

## Rights management information protection in Thailand

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The internet has made access to a plethora of content readily available across the world. Search engines such as Google, Bing, Yahoo and AOL have made it even easier to find content. As access increases, however, the risk of such content being duplicated or altered also rises.

Copyright holders should therefore protect their content by attaching information, such as signatures, watermarks, International Standard Book Numbers (ISBN), and so on, to their work. This allows users to identify the owners of works, and in turn, allows owners to potentially benefit from licensing arrangements.

The World Intellectual Property Organization (Wipo) has set out two key documents — the Wipo Copyright Treaty (WCT) and the Wipo Performances and Phonograms Treaty (WPPT) — defining this information as rights management information (RMI). RMI is the basis for new licensing systems, and can certify the integrity and authenticity of works and phonograms (recordings of sounds). Combined with other technology, RMI has also proved to be a powerful tool against copyright infringement.

RMI refers to information that identifies a work, its author, a performer and his or her performance, a phonogram, its performer, an owner of any right in a work, or information about the terms and conditions of use of a work, and any numbers or codes that represent such information. This information must be attached to a copy of a work or appear in connection with the communication of a work to the public.

As with technological protection measures in general, RMI needs to be safeguarded. Legal protection is needed to prevent the deliberate manipulation and distortion of RMI and its subsequent distribution.

Under the Wipo treaties, contracting parties are obligated to provide adequate and effective legal remedies against any person knowingly removing or altering any electronic RMI without authority or distributing, importing for distribution, broadcasting, communicating, or making available to the public, without authority, performances, copies of fixed performances, phonograms, works or copies of works knowing that electronic RMI has been removed or altered without authority.

Violations occur when a party knows, or has reasonable grounds to know, that its action will enable or conceal an infringement of any right covered by the treaties or the Berne Convention.

Many countries have amended their laws to protect RMI, including Japan, Malaysia, New Zealand and the US. The laws of each country, however, differ slightly from one another. For example, Japan has focused on protecting electronic RMI as opposed to analogue RMI. Malaysia's law is closely aligned to the provisions of the Wipo treaties.

Thailand, which has implemented RMI protection in its latest Copyright Act amendments, has also aligned its law with Wipo, but with an important exception.

The National Legislative Assembly (NLA) recently passed two copyright bills into law. The bill that implements RMI protection will come into force on Aug 4, 2015 — 180 days after it was published in the Royal Gazette.

Similar to Wipo, Sections 53/1 and 53/2 of the amended Copyright Act stipulate civil liability for a person who deletes or modifies RMI attached to a copyrighted work without authorisation from the rights owner and with the knowledge that such deletion or modification would induce, cause, facilitate or conceal copyright or infringement of a performer's right.

The amended Act also provides for civil liability for a person who communicates to the public or imports into Thailand for distribution any copyrighted work with the knowledge that its RMI has been deleted or modified.

In contrast to Wipo, under Section 53/3, exceptions to RMI infringement are provided for cases in which:

- ♦ the deletion or modification was made by an authorised official in order to enforce the law or to safeguard national security;
- ♦ the deletion or modification was made by an educational institution, library or public broadcasting agency for non-profit purposes; or
- ♦ the communication to the public of copyrighted work, in which RMI has been deleted or modified, was carried out by an educational institution, library or public broadcasting agency for non-profit purposes.

Copyright holders should label their content to allow users to identify their work and any conditions of use. This also instils confidence in consumers that the work is authentic.

Illegally altering or removing RMI can lead to unpermitted use and misidentification of the correct rights owner, which can create a negative impact on our economy. Fortunately, RMI protection has finally been introduced into Thai law to deal with RMI infringement.