

IP KNOWLEDGE EXTRACT



SAFEGUARDING INDIVIDUAL VOICES IN THE AGE OF AI: VIETNAM'S LEGAL LANDSCAPE AND EMERGING CHALLENGES

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Overview

The human voice serves various vital societal functions, including communication, identity verification, and artistic expression. Each person's voice is a unique and valuable asset, holding both personal and commercial significance. However, the rapid advancement of AI technology has raised questions about safeguarding individual voices as intellectual property (IP). Can voices be considered non-traditional IPs and qualify for legal protection? Is there a need for new legislation to protect individual voices from exploitation by AI? How can we distinguish between lawful and unauthorized use of voices?

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Background

In Vietnam, personal data, including an individual's voice, is classified as "sensitive personal data" under the personal data protection laws. Personal data takes on various forms, encompassing symbols, letters, numbers, images, sounds, or similar representations associated with a specific person or aiding in identifying an individual in electronic environments. Violations of personal data, including voice data, are afforded legal protection, and the response to such breaches depends on their severity, potentially involving administrative, civil, or criminal measures.

The Legal Ground For Protecting Individual Voices

The third amendment to Vietnam's IP Law in 2022 introduced official protection for "sound marks expressed in graphic form" (or sound marks). A sound mark can encompass various sounds, including musical instruments, singing, animal sounds, and sounds emitted from objects. The key criterion is that these sounds must be distinctive enough for an average consumer to differentiate. An area of consideration pertains to protecting an individual's voice under Vietnam's IP Law.

Notably, individual voices are not explicitly identified as subjects of exclusive protection, such as patents, industrial designs, trademarks, or copyrights, under Article 3 of Vietnam's IP Law. Furthermore, Vietnam has yet to establish specific mechanisms for registering the protection of individual voices, signaling that they fall under the purview of individuals under Vietnamese law and Vietnam's intellectual property (IP) rights.

The prevailing practices indicate that individual voices are being leveraged to market tangible goods and promote the rapid advancement of a company's services through technology. Voices are widely employed in various industries, such as commerce, advertising, and entertainment. They capture attention, convey messages, and establish a business's identity, reputation, and brand. Furthermore, they are indispensable for driving commerce, influencing consumer purchasing decisions, increasing sales, fostering a competitive edge, and cultivating influential brands. In this context, voices can function akin to other non-traditional trademarks in delineating goods and services offered by different businesses.

Hence, due to the emergence of non-traditional trademarks, it is justifiable to consider the protection of individual voices as a category of intellectual property rights.



Challenges

Protecting individual voices as a subject of intellectual property rights poses several challenges. Similar to non-traditional trademarks, it is essential to carefully consider a series of questions to find a balance between the rights of voice holders and the community's common interests. It should be noted that such protection should not hinder freedom of speech or artistic expression.

Criteria for assessing uniqueness: Determining which voices are considered unique and eligible for protection and what level of distinction from ordinary voices is necessary for protection are vital considerations. Additionally, factors affecting the uniqueness of a voice (intonation, pronunciation, etc.) need to be thoroughly examined based on scientific grounds.

Scope of protection: Questions surrounding whether the entire voice should be protected or only specific elements (pronunciation, intonation, etc.), the level of protection for different parts of the voice, and how legitimate use of the voice can be distinguished from infringement are essential issues to be clarified when an individual voice is suspected of violation. Without addressing these, establishing a mechanism for protecting individual voices as a subject of IPR will only exist on paper and have no practical value.

Rights of the owner: Understanding the rights of the voice owner (use, transfer, permission for use, etc.), ensuring these rights, and establishing a dispute resolution mechanism in case of infringement of voice ownership rights are crucial.

Impact on industries: Examining how the protection of individual voices will impact professions that rely on voices (voice actors, singers, etc.) and finding a way to balance the rights of voice owners with the common good of the community, especially considering the existence of individuals with similar voices, is an important issue that needs to be addressed by the law.

The role of technology: Considering AI technology's role in protecting and managing voice ownership rights and how it can be effectively and responsibly applied in this field is another aspect that should be explored.



The Type Of Protection

While independent protection for individual voices as intellectual property subject matters is not currently in place, there are certain circumstances in which they can be safeguarded under IP law. The extent and nature of this protection may vary based on the laws of individual countries and the specific context in question. With this, separate voices may be legally safeguarded about the following:

Copyright: In instances where individual voices are recorded as part of a performance, they may be protected under copyright law. Unauthorized use of the recorded voice could constitute copyright infringement and result in legal consequences.

Trademark: Under certain circumstances, distinctive voices can be registered as trademarks under "sound marks." This form of protection generally applies to voices that are unique, highly recognizable, and closely linked to a specific brand or character.

Addressing AI-Powered Fraud: In response to technological advancements, some countries, such as the United States, are considering legislative measures to tackle emerging issues related to intellectual property rights for individual voices and images. The proposed "No AI FRAUD Act" aims to establish specific IP rights for these personal assets, particularly in the context of AI-generated replicas.

Conclusion

Protecting individual voices as intellectual property is an evolving and complex issue, especially in the context of rapid technological advancements like AI. While Vietnam's current legal framework recognizes the importance of safeguarding personal data, including voices, there is a clear need for more specific mechanisms to protect individual voices as distinct IP assets. The 2022 amendment to Vietnam's IP Law introduced protection for sound marks but does not fully address the unique challenges posed by voice data. As voices become increasingly valuable in various industries, it is crucial to establish clear criteria for their protection and balance the rights of voice owners with the broader interests of society. Additionally, AI's role in the potential exploitation and protection of voices must be carefully considered. Vietnam and other countries must continue adapting their legal frameworks to ensure individual voices are adequately protected against unauthorized use and exploitation. This will involve legislative changes and the development of robust enforcement mechanisms and public awareness initiatives. By doing so, we can safeguard the unique and irreplaceable asset of the human voice, ensuring it remains a source of personal and commercial value in the digital age.

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Please contact Daitin & Associates if you require any further information or guidance in the procedures of acquiring, protecting intellectual property rights in Vietnam | Cambodia | Laos | Myanmar | Thailand | Philippines | Brunei | Indonesia.

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