

Copyright Protection of Digital Content in Vietnam's Internet Age

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Abstract

The digital content sector in Vietnam is viewed as a "new gold mine", with a multi-billion-dollar industry. We look at Vietnam's legislative framework for copyright protection, which includes both Intellectual Property, and Cybersecurity Laws. The paper contends that while technology can help address some of the issues of preserving digital content, it is not a cure-all and must be used together with legal and educational measures. The significance of international cooperation in preserving digital content is highlighted. Finally, this research presents a complete analysis of Vietnam's current legal framework for copyright protection of digital information, as well as an assessment of the obstacles and limitations in enforcing these laws. It further highlights the importance of international collaboration in digital content protection and asks for increased efforts to deepen cooperation in this area, and is aimed at policymakers, legal professionals, and scholars interested in copyright protection and digital material in Vietnam.

Keywords: Copyright Protection, Digital Content, Internet Age of Vietnam, Digital Economy

INTRODUCTION

Copyright is a legal concept that has evolved over the past three centuries. It has been enshrined in numerous international treaties including the Berne Convention for the Protection of Literary and Artistic Works in 1886, the WIPO Copyright Treaty (1996), the Agreement on Trade-Related Aspects of Intellectual Property Rights (1994), and the Universal Copyright Convention (1952), although the worldwide rate of law updates in this area is slow. However, the technological revolution and its effects on creative output have drastically transformed the regulatory landscape of copyright issues. (Silvia Scalzini, 2023) Consequently, certain legal features may need to be re-articulated and several nations have attempted to amend their copyright laws. Today, most nations focus on five aspects of copyright law in the context of the Internet: copyright restrictions and exceptions, copyright scope, orphaned works (anonymous works), copyright protection, and the registration of intellectual property (IP) rights.

At the heart of legal solutions in this field is technology that facilitates the copying and transit of digital content (exchanged). Regarding copying copyrighted content, the situation in which politicians have set restrictions and exceptions serves the public interest. Various exceptions and constraints exist regarding the use of copyrighted materials in research, judicial proceedings, citations, criticisms, and evaluations.

Copyright may apply to a variety of creative, intellectual, or artistic forms or "works" that vary by jurisdiction, but may include the following: poetry, dissertations, plays, and other literary works, motion pictures, choreography, musical compositions, sound recordings, live performance, painting, drawings, sculpture, photographs, computer software, radio and television works, and industrial design.

In the context of technological growth, it is crucial to focus on data protection through copyright solutions. These data have long been used for commercial and social activities. Today, technology has facilitated the transition to a data-driven socioeconomic model, in which data are a primary asset capable of creating considerable competitive advantage and driving long-term innovation, growth, and innovative development. (OECD, 2013) Both humans and machines are capable of generating data (e.g., sensors that collect climate

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information, satellite images, digital images and videos, purchase motion records, and GPS signals). It is generated by numerous businesses, including healthcare, transportation, and energy, and saved in a database.

This study examines the impact of digital technologies and internet growth on copyright protection in Vietnam. It examines the existing legal copyright framework, identifying areas where it falls short in providing effective protection to digital content creators and rights holders. The study also aims to develop recommendations for updating and strengthening Vietnam's copyright regime to better safeguard content creators' rights and enable a thriving digital content ecosystem, and to provide policymakers with evidence-based insights to guide the development of comprehensive and adaptable copyright policies that can keep pace with technological advancements.

OVERVIEW OF COPYRIGHT

Definition of Copyright

Vietnam is a member of international IP treaties like the Berne Convention, TRIPS, and UPOV, aligning its laws with global standards. Concerning IP, Vietnamese law accords equal weight to the protection of literary and creative works, industrial property, and plant varieties. (Alexander Chipman Koty, 2022; Matthew, 2024) The Intellectual Property Law of 2022 represents a significant update to Vietnam's legal framework for IP, addressing both substantive rights and enforcement procedures across various IP domains.⁴ The holder of IP rights may exploit or authorize the exploitation of their rights to literary or artistic works.

Copyright is widely acknowledged as the foundation of all literary and creative rights. It aims to protect scientific, creative, and literary works. Examples of media with comparable rights include performances, sound recordings, video recordings, broadcast programs and encrypted satellite signal-conveying programs. One may argue that the fundamental purpose of copyright law is to protect creative works that serve as the foundation of subsidiary legal protection. In accordance with Act 6 of the IP Law, the Vietnamese legal system protects and safeguards copyright from the moment an original work is generated.

Under the IP Law, (*Decree No. 131/2013/ND-CP of October 16, 2013, on Sanctioning Administrative Violations of Copyright and Related Rights*, 2013; Karjala, 2008; Silvia Scalzini, 2023) copyright is defined as "Copyright refers to the rights of individuals and groups to works produced or possessed." In any event, this notion must be reconsidered in the near future as it is now clear that copyright ownership is no longer required for the owner of a creative output; rather, it is sufficient to possess only the components. A copyright transfer may render someone other than the original author the owner of the copyright, granting them the legal ability to execute these rights.

Act 18 of the IP Law covers a range of copyright issues, including privacy and property concerns. Copyrights are one of Vietnam's most important legal, economic, cultural, and social rights.

The Copyright Law of Vietnam

Vietnam's copyright system is less developed than that of many Western countries. The gap between Vietnam's post-war rehabilitation and its liberation endeavors has been hindered by the country's prolonged involvement in several conflicts. Copyrights were first acknowledged in the Vietnam Constitution in 1946, after the successful August Revolution of 1945. (National Assembly of the Democratic Republic of Vietnam, 1946) Article 10 of the Constitution grants all Vietnamese citizens the rights to freedom of speech and publishing, although it does not specifically mention "copyright." Combat continued in southern Vietnam throughout the study period.

Following the reunification of North and South Vietnam, social and economic systems began to rebuild and thrive. The economic and social "Doi Moi plan was officially introduced at the Sixth Congress of the Communist Party in the 1980s. (Großheim, 2018) The Council of Ministers produced the first legal document with the words "Decree 142/HDBT" in 1986. (Le, 2024) This document governs the protection of intellectual property rights in Vietnam. The course addresses the basic principles of copyright, such as the rights of the author and the types of works protected, in eight acts.

Decree 142/HDBT exposes the structural and semantic copyright constraints. (Le, 2024) The Order lacked provisions for the protection of computer programs and their associated rights. The Decree imposed restrictions on international copyright agreements by setting a copyright duration of 30 years after the author's death, but the Berne Convention required a minimum of 50 years. (*Berne Convention for the Protection of Literary and Artistic Works*, 1979) The decree, in its formal state, did not fulfil the necessary criteria for economic, social, and legal advancement in Vietnam, since it was simply subsidiary legislation. This order has not undergone thorough international evaluation to facilitate Vietnam's participation in global governmental interactions for copyright protection.

Vietnam has published many legislative documents to regulate copyright in response to these difficulties and acknowledges the importance of enforcing intellectual property laws as a means of attracting foreign investors. During the 1990s, copyrights were referenced in Vietnam's highest legal instrument, the 1992 Constitution. Act 60 allows individuals to engage in technological and scientific research, invention, innovation, technical development, creation, simplification, literary and aesthetic development, critiques, and other literary activities. The state ensures the protection of intellectual and industrial property rights. Copyright protection in Vietnam has reached unparalleled levels owing to its inclusion in the Vietnamese Constitution.

The Ordinance on the Protection of Copyright was approved by the Standing Committee of the National Assembly on December 12, 1994, with contributions from WIPO specialists and adherence to global legal standards. (Le, 2024) The 47 Acts of Decree 142/HDBT Ordinance are categorized into seven chapters and address topics such as authors, co-authors, authors' works, software preservation, copyright restrictions, licencing agreements, the duration of authors' work protection (up to 50 years after death), and related rights.

However, this legislation was abolished in the 1995 Civil Code. The copyright restrictions are detailed in Act VI of the 1995 Civil Code. The Code not only clarified the responsibilities outlined in the 1994 Ordinance but also placed further restrictions on the legal rights and responsibilities of performers, phonograms, recording producers, and broadcasters. The 1995 Civil Code acknowledges copyrights only in the context of civil law. Various official documents released by the government, particularly by the Vietnam Ministry of Cultural Information, address various administrative matters, such as resolving copyright disputes.

The Civil Code and the IP Law are legal documents that have been revised, expanded, or created to align with Vietnam's international obligations. This situation arises from Vietnam's rapid economic and social development and its aspiration to become a member of the World Trade Organisation ("WTO"). The 2005 Civil Code states that copyright is a fundamental human right that must be safeguarded. All intellectual property laws that were previously dispersed across many legal documents were consolidated under the 2005 IP Law on July 1, 2006, after approval by the National Assembly of Vietnam. The Act contains 222 clauses addressing various aspects of copyrights.

The Vietnam Ministry of Cultural, Sporting, and Tourism Report on the Implementation of the IP Law of 2005 states that the regulations have led to restrictions that conflict with Vietnam's commitments under regional and international multilateral conventions, such as the "3-step Test" concept found in the Berne Conventions and the Agreements on Trade-Related Aspects of IP Rights ("TRIPS Agreement"), as well as the nondiscrimination clause. The Vietnamese government submitted a Standing Commission Report to the National Assembly on February 4, 2009, addressing topics related to amending and extending the 2005 IP Law. (Dam T. P., 2020) This modification was formally adopted by the National Legislature. Research indicates that the current law is inadequate owing to several objective and subjective factors. On June 19, 2009, the Vietnamese National Assembly revised and included 30 sentences under the country's IP law. This new terminology became effective on January 1, 2010. (Intellectual Property Office of Vietnam, 2020) Vietnam became a member of the TPP after officially approving the Comprehensive and Progressive Agreement on January 14, 2019. (Dam T. P., 2020) In 2019, the IP Law was updated to align with the terms of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). This law is currently enforced.

Vietnam has participated in many global and regional copyright agreements, such as the Berne Convention, the Vietnam-U.S. Agreements on the Settlement of Copyright Interactions, and trade agreements with the U.S. and Switzerland on the Protection of IP Rights. Vietnam Copyright Law developed significantly because of the

many legal revisions mentioned. Furthermore, as Vietnam integrates with the global community, safeguarding intellectual property is crucial to the nation's economy and society in general.

THE RELATIONSHIP BETWEEN PROTECTED LITERARY AND ARTISTIC WORKS

The Berne Convention specifies the types of work eligible for copyright protection. The list of works protected under Vietnam's IP Law was based on this convention. Therefore, there will be times when copyright protection is deemed illegitimate. To qualify for copyright protection, materials must be both original and tangible.

Authentic Work

What occurs when a genuine invention is introduced? The authors' signatures appear in the original manuscript. Alternatively, the author may have developed a piece of their own work. However, it is difficult to define this concept precisely. These works are considered original because they include the authors' unique thoughts. Copyright protects encyclopedias and database systems that assemble the works of others. The copyright of these works is contingent on the fact that they include a fresh arrangement of previously published works that bear the authors' distinctive marks. (Intellectual Property Office of Vietnam, 2020) The IP system protects authors' creative expressions, including translations and adaptations. According to Act 14 of Vietnamese Intellectual Property Law (IP Law), the protected work "must be created directly by the author of his intellectual work without copying from the work of others."

Is it feasible to identify anything as a book, if it is original? Even if something has never been done before, it remains original. According to French thinkers, the basis of copyright is creative genesis, which is distinct from the uniqueness of industrial property. (Miller, 1993) The argument is that concept is evaluated impartially since it is ascertained by comparing to preceding analogs, whereas "authentic creativity is subjective: it is the author's personal stamp that results from the author's creative effort, whereas novelty is evaluated objectively because it is determined by comparison to previous analogues."

Neither the value nor originality of a work is considered when evaluating whether it is protected. Act 6.1 of Vietnam's IP Law states the copyright would be created when the work is published, regardless of whether it is new or published, which is consistent with these views because "the quality of a work is just a matter of taste and emotion" since it is not an element in determining whether this is a protected activity.

Specific Form

However, these simple concepts are not protected. Copyright does not apply if an idea exists solely in the minds of the individuals and is not transferred in a fixed form. As stipulated by the Acts of the Berne Convention, the author must thus find "some form or manifestation" for his intellectual work. Consequently, neither the theory, the technique, nor the process itself is protected under IP law.

You may obtain copyright protection for an idea even if it has not yet been made public. Possible formats include a draft or even a synopsis that captures the creator of the original author's work. Moreover, it was temporarily impossible to distinguish between an unprotected concept and a specific format (protected). A concept can only be protected if it is amended or expanded within a predefined framework.

Is there any substance that constitutes this form? The dilemma is whether the "certain form" must be tangible. According to specialists in France and other countries with comparable copyright laws, regimes and formatting may exist in some form without physical manifestation. Copyright laws protect public addresses and similar work (in compliance with Berne Convention Act 2.1). Act 2.2, in contrast, provides a distinct interpretation and application: material work protection is the only type of work protection that may be recognized by a Party State. Act 6.1 of Vietnam's IP Law states, "Copyright came into being from the time the work was created and expressed in the form of a certain substance." This is compatible with the Berne Convention Act 2.2.

In addition to this unique creative element, Vietnamese law stipulates that protected work must have a physical form. Age, durability, and quality of the job are not taken into account by the protection of the workplace.

Rights of the Author

The author's ownership of his or her work may be seen as a legal advantage granted to persons who participate in creative endeavors. Vietnam's law protects both moral and property rights. This acknowledgement has two purposes: first, it guarantees that the creator is correctly recognized, and second, it enables the author to profit financially from the commercialization of the work.

Moral Right

As a subcategory of intangible property rights, moral rights protect the author's reputation since his or her identity is essential to the work they have created. Because the work reflects the author's personality, this benefit is a direct result of the author-work relationship. Moral rights logically trump property rights because the author has already exercised the first type of moral right, publishing rights, at the time of publication. Act 19 of the IP Law of Vietnam states that moral rights are more important than ownership right (Act 20).

Vietnamese law defines a number of moral rights that reflect the writer's emotional engagement in his or her work. Accordingly, under Vietnamese law, authors have the right to appoint their works, the right to show their real identity or *nom de plume* just on works, the right to use a different name once the works have indeed been released or to use, the right to release the works rather than agree to allow others to release the works, and the right to defend the work's integrity, which means they cannot be altered in a way that detracts from the original.

Rights to Label a Work and Rights to Show the Author's Real Name or the Nom de Plume of the Works

In accordance with Vietnamese IP law, the rights to recognize the works and reveal the real identity or *nom de plume* of the author take priority over other moral rights of authors. The right to publish a work is included among the other moral rights of writers. According to Section 1 and 2 of Act 19 of the IP Law, the author has the rights to "name their work" as well as "to have his or her real name or pseudonym on the work" whenever the goods have been authored whether utilized. This privilege is given regardless of whether the author uses his or her true name or pseudonym. Act 6 of the Berne Convention on Human Rights acknowledges these rights. Therefore, their rights must be protected. Naming a work of art is as important to its creators as choosing the name of a child for a parent. This privilege is particularly important since it represents proof in judicial proceedings whether the individual whose results appear just on the works at issue is, in fact, the author of those works.

The right to show an author's actual identity or *nom de plume* may be interpreted in two distinct forms: the right to provide the original article in the work and the right to appeal if the original article is used without permission. When an author controls the original rights to his or her work, he or she has the exclusive authority to have his or her name and address featured across all published versions of the work and any related materials. Nevertheless, identifying the author is correct and not necessary; for instance, an unknown author might choose anonymity by writing under a pen name. Moreover, writers who publish under pen names or pseudonyms may reveal their true identities at any given moment. Regarding the right to an object, the creator of the work has the right to display another person's name on the work they produced. This limitation applies to any third party that claims the authorship of another's work.

The license to publish the works

Publication is the act of making a work accessible to a general audience. The author is responsible for assessing whether the work is full and error-free, and has the authorization to make it available to the broader public. This also indicates that he is free to publish his work as he sees it fit and is in no way restricted by this ability. To preserve the right to disseminate a work, it must first be shown that the creator has granted authorization for its dissemination. Act 19.3 of the Vietnamese IP Law grants the authors' legal rights "to publish or allow others to publish the work." Both Act 45.2 and Act 47.2 of the IP Law provide the phrase "allow others to publish their work" as the particular reason why and how the rights to release the works may indeed be transmitted to another person. However, the rights to release the works are still not generally agreed upon, which is likely the reason why it is not identified in the same manner in multiple nations. The Berne Convention recognizes this right. In addition, according to Vietnam's IP law, the right to release work is restricted to a

certain number of copies for public distribution. This limitation exists in safeguarding intellectual property. This privilege is never applicable even when the work is being performed or broadcast for the first time. However, if an author's work suddenly emerges in digital format on the World Wide Web without permission, this cannot be considered a violation of the author's rights to release the work, as the author never had the chance to exercise this right. The right to publish a work safeguards the author's right to distribute it.

In addition, there are no time or limitations on the termination of publication rights in Vietnam. In addition, Act 22 of Decree No. 100/2006/ND-CP mandates and directs the execution of a number of civil codes and IP laws pertaining to copyright laws. These portions are located in the subsequent: This Act suggests that the author has authorized the publication of some modifications of the work. As a result, it seems a sense that permission from an additional author is necessary to publish more copies in the same manner.

Right to Preserve the Authenticity of the Works

In line with Act 6bis of the Berne Convention on the Law of Intellectual Property, Vietnam's IP Law, Act 19.4, grants the right to work in its entirety. Therefore, the author has the power to defend the originality of the work against alterations or distortions that may be detrimental to the reputation. In other words, the author has the power to request that his or her work be disseminated to the public according to the author's original intent. This guaranteed that the author's intentions, ideas, and personalities were clearly communicated in the original work. Consequently, it is essential that everyone, including the creator of the work, respect it.

In accordance with Vietnamese law, an author has the legal right to launch a lawsuit for a violation of the rights to retain the originality of the works only if the violation causes injury to the author's honor and reputation. Vietnam signed Act 6bis of another Berne Convention, showing its acceptance of its government's obligations. Thus, the only activities susceptible to automatic penalties for infringing on the responsibility of maintaining the moral fortitude of works are those that harm the honor and reputation of the author. What damage has occurred to the authors' reputation and self-esteem as a consequence? IP Law and the Berne Convention do not mention this subject. Act 34 of the Vietnamese Civil Code deals with the right to protect honor and reputation.

The preceding legal regulations were established with the goal of avoiding violations of authors' rights. Nonetheless, when considered from various perspectives, this legislation impedes the authors' ability to exercise the constitutional safeguards to which they are entitled. This is due to the fact that it is difficult to establish that the author's reputation and honor have been hurt, despite the fact that breaches of the authors' rights to protect an authenticity of the works is evident. Illegal adjustments to the media include adding commercial advertisements to a film, coloring a film initially filmed black and white, and altering lyrics to a song.

Conditions For the Protections of Inherent Right

Act 6bis of the Berne Convention stipulates that protected authors' moral obligations must be safeguarded until the end date of the prevention period for their property rights. The author has more time to defend his moral rights under Vietnam's laws, which conform to this Convention. Regardless of the form of the work, Vietnamese law provides the right to identify work and retain its integrity in its entirety. The criteria for this term are outlined in Act 27.1 of Vietnam IP Law. The above preservation has been granted to reinforce the personalized nature of the privilege, since it is the authors' personal indication and might persist beyond the author's death.

In contrast to the previously described rights, the right to publish a work is protected by IP Law for the same duration as intellectual property rights (Act 27.2, IP Law). Consequently, the right to release work comprises equal parts, moral rights, and property rights.

Property Rights

The authors obtained property rights related to the commercialization of their work. All these are examples of economic rights that enable the authors or holders of copyrights to choose boundaries of the works' use and obtain a monetary advantage from commercialization. Because of these rights, the author may be entitled to

monetary compensation for the commercial use of his or her work. Creative work may be accessible via a number of platforms, including books, multimedia, CDs, cable channels, and television programs. In particular, the Internet now provides a different route to do so. Although digital technology has enabled the Internet to maximize the exploitation of their work, authors' pay has remained essentially unchanged. What steps can writers take to protect their financial interests and maintain their motivation to continue innovation? The Vietnamese government recognizes the aforementioned preventive measures under Act 20 of the IP Law.

Act 20 of the IP Law describes authors' IP rights. Under Vietnamese IP law, the authors' IP rights are affirmed and safeguarded. These rights include the right to create derivative works, the right to publicly perform their work, rights of transmission, rights to release or transfer an original or a copy of works, rights to convert the copies of the works such as through cable, wireless, digital data networks, or other various techniques, and rights to lease original content or duplicates of cinematic or graphic work.

Property rights can be divided into four main categories to facilitate comparison with copyright laws in other nations. These include the right to reproduce work, interact with works in public, distribute work, and lease work. These rights are considered exclusive property rights for the authors' work, but only the authors themselves can exercise them. Additionally, prior to any commercial use of an existing work, the author or owner of the copyright must provide permission.

Reproducing rights

The copy of works in such a pattern that assure its lengthy continuance is logically seen as a content procreation (copy), but the interpretation or adaption of works are viewed as a nonmaterial procreation and thus is considered to be "making a derivative work."

According to Act 4, translation, modification, conversion, consolidation, annotation, and selection are examples of "derivative works" The phrase "copy" refers to the production of one or more copies of an original work, phonogram, or recording using any process and form, including the electronic form. Act 9.3 of Berne Convention has a similar and although larger description: "Any sound or visual recording shall be considered as a reproduction."

Right to Publicly the Work

The transmission of works to the public is controlled by three provisions of the Berne Convention (Acts 11, 11bis and 11ter). Authors of literary and creative works have the sole right to allow the public exhibition or transmission of their works using any technique or technology that meets the objectives of this convention. These rights extend to all public exhibitions and transmission formats. The author is authorized under Act 20 of the Vietnamese IP Law to make his or her work available to the general public in line with the conditions of this Convention.

Consequently, showing and directing their work toward the general populace through cables, wireless, digital data networks, or other technological means is regarded as a mode of communicating their work to the general public. Making work accessible to Internet users is viewed as distributing it to the public because it enables global distribution. This is because the digitalization or disposal of works on websites indicates copies of the work in the digitally dominated era.

Distributional Privileges

Under Vietnamese law, original copies of the work may only be distributed with the consent of the copyright holders. This provision is intended to conform with Act 6 of WIPO Copyright Treaty, that asserts: "Authors of literary and artistic works shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their works through sale or other transfer of ownership."

Vietnamese IP law ensures that authors have the exclusive right to perform or allow the dissemination of their works in every format or any means, including Internet transmission. Another concern is whether the Vietnamese law recognizes copyright exhaustion. In the physical world, the answer is "yes" but it does not seem that the right to distribute an online work is exhausted after the first distribution (first transmission) over the

Internet, since this is not specifically stated in any legal law. It specifies that the approved transmission of works obtained by user X cannot be transmitted online to user Y, even without the copyright holders' permission. In addition, there have been restrictions regarding copyright violations, such as "publication, distribution of works without the author's permission" and "exporting, importing, distributing copies of works without the permission of the copyright owner."

Right to Lease an Original Work

Under Vietnamese law, copyright holders have exclusive rights to offer or permit others to lease the original content or duplicates of their cinematographic work or computer programs. This clause is supported by the TRIPS Agreement and the WIPO Copyright Treaty.

Internet communication systems for motion pictures and operating systems serve the same purpose and provide the same outcomes as the rental of tangible media such as CDs, VCDs, and DVDs. It is possible to show that there is no significant difference between leasing a hard copy from a shop and renting a digital copy on the Internet, given that consumers are only authorized to use the work for a limited time with both alternatives. Under Vietnamese law, lessees are responsible for compensating copyright owners. Despite these limitations, violations of the author's rental rights, such as the use of identical codes on many devices or extensions of software use, are prevalent.

Notably, the right to rent was not implemented when the required computer software was primarily used for managing machines or other technical equipment. This provision is intended to comply with Act 11 of the TRIPS and Act 2(2)(i) of the WIPO Copyright Treaty.

Conditions of Protecting Property

The property rights of copyright holders are normally protected for 50 years after the author's death. Moreover, Vietnamese legislative requirements for the protection of IP rights mandate Vietnamese enterprises and people as well as multinational companies and individuals on Vietnamese land. This satisfies the conditions stipulated by Vietnamese legislation and international agreements to what Vietnam has become member. In accordance with the international treaties to which Vietnam is a signatory, Vietnamese law applies whether copyright infringement against a Vietnamese copyright holder is committed by a Vietnamese citizen or a person from another country in Vietnamese territory or outside Vietnam.

SCENARIOS OF UNAUTHORIZED LIMITATIONS OF VIETNAMESE LAWS ON COPYRIGHT

In reality, the authors' rights over their work are not absolute, as they must consider other fundamental interests. A few exceptions exist in the Vietnamese legal code to assist in the harmonization of copyright protection measures with other needs for general welfare. Numerous prohibitions are justified based on the interests of the public, including educational, scientific, or propagandistic purposes.

These restrictions were strictly controlled and enforced. This norm was established by Acts 9-2 of the Berne Convention, Act 13 of the TRIPS Agreement, and Act 10 of the WIPO Copyright Treaty. Clause number 2 of Acts 25 and 26 of Vietnamese IP Law is mandated by these international treaties: "Organizations and individuals using works defined in Clause 1 of this Act must not affect the normal exploitation of works, without prejudice to the rights of the author or copyright holders; must disclose information on the name of the author and the origin of the work." The "Three-step Test" process allows users to use the work for approved reasons while the creator can successfully safeguard their rights.

Scenarios of Unauthorized Use-Lack of Compensation

As just a duplicate for individual use, scientific research, and teaching, even as respectable citations for commentary, newspaper, or instruction purposes without misrepresenting the authors' argument, according to copies for permanent preservation in repository; therefore, as a result of creations at noncommercial cultural events; as a record or photograph; and as a translation.

The only way a personal copy may escape coming under the "net of copyright" according to the conclusions of this study, is if a single copy is created and used for academic study or instructional reasons. This means that the user has no right to seek permission or obtain compensation from copyright holders. This was a solitary deviation from the norms. Owing to the possibility of infringing copyright holders' property rights, users are prohibited from creating copies for academic studies. Theoretically, this criterium is consistent in "Three-step Test" outlined in Act 9-2 of Berne Convention and the international conventions toward which Vietnam has become a party. The second is the violation of the copyright holder's right to make unlawful use of personal copies for purposes other than scientific research and classroom instruction.

Vietnam's IP Law contains a clause applicable to digital copies (Act 25). Therefore, for a digital copy to be exempt from copyright restrictions, it must be of personal character and be used for scientific studies or educational purposes. It is illegal for a computer user to access the works from the Internet into the memory of that user's computer for any purpose other than study or instruction, if the user does not have authorization from the copyright holder.

However, it is impossible to prevent individuals from using their personal copies for purposes other than education or research. On the other hand, Vietnam must recognize them as absolute copyright law exceptions for personal use that is not confined to educational or research objectives. Vietnam must design a means of paying copyright owners when personal copies of their works are created to reconcile any disputes of interest between the owner of the copyrights and the viewers of the work and to stay compatible with the "Three-step Test" three-step test concept. This component may add to the cost of the capturing and reproducing equipment, including computer disk drives, photocopiers, and hard-disk-embedded players. There is the potential for payment to be determined by the functionality of the item.

In addition to being able to exercise other rights, libraries (and data centers) also have the abilities to create duplicates. In accordance with section 1. e of Act 25 of the Vietnam IP Law, libraries in Vietnam are entitled to produce archived copies of their works. Clause 2 of Act 25 of Decree No. 100/2006/ND-CP stipulates libraries "do not make more than one copy" and "the library may not copy and distribute copies of works to the public, including digital copies." towards the general public. This refers to the number of copies produced.

Vietnamese law does not safeguard the right to profit from the execution of the original work, which is equivalent to the right to reproduce existing work. This is an example of how efficiently a house can function. This exemption was owing to the inability of family members to supervise the completion of a specified job. Acts 25 and 26 of the IP Law do not include the right to execute an original work as an exception; rather, they are included in Act 20. Act 20 of the Act, which may be seen here, describes the nature of the performance right as "public" ("right to communicate the work to the public"). This implies that permission from the copyright holder is unnecessary if the work is to be performed at the author's house. This is reflected in Decree No.100/2006/ND-CP, which states that "the performance of a work before the public includes the performance of the work at any place, except at home."

Scenarios of Unauthorized Use of the Works Requiring Compensation

The second type of property rights exemption is the use of unlicensed work for royalties. As stated above, copyright-holders must make their work accessible to the public. To promote the growth of culture, education, and communication, and to strike a balance between the competing interests of authors and the community as a whole, Act 26 of Vietnam IP Law permits the use of a work for payment even if the copyright holder does not grant permission for the use of their work. Only broadcasting companies are permitted to do this. According to this law, after a work has been published, a broadcasting organization may use it for transmission without the permission of the copyright holder; nevertheless, the broadcasting company must pay compensation.

The broadcaster and copyright holder negotiate a suitable amount of compensation for both parties. If there is no explicit agreement, this will be controlled by government regulations or a jury ruling if it is for business-related reasons. When radio stations play their work without a sponsor or advertiser, they are legally compelled to compensate the writers.

Act 26 of Vietnam IP Law stipulates, according to the "Three-step Test" principle outlined in international laws for whom Vietnam seems to be a signatory, television broadcast entities are prohibited from interfering with the normal exploitation of the work or violating the author's or copyright holder's rights. This conforms to the "Three-step Test" standard specified throughout international agreements that the Vietnam is a signatory. It is essential to clarify that this limitation does not apply to films. Owing to the substantial cost of construction, owner approval is necessary before this type of structure can be used.

COPYRIGHT VIOLATION PROTECTION MEASURES

Civil Remedies

Act 202 of Vietnam's IP Law outlines five civil remedies for the infringement of IP rights in general and copyright in particular: curtailment of the infraction, sympathy, and public revision, compelling the effectiveness of civil responsibility, property damage, and forced eradication or pressured transfer, or for noncommercial uses.

Preventing violative conduct: The copyright holder always has the ability to demand an end to a violation.

Public apology and rectification: At the request of the copyright owner, Vietnam's IP law permits civil proceedings in which the offender declares an apology via the public media. In addition, the offender must rectify any incorrect facts that may damage the authors' public image. Consequently, mainstream news comprises online and print newspapers, television, radio, and social media. Only breaches of the author's moral rights deemed damaging to the reputation are subject to these processes.

Civil obligations must be satisfied: Once an illegal act of deploying copyrighted material has been committed, the owner of the copyright may claim compensation for the use of the copyright - which was protected at the time of the unauthorized activity - in violation of the copyright.

Damage: According to Act 45 of the TRIPS Agreement, this rule is mandated by Vietnamese law. In accordance with Vietnamese law, reimbursement for damages must satisfy the following conditions: violation of the law, resulting injury, and a causal link between violation and damage. Therefore, the perpetrator of intentional or unintentional actions defined in Act 28 of the Vietnam IP Law that cause injury to the copyright holder is required to pay the damages. To recover damages, the party that suffered a loss must first establish that a loss happened and then calculate the amount of loss in line with IP Law Acts 204 and 205.

Nevertheless, identifying physical pain is much simpler than detecting mental pain. Therefore, when property rights are violated, benefits are lost. Numerous methods exist for establishing property rights, including transfer contracts and copyrights. Compared to French judges, Vietnamese courts have the full ability to award damages for violations of personal rights based on reliable evidence. In addition, in accordance with the TRIPS Agreement, Vietnamese legislation compels infringers to pay the copyright holder's court costs.

Forcible deletion or transfer or use for charitable purposes; this law applies primarily to objects, raw materials, materials, and methods applied in the manufacturing and distribution of copyright-violating products. Moreover, we must guarantee that this approach does not impede copyright holders' capacity to exercise their rights.

Administrative Provisions

a. Acts of Violation

Therefore, the authors possess personal and property rights. The law prohibits copyright infringement resulting from the unauthorized use of the authors' or owners' work without permission. Act 211 of Vietnamese IP Law specifies infractions subject to administrative penalties. All these are actions that "infringe upon IP rights, causing damage to authors, owners, consumers, or society." However, this should be emphasized as the government's instructions provide specifics. On October 16, 2013, the government released Decree No. 131/2013/ND-CP on administrative infringements of copyrights and related rights, which outlined copyright infringement behaviors.

b. Administrative Penalties

Act 214 of the Vietnamese IP Law specifies warnings and fines as administrative sanctions for copyright infringement. In spite of the fact that the IP Law acknowledges the presence of a caution, it is seldom used in procedure. Only fines were specified in the Vietnamese government's issued decree. The maximum punishment is VND500,000, depending on the type and severity of the violation. Additionally, the Basic Punishment Act 214 of the Vietnam IP Law allows additional fines and remedies.

c. Authorities of Competence

Administrative violations are punishable by several Vietnamese authorities, including specialist inspectors, chairpersons of all levels of people's committees, people's authorities, tax authorities, border patrol agents, sea customs, and market agencies. Because there are several authorities in a given sector, overlapping positions may pose substantial copyright protection challenges. No individual or organization is fully responsible for recognizing and preventing copyright violations.

Penal Measures

In Vietnam, copyright violations are punishable under Act 225 of the Penal Code (2015), adopted in 2017. In accordance with international law, the severity of sanctions for copyright infringement indicates the threat of these activities to Vietnam's present economic and cultural development. Thus, intellectual innovation is not effectively safeguarded. This can affect economic growth and international investment in Vietnam.

Criminal penalties are reserved for certain acts of infringement, including such replicating works, sound recordings, and video recordings and transferring duplicates of works, duplicates of phonograms, and duplicates of video recordings, are subject to criminal penalties. This means that non-criminal punishments are enforced for different types of violations.

The Penal Code allows criminal proceedings to be undertaken against individuals and business-moral persons. The perpetrator may face criminal penalties varying from a fine of VND50 million to VND3 billion, an arrest of up to five years, and business restrictions of up to five years based on the amount of revenue collected from the infringement of copyright or the amount of damage caused to the rights holder.

RECOMMENDATIONS

Based on the arguments in these several articles, the author suggests adding the following six provisions to Vietnam's copyright protection statute for digital materials on the Internet. (Chu, 2022; Long, 2013, 2013; Phan, 2023; Van, 2022) It is crucial to safeguard websites, applications, and content distribution platforms against content duplication and unauthorized access. In addition to protecting digital content assets, Internet content service providers must deploy copyright infringement recordings (log or screen recordings) for legal assistance. In addition, to make IP utilization transparent, it is equipped with techniques for tracking the number of times a product is used.

Notifications are needed in writing from copyright owners or core copyright units when the work is used for public purposes (free of charge) or for study, reference, criticism, evaluation, or judicial proceedings, citing the source of the works mentioned. The aforementioned uses are unique and have no derivative rights for use at other times or purposes.

To protect the ownership of the work, the author must make the first publication in the correct format and transmit it to the relevant copyright authorities. Writers can seek access through the website of the Ministry of Information and Communications. In addition to the work, please provide relevant author information in the supplied formats to assist with the arrangement, search, and protection of rights.

For orphaned work, the site of the Ministry of Information and Communications serves as a location for gathering work with base times (e.g., time of collection and time of updating) as evidence for further disputes (if any). The government is urged to adopt a national property policy for orphaned works that have lost protection under the Bern Convention as soon as possible.

Digital materials of non-human origin, such as (sensor and satellite data), will not be protected and will remain the private property of the companies that manage them.

Units of the core industry that employ copyrights are liable for property loss and are subject to the IP Act and international treaties on copyright protection that Vietnam has signed in case of copyright infringement.

CONCLUSIONS

Owing to the Internet's universal accessibility, works of art and entertainment are constantly parodied and satirized. Take GIFs, irresistible animations, or live-action loops that may be replayed indefinitely in text messages, forums, social media, or wherever public communities express themselves. Many people believe that copyright protection is antiquated because of the difficulty of comprehending the financial incentives of big businesses in dominating the law. Such conduct may persist in cyberspace and the courts of public opinion, regardless of what Congress and the courts ultimately determine.

There has been a lot of interest lately on the topic of copyright protection in Vietnam. The government has shown dedication to strengthening copyright enforcement and protecting the legitimate rights and interests of copyright holders by gradually aligning applicable copyright legislation with TRIPS. (World Trade Organization, 2017) in particular, Vietnam pledged to make the necessary adjustments to its national legal regime (including modifications to copyrights, protection, and enforcement laws and regulations) to be compatible with the requirements of the new Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) signed in March 2018 with ten other member states. Thus, copyright holders may anticipate rapid improvements in the national legislative environment surrounding copyright enforcement in the next few years.

Moreover, the policy for creating a dedicated IP court was included in this study. Judges in Vietnam are receiving training in IP law, with an emphasis on the use of temporary remedies and the assessment of monetary damage.

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