



**Asia-Pacific  
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Day 1 Session 2

## **Protection of Copyright and Related Rights on the Internet in Viet Nam**

Submitted by: Viet Nam



**Workshop on Protection of Intellectual  
Property Rights in Digital Content Trade  
20-21 April 2021**

# **VIETNAM PRESENTATION**

## **PROTECTION OF COPYRIGHT AND RELATED RIGHTS ON THE INTERNET IN VIETNAM**

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# CONTENT

- **LEGAL SYSTEM**
- **CHALLENGES OF COPYRIGHT AND RELATED RIGHTS PROTECTION ON THE INTERNET**
- **SOLUTIONS**

# LEGAL SYSTEM

## LEGAL DOCUMENTS OF VIET NAM:

### ➤ Law on Intellectual Property (amended and supplemented in 2009)

- Decree No. 22/2018/NĐ-CP dated the 23rd February 2018 (replacing the Decree No. 100/2006/NĐ-CP and No. 85/2009/NĐ-CP)
- Decree No. 105/2006/NĐ-CP and No. 119/2010/NĐ-CP
- Decree No. 131/2013/NĐ-CP and No. 28/2017/NĐ-CP (Penalties pertaining to Administrative Violation of Copyright and related rights)
- Circular No. 211/2016/TT-BTC dated the 10<sup>th</sup> November 2016 (Fee of Copyright and Related Rights Registration) – come to effect on the 1st January 2017
- Circular No. 07/2012/TTLT-BTTTT-BVHTTDL (*Liability of Intermediary Service Providers in the Protection of Copyright and Related Rights in the Digital Environment and Telecommunication Network*);
- Circular No. 15/2012/TTLT-BTTTT-BVHTTDL (*guiding assessment activity on copyright and related rights*));
- Directive No. 04/2007/CT-TTg dated the 22<sup>nd</sup> February 2007 (strengthening the management and enforcement of the protection of computer programmes)
- Directive No. 36/2008/CT-TTg dated the 31<sup>st</sup> December 2008 (*improving the management and enforcement of the protection of copyright and related rights*);
- Circular No. 02/2008/TTLT-TANDTC-VKSNDTC-BVHTTDL-BKHHCN-BTP dated the 3<sup>rd</sup> April 2008 (*Guideline on the dispute settlement of copyright and related rights at the Civil Court*)

# LEGAL SYSTEM

## ➤ Other specific laws:

- Law on the Press 2016
- Law on the Publication 2012
- Law on the Cultural Heritages 2001; amended and supplemented in 2009
- Law on Cinematography 2006; amended and supplemented in 2009
- Law on Customs 2014
- Law on Advertising 2012
- Law on Library 2019
- Law on Handling Administrative Violations 2012
- Criminal Code (amended and supplemented in 2017): Article 225
- .....

# LEGAL SYSTEM

## International Treaties:

### 03 Bilateral Agreements

- Viet Nam – US Agreement on the establishment of copyright relations (1997);
- Viet Nam – Switzerland Agreement on Intellectual Property Protection and Cooperation (1999);
- Viet Nam – US Trade Agreement (2000);

### 05 multilateral treaties

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

# LEGAL SYSTEM

## International Treaties:

### 05 REGIONAL FTAs

- **ASEAN Free Trade Agreement (AFTA);**
- **ASEAN – China Free Trade Agreement (ACFTA);**
- **ASEAN – Korea Free Trade Agreement (AKFTA);**
- **ASEAN – Japan Free Trade Agreement (AJFTA);**
- **ASEAN – Australia – New Zealand Free Trade Agreement (AANZFTA).**

### 05 FTAs

- **Viet Nam – Japan Economic Partnership Agreement (VJEPA);**
- **Viet Nam – Korea Free Trade Agreement (VKFTA);**
- **Viet Nam – Eurasia Economic Union Free Trade Agreement (VNEAEUFTA);**
- **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP);**
- **EU – Viet Nam Free Trade Agreement (EVFTA).**



## CIRCULAR NO. 07/2012/TTLT-BTTTT-BVHTTDL

- Circular No. 07/2012/TTLT-BTTTT-BVHTTDL dated the 19<sup>th</sup> June 2012 of the MIC and MoCST constitutes the liability of intermediary service providers in the protection of the copyright and related rights on the Internet and the telecommunication network.
  - Come into effect on the 6th August 2012.
- Urgency:
    - ✓ More severe violations to copyright and related rights on the Internet;
    - ✓ Requirements of economic and commercial integration;
    - ✓ Order of the Prime Minister (Directive No. 36)





## CIRCULAR NO. 07/2012/TTLT-BTTTT-BVHTTDL

- **Intermediary Service Providers (ISPs):**

- ✓ ISPs;
- ✓ Telecommunication enterprises;
- ✓ Providers of hosting digital information, including hosting electronic information websites;
- ✓ Online Social Network Providers;
- ✓ Digital Information Search Service Providers.

### **Digital Content:**

Works, performances, phonograms, video recordings digitalized and processed, transmitted and provided on the Internet and the telecommunication network



## CIRCULAR NO. 07/2012/TTLT-BTTTT-BVHTTDL

### **Rights of ISPs:**

- Establishing the systems of checking, supervising and processing information that is given, hosted and transmitted on the Internet and the telecommunication network to prevent infringements to copyright and related rights.
- Unilaterally rejecting the supply of illegal copyright and related rights services.



## CIRCULAR NO. 07/2012/TTLT-BTTTT-BVHTTDL

### **Liability of ISPs:**

- To host the digital information content in its service providing system in a transmission – intermediary, temporary, automatic and terminable way, meeting the technical requirements of transmission of digital information content.
- To execute the action of inspection and supervision of State authorized agencies in accordance with provisions of copyright and related rights.
- To remove and delete digital content violated to copyright and related rights, as well as to cut, stop or temporarily stop the Internet and telecommunication transmission line when receiving the written request from the Inspection Division of the MIC, MoCST or other State authorized agencies according to the current legislation.



# **CHALLENGES OF COPYRIGHT AND RELATED RIGHTS PROTECTION ON THE INTERNET**

**IDENTIFY  
INFRINGEMENT  
RIGHTS TO COPY  
AND PREVENT  
AND COPY  
UNAUTHORIZED  
ACTS**

**IDENTIFY ACTS  
OF  
INFRINGEMENT  
OF THE RIGHT TO  
COMMUNICATE  
AND DISTRIBUTE  
WORKS**

**COMPENSATION  
FOR DAMAGES  
CAUSED BY  
COPYRIGHT  
INFRINGEMENT  
ON THE INTERNET**

**DETERMINE A  
COMPETENT  
COURT**

# **IDENTIFY INFRINGEMENT RIGHTS TO COPY AND PREVENT AND COPY UNAUTHORIZED ACTS**

- Internet users can listen and watch online even download works from archives with hundreds of thousands of music works, cinematographic works.

# IDENTIFY ACTS OF INFRINGEMENT OF THE RIGHT TO COMMUNICATE AND DISTRIBUTE WORKS

- When copyright infringement is done with the support of new technology, the identification is more difficult.
- The law did not keep up with the development of technology, did not timely adjust the rights infringement occurred in practice

# COMPENSATION FOR DAMAGES CAUSED BY COPYRIGHT INFRINGEMENT ON THE INTERNET

- Determining the subject responsible for compensation due to copyright infringement on the Internet is not a simple matter.
- In many cases, website owners hide their true identities, it is difficult to identify the infringing entity.



# **DETERMINE A COMPETENT COURT**

- The suing in court requires copyright protection when copyright infringement occurs in an economy, but the website's hosting is located in another economy.

# SOLUTIONS

- To supplement, timely regulate the new legal relationship in accordance with the international practices, to accede to international treaties, etc.
- To improve capability, expand management area, cooperate with specialized management authorities, etc.
- Strengthen international cooperation.

# Thank you for your attention!

## Copyright Office of Viet Nam

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