

International Journal of Criminal, Common and Statutory Law



E-ISSN: 2789-9500

P-ISSN: 2789-9497

Impact Factor (RJIF): 5.46

IJCCSL 2025; 5(2): 131-136

© 2025 IJCCSL

www.criminallawjournal.org

Received: 03-07-2025

Accepted: 07-08-2025

Vo Hoang Thong

SAPUNG Company Limited,
Bangkok, Vietnam

Copyright protection in the digital environment: A comparative study of Vietnamese and U.S. law

Vo Hoang Thong

DOI: <https://www.doi.org/10.22271/27899497.2025.v5.i2b.156>

Abstract

In the context of digital transformation, copyright protection has become a major challenge due to the widespread prevalence of online copyright infringement. The United States has been an early mover in establishing a comprehensive legal framework with the Digital Millennium Copyright Act (DMCA), which laid the foundation for digital work protection and the widely applied “notice-and-takedown” mechanism. In recent years, Vietnam has also made significant progress by amending the Intellectual Property Law, issuing Decree No. 17/2023/ND-CP, and incorporating international standards to strengthen copyright protection on the Internet. A comparison between the Vietnamese and U.S. legal systems reveals both similarities and differences, thereby offering valuable lessons for Vietnam to further improve its legal framework, enhance enforcement effectiveness, and foster a healthy creative environment in the digital era.

Keywords: Copyright, digital environment, copyright protection, intellectual property, copyright infringement

1. Introduction

In the digital era, the rapid development of the Internet and digital technologies has posed significant challenges to copyright protection. The ease of copying, distributing, and accessing digital content has facilitated widespread online copyright infringement on a global scale, and Vietnam is no exception, with approximately 15.5 million Internet users frequently accessing infringing websites, alongside more than 200 illegal platforms providing pirated films, music, and literature targeting domestic users. In response to this situation, Vietnam has actively acceded to several important international treaties, including the Berne Convention, the TRIPS Agreement, the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT). Furthermore, Vietnam amended the Intellectual Property Law in 2022 and promulgated Decree No. 17/2023/ND-CP, thereby, for the first time, introducing a “notice-and-takedown” mechanism to address online copyright violations. Meanwhile, the United States, a country with a longstanding history of copyright protection enacted the Digital Millennium Copyright Act (DMCA) as early as 1998. The DMCA established a “safe harbor” regime for online service providers who comply with takedown requirements, while also safeguarding technological protection measures and codifying the fair use doctrine to balance the interests of stakeholders. Against this backdrop, comparing the legal frameworks of Vietnam and the United States regarding copyright protection in the digital environment is essential to assess the extent of Vietnam’s incorporation of international best practices, to identify both similarities and divergences in the respective legal systems, and to draw valuable lessons for the ongoing improvement of national legislation, thereby enhancing the effectiveness of copyright protection in cyberspace.

2. Legal Provisions on Copyright Protection in The Digital Environment Under the Laws of The United States and Vietnam

2.1. Legal Provisions on Copyright Protection in the Digital Environment under U.S. Law

The United States is among the pioneering countries in establishing a comprehensive legal framework for copyright protection in the Internet environment through the enactment of the Digital Millennium Copyright Act (DMCA) in 1998. Adopted by the U.S. Congress at a time when the explosive growth of digital technologies and the Internet posed unprecedented challenges to the enforcement of traditional copyright law, the DMCA represented more than a

Corresponding Author:

Vo Hoang Thong

SAPUNG Company Limited,
Bangkok, Vietnam

mere technical amendment; it was revolutionary in nature, as it was the first to introduce specialized provisions for the protection of copyright in cyberspace. A key feature of the Act is the creation of “digital walls” to prevent unauthorized access, copying, or distribution of digital works through the legal protection of technological measures. In addition, the DMCA introduced the “safe harbor” mechanism for Internet service providers (ISPs) and online platforms. Under this system, providers are exempted from liability for copyright infringements committed by users, provided they comply with the “notice-and-takedown” procedure, that is, promptly removing infringing content upon notification from rightsholders. This mechanism has had a far-reaching impact, laying the legal foundation for the growth of global digital platforms such as YouTube, Facebook, and Spotify. At the same time, the DMCA underscores the importance of striking a balance between protecting copyright and safeguarding users’ rights by upholding the doctrine of fair use. With these provisions, the DMCA has helped shape international legal standards for copyright protection in the digital environment and has served as a model for many countries, including Vietnam, in their efforts to develop or revise intellectual property laws to adapt to the digital era.^[1] Two key pillars of the DMCA in the digital environment are: (i) the “Notice and Takedown” mechanism, which limits the liability of online service providers when they cooperate in addressing infringing content; and (ii) provisions against the circumvention of technological protection measures and the protection of rights management information in digital works. *Firstly*, regarding the “Notice-and-Takedown” (safe harbor) mechanism. The DMCA introduced Section 512 into the U.S. Copyright Act, providing that online service providers (OSPs) are exempted from secondary liability for infringements committed by users on their platforms, provided that OSPs promptly remove infringing content upon receiving a valid notification from the copyright owner^[2]. The DMCA notice-and-takedown process generally involves three basic steps: (i) the rightsholder sends a notice, including the URL of the infringing content, to the OSP’s designated agent; (ii) the OSP promptly removes or disables access to the infringing material and notifies the user who uploaded it. The user then has the right to submit a counter-notice if they believe the material is non-infringing; (iii) if no counter-notice is filed, the content will be permanently removed after approximately 10–14 business days, whereas if a counter-notice is filed, the OSP may restore the content unless the rightsholder initiates a lawsuit within the statutory period. The DMCA does not prescribe a fixed timeframe (such as “72 hours” or “24 hours”), but instead requires OSPs to act “expeditiously” upon receiving a takedown notice. This qualitative standard, however, has created a loophole: in practice, some OSPs may delay processing while still arguing that their actions were “expeditious” under the law^[3]. In addition, the DMCA requires OSPs to implement and disclose a reasonable policy for terminating the accounts of “repeat infringers.” This means platforms such as YouTube and Facebook must adopt internal rules regarding warnings and removal of repeat violators in order to maintain their liability exemption. The U.S. notice-and-takedown system has been tested through several major lawsuits. For example, in *Viacom v. YouTube* and, more recently, *Capitol Records v. Vimeo* (2025), federal courts reaffirmed that online video-hosting services are protected by the DMCA safe harbor so long as they did not have “actual knowledge” of user infringements. The courts

emphasized the concept of “red flag knowledge”: an OSP loses safe harbor protection only if its employees possess clear information that would lead a reasonable person to recognize the content as infringing. In *Vimeo*, although platform employees had minor interactions (such as “liking” or commenting on videos containing infringing music), this was insufficient to establish subjective knowledge of infringement. The appellate court upheld safe harbor protection for *Vimeo*, finding that the platform neither directly controlled nor financially benefited from the infringing videos and had complied with takedown procedures upon notification. This outcome demonstrates how U.S. law balances the interests of copyright holders with the growth of digital services: OSPs are not held liable if they cooperate actively, but they cannot turn a blind eye to blatant infringements on their systems^[4].

Secondly, on the protection of technological measures and rights management information. The DMCA supplements the U.S. Copyright Act with provisions prohibiting the circumvention of digital protection locks and the removal of digital rights management (DRM) information. Specifically, Section 1201 of the DMCA prohibits the act of circumventing, or distributing tools to circumvent, technological measures used to control access to or copying of copyrighted works. A violation of this section constitutes an independent offense, even if no unauthorized copying of the work has occurred. For example, *Green v. DOJ* (D.C. Cir. 2024) posed a legal challenge to Section 1201, where two scholars argued that the anti-circumvention rule infringed upon their freedom of speech. However, the federal appellate court rejected this claim, affirming that the DMCA’s anti-circumvention provisions primarily target conduct (the act of circumvention) rather than expression, and that their legitimate purpose is to prevent digital piracy. The court ruled that these provisions are not unconstitutional, emphasizing that they serve the public interest in preventing the “theft” of digital content, while providing reasonable exceptions (e.g., every three years the Library of Congress may grant exemptions for specific circumvention activities serving research, education, or other purposes).

In parallel, Section 1202 of the DMCA prohibits the intentional removal or alteration of rights management information (such as the author’s name, copyright notices, or digital watermarks) when done with the intent to conceal infringement. This rule safeguards the integrity of copyright-related information attached to works, ensuring traceability of origin and ownership even as works circulate online. Beyond these two pillars, U.S. copyright law incorporates additional mechanisms to support digital-era copyright protection. On one hand, the “fair use” doctrine allows the use of copyrighted works without authorization under certain circumstances (e.g., quotation, criticism, parody, memes), thereby fostering secondary creativity and free expression in the online environment. On the other hand, the United States established the Copyright Claims Board in 2022, a small claims tribunal enabling individual authors to address copyright infringements (particularly online violations) at lower cost without resorting to federal courts. Moreover, U.S. legislative and executive agencies continuously update policies to keep pace with emerging technologies: in 2023, the U.S. Copyright Office launched a major initiative on artificial intelligence (AI) and copyright, following its refusal to register the graphic novel *Zarya of the Dawn*, which contained AI-generated illustrations. The U.S. position is that

works created entirely by AI (lacking human authorship) are not eligible for copyright protection, as copyright extends only to “products of human intellect”, a principle reaffirmed in the 2023 case ^[5]. These developments demonstrate the United States’ ongoing efforts to adapt copyright law to a dynamic and complex digital environment one that rigorously protects copyright while simultaneously encouraging creativity and the growth of the digital content industry.

2.2. Legal Provisions on Copyright Protection in the Digital Environment under Vietnamese Law

In recent years, Vietnamese law has made significant progress in keeping pace with international trends in copyright protection in the digital environment. First and foremost, Vietnam adheres to the principle of automatic protection under the Berne Convention works are protected by copyright as soon as they are created and expressed in a tangible form, without the need for registration. The 2005 Intellectual Property Law (as amended in 2009, 2019, and 2022), together with its implementing regulations, has provided the general foundation for copyright protection. However, the specific characteristics of the digital environment require specialized provisions, with the most notable developments being the 2022 amendments to the Law and the issuance of Decree No. 17/2023/ND-CP in April 2023. These reforms focus on the liability of intermediary service providers (ISPs/OSPs) and procedures for removing infringing online content, as well as the incorporation of international commitments concerning technological protection measures and rights management information.

Firstly, on the liability of intermediary service providers and the “Notice-and-Takedown” mechanism. The 2022 amendments to the Intellectual Property Law for the first time introduced provisions on the legal liability of enterprises providing intermediary services with respect to copyright and related rights. Accordingly, such enterprises are required to implement technical measures and cooperate with state authorities and rightsholders to protect copyright and related rights in the online environment. However, they are exempted from liability in certain cases, such as merely transmitting content, performing automatic caching, or hosting user-uploaded content without knowledge of infringement, provided they promptly remove infringing content once notified. Intermediaries are not required to proactively monitor or seek out infringements ^[6].

Decree No. 17/2023/ND-CP provides detailed rules on the conditions and procedures that online service providers (OSPs) must follow in order to benefit from this “safe harbor,” similar to the DMCA. The safe harbor applies only to hosting service providers—platforms that allow users to upload content, such as social networks and video-sharing sites. These OSPs are required to: (i) establish a contact point (via portal, email address, or online tool) to receive takedown requests; (ii) provide the contact details of that point of contact to the Ministry of Culture, Sports and Tourism for coordination with authorities; and (iii) remove or block access to infringing content once they have “knowledge” of the infringement, either through notification by the rightsholder or an official request from competent authorities, and report the results.

The Decree establishes two specific takedown procedures: a “72-hour & 10-day procedure” (for requests from rightsholders) and a “24-hour procedure” (for requests from enforcement authorities). For rightsholder requests, the

claimant must provide supporting documents (evidence of ownership, proof of infringement, and the infringing URL). Within 72 hours, the OSP must temporarily remove or disable access to the disputed content and notify both the rightsholder and the user who uploaded it. A 10-business-day period then begins: if the uploader does not file a counter-notice within this timeframe, the OSP permanently removes the content. If the uploader does file a counter-notice with supporting evidence, the OSP must restore the content within 72 hours and forward the objection to the rightsholder. At that point, the rightsholder must bring the matter before a court or competent authority; if no such action is taken, the content remains online. This procedure mirrors the DMCA’s framework of notice, temporary takedown, counter-notice, restoration, and litigation. However, unlike the DMCA’s vague requirement of “expeditious” action, Decree 17 sets clear deadlines of 72 hours and 10 days. This clarity is expected to create a more balanced system, reducing delays or bias by OSPs. It also imposes stricter evidentiary obligations on rightsholders, who must provide proof of ownership and infringement, thereby preventing abuse of the takedown process.

For requests from enforcement authorities, the “24-hour procedure” applies: OSPs must remove or block access to infringing content within no more than 24 hours of receiving the official request, notify the user, and report the results. If the OSP or user disagrees, they retain the right to appeal or initiate legal proceedings against the enforcement decision. Significantly, the Decree specifies that once an enforcement authority has issued a takedown order meaning the OSP is deemed to have actual knowledge of the infringement the OSP loses safe harbor protection if it fails to comply. This provision establishes a firm legal basis for sanctioning OSPs that deliberately tolerate violations after official warnings.

In sum, Vietnamese law now provides a framework analogous to the DMCA in principle, but with adaptations tailored to domestic conditions. Previously, online copyright enforcement in Vietnam relied mainly on administrative measures (inspection, fines) or ordering network operators to block websites, without a standardized process between rightsholders and intermediaries. The new provisions obligate domestic platforms to actively cooperate in removing infringing content or else face joint liability in civil litigation or administrative sanctions. Nonetheless, as the mechanism is newly adopted, its effectiveness will require time to be tested, along with greater awareness among both OSPs and rightsholders of the new legal procedures.

Secondly, on the protection of technological measures and rights management information in the digital environment. In line with its accession to the WCT and WPPT, Vietnam’s Intellectual Property Law has incorporated provisions prohibiting the circumvention of technological measures protecting copyright. Article 28 of the amended Intellectual Property Law (2022) specifies that acts of infringement include: “Intentionally removing or disabling technical measures applied by authors or rightsholders to protect their works.” In other words, acts such as breaking DRM, bypassing encryption, or disabling copy-protection locks on digital works are deemed copyright infringements. The law also prohibits the manufacture, distribution, or provision of devices or services designed to circumvent technological protection measures. For example, producing and selling a device that enables unauthorized decryption of copyrighted

DVDs without the consent of the rightsholder constitutes a violation under Vietnamese law, mirroring the provisions of the U.S. DMCA.

In addition, current Vietnamese law protects rights management information (RMI) associated with copies of works. Article 28 further defines infringements to include: “Intentionally removing or altering rights management information in electronic form” without the authorization of the rightsholder, with knowledge that such acts would facilitate or conceal copyright infringement; and “Intentionally distributing, broadcasting, or making available to the public works where rights management information has been unlawfully removed or altered.” These provisions align with the U.S. DMCA, targeting practices such as deleting metadata, watermarks, or author information from digital files before distribution, or disseminating works with RMI removed in order to conceal their origin.

It is clear that Vietnam has incorporated into domestic law the requirements of the WCT, ensuring protection of newly recognized rights in the digital environment, such as the right of distribution of digital copies and the right of communication to the public via networks, while also establishing sanctions for the circumvention of technological measures and the removal of rights management information.

Thirdly, on enforcement mechanisms and sanctions for digital copyright infringement. Vietnamese law adopts a multi-track enforcement approach, whereby administrative, civil, and criminal measures may all be applied to protect copyright. In practice, administrative enforcement is the most common channel: rightsholders may submit complaints to specialized inspectors, the Authority of Broadcasting and Electronic Information, the Market Surveillance Department, or even the Economic Police, requesting investigation and sanctioning of infringing websites. These agencies are empowered to impose fines, confiscate infringing goods, suspend operations, and order the removal of infringing content under Decree No. 131/2013/ND-CP on administrative sanctions for copyright violations. However, the maximum administrative fines currently in force (approximately VND 250 million for individuals and VND 500 million for organizations) are often regarded as disproportionate to the actual damages caused by large-scale piracy.

In recent years, Vietnam has also intensified the use of criminal sanctions for online copyright violations where the elements of a crime are satisfied. Article 225 of the 2015 Penal Code (as amended in 2017) criminalizes copyright infringement if the illegal gain exceeds VND 50 million or if damages exceed VND 100 million, with penalties of up to VND 1 billion in fines or up to three years’ imprisonment (with harsher penalties for organized or repeat offenders). In August 2021, Ho Chi Minh City Police prosecuted the operator of the website Phimmoi.net under this provision, an event described as a “critical milestone” that set an important deterrent precedent for future cases of online film piracy^[7].

As of early 2025, the Department of Cybersecurity (Ministry of Public Security) reported that four criminal cases had been initiated concerning copyright infringement in cyberspace, including two prominent ones involving Phimmoi.net and the piracy site BiluTV. These decisive actions underscore Vietnam’s determination to strengthen copyright enforcement, meet international obligations, and protect the domestic digital content market.

2.3. A Comparative Study of Legal Provisions on Copyright Protection in the Digital Environment between the United States and Vietnam

On the “Notice-and-Takedown” mechanism. Both the United States and Vietnam have established legal frameworks that allow copyright holders to request online service providers (OSPs) to remove infringing content, while granting OSPs safe harbor immunity if they comply with the prescribed procedures. In principle, the two systems are similar: they involve a notice of infringement, temporary takedown, counter-notice, restoration of content if a valid objection is filed, and litigation if necessary. However, the main difference lies in the degree of specificity. While the U.S. DMCA (1998) only provides general terms such as requiring OSPs to act “expeditiously,” which can lead to disputes over whether compliance has been met, Vietnamese law most notably Decree No. 17/2023 stipulates explicit deadlines: 72 hours for temporary takedown, 10 business days to allow for objections, and 24 hours when an order is issued by state authorities. This approach provides OSPs with clear obligations and timelines, reducing delays in enforcement. Moreover, Vietnam empowers state agencies to directly order removal of infringing content within 24 hours, reflecting a more active governmental role. In contrast, the U.S. framework favors private self-regulation between parties, with no provision for mandatory administrative deadlines. Additionally, the U.S. requires OSPs to publicly designate a DMCA agent and implement a policy for dealing with “repeat infringers,” whereas Vietnam primarily emphasizes notifying the Ministry of Culture, Sports and Tourism of a designated contact point, with less focus on repeat-infringer policies due to the high degree of anonymity in domestic online violations.

On the protection of technological measures and rights management information. With respect to technological protection, the legal systems of the United States and Vietnam are broadly aligned, as both comply with international standards under the WCT and WPPT. Both countries prohibit acts of DRM circumvention, the manufacture or distribution of circumvention tools, the removal or alteration of rights management information, and the dissemination of works whose copyright information has been tampered with. Vietnam’s provisions are highly detailed comparable to those of the DMCA, by enumerating specific prohibited acts. A notable difference, however, lies in the treatment of exemptions. The United States adopts a triennial exemption mechanism that permits circumvention for certain legitimate purposes (such as security research, education, and digital preservation), whereas Vietnam imposes an absolute prohibition, permitting only the general exceptions under its Intellectual Property Law, such as quotation for teaching or non-commercial research. Nevertheless, both systems ultimately emphasize the same core message: safeguarding technological measures and copyright information is an essential component of copyright protection in the digital era.

On the copyright system and exceptions. Due to differences in legal traditions, the United States and Vietnam adopt distinct approaches to copyright exceptions. The United States, following the common law system, applies the “fair use” doctrine, an open-ended concept interpreted flexibly by courts on a case-by-case basis. This allows for secondary creativity and the use of works in diverse situations, provided that the use satisfies factors relating to purpose, character, proportion, and market impact. By contrast, Vietnam, rooted in the civil law tradition, adopts a closed-list approach under Article 25

of the Intellectual Property Law, which specifies around 13 concrete exceptions, such as quotation for commentary, use in teaching, or current news reporting, subject to non-commercial purposes and proper attribution. This closed-list model better safeguards the interests of authors but narrows the scope of lawful uses of digital works, thereby limiting user-generated content (UGC) activities. For instance, memes created from original works may be protected as fair use in the U.S., but in Vietnam such practices are typically deemed infringing unless they fall within the enumerated exceptions. Nonetheless, current trends suggest that Vietnam may move toward incorporating more flexible exceptions in the digital sphere, such as text and data mining or UGC in order to strike a balance between protecting authors' rights and ensuring public access to creativity.

On enforcement and sanctions. The United States has a robust enforcement system, relying primarily on civil litigation with very severe statutory damages (up to USD 150,000 per act of willful infringement). In addition, large-scale commercial infringements may be subject to federal criminal prosecution. Rights management organizations such as the RIAA and MPAA play an active role, monitoring the internet and sending millions of DMCA notices each year. By contrast, Vietnam relies heavily on administrative measures, such as monetary fines, IP blocking, and domain name revocation. Although criminal sanctions exist, they are rarely applied; the *Phimmoi* case was one of the first notable instances. Civil courts for intellectual property disputes in Vietnam remain underutilized due to complex procedures, difficulties in collecting evidence, and challenges in enforcement. As a result, deterrence remains weak, with many infringing websites resuming operations under new domain names after sanctions. In the U.S., however, the sheer threat of damages and litigation costs is often sufficient to deter infringement. Furthermore, the U.S. has developed effective mechanisms for international cooperation in tackling cross-border piracy networks, an area in which Vietnam has only recently begun to strengthen its efforts.

On public awareness and compliance culture. Beyond the legal framework, social awareness plays a vital role in copyright protection. In the United States, internet users are accustomed to the DMCA system and understand that infringing content may be swiftly removed, while businesses comply proactively to avoid legal risks. In Vietnam, however, awareness of copyright remains uneven: many users still consider online piracy of films, music, or comics as normal, and not a few small businesses inadvertently infringe due to ignorance or a belief that enforcement is unlikely. Therefore, alongside improving the legal system, Vietnam must strengthen education, outreach, and the cultivation of a culture of copyright respect. A similar transformation occurred in the U.S. after the *Napster* case (1999–2001), when society gradually shifted away from the notion of “free sharing” toward recognition of authors' legitimate rights. Vietnam can draw valuable lessons from this experience to foster stronger compliance with copyright norms in its own digital community.

3. Some Lessons Learned for Vietnam

Based on the above comparison and analysis, several solutions can be proposed to improve the legal framework and enhance the effectiveness of copyright protection in the digital environment in Vietnam, particularly in the 2023–2025 period when the new legal system is being implemented:

Firstly, refining detailed guidance on the “Notice-and-Takedown” mechanism. Although Decree No. 17/2023/ND-CP has been issued, Vietnam should promulgate a supplementary circular providing detailed instructions for OSPs on the procedures for receiving and processing infringement notices. For example: standardized templates for copyright infringement notices; methods for verifying the “validity” of notices (regarding the legal status of the rightsholder, the URL of the infringing content, etc.); procedures for receiving counter-notices from users; and mechanisms for resolving conflicting notices (one requesting removal, the other objecting). The circular should also clarify what constitutes “knowledge or reason to know” of infringing content, requiring OSPs to act proactively (e.g., if state authorities publish lists of films or music being pirated, OSPs that fail to act would lose safe harbor protection). Detailed guidance will ensure consistency and reduce confusion during the early stages of implementation.

Secondly, strengthening sanctions and shortening procedures for handling online copyright infringements. Current administrative fines are insufficient as a deterrent compared to the enormous profits from online piracy. The legislature should consider amending Decree No. 131/2013 to increase maximum fines for large-scale or organized digital infringements (e.g., raising the cap to VND 1–2 billion for repeat organizational violations). At the same time, procedures should be streamlined: currently, sanctioning an infringing website requires lengthy inspections and administrative steps. A “remove first, investigate later” approach could be adopted in cases of obvious infringement (similar to interim emergency measures), with subsequent investigations leading to fines or prosecution. This reflects international practices where infringing websites are shut down promptly to prevent ongoing damage.

Thirdly, enhancing the role of criminal sanctions and judicial mechanisms. Following the precedent of the *Phimmoi.net* prosecution, judicial authorities should make greater use of criminal law against severe online piracy cases (large-scale or repeat offenders). A few high-profile criminal judgments would create a strong deterrent effect. At the same time, Vietnam could consider establishing a specialized intellectual property court or tribunal (similar to the U.S. Copyright Claims Board) to resolve small- and medium-value digital copyright disputes more efficiently. Currently, civil litigation is often too time-consuming; a specialized forum or streamlined procedures (such as online hearings for clear-cut online infringements) would enable rightsholders to safeguard their interests in a timely manner.

Fourthly, raising awareness and responsibility among online service providers. Many domestic OSPs are not yet accustomed to their new role as “copyright gatekeepers.” State authorities should therefore organize workshops and training programs for internet companies and digital content platforms on the new regulations, legal responsibilities, and the benefits of compliance. Additionally, large enterprises should be encouraged to adopt content recognition technologies (such as Content ID or fingerprinting) to proactively prevent infringing uploads. Although not yet mandatory under law, the global trend (particularly in the EU) is moving toward requiring platforms to implement technical measures against repeat infringements. Demonstrating higher corporate social responsibility will not only enhance the reputation of Vietnamese enterprises but also help them avoid stricter sanctions in the future.

Fifthly, developing legal rules for AI-generated content. This has emerged as a global issue in 2023 - 2024. Vietnamese law has yet to clearly define whether works created entirely by AI (e.g., an artwork generated by Midjourney) are eligible for copyright protection, and if so, who the rightsholder would be. International practice (e.g., in the U.S. and the U.K.) increasingly holds that only human-authored elements are protected, while purely AI-generated outputs lack the “human creativity” required for copyright. Vietnam should consider amending the Intellectual Property Law or issuing guidance to clarify that “only works created directly through human creative effort are protected by copyright,” thereby excluding purely AI-generated works. At the same time, guidance should be developed for the use of copyrighted data in AI training (data mining), balancing copyright with the promotion of technological development. These measures will help build a solid legal foundation to address the inevitable disputes over AI and copyright in the near future.

4. Conclusion

Copyright protection in the digital environment is a global challenge, requiring laws that are both stringent and flexible in response to technological change. The United States has established a comprehensive framework through the DMCA and strong enforcement mechanisms, while Vietnam, in the 2023–2025 period, has incorporated international standards, adopted a notice-and-takedown system, and addressed several high-profile infringement cases, laying an important foundation for enhancing copyright protection. Nevertheless, Vietnam continues to face challenges ranging from limited public awareness and increasingly sophisticated online piracy to emerging issues such as artificial intelligence and copyright. Therefore, further legal reforms, a careful balance between protection and creative freedom, stronger enforcement, and intensified international cooperation are essential to build a healthy Internet environment, safeguard authors’ rights, foster the creative industries, and affirm Vietnam’s position in the digital era.

5. References

1. Amin K. Digital rights, digital wrongs: The DMCA lives on. McDermott Will & Schulte; 2024.
2. Toft L. Copyright Office seeks changes to law to help copyright owners. Fox Rothschild; 2020.
3. VietNam Copyright Development. A comparative study of the copyright strike and counter-notice procedures in cyberspace: Vietnam and the United States. [Internet]. [cited 2025 Oct 21]. Available from: <https://>
4. MacDonald T. Vimeo’s fleeting interaction with videos doesn’t negate safe harbor protections. McDermott Will & Schulte; 2025.
5. Lippert N, Nollet E. What happened at the U.S. Copyright Office in 2023. IPWatchdog; 2023.
6. Socialist Republic of Vietnam. Article 198b of the Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property, Law No. 07/2022/QH15. Hanoi: National Assembly of Vietnam; 2022.
7. Ly M. Prosecution of Phimmoi.net: A critical milestone in addressing film copyright infringement. Tuoi Tre Online; 2021.