

Regulation Decision
on
Copyright and Related Rights

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2. The Department shall maintain the record book on notifications of rights to copyright and related rights. Records defined in ~~these Regulations~~this Decision shall be recorded in those record books.

~~3. The Department shall publish in the government gazette information as defined in these Regulations~~this Decision. ~~A Government gazette may be established separately for each type of intellectual property if necessary.~~

34. In carrying out its responsibilities, the Depart

original work. Where a work is made through the original creative contributions of two or more persons [so as to create a work of joint authorship as defined below](#), such persons shall be **joint authors**. Unless the context otherwise requires, the term author includes all joint authors of a work.

Assign means to transfer all rights in an item of intellectual property to another person. The person who makes the transfer is the **assignor** and the person who receives the rights is the **assignee**. **Assignment** means the legal document by which an assignment is made.

Beneficiary means, in the context of a collective management organization, a person whose rights and interests are represented by the collective management organization.

Berne Convention means the Berne Convention for the Protection of Literary and Artistic Works.

Blanket authorization means advance authorization that is applicable to all persons, or to all persons who meet certain conditions, and without regard to the specific instance to which the authorization is applicable.

Block license is a license agreement that extends to all works, performances, phonograms, or broadcasts in a particular category.

Commercial purpose, as used in the Intellectual Property Law, means that an act is carried out to receive money or any other thing of value or that an act is carried out in connection with an undertaking to increase the value or profitability of the undertaking.

Court means,

- 1) for purposes of filing a civil action to enforce intellectual property rights, the Commercial Chamber of a regional People's Court, provincial People's Court, or capital People's Court, where the intellectual property right holder may file in accordance with the Civil Procedure Law.
- 2) ~~Court means~~, for purposes of appealing any decision related to enforcement of intellectual property rights, the relevant Appeals Court or People's Supreme Court where an appeal has been filed in accordance with the Civil Procedure Law.
- 3) ~~Court means~~, for purposes of filing an administrative appeal from a holding of the Intellectual Property Department or one of its units, the Commercial Chamber of the capital Peop 7

transact business in the place of its origin and includes a company, state or governmental entity, association or collective organization, or other legal person.

License means an agreement granting permission to carry out one of the exclusive rights of an intellectual property owner and includes an agreement not to bring legal action against the person receiving the license for such acts provided they are consistent with the terms of the agreement.

Licensee means the person or persons to whom the intellectual property owner grants a license.

Licensor means a person who grants a license.

An **exclusive license** is an agreement by which the owner agrees to grant all rights to the licensee without retaining the right for the owner to exploit the subject matter of the license. A **sole license** is an agreement by which the owner retains the right to exploit the subject matter of the license but otherwise grants all rights to the licensee.

A **non-exclusive** license is an agreement by which the owner grants a license but retains both the right to exploit the subject matter of the license and the right to grant licenses to other persons.

A **sub-license** is an agreement by which an exclusive licensee grants all or part of its rights to another person.

Minister refers to the Minister of Science and Technology, ~~who shall be responsible for the administration and administrative enforcement of laws, decrees, decisions, and regulations notices related to intellectual property.~~

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Revoke means, in connection with a Power of Attorney, the cancellation by the principal of the authority previously given to a practitioner or other person to act on behalf of the principal.

Traditional literary or artistic work means a work or versions thereof, whether fixed or not, that is recited or performed and is recognized to be part of the cultural heritage or folklore of a particular region, territory, or people, provided that either the authorship of the original work is no longer known or that the work is of such an age that no living person would be entitled to claim copyright protection for the work.

The terms **holder** or

Protection is available if the work is original as described in this article, even if the subject matter has been addressed by another. Copyright protection extends to the form in which a work is presented and not to the content of the work. Thus, multiple authors may address the same subject matter in different ways that each constitute an original expression, and each such original expression would be eligible for copyright protection, provided that other requirements for protection were satisfied.

4. A work is eligible for copyright protection

its subject matter must satisfy all requirements of the Intellectual Property Law and of ~~these Regulations~~this Decision. Examination shall be limited to formal requirements as provided in Article 8 of ~~these Regulations~~this Decision, and no substantive examination is required or will be conducted.

2. The Department will not issue advisory opinions regarding the likelihood that a particular work, performance, phonogram, or broadcast, or application to record notifications regarding them will satisfy the requirements of the Intellectual Property Law and ~~these Regulations~~this Decision, and the Department will not provide legal advice to applicants. A person who wishes to obtain information relevant to such person's rights or the likelihood of being able to record a notification is advised to consult an attorney.

3. Recordation of a notification of copyright or related rights should not be confused with registration that is necessary to create rights, as in the case of industrial property. Recordation of a notification of copyright or related rights is not required to establish a claim to copyright or related rights, which arise immediately upon creation, and does not establish such a claim, nor is it required to establish ownership. ~~Such recordation is~~may serve as evidence that the person named in the certificate ~~of notification~~ claimed rights as stated in the certificate for the work, performance, phonogram, or broadcast stated in the notification, and that such claim was made on the date of recordation. Such evidence may be taken into account by a court or other body in making a determination of rights and in particular may be useful in cases of competing or disputed claims of ownership or other rights.

4. Where more than one application is filed to record notifications in the same or a similar or related work, performance, phonogram, or broadcast, the Department will record each notification that meets the requirements for recordation, even where the notifications clearly relate to conflicting claims. The ~~Division~~Department does not have the authority to adjudicate disputes over conflicting claims of authorship, ownership, moral rights, or other rights; such disputes may be resolved through a request or claim to the courts.

Article 9. Application Procedures.

1. Any person who is eligible for protection as described in Article 6 of ~~these Regulations~~this Decision, and who has a claim that is legally cognizable, and who wishes to record a notification of copyright or related rights, may file an application with the Department on the prescribed forms following the procedures described below.

2. An application is filed by presenting to the ~~Copyright Division~~Department a copy of the application, together with any required documents. The ~~Division~~Department will conduct a review of the papers submitted to determine the nature of the application being submitted and whether the papers contain all of the documents required for the relevant application.

3. If the ~~Division~~Department finds that the papers contain all of the required documents, the ~~Division~~Department will accept the application for filing, issue a filing number, and provide the applicant or the applicant's representative with a filing receipt that shows the name and address of the applicant and applicant's representative if applicable; the nature of the application, that is, whether it is an application to record a notification of copyright or related rights, and the title of the work that is subject of the application; date of submission; and the filing number. Such certificate shall be annexed to one of the copies presented by the applicant and returned to the applicant along with the certificate, and the other copy shall be

| retained in the files of the ~~Division~~Department.

| 4. Where the procedures of paragraph 3 of this article have been completed, the applicant or applicant's representative shall present the receipt to the Finance Division under the Cabinet of the Ministry of Science and Technology

- 1) Name and address of the applicant or applicants;
- 2) Nationality and residence, if any, of an applicant who is a natural person, or of all such persons, if more than one, and for a legal entity, the country of incorporation and place where such entity has a real and effective industrial presence, if any, unless such information is already disclosed on the application form;
- 3) Telephone and facsimile numbers and email or other information for electronic communication with the applicant and the applicant's representative, to the extent such items are available.
- 4) Title of the item that is the subject of the notification, or if untitled, a brief description sufficient to identify it, and the nature of the subject matter, ~~for example~~that is, whether it is a literary work, dramatic work, performance, phonogram, recording of a broadcast, or the like;
- 5) Date on which the work was created as described in Article 5 of ~~these Regulations~~this Decision.
- 6) Brief statement of the rights claimed by the applicant, such as owner, joint owner, owner of partial interest, or license-holder;
- 7) Basis on which applicant claims rights, ~~for example~~that is, that the applicant is the author, performer, producer of the phonogram, or broadcaster or broadcasting organization; employer of such person; received rights by contract with such

- Lao PDR, and for each, the telephone number, and if available, facsimile number, information for electronic communication such as email, and website;
- 3) If a different address has been designated for purposes of serving legal notices, including service of process to initiate a civil claim, such address and the name of

- a. The amount of such income that is collected from others for reproduction, performance, or other exploitations of the works, performances, phonograms, or broadcasts of their beneficiaries and
 - b. Other sources of income if applicable.
- 5) The total amount of expenditures by the organization, specifying
- a. The amount disbursed to beneficiaries as royalties or other income based on the reproduction, performance, or other exploitations of the works, performances, phonograms, or broadcasts of their beneficiaries, and
 - b. Expenditures for enforcement activities, and
 - c. Other expenditures, including salaries and overhead.
- 6) Method used to determine royalties or other amounts to be disbursed to beneficiaries if other than actual records.

Article 15. Oversight of Collective Management Organizations.

1. The Department shall, ~~through the Copyright Division,~~ exercise oversight over collective management organizations to prevent abuses and omissions such as the following:

- 1) Failing to take reasonable steps to collect compensation for the reproduction, performance, or other exploitations of the works, performances, phonograms, or broadcasts of the organization's beneficiaries;
- 2) Failure to distribute an appropriate share of such compensation to the organization's beneficiaries;
- 3) Distributing such compensation to some of the organization's beneficiaries in a discriminatory manner;
- 4) Failing to adopt and implement a reasonable plan for obtaining and distributing such compensation for the organization's beneficiaries.

2. In exercising its oversight, the Department may take such reasonable measures as ~~se~~ may be necessary and appropriate to prevent or address abuses. The Department may take action on its own or in response to a complaint and may engage accountants, economists, or other experts to assist in its supervisory activities. In particular, the Department may take the following actions:

- 1) Review a collective management organization's annual report;
- 2) Conduct an audit of a collective management organization's financial activities;
- 3) Evaluate a collective management organization's strategy and implementation of efforts to secure greater cooperation with persons, organizations, and legal entities that exploit the rights of beneficiaries and to secure enforcement of rights and agreements for cooperation with such persons, organizations, and legal entities;
- 4) Evaluate a collective management organization's system for distributing compensation to its beneficiaries;
- 5) Request additional information from a collective management organization where needed for oversight purposes; and
- 6) Investigate complaints by beneficiaries or other interested persons.

3. In general, where the Department requests information or access to a collective management organization's records, the Department shall provide reasonable notice, shall limit its requests to information or records to those needed for to carry out the Department's role in preventing abuses, and shall provide for information and access to be provided on terms that are

| reasonable under the circumstances.- Collective management organizations are expected to

Article 18. Enjoyment of Benefits from Exploitation.

The rights of authors shall be as provided under Section V Part 4 of the Intellectual Property

requesting a second person to take a photograph or record an audio or audiovisual work or performance, using the first person's equipment and in a composition of the first person's choosing, the first person shall be presumed to be the author.

- b. Where such non-commercial act in casual circumstances consists of a first person requesting a second person to take a photograph or record an audio or audiovisual work or performance, using the first person's equipment and the second person contributes to the composition of a photograph, work, or recording, both persons shall be presumed to be joint authors and to have granted to each other unlimited rights to exploit the photograph, audio or audiovisual work, or recording of the performance.
- 4) In casual, non-commercial transactions, an authorization may be given orally or may be implied by the right holder, provided that the exploitation will not generate revenue or be used in a for-profit activity. ~~For example, a simple oral permission for a family member or friend to copy a photograph may be sufficient where copies will be made available within the family or circle of friends.~~
- 5) A commercial transaction or exploitation that will involve the generation of revenue will be presumed to obligate the party receiving the authorization to pay compensation for such authorization unless provided to the contrary in writing. In the absence of an agreement as to the terms of compensation, it shall be presumed that an equitable royalty will apply.
- 6)

2) ideas, procedures, methods of operation or mathematical concepts as such.

Thus, no authorization is required to reproduce information and facts, or to describe ideas, procedures, methods of operation or mathematical concepts, even though they have been previously described in another work. Note, however, that this exclusion does not extend to a work that contains such items. Thus, the exclusions of these paragraphs will enable another

4. Fair use is determined on the basis of the facts of the s

| 4) The fact that a work is unpublished does not necessarily bar a finding of fair use made upon consideration of all the other factors, but consideration should be given to the moral right of first disclosure as provided by Article 97 of the Intellectual Property Law.

- 4) The use is otherwise consistent with fair practice as described in Article 22 of ~~these Regulations~~this Decision, and in particular, will not conflict with a normal exploitation of the work and will not unreasonably prejudice the legitimate interests of the author.

4. Authorization can sometimes be obtained for out-of-print works in the same manner as for works that are in print, and often on more favorable terms. Many publishers participate in licensing arrangements ~~through organizations such as the Copyright Clearance Center, an online service~~ that facilitates requests and the grant (or refusal) of authorization on terms set by the right holder. Many publishers also provide an inquiry point for "permissions" on their website. Some organizations have policies that provide for blanket authorization or a block license. ~~For example, some scientific and technical journals grant permission to copy items such as a single photograph or table from any journal issues that were published before earlier than a specific date.~~ Permission is required ~~to reproduce some items, such as graphs, tables, photographs, or poems,~~ even though the amount to be copied is only a portion of the entire article because ~~such items such as graphs, tables, photographs, poems, and the like~~ each constitute an entire work. ~~Such p~~Permission is typically made subject to a requirement that the person making the copy correctly credits the ~~journal as the source.~~ ~~Such licenses are often free or are available at a modest cost.~~ ~~Depending on the nature and extent of the proposed reproduction, the number of copies to be reproduced, and the policy of the right holder, permission may be granted freely, granted at substantial cost, or refused.~~ Authorization granted or refused for out-of-print items has the same legal effect as authorization granted or refused for an item that is in print. Where authorization is obtained, the reproduction or other exploitation should be conducted in a manner consistent with the terms on which the authorization has been granted.

5. ~~Clearly, a~~Any person who wishes to reproduce an out-of-print work should first ~~consult these sources~~ seek permission. If, after inquiry that is reasonable under the circumstances, it is desired to reproduce an entire work but the right holder cannot be located, the facts that the work is out of print and the right holder cannot be located are additional factors to consider in determining whether the proposed reproduction constitutes a fair use. Such reproduction will generally be considered as a fair use if the reproduction meets any of the following conditions:

- 1) The portion of such work to be reproduced is a relatively small portion of the entire out-of-print work and in any event amounts to no more than two pages.
- 2) The work is to be reproduced in a small number of copies.

SECTION V Administrative and Judicial Review

Article 27. Preventing and Correcting Mistakes.

The Department shall have the authority to provide for a review of any action taken by the Department and to take such administrative action as may be needed to prevent or correct a mistake. Such actions may be taken on the authority of the Director General or such person's designee or as a result of quality review that may be instituted by the Department.

Appeals and other actions provided in this Section are necessary and appropriate to the orderly administration of the Intellectual Property Law. Appeals, requests for reconsideration, and other actions provided in this Section shall be governed by the procedures set forth in ~~these Regulations~~ this Decision. A request made under these procedures is part of the administrative procedure of the Department and is without prejudice to any rights that may arise under the Petitions Law.

Article 28. Administrative Review: How Initiated.

1. A collective rights organization or other person who is a party to a proceeding with the Department and who believes the Department has made an improper requirement or decision in such proceeding may, within 90 days of notification of such requirement or decision, take one of the following actions:

- 1) File a written request for reconsideration of the decision or requirement, without payment of a fee, or
- 2) File a written appeal to the Department and pay the relevant fee therefor.

2. Such request must identify the

- 1) Requirement or decision to be reviewed,
- 2) Legal and factual basis on which the request is based, and
- 3) Action requested by the applicant.

3. The request may also include any arguments or explanations that such party believes supports the request for reconsideration or appeal.

Article 29. Request to Stay.

A request for administrative review initiated pursuant to Article 28 of ~~these Regulations~~this Decision may include a request to stay the implementation of the decision or requirement that is the subject of the request for reconsideration or of the appeal. Otherwise, such decision or requirement remains in effect until such time as it may be withdrawn by the Department. In *ex parte* matters, a stay shall be freely granted in the interests of justice, taking into account the interests of third parties.

Article 30. Reconsideration.

1. Where a party makes a reasonable showing that there is a reasonable basis on which to review the requirement or decision that is the subject of a request for reconsideration, the Department shall grant the request and reconsid

ants explanations offered by the applicant, registrant, or other party to the proceeding. Granting a request for reconsideration does not render a different decision but rather to ensure that it gives,lli matter a new hearing. Sincerest6.1(Departm)12.6(e)4.6(nt')6.5(s)-1.8(on)6.4(ly)6.4(in)6.4(ter)14.5(e)-1.4 the courtwithin such time as provided under the Civil Procedure Law.

4. No fee shall be charged in connection with a request for reconsideration.

Article 33. Further Appeals.

1. Any party who is dissatisfied with the Department's decision or requirement following a request for reconsideration may appeal to the Department as set forth above. Filing a request for reconsideration is not a requirement for filing an appeal with the Department.

Regulations in this Decision in which case it shall be subject to the same requirements. Where rights to intellectual property are jointly held by multiple persons, an exclusive license shall be mutually agreed by all right holder, but unless provided otherwise by agreement, any right holder may grant a non-exclusive license to any person.

2. The sale of an item that embodies a work of authorship, performance, phonogram, or broadcast shall be assumed to grant a license to the purchaser and others acting on behalf of the purchaser to use the object bearing or embodying the work, performance, phonogram, or broadcast for its ordinary purposes but does not give the purchaser the right to make copies or otherwise exploit the work, performance, phonogram or broadcast, unless the right holder agrees otherwise in writing.

3. The provisions of paragraph 2 of this article shall apply mutatis mutandis to the rental, lease, gift, or other transaction with regard to the item that embodies the work, performance, phonogram, or broadcast. Where such transaction is limited in time or scope, such implied license shall likewise be limited to the same time and scope.

4. Where a transfer is a gift or, if a sale is less than the market value of the transaction, the purchaser shall have the burden of demonstrating that the right holder agreed to such transaction.

5. Where there is a transfer of ownership of a legal entity that is a licensee of one or more works subject to copyright or related rights, it shall be presumed that the licenses are transferred with the ownership of the legal entity unless specifically provided otherwise either in the license agreement or in the document providing for the transfer of ownership of the legal entity. Transfer of ownership of a legal entity shall affect the validity of any license arrangement for which such entity is the licensor, unless otherwise specifically provided in the license agreement.

SECTION VII Representation

Article 37. Persons Authorized to Appear before the ~~Division~~ Department.

1. Subject to the provisions of Article 6 ~~of these Regulations~~ in this Decision and paragraphs 2, 3, and 4 of this article, the following persons are authorized to appear before ~~Copyright Division~~ Department

- 1) An applicant, with regard to the applicant's own application;
- 2) Where more than one person jointly make application, any one of such persons, subject to appointment by the other joint applicants;
- 3) An attorney who is authorized to practice law in the Lao PDR;
- 4) A Practitioner as defined in this Section ~~with~~ regard to the subject matter for which such person is authorized to act; or
- 5) Where the applicant is an organization, ~~the~~ either an officer of such organization, or an attorney or agent employed by such organization;
- 6) An attorney or agent who is an employee ~~of the~~ of the applicant or of the assignee of the entire interest in the subject matter of the application.

5. In the absence of evidence to the contrary, a representative will be presumed to act in accordance with instructions of the principal or in accordance with such principal's wishes.

Article 40. Requirements for Giving Effect to Power of Attorney.

1. To be given effect by the Department, a Power of Attorney shall be in writing and signed by the principal. Such signature shall be notarized or legalized, at the option of the principal.

| Where more than one person is principal, ~~for example, as~~ in the case of joint authors, the power

4. If the Power of Attorney is not provided within 60 days of the notification, the Department shall change the correspondence address to that of the applicant or other principal and notify such person directly that it has 60 days in which to appoint a representative and provide the Power of Attorney, and the consequences of failing to comply with such requirements, which may include suspending action on the application or other matter or, if representation is mandatory, abandonment of the application or other filing.

5. The Department may refuse to accept further correspondence from the representative in connection with such application or other proceeding until the Power of Attorney is submitted.

6. Correspondence from an agent or attorney who presents a new power of attorney with a different representation address is presumed to revoke the previous power of attorney unless the Department is promptly informed otherwise. Where the new power of attorney has the same representation address, the Department will assume that the previous power of attorney remains in effect unless the Department is promptly informed otherwise.

Article 43. Termination of Representation.

1. Representation terminates when a power of attorney is revoked by the principal, when the matter that is the subject of the representation is concluded as provided in the power of attorney or as otherwise provided in ~~these Regulations~~this Decision, or when the representative withdraws from the representation and such withdrawal is accepted by the Department as provided herein, whichever is earlier.

2. Where the Department receives a power of attorney appointing a different agent, it shall notify the representative of record unless it appears on the face of the new power of attorney that such notification has already been effected.

3. A representative who withdraws must notify the Department and the principal of such withdrawal. The Department will notify the principal of such withdrawal unless it appears on the face of the communication that such person has already been notified. Such withdrawal shall be accepted by the Department unless it occurs in an application or other matter on which action is due and insufficient time remains for the principal to take such action or, if representation is mandatory, for the principal to obtain other representation and take such action.

Article 44. Persons Authorized to Act as Representatives Before the Department.

1. Any person who is of good moral character and possesses the knowledge of intellectual property and the education to carry out the duties of representative, and who has an address in the Lao PDR, may be authorized to be a Practitioner and represent others before the Department, subject to other requirements of this article.

2. Any agent or attorney who, as of the effective date of ~~these Regulations~~this Decision, has practiced before the Department for at least one year shall be presumed to satisfy the qualifications of paragraph 1 of this article.

3. Any person who satisfies the qualifications of paragraph 1 of this article may be authorized to become a Patent Practitioner if such person has a technical education and demonstrates knowledge of patent law and practice sufficient to enable such person to prepare and prosecute

an original patent application. The Department may provide by Notice the qualifications that will be accepted and may administer such examinations as may be required to determine whether such persons meet the relevant qualifications.

Article 45. Registration Required; Practitioner List Published.

1. Any person wishing to act as a representative before the Department shall register as a Practitioner or Patent Practitioner. By registering, such person agrees to carry out his or her duties faithfully and in accordance with the provisions of ~~these Regulations~~this Decision and with other ~~Regulations-Decisions or Notices~~ issued by the Ministry of Science and Technology on requirements for carrying out the business of being a representative on intellectual property.

2. To register, such person shall indicate his or her name and address; representation address if different from such person's address; teleph

SECTION VIII
Administrative Provisions

Article 48. Secrecy and Access to Files.

5. The Department will correspond with only one person or entity. This person or entity may be the applicant or intellectual property owner or other party to a proceeding before the Department, or may be such person's authorized representative. Initial correspondence in any matter is required to include an address for correspondence, which address may be changed at any time. Where more than one address is presented, the Department will choose one of the

notification, or application therefor, or with a supervisory action relative to a collective rights organization, or with any proceeding within the Department, must be signed by the applicant or intellectual property holder or other person submitting the document, or by such person's representative. Unless specifically provided, the signature does not need to be verified or certified. The Department may refuse to enter an unsigned paper unless the omission is promptly corrected after being called to the attention of the person submitting the document or on whose behalf the document is being submitted, or the representative of such persons.

2. By signing a document, by submitting a signed document, or by later advocating it, the person signing such paper, and the person presenting such paper, certify that

- 1) All statements made therein of such person's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Department, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or knowingly and willfully makes any false,

~~example in particular~~, where there are variations in the appearance of a signature or where the signature and typed or printed name do not clearly identify the person signing, the Department may require the submission of a document ratifying or confirming the document in question or evidence of the authenticity of the signature.

Article 53. Times for Taking Action; Expiration on Saturday, Sunday or National Holiday.

1. Wherever the Law, ~~these Regulations~~~~this Decision~~, or communication by the Department specifies a time for taking action or paying a fee, such period shall be calculated as follows:

- 1) If the period is stated in days, calendar days are intended, and the period shall be calculated by excluding the first day and including the final day. ~~For example, 30 days from March 15 is April 14.~~
- 2) If the period is stated in months or years, the period shall expire on the same date of the relevant month or year. ~~For example, one month from March 15 is April 15.~~

2. If the last day of the period is an official holiday, or a day when the Department is not open for business, the period shall be extended until the first following working day.

3. The Director General may provide for an extension of time based on a delay or loss of mail service caused by war, revolution, civil disorder, strike, natural calamity or other like reasons.