

Vietnam Establishment Of Copyright Relations Agreement

Agreement between the Government of the United States of America and the Government of the Socialist Republic of Vietnam on the Establishment of Copyright Relations

The Government of the United States of America and the Government of the Socialist Republic of Vietnam, hereinafter referred to as the Contracting Parties;

Desiring to promote further relations between them;

Recognizing the benefits to be derived by both States from the mutual protection of copyrights;

Have agreed as follows:

Article I - Definitions

For the purposes of this Agreement:

1. The term, "Vietnam" means the territory of the Socialist Republic of Vietnam as defined in its laws.
2. The term "United States" means the several states, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.
3. The term "works" means all types of copyrightable works and sound recordings, regardless of the medium in which they are fixed, including in electronic form.

Article 2 - National Treatment

Each Contracting Party shall, in accordance with its respective laws and procedures, accord to the works of authors, creators, and artists who are nationals or domiciliaries of the other Contracting Party, and to works first published in the territory of the Contracting Party, copyright protection no less favorable than that it accords to its own nationals.

Article 3 - Covered Works

1. Works protected under this Agreement shall include works for which a national or domiciliary of either Contracting Party owns economic rights granted by the copyright law in the territory of the other Party or where such rights are owned by a judicial entity directly or indirectly controlled by, or the majority of whose shares or other proprietary interest is owned by, any national or domiciliary of either Contracting Party, provided that ownership of such rights was acquired within one year following first publication of such works in a country belonging to a multilateral copyright treaty to which either Contracting Party belongs on the effective date of this Agreement. Indirect control means control exercised through subsidiaries or through affiliates wherever located.
2. Each Contracting Party shall extend the protection required by this Agreement to works of nationals and domiciliaries of the other Party, and to works first published in the other Party, prior to the entry into force of this Agreement, if such works have not fallen into the public domain in either Contracting Party after enjoying a full term of protection. Nothing done by any person before the entry into force of this Agreement shall be taken to constitute an infringement of copyright. Accordingly, the relevant law and/or regulations of both Contracting Parties will specifically provide that the grant, enjoyment, and enforcement of copyrights will apply to all such works.

Article 4 -Formalities

Neither Contracting Party may impose formalities, including among other things publication or registration requirements, on the enjoyment or exercise of rights in works of the other Contracting Party.

Article 5 - Minimum Rights

1. The Contracting Parties shall ensure that the right holder in a work shall have the exclusive right to authorize or prohibit
 - a. the reproduction of a work, preparation of derivative works based upon the work, and the distribution of copies of works;
 - b. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual work, the public performance of the work; and
 - c. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, the public display of the work.
2. The law of both Contracting Parties will include provisions which specifically set out these rights.
3. The Contracting Parties will confine limitations and exceptions to the rights set forth in Paragraph 1 of this Article to special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

Article 6 - Enforcement

1. The Contracting Parties will provide full and effective enforcement of copyrights in works within their territories, including:
 - a. making available in the context of civil actions preliminary injunctive relief, permanent injunctive relief, damages, and the seizure and destruction of infringing goods and the materials and machinery predominantly used to create them;
 - b. making available criminal procedures and penalties to be applied in the case of copyright piracy on a commercial scale, including the imposition of fines and imprisonment sufficient to provide a deterrent and the seizure and destruction of infringing goods and the materials and machinery predominately used to create them; and
 - c. making available effective enforcement at the border, including the seizure and destruction of infringing goods in transit or bound for import or export.
2. The law of both Contracting Parties will include provisions which specifically set out these remedies, procedures and penalties.

Article 7 - Resolution of Disputes

If any dispute between the Contracting Parties arises out of the interpretation or implementation of this Agreement, the Contracting Parties shall attempt to settle such dispute amicably by consultation and negotiation.

Article 8 - Cooperation

The Contracting Parties agree to cooperate to achieve their shared goal of preventing and addressing the infringement of copyrights. This can include technical assistance and cooperation where appropriate under such terms and conditions as agreed by both Contracting Parties.

Article 9 - Implementation of Obligations

The law and regulations of both Contracting Parties will include provisions which specifically implement the obligations set out in this Agreement.

Article 10 - Amendment

This Agreement may be amended and supplemented at any time as agreed between the Contracting Parties.

Article 11 - Entry Into Force

1. Articles 1 through 10 of this Agreement shall enter into force upon the exchange of written instruments indicating each Party's ability to undertake the obligations therein.
2. Each Contracting Party shall undertake best effort to exchange instruments in accordance with Paragraph 1 above as soon as possible, but in any event no later than six (6) months from the date this agreement is signed by both Parties.
3. Either Contracting Party may terminate this Agreement by giving six (6) months notice of such intention. This Agreement will terminate on the expiration of the notice unless the Contracting Party giving notice withdraws such notice before the expiration thereof.

In witness whereof, the undersigned being duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate at Hanoi this 27th day of June, 1997, in the English and Vietnamese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Madeline Albright [signature]

FOR THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM:

Cam [signature]

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