

## **SUBJECT MATTERS DEALING WITH COPYRIGHT INFRINGEMENT IN MYANMAR**

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### **Abstract**

Recently, Myanmar passed a new Copyright Law on 24 May, 2019 with updated rules. It will be enforced after publishing with notification by the President of Republic of the Union of Myanmar. The implementation of new rules is an important part for achieving the objectives of the new law. The comprehensive interpretation is also a particular way to reach effective decision when copyright owners claim the authorship for their works at the court. In the field of copyright, especially in literary, disputes many arise among the authors dealing with a perception on using prominent phrases or words in their works whether the authorship of copyright or not in Myanmar. If prominent phrases or words used by someone, it may or may not lead to copyright infringement account of reasonable. This paper will find out relevant results by taking into may or may not too in your more language findings.

**Keywords:** Copyright, Copyright Owners, Works, Authorship, Copyright Infringement

### **Introduction**

Copyright grants an exclusive right to the copyright owner or holder to create jobs employment opportunities. The owner has the right to do particular acts with regard to that work as well as the right to prevent others from doing those acts. The law provides the copyright owner to enjoy two types of right; they are economic rights and moral rights. Whereas someone violates the owner's exclusive right, it will constitute an infringement because it is an unauthorized act in which someone used the copyrighted work without the consent of original owners or right holders under the limitation of copyright. It is noted that the infringement includes copy, reproduce, adapt, perform, broadcast, distribute or communicate to the public from original works belonging too the copy right holders. In Myanmar, like other countries, copyright infringements are found by the act of making copies without permission from the real owner. However, some matters constitute as copyright infringement because the situations might not have clear evidence to give infringement regarding economic right or moral right. Thus, in order to overcome ambiguous matters, the implementation of rules and comprehensible interpretation are vital in achieving in enforcing the copyright law in a country.

### **Objectives of the Study**

- To be a genuine deterrent for copyright infringements and repeated offenses
- To find out the effective rules for deterrence on copyright infringement
- To examine infringement matters in order to prove offensive facts
- To ensure that legitimate owners are in a position to enjoy the benefits of exclusive rights

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## Materials and Methods

In this research paper, relevant data were collected by conducting surveys with some personnel's concerned with copyright. Materials from relevant documents, facts, **inclining** primary and secondary sources from libraries were by utilized.

### Copyright Infringement in Myanmar

At present, the scope of legal protection is still needed to control copyright infringements and to prevent third parties from committing illegitimate activities. In these situations, the legitimate copyright owners have faced many problems of copyright infringements problems regarding to their rights been enacted in the country because the new copyright law has not yet been enacted by President of Republic of the Union of Myanmar. In Myanmar, there are many reasons for copyright infringements: Higher technology, development of the media environment, economic gap between Myanmar and advanced countries, and the dissimilar cultural policy, etc.<sup>1</sup>

### Infringement of Economic Right

Two types of rights are provided under the copyright Law<sup>2</sup>: the first type is economic rights which are given to the authors or creators who have the right to reproduce, translate, adapt, exhibit or perform in public, distribute, broadcast or communicate to the public.<sup>3</sup> If someone accessed the work or substantial part of it which belongs to the right holder, the right holder would have to prove that the infringer did the act without his/her permission to do the act and show that his/her exclusive rights are infringed.<sup>4</sup> In Myanmar, Section 18 of the new Copyright Law, 2019 provides the rule of economic right and most of the infringement problems of economic rights can be found in the fields of publishing journals books or novels, music, motion picture and online piracy, etc.

### Field of Literary

In the field of book or novel, copyright infringements include, without the consent of the author, the use of novel to produce as a video/movie or plagiarize or the scripts that is copied from the plots of original novel essence or the infringer who pretends as a new creator by changing the story frame but most are very similar to the plots of original novel.<sup>5</sup>

Most of the disputes found that, without the consent of original writer, unauthorized using a novel to perform a film/video was found or sometime legally permission of a novel which was agreed from writer to make a video, but the writer did not know concerning with further making a DVD Film of such novel. Moreover, the user knowingly used the copyrighted novel for production a film/video by changing the title only or by the act of plagiarizing the whole novel and etc. For example, in the changed title, a director used a novel without the consent of writer, Tat KaThoKhinMaung Aye who wrote "Kant Kaw Taw Zat Lann 8". The director changed

<sup>1</sup> Masaki Tosa, Public Significance of Cultural Piracy in the Global Flow of Popular Culture, [http://www.a-jrc.jp/pdf/ajj/039\\_046\\_tosa.pdf](http://www.a-jrc.jp/pdf/ajj/039_046_tosa.pdf)

<sup>2</sup> Article 6<sup>bis</sup> of the Provisions of the Bern Convention for the Protection of Literary and Artistic Works (1886)

<sup>3</sup> Learn from the Past, Create the Future: The Arts and Copyright, WIPO Publication No. 935, 2007, p.25-27.

<sup>4</sup> David Vaver, Principles of Copyright: Cases and Materials, (WIPO) Geneva, 2002, p.128.

<sup>5</sup> By Interview Survey, 15-16 Dec 2016

novel's title but all the plots of a film were wholly same as novel. Finally, he admitted his infringement and the case was amicably succeeded between them.<sup>1</sup>

Moreover, some cases might claim to have fantastic creative title which has an impressive word, prominent and distinctive character created by an original writer or a creator. For example, a novel's title named "Yay PwatPa Mar" and "Pann Myaing Lai Mha Oo Yin Mhuu", all of which were used by directors to make films without legally claiming from writers. After submitting the cases for settlement of a dispute, the writers gave permission for shooting films and they won their rights to ownership.

Another settlement case was found for copying and producing a video first without the consent of the author and director. In fact, a novel was sold by the author to a director who claimed to have rights and got legal permission for producing a video. In a case, firstly, the infringer disputed that the story was created by himself i.e. his own idea. However, most of the plots of film were wholly similar with the author's novel. Lastly, an infringer did not deny the facts of his infringement and the case was decided by giving compensation to the author and by making apology to the director in the newspaper for wrong doing.<sup>2</sup> Most of the cases are settled amicably, and all those involved are satisfied without recourse to the court system.<sup>3</sup>

In literary, some argument is peculiarly initiated that whether using same description of phrases would be an ownership of copyright or not. An example is concerned with using the title which was published as a novel in 2012 and posted online date on 10 April 2013. The name of author is "Thu Way" who wrote a novel, the title is "Thu Mae Ne Tè Thit Pin" (The Tree That He Forgot).<sup>4</sup> A few years later, another person, the composer, used similar phrases as a title of a song which was named "Thu Mae Ne Tè Thit Pin" in one album. He argued that his title came from his poem which he wrote with his own idea.<sup>5</sup> In here, according to the copyright concept concerning with "originality", "first", it must be "independently created". A work can be original even if it is strikingly similar or identical to that of another. For example, if two authors independently write novels that are strikingly similar, each will have copyright protection, it assumes that there is no copying.<sup>6</sup>

However, according to the above case, the authors' concept or the literary group thinks that the phrase "Thu Mae Ne Tè Thit Pin" is a spark of creative co indene and no one can be similar in it.<sup>7</sup> Now, the case was solved by the settlement of Myanmar Music Association amicably.<sup>8</sup> Nevertheless, the general principle is that the copyright does not extend to headings, names, titles and lists of ingredients.<sup>9</sup>

<sup>1</sup> By Interview Survey with author Lal Twin Thar Saw Chit, 16 Dec 2016

<sup>2</sup> "Lawn Zay Ti Nae San Yay Kyi" case, by Interview Survey with author Lal Twin Thar Saw Chit, 16 Dec 2016

<sup>3</sup> By Interview Survey with author Lal Twin Thar Saw Chit, 16 Dec 2016

<sup>4</sup> Myanmar Book Download-->Authors-->Thu Way, [www.freelibraryonline.com](http://www.freelibraryonline.com)

<sup>5</sup> Problem Source, 10 Nov 2016, <https://web.facebook.com/photo.php?fbid=1547895781903792&set=pb.100000501558971.-2207520000.1481367081.&type=3&theater>

<sup>6</sup> Deborah E. Bouchoux, *Intellectual Property: The Law of Trademarks, Copyrights, Patents and Trade Secrets*, 4<sup>th</sup> Edition, 2013, p.193

<sup>7</sup> Problem Source, 11 Nov 2016, <https://web.facebook.com/photo.php?fbid=1548458605180843&set=pb.100000501558971.-2207520000.1481367081.&type=3&theater>

<sup>8</sup> By Interview Survey with the staff of Myanmar Music Association, 14 Dec 2016

<sup>9</sup> Deborah E. Bouchoux, *Intellectual Property: The Law of Trademarks, Copyrights, Patents and Trade Secrets*, 4<sup>th</sup> Edition, 2013, p. 193

But, some authors<sup>1</sup> in Myanmar agree with the concept that their fantastic creative title would have copyright protection while the other is using same title or same phrases. This concept is their literary ethic which they accept each other and it has not been included in the legal rules yet.<sup>2</sup> In the concept of literary group, they agree if the title includes creative combination phrase with impressive words, the author can claim his/her works of copyright because it does not use common words, it has distinctive character, and then, the appearance title with the soul of author covers the whole novel essence in which no one can have same expression due to the artistic creation.<sup>3</sup> For example, the novel “Pan Myaing Lèi Mha U Yin Mhu”(The Gardener among the Flowers) by author “Led win thar Saw Chit”, a retired chairman of Myanmar Writers Association (2010-2016), who said either “Pann Myaing Lè” phrase or “U Yin Mhu” phrase could not be owned by author, because all are known that each word is in common use. But, in this novel, the author combined each word which represented that “Pann Myaing Lè” stands for “Children” and “U Yin Mhu” stands for “Teacher”. After the combination of such words as a phrase “Pan Myaing Lè Mha U Yin Mhu” this becomes impressive words like a new phrase and covers the whole essence of novel. Thus, no one can deny that it has a peculiar creation. Another example is “Yae Kyaung Laung Thaw Mi” novel, in which the story started “tease affectionately with love”, it stands for “Yae”, by a King, Na Ra Thiha Pa Tae Min, in Bagan dynasty. But the story ended with anger and greed, it stands for “Mi”. So, the author named such title to give a message, which is sometime ‘love’ turn to ‘fire’. Thus, each word has its own idea and peculiar creativity with fantastic expressions. Besides, the meaning of title covers the whole of the novel essence splendor, then, becomes as a “new” and it derives from critical creation with artistic. That’s why it becomes intellectual property and thus it has copyright.<sup>4</sup>

At this juncture, most Copyright Laws of some ASEAN countries, the law does not interpret the meaning of “literary” in detail. Also, the Copyright Laws from other developed countries indicate a very low threshold. Essence of the whole novel of originality is in order to extend the umbrella of copy right protection to works of extensive creativity. But, one country states that the title of a work will be protected in a similar manner to the work itself if the title is ‘original in character’. Besides, a protected title cannot be used to distinguish a work of the same kind, even if the entitled work is no longer protected, while such use is liable to create confusion.<sup>5</sup> In this regard, to be measured upon the level of creativity, the sufficient requirement is that the work must contain at least certain minimum amount of original expression.<sup>6</sup> Moreover, if the owner had copyright registration of his/her distinct phrase, the owner could claim authorship against illegal use.<sup>7</sup>

## Field of Music

In the field music, the main problem is a lack of a copyright system for albums and videos under the Copyright Act, 1914 because it did not have updated procedures. Because of the law

<sup>1</sup> Authors: Ledwinthar Saw Chit and Way Khaun.

<sup>2</sup> Problem Source, 11 Nov 2016, <https://web.facebook.com/photo.php?fbid=1548458605180843&set=pb.100000501558971.-2207520000.1481367081.&type=3&theater>

<sup>3</sup> By Interview Survey with authors, 15-16 Dec 2016

<sup>4</sup> By Interview Survey with author Ledwinthar Saw Chit, 16 Dec 2016

<sup>5</sup> Graham Dutfield and Uma Suthersanen, *Global Intellectual Property Law*, 2008, pp.80-81

<sup>6</sup> Deborah E. Bouchoux, *Intellectual Property: The Law of Trademarks, Copyrights, Patents and Trade Secrets*, 4<sup>th</sup> Edition, 2013, p.193

<sup>7</sup> Anna Assad, *How to Find Copyrighted or Trademark Phrases*, <https://bizfluent.com/12717085/how-to-find-copyrighted-or-trademark-phrases>

economic, remuneration benefits, people cannot afford to buy original albums as much as they wish. At the same time, some television channels and radio stations launch broadcast the music videos without transmit broadcast paying fees or royalties to the artist, even though the Music Association has adopted measures concerning with fees or royalties to musicians artists.<sup>1</sup>

Due to royalty problem, there is no security for copyright owners against street vendors or infringers who keep copying music videos without permission. Many pirated CDs and DVDs can be seen everywhere on the streets of many cities in the country. Equally, there are also copies of international songs dub changing them into Myanmar lyrics. This is also a problem for foreign copyright owners whose works are infringed even if authentic proofs of new versions or new lyrics or else new creations from creators in Myanmar.<sup>2</sup>

Producers are unwilling to make albums and music videos for distribution because they not make enough money. Vocalists could not produce their own albums due to as well as launching new albums through media is also expensive. It takes so hard to increase market share for music around the country. Besides, some companies use music/song for events or marketing to promote their products without the consent of the artists/musicians; it is in face one of the infringement problems.<sup>3</sup>

Music albums were the most commonly pirated. One of the singers said that pirated copies were the cause for the damage to the musicians' survival. A lot of pirated copies are available it is difficult to purchase genuine albums are very rare. It has adversely affected that tax revenue, and at the same time it tends to increase the survival Purchas low-priced copies of music albums. It means that the illegal products of gradually be substituted by high quality genuine albums. As a result, musicians cannot survive in their world their career. In the innovative industries, many talented individuals would have to face with menace of privacy.<sup>4</sup>

Some problems are found in the music area such as using ringtone and song without the consent of original owner or music composer and broadcasting music without the consent of original singer.<sup>5</sup>

## Fields of Films and Movies

Recently, in Myanmar, it is found that some people involved in protests are engaged in trading unauthorized copies of foreign movies, films, VCDs and DVDs. Their complaints, claimed to amend and change strict rules into soft rules in the Myanmar Television and Video Law, 1996; to enjoy foreign copyright products cheaply for users; to provide punishment with regard to commercial trading in local pirated products or local movies, films, VCDs/DVDs merely and to give permission with sympathy for their commercial trading in unauthorized copies of foreign movies, films, VCDs and DVDs.<sup>6</sup>

<sup>1</sup> ZinnZinn, Lack of Copyright Plagues Myanmar Musicians, 02 June 2016, <http://www.mmtimes.com/index.php/lifestyle/20630-lack-of-copyright-plagues-myanmar-musicians.html>

<sup>2</sup> Ibid

<sup>3</sup> ZinnZinn, Lack of Copyright Plagues Myanmar Musicians, 02 June 2016, <http://www.mmtimes.com/index.php/lifestyle/20630-lack-of-copyright-plagues-myanmar-musicians.html>

<sup>4</sup> Aung Si Hein, Tackling Film and Music Piracy, 11 Feb 2013, <http://www.mmtimes.com/index.php/special-features/159-digital-communications/4099-tackling-film-and-music-piracy.html>

<sup>5</sup> By Interview Survey with the staff of Myanmar Music Association, 14 Dec 2016

<sup>6</sup> Problem Source, Yangon, 16 Oct 2016, <https://web.facebook.com/popularnewsjournal/posts/1495826610433129?pnref=story>.

In this situation, protesters, street vendors, believe that earnings from pirated copies do not hurt anyone if they are merely trading in unauthorized copies of foreign copyrighted works. In fact, such trading is a way of theft which is reaching into someone's pocket and taking his or her money. Although creators are from foreign countries, they have invested line and money for their copyright materials. Thus, they deserve to receive any relief or compensation for their efforts.<sup>1</sup> In truth, such unauthorized copies including foreign pirated products appear from the small groups who initiated unauthorized products and distributed them to street vendors so that they could rights make profits by obtaining money through illegal activities, i.e. stolen intellectual property. These groups were though small as can be defined "organized crime" that involves enduring networks of actors engaged in ongoing and continuous money-raising activities as well as their goal is driven by financial motives.<sup>2</sup>

### **Field of Online Piracy**

Concerning with online piracy, the problem arises when films or movies are streaming on the cinemas or channel; the features were stolen from the screen and then distributed over the Internet or online. Besides, most of the music owners are being exploited by unauthorized by users over the internet via online infringement. Again, at the Television Channel, although the agreement for music entertainment is to launch through these the music channel for only a day, however it was stolen by technology means and got transited online immediately.<sup>3</sup>

### **Ambiguous Concept relating to Infringement of Moral Right**

The second type is moral right which provides the right to claim authorship and the right to object the modification as well as it is an offensive action of the author's work.<sup>4</sup> The Moral rights include (a) the author has the right of patentee in which author can decide to sign their names or to remain anonymous, or to sign a pseudonym on their works and (b) the author has the right of integrity due to author's honor or reputation can be damaged by modifying to the work from others.<sup>5</sup> In Myanmar, although it can be said that many infringements are concerned with economic rights, some arguments exist whether moral right is infringed or not under Section 20 of the new Copyright Law, 2019 for the Law has not been enforced yet with president's notification.

### **Too Poh Case**

One of the cases can be found the use of 'Too Poh' phrase in the branding material for Tuborg beer from Carlsberg Co. Ltd, Jan 2016. The 'Too Poh' phrase was composed by well-known Myanmar composer Myo Ma Nyein that represents Myanmar's traditional Thingyan Festival. In this issue, in fact, the family of composer refused to allow the use of 'Too Poh' phrase when making four-time negotiations between both sides. However, the company distributed the product to the market. So, the composer's grandson U Myo Zaw Oo made a press conference in Mandalay city for the announcement that he will sue the Carlsberg Group to settle

<sup>1</sup> Deborah E. Bouchoux, *Intellectual Property: The Law of Trademarks, Copyrights, Patents and Trade Secrets*, 4<sup>th</sup> Edition, 2013, p.186

<sup>2</sup> Gregory F. Treverton, Carl Matthies, Karla J. Cunningham, Jeremiah Goulka, Greg Ridgeway and Anny Wong, *Film Piracy, Organized Crime, and Terrorism*, 2009, pp.12-13 and 15

<sup>3</sup> Linn Aetkaya, Speech by Myint Moe Aung, 18 Nov 2016, <http://www.popularmyanmar.com/archives/1185>

<sup>4</sup> David I. Bainbridge, *Intellectual Property*, 8<sup>th</sup> Edition, 2010, p.120

<sup>5</sup> *Learn from the Past, Create the Future: The Arts and Copyright*, WIPO Publication No. 935, 2007, p.25-27.

the issue in the court for using the Myanmar phrase.<sup>1</sup> From the Carlsberg Group side, the reason for using ‘Too Poh’ is that “fun and music is part of Tuborg’s DNA. Tuborg has been brewed since 1875, and Carlsberg’s creative aspiration was to create a tagline that conveys the spirit of fun and music which is what the Tuborg brand communicates globally”. Finally, the Carlsberg Group announced that they will put an end to the use of ‘Too Poh’ words as a brand material for Tuborg beer. And then, “they are taking immediate steps to implement the necessary modifications and will endeavor to have this completed before Thingyan” in its statement which was released on 19 January, 2016.<sup>2</sup>

### Thu Tae Wa Da Case

Another issue for moral right happened recently. The problem is concerning with the “Thu Tae Wa Da” song in the music album of “Yaw Tha Ma Tat Mhwe” which was performed by a singer, TharSoe. After releasing such album, 10 days later, the objection for using the song “Thu Tae Wa Da” was pronounced by the family of Nan taw shae Saya Tin who wrote the song. The problem was negotiated, between singer Thar Soe and Daw Nan Khin Aye, granddaughter of Nan taw shae Saya Tin, by the settlement of Myanmar Music Association (Central) on 29 March, 2017. So, singer Thar Soe apologized his apology on the national newspaper in which when he offered the permission, there were defects that he played different version and he did not get the permission for not using all lyrics that made disgraceful to the moral right of Nan taw shae Saya Tin and his family. Besides, he made his official apology to the family of Nan taw shae Saya Tin at the hall of Myanmar Music Association (Central) on 4<sup>th</sup> April 2017.<sup>3</sup>

### Bo Aung Din Case

Recently, the song writer Tha Ha Aung apologized to the family of Shwe Don Bi Aung who was a director of “Bo Aung Din” film since 1939 and it is nearly 97 years old (now, it is 100 years already). The problem concerns with the using of “Bo Aung Din” words as a title of a song, “Bo Aung Din Lo Lu Kyan”, in “Chan Myaè Pa Sae” Ablum. The family of Shwe Don Bi Aung sent a letter to Myanmar Music Association (MMA) to solve the problem and claim the copyright. The case was amicably settled by the MMA and the song writer made an apology announcement on the national newspaper.<sup>4</sup> In fact, “Bo Aung Din” words are a kind of name and it is common words as well as it is difficult to say that Director Shwe Don Bi Aung created the words with impressive and inventive artistic creation. As a result, it is difficult to give copyrighted work upon the words “Bo Aung Din” that created by the Director Shwe Don Bi Aung. It is because name of a novel, title of a film, name of a song or phrases of an advertisement are not as a kind of original innovative and creative work. Although name of a business or name of a brand will be protected under the right of trademark, according to the 1914 Copyright Law or new Copyright Law, and the duration of copyright of original work is the life

<sup>1</sup> Kay Khaing, No ‘too poh’ for you, New Light of Myanmar, 21 Jan 2016

<sup>2</sup> Coconuts, Only One Tu Po: Carlsberg to Scrap Myanmar Spelling of Tuborg after Copyright Dispute, 20 Jan 2016. <https://coconuts.co/yangon/news/tu-po-wins-carlsberg-scrap-myanmar-spelling-tuborg-after-copyright-dispute/>

<sup>3</sup> Zwe Nyan, Apologizing by Singer TharSoe to the Family of NantawshaeSaya Tin, 4 April 2017, <http://www.7daydaily.com/story/93399> (ဇွဲညာဏ်-နန်းတော်ရှေ့ ဆရာတင်၏ မိသားစုဝင်များကိုနိုင်ငံပိုင်သ တင်းစာက နှုတ်တောင်းပန်တဲ့ သားစိုး)

<sup>4</sup> EiThandar Moe, Apology upon Using “Bo Aung Din” Words by Tha Ha Aung, The Standard Time Daily Journal, April 25, 2017. (အိသန္တာရမိုး - ပိုလ်အောင်ဒင်စကားလုံးသုံးစွဲမှု အပေါ် သဟာအောင်တောင်းပန်)

of author plus 50 years after the death of author. If the duration time did not expire, the owner would have the copyright. Thus, there is a question to consider whether the Director Shwe Don Bi Aung has the copyright upon the character of “Bo Aung Din”. Some countries provide the copyright upon the ‘character’ of a film though, some countries do not provide it. Accordingly, 1914 Copyright Law or new Copyright Law in Myanmar did not definitely provide for the protection of copyright in the ‘character’. It is provided that the original owner has the right to claim for copyright if he/she proved the evidence of his/her original work, but the dispute of “Bo Aung Din Lo Lu Kyan” song was not copied of the melody and lyrics from the original work. Therefore, it is difficult to decide that the work of Director Shwe Don Bi Aung was infringed in this case.<sup>1</sup>

### Findings

Concerning with the above problems, it is considered that the reasonable evidence for short phrases or words will be copyright materials when short phrases or words are created with fantastic expressions. In order to prove copyright, the copyright holders should make the registration upon such short phrases or words if they think it has distinct or impressive or inventive phrase or peculiar creativity with fantastic expressions and if they think it is not common use or it is not similar to the other’s work (this suggested rule did not include in the new Copyright Law yet). Again, the person who claims the old incomparable words or short phrases for copyright, but those are under the public domain because they beyond the duration time according to the new Copyright Law, 2019, should give the evidence that such words or short phrases are famous or well-known words (this suggested rule did not also provide in the new Copyright Law yet) as well as if someone uses the words, it will have the damage of author’s honor and reputation under Section 20 and Section 86 of the new Copyright Law, 2019. It means that the copyright holder should prove that using those famous or well-known words will be disgraceful of moral right. If not, it is difficult to say that the family members of the deceased author can claim the old words as the copyrighted words. On the other hand, it is needed to recognize the rule of ‘public domain’ under Section 86 of the Copyright Law and the rule of copyright terms under Section 17 (a) (1) which provides that the author can only enjoy the economic rights of the work within a duration time that extends to 50 years after the author’s death.

### Conclusion

Therefore, according to the above facts, there are several things to be considered to explore the situations. Firstly, relating to street vendors or sellers and infringers, it is needed to control the unauthorized selling by giving the copyright awareness and education to those who will be brought by civil and criminal proceedings. Besides, it is suggested that the policy relating to the power of police should be provided in the rule in order to seize, detain and, if any, to destroy the unauthorized copyright works when such works found in everywhere without the complaint of original owner although the new Copyright Law, 2019 provides that the criminal offenses shall be deemed to be cognizable offenses under Section 94.

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<sup>1</sup> Lawyer Mg Kan, Copyright Problem of Bo Aung Din, The Standard Time Daily Journal, June 6, 2017. (ရှေ့နေမောင်ကံ - ဗိုလ်အောင်ဒင်မူပိုင်ခွင့်ပြဿနာ)



Secondly, concerning with copying of international songs, foreign copyright owners will have the protection of their works under Section 8 (e) of the new Copyright Law, 2019. So, under the provision, the person who want to change new version or new lyric or some else would need to notice the foreign copyright before composing and to obey the rules of foreign copyright, in Myanmar. The suggestion is that the new Law should be included the detail rules for foreign copyright infringement both in civil and criminal.

Third, it is related to people who are struggling for earnings by trading in pirated copies. Actually, their jobs can earn little income and they cannot become rich because they are only buyers and sellers and they do not produce such pirated products. Selling pirated products is the only way to earn money easily for survival because of rare job opportunity for them. In this point, the situation is widely connected with the country's Government and it is necessary to consider how Government can maintain their public policy legalize. It means this situation is one of the important matters for Government to find the reasonable ways to control the making profits from illegal products and to deter the illegal productions from organized crime. The reasonable means should be included that Government needs to consider the ways for creating job opportunities to those low income people as well as the ways for deterrence to stop the illegal productions of registered goods with brand names.

This is also one of the problems for the country because the claim for giving permission on unauthorized copies of foreign movies is not possible in the legal perspective and it makes the country's image to reach inferior level at international position. Thus, to reveal the correct way concerning with illegal claiming in above mentioned facts, the awareness is an important matter for copyright protection and it is necessary to educate to the people who need to figure out what is copyright infringement and why such making money by pirated products is illegal. Also, it is needed to investigate the sources of violation of "organized crime" for commercially profits and to explore the measurement for legal penalties upon such crimes.

The last point is concerned with the production and distribution sources of illegal products. It is necessary to think that who produces the illegal products and where the source comes from. Big financial distributions of copyrighted products by illegal are criminal because it is theft. It is critical affairs for the country and no matter how it takes; it cannot deny that the Government and legislators have to try to impose the rules for copyright protection which provide effective procedures for copyright infringement both civil and criminal. According to the provision of new Copyright Law, Section 74 (a) (1) provides that the court can make an order for border measurement to prevent infringing copies which imports by trading from other countries to Myanmar country. But, the above facts, it should be included a relevant detailed rule like as "the court seeks the order to give injunction as well as the order to search, detain and seize the infringing copies by importing from the country's boundaries under the provision of border measurement".

However, concerning with the moral right infringement, in the civil proceeding, it did not afford to consider for the remedies of moral right infringement although the new Copyright Law, 2019 described the provisions of moral right and its benefit. Thus, new Copyright Law, 2019 should be added the civil remedies for the infringement of moral right which described under Section 20 (a) (b) and (c) of the new Law.

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### Interview Survey

Copyrights and Registration Division, Information and Public Relations Department, Ministry of Information Myanmar Music Association.

Author Lal Twin Thar Saw Chit.

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