

Copyright Law in Cambodia: Limitations for Foreign Rights Holders

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Copyright owners often mistakenly believe that the copyrights they hold in other jurisdictions will also be automatically protected under Cambodian law. In fact, this is not the case, as there are a number of limitations on those rights.

This misunderstanding is caused, in part, by the fact that Cambodia is a member of the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), an international agreement which establishes minimum standards for many forms of intellectual property regulation. Rights holders with experience in intellectual property issues know that TRIPS requires member countries to comply with the Berne Convention. This international agreement, in turn, requires members to grant the same protection to copyright in works originating in other member countries as they would to their own nationals.

However, as a least developed country, Cambodia has until July 1, 2021, to comply with TRIPS (with limited exceptions) and thus to comply with the key criteria of the Berne Convention. This is pursuant to the WTO's Extension of the Transition Period Under Article 66.1 for Least Developed Country Members, which extended the original 2013 deadline for least developed countries to reach full TRIPS compliance by an additional eight years. This is the second time that the deadline has been extended.

Until these obligations are met, foreign rights holders should understand that certain rights are not protected in Cambodia unless they meet the following restrictive conditions contained in Article 3 of Cambodia's Law on Copyright and Related Rights (Copyright Law):

- ❖ Broadcasts are only protected if their organizations have Cambodian headquarters, or they were transmitted from transmitters located in Cambodia.
- ❖ Phonograms are only protected if their producers are Cambodian nationals, or if the phonograms were first fixed or first published in Cambodia.
- ❖ Performance works are only protected if (1) the performers are Cambodian nationals, or (2) the performances took place in Cambodia or are incorporated in phonograms that are protected under the Copyright Law, or (3) they have not been fixed in a phonogram but are included in broadcasts qualifying for protection under the Copyright Law.
- ❖ Most other foreign works are not protected unless (1) they were produced by a foreigner who has a habitual residence in Cambodia (including a legal entity that was established under Cambodian Law and has its headquarters in Cambodia), or (2) the work was first published in Cambodia, or it was first published abroad but then published in Cambodia within 30 days after the first communication to the public.

Due to these restrictions, in practice very few foreign rights holders currently receive automatic protection under Cambodia's Copyright Law.

This summary is designed to provide general information only and is not offered as specific advice on any particular matter.

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