

VIETNAM ISSUES NEW DECREE ON ADMINISTRATIVE FINES IN COPYRIGHT LAW

by Thomas J. Treutler and Nguyen Thi Phi Nga

On May 13, 2009, the Vietnamese Government promulgated Decree No. 47/2009/ND-CP Providing Regulations for Penalties for Administrative Violations in Copyright and Related Rights (Decree No. 47), with an effective date of June 30, 2009. Decree No. 47 replaces the provisions on corresponding administrative penalties that were previously provided for under Decree No. 56/2006/ND-CP on Administrative Sanctions in the Fields of Culture and Information (Decree No. 56), dated June 6, 2006.

Decree No. 56, consisting of 77 articles, addressed a broad scope of violations in the field of culture and information, such as violations in the field of press, publishing, cinematography, performing art, fine art, photography, advertisement, cultural heritage, library, etc. Among these, only four articles were devoted to penalties for copyright and related rights violations.

For this reason, the Decree tended to group a number of violations together in one article. For example, Article 44 dealt with violations of regulations on copying, duplicating, publishing, republishing, and dubbing of works, products, and programs. This led to different interpretations of the provision that, in turn, created a number of difficulties when IP owners enforced their rights in practice.

Decree No. 47 consists of 51 articles that address copyright and related rights violations only. Thirty-nine acts of infringement of copyright and related rights are specified under the Decree, and it provides for far more detailed penalties. The Decree allows for higher penalties for most of the infringement acts that were available in its predecessor. Under Decree No. 47, the maximum penalty level for certain violations now reaches VND 500 million (approximately USD 28,000). Previously, under Decree No. 56, the maximum penalty was VND

70 million (approximately USD 3,900), but in practice the highest penalty issued was typically VND 15 million (approximately USD 850). According to Decree No. 47, in addition to monetary penalties, infringers may be required to proceed with certain steps to remedy their infringement, such as having the goods destroyed and/or destroying or re-exporting equipment used in violations. Decree No. 47 also clearly grants to various levels and types of authorities the power to impose specific fine levels.

The issuance of Decree No. 47 provides a more complete set of harsher penalties for administrative violations in copyright and related rights and sets forth an improved mechanism for enforcement of these rights. These new measures are expected to give another push in the Vietnamese Government's fight against copyright infringement in the country. ❖

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