Notice should include evidence of copyright owner's standing, acts of infringement, location, and link to alleged infringing content*
- ISP must have a method to allow submission of notice (e.g., email, online form, etc.)



Notice & Takedown

- Upon receiving notice, ISP must remove or prevent access to allegedly infringing content within 72 hours (3 days)
 - Must also notify user who posted content
- User has 10 working days to submit notice of objection (counternotice) with evidence supporting its objection
 - If objection received within 10 days, ISP must restore removed or blocked content within 72 hours and send objection and supporting evidence to copyright owner
 - If objection not received within 10 days, ISP must permanently remove or prevent access to allegedly infringing content



Notice & Takedown

- After objection sent to copyright owner, if neither party files a civil lawsuit or requests enforcement agency to handle the alleged infringement (or court or enforcement agency does not accept application), ISP must restore removed or blocked content
- If court or enforcement agency accepts petition, ISP must follow decision of court or enforcement agency



Streaming Infringement

- For real-time streaming of copyrighted content, copyright owner can send notice and evidence of alleged infringement to ISP at least 24 hours before live streaming
 - ISP must immediately remove or prevent access to allegedly infringing content, notify copyright owner and provider of streaming content, and continue to follow “72-Hour & 10-Working Day Process



Notice by Enforcement Agency

- If enforcement agency requests removal of infringing content, ISP must remove or prevent access within 24 hours
 - *ISP must also notify party whose digital content has been removed and report results to enforcement agency within 24 hours*
 - *Party notified may file complaint with enforcement agency or initiate a lawsuit challenging enforcement agency's decision*
- Enforcement agency's request to remove infringing content is evidence that ISP has knowledge of infringement and prevents ISP from asserting exemption from liability



THANK YOU!

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