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SOME KEY UPDATES ON THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS IN CASES INVOLVING ARTIFICIAL INTELLIGENCE

On April 6, 2026, the Government issued Decree 134/2026/ND-CP, which amends and supplements a number of articles of Decree 17/2023/ND-CP providing details for some articles and implementation measures of the Law on Intellectual Property regarding copyright and related rights (**Decree 134**). Taking effect on April 9, 2026, Decree 134 has several notable provisions on the protection of copyright and related rights in cases involving artificial intelligence (AI) systems that enterprises should pay attention to as follows:

Firstly, one of the important highlights of Decree 134 is the recognition of the principle that copyright and related rights are only protected for creations that bear personal imprints, creative choices and direct human control. Specifically, Decree 134 provides that copyright and related rights of works, performances, sound recordings, video recordings, and broadcast programs created, fixed, or performed by humans using AI systems shall only arise if all of the following requirements are fully satisfied:

- Humans **make significant and decisive contribution** to the creation of works, the fixation or performance of shows, sound recordings, video recordings, or broadcast programs, including: Providing original input data, technical parameters or developing design documentation for computer programs; establishing command prompts to control AI systems; assessing, choosing, editing, interfering, or interpreting results created by AI systems; choosing, arranging, organizing contents, methods for displaying subjects of copyright, related right protection; making decisions indicative of creative, aesthetic, or qualification intentions; making final decisions, ensuring that results accurately reflect their ideas rather than random or automatic arrangement of the algorithm;
- Humans are **responsible for the contents and legitimacy** of the subjects of copyright and related rights that they create with the use of AI systems;



- No infringement relates to the copyright and related rights of the subjects used as input data for AI systems.

The subject matters of copyright and related rights created, fixed, or performed in accordance with the foregoing provisions shall be eligible for corresponding copyright and related right protection if all protection conditions prescribed under the Law on Intellectual Property are fully satisfied. In such cases, the creator of the works shall be identified as the author of the works created with the use of AI systems, whereas related rights of performers shall arise only in respect of individuals who directly do the performance with their own artistic acts. It should be noted that where works are generated entirely by AI systems, or where the foregoing requirements are not fully satisfied, **no copyright or related rights shall arise** under the Law on Intellectual Property.

Secondly, with respect to the request for copyright and related right protection for subject matters that are created, fixed, or performed using AI systems, Decree 134 supplements provisions that require the individuals creating, fixing, or performing such subject matters **to provide proof** of their creation, fixation, or performance, and to truthfully declare the use of AI systems upon request by competent authorities. Proving documents may include:

- Input data, technical parameters, or design documentation for computer programs, drafts, intermediate editions, and revisions during the creative process;
- History of command prompts, interaction data, technical parameters;
- Documents describing creative process or other legitimate documents indicative of intelligence contribution and control of humans.

Thirdly, on the basis of the Law on Intellectual Property, Decree 134 allows organizations and individuals to use documents and data that are subject matters of copyright and related right protection to train AI systems when the conditions set out in the Decree are satisfied:

- The use only serves scientific research, testing, training of AI systems and is not for commercial purposes;
- The use must neither conflict with the normal exploitation of documents and data that are subject matters of copyright and related rights, nor unreasonably prejudice the legitimate interests of authors, performers, copyright owners, and related-right owners;

- Output results of AI systems neither replace the consumption market for or normal exploitation of the subject matters of copyright and related rights, nor create any unfair competition in relation to the exploitation or use of such subject matters.

Decree 134 clearly defines that where organizations or individuals use documents and data that are subject matters of copyright and related right protection to train AI systems (including training data processed in accordance with applicable regulations), they must, in the course of commercial exploitation, perform responsibilities relating to the retention of records and data; provide information upon competent state authorities' request; respect the reservation rights of relevant right holders; and comply with royalty payment obligations from the time of use in accordance with the law.

In addition to the above provisions, Decree 134 also provides many other regulations relating to copyright and related rights that may affect the operations of enterprises acting as owners of such rights. Enterprises, organizations, and individuals should update and review the new provisions of Decree 134 in order to ensure compliance with intellectual property laws. In the event that the esteemed Clients and readers request any further information or legal consultation regarding intellectual property, NHQuang&Associates stands ready to provide further clarification and support for the relevant legal issues.

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