



Vietnamese law on handling copyright infringement for online news works

Dr. Vo Trung Hau

Associate Professor, Faculty of Law, Binh Duong University, Vietnam

Abstract

This article analyzes the current state of Vietnamese law on the handling of copyright infringement of online journalistic works, focusing on civil, administrative, and criminal mechanisms under the current Intellectual Property Law. Based on an examination of Article 28 on infringing acts, Article 199 on the principle of multi-tiered handling, Article 202 on civil remedies, and Articles 203–205 on evidence and compensation for damages, the article points out that the current law relatively well covers direct forms of infringement and strengthens administrative penalties through a new system of decrees. However, the legal framework still has many gaps regarding the specific and evolving infringements of online journalism, such as content plagiarism, AI-generated copying, or data scraping; it also lacks methods for quantifying digital damages, guidance on collecting and evaluating electronic evidence, and risks the dispersion of administrative jurisdiction among various legal fields. Based on a comparison of WIPO's experience regarding the value of exploiting digital content and the US model of conditional liability exemption under DMCA Section 512, this article proposes directions for improving legislation, particularly by clearly defining the time limit for processing infringement notices, counter-notification mechanisms, and the responsibilities of digital platforms to more effectively protect the copyright of online newspapers in the digital environment.

Keywords: Copyright, electronic journalistic works, infringement handling, digital evidence, intermediary liability compensation for damages

Introduction

Addressing copyright infringement is the stage at which the law intervenes when copyright has been infringed or is at risk of infringement. A unique characteristic of online journalism is that infringement can occur very quickly, across multiple platforms, and in various forms, such as full-text copying, image/video manipulation, author attribution removal, title alteration, content plagiarism, AI-powered article rewriting, or data scraping for commercial exploitation. Therefore, the effectiveness of handling such infringements depends not only on the level of penalties but also on the ability to identify the infringement, gather digital evidence, and quantify the damages.

Article 28 of the 2020 Intellectual Property Law stipulates that acts of copyright infringement include infringement of moral rights, infringement of property rights, failure to perform or incomplete performance of obligations in exceptional and limited cases, intentional destruction or ineffectiveness of effective technological measures, intentional deletion or alteration of rights management information, distribution or communication of copies of works knowing that rights management information has been deleted or altered, and failure to fully comply with regulations to be exempted from legal liability of intermediary service providers (National Assembly, 2025)^[1]. Compared to previous regulations, a notable improvement is that current legislation not only identifies unauthorized copying or use but also addresses infringements associated with the digital environment, such as the ineffectiveness of technological measures, the deletion of rights management information, and violations of the obligations of intermediary entities. Structurally, this regulation is broad in scope, providing sufficient grounds to address many common infringements on online journalistic works.

The current state of Vietnamese law regarding the handling of copyright infringement in online journalistic works

For online newspapers, common infringements can be attributed to various rights groups. Copying the entire text of an article, image, video, or infographic can infringe copyright. Republishing a work on a website, social media, or application without permission can infringe the right to communicate to the public. Converting an article into a video, creating an alternative summary, or producing a new product based on the creative expression of the original work may involve derivative works. Removing author names, changing logos, deleting watermarks, or altering metadata can infringe personal rights, rights management information, or technological protection measures. Thus, current legislation is well-covered for direct forms of infringement.

However, a limitation is that Article 28 remains general and does not clearly describe the specific acts of plagiarism and alteration of online news. In practice, many entities do not copy verbatim but change the title, rearrange the paragraph structure, replace certain words, combine multiple articles into a new product, use AI to rewrite content, or exploit data already processed by journalists. These acts are difficult to address based solely on a sentence-by-sentence comparison of the text. Criteria are needed to assess the degree of similarity in structure, data selection, arrangement, approach, images, graphics, processed data, and overall presentation. Vietnamese law currently lacks specific guidelines on the criteria for identifying plagiarism in online news works. Hence, handling such acts of alteration depends heavily on the assessment of each case.

Regarding the principle of enforcement, Article 199 of the Intellectual Property Law stipulates that organizations and individuals who infringe intellectual property rights may be

subject to civil, administrative, or criminal penalties, depending on the nature and extent of the infringement (National Assembly, 2025) ^[1]. This is a multi-tiered handling model, suitable for the specifics of copyright. For electronic news works, not all unauthorized use is equally dangerous. A case of quoting beyond reasonable limits may be handled by requesting removal or an apology. At the same time, a website system that automatically copies numerous articles for advertising revenue may require administrative or criminal penalties if the elements of the offence are present. The multi-tiered mechanism creates flexibility, but also requires clear delineation of the conditions for applying each measure.

Regarding civil remedies, Article 202 of the Intellectual Property Law stipulates that the Court may apply measures such as compelling the cessation of infringing acts, compelling apologies, public corrections, compelling the fulfillment of civil obligations, compelling compensation for damages, compelling the destruction or non-commercial distribution of goods, raw materials, materials, and means primarily used to produce and trade goods infringing intellectual property rights under legally prescribed conditions (National Assembly, 2025) ^[1]. For online newspapers, the measures of compelling the cessation of infringing acts and the removal of infringing copies are particularly significant because infringing content can continue to spread and cause damage over time. The measure of apologizing and making public corrections is appropriate when the work is modified, edited, distorted, or the author's name is removed, causing harm to the author's honour and reputation.

Regarding evidence and compensation for damages, Article 203 of the Intellectual Property Law stipulates that the plaintiff must prove actual damages incurred and state the basis for determining the amount of compensation. Article 204 defines damages as including material and moral damages, with material damages including loss of property, reduction in income and profits, loss of business opportunities, and reasonable costs of preventing and remedying the damage (National Assembly, 2025) ^[1]. Article 205 stipulates the basis for determining the amount of compensation, including actual damages, the amount of profit obtained by the defendant, or the assumed price of the transfer of the right to use; if material damages cannot be determined based on these grounds, the Court shall decide on the amount of compensation as prescribed by law (National Assembly, 2025) ^[1]. This is an important basis for protecting the economic value of electronic journalistic works.

However, compensation for damages is the most difficult aspect when dealing with copyright infringement in online journalism. Damages to news organizations are not limited to royalties or production costs. However, they can also include lost website traffic, reduced advertising revenue, lower search rankings, lost opportunities for exclusive exploitation, decreased user data, and damage to brand reputation. These damages are real economically but difficult to prove using traditional models. The WIPO has repeatedly emphasized that in the digital environment, copying and transmitting works can shift the value of exploitation from the copyright holder to an intermediary or an unauthorized exploiter (WIPO, 2020). In Vietnam, while the law recognizes the principle of compensation, there is

still no specific method for quantifying digital damages in online journalism.

Regarding administrative measures, Decree No. 341/2025/ND-CP stipulates administrative penalties for violations of copyright and related rights, including acts infringing on moral rights, the right to publish, the right to create derivative works, the right to perform, the right to copy, the right to distribute, the right to broadcast, and communication to the public, as well as acts related to technological measures and information management of rights. Compared to Decree No. 131/2013/ND-CP and previous penalty regulations, the new sanctions system more clearly demonstrates the need to address copyright infringement in the digital environment, particularly acts involving the online dissemination of works, the removal of rights management information, and the ineffectiveness of technological measures. The administrative mechanism offers faster intervention than civil litigation and is well-suited to clear cases of infringement in the online environment. Remedial measures such as requiring the removal or destruction of infringing copies, requiring the return of illegal profits, or requiring an apology or correction may have practical value for online newspapers.

In addition, Decree No. 174/2026/ND-CP stipulates administrative penalties for violations in postal services, telecommunications, information technology, radio frequencies, electronic transactions, and the information technology industry. This document serves as a supplement when copyright infringement of online newspapers occurs on network infrastructure, websites, applications, storage services, or transmission platforms. At the same time, Decree No. 119/2020/ND-CP on administrative penalties for violations in journalistic and publishing activities remains a valuable reference for violations related to the publication and dissemination of information in the press, corrections, apologies, archiving, or journalistic activities. For audiovisual products within the scope of broadcasting and television services, Decree No. 242/2026/ND-CP can be considered a supplementary document for managing transmission activities, service provision, and the lawful use of content. However, it does not replace the direct grounds of intellectual property law for handling copyright infringement. The existence of multiple penalty mechanisms shows that the law can intervene from many angles, but it also raises the risk of fragmented authority.

The limitations of the administrative mechanism are that many violations in online journalism occur on websites with unclear ownership, on anonymous social media accounts, on cross-border platforms, or through automated content aggregation systems. In these cases, identifying the infringing entity, gathering evidence, proving illegal gains, and enforcing penalties are not straightforward. Furthermore, the overlap between copyright enforcement, electronic information enforcement, and journalistic enforcement requires a clear coordination mechanism between copyright management agencies, press management agencies, electronic information management agencies, and the police. Without this coordination, the handling process can be slower than the dissemination of infringing content.

Regarding criminal measures, Vietnamese law stipulates criminal prosecution for copyright and related rights infringements when the act constitutes a crime. This mechanism serves as a deterrent against commercial

infringements, large-scale violations, those involving illicit gains, or those causing serious damage. For online newspapers, criminal prosecution may be applied to networks or websites that mass-copy journalistic works, exploit advertising, or charge fees for unauthorized content. However, because criminal prosecution is the most severe measure, its application requires thorough proof of fault, conduct, damage, commercial scale, or illicit gains. In the digital environment, these gains may not be directly reflected in revenue from the sale of works, but indirectly through advertising, user data, account growth, or traffic; therefore, proving this remains a significant challenge.

Another specific issue is digital evidence. In online news disputes, evidence often includes links, screenshots, cached data, metadata, server data, edit history, domain information, social media account data, or traffic reports. Procedural law and electronic transaction law have recognized the value of electronic data under certain conditions; however, in the field of online news copyright, there is still a lack of specific guidance on how to collect, preserve, verify, and evaluate digital evidence. If evidence is not collected promptly or its integrity is not ensured, the rights holder may face difficulties in claiming processing or compensation. This is a bottleneck not only in practice but also stems from the lack of specificity in specialized regulations.

Regulations concerning the handling of infringements also need to be considered in relation to copyright limitations and the right of access to information. Not every act of reusing a part of an online news work constitutes infringement. If the use falls under the category of reasonable quotation, news reporting, or use under legally defined exceptions, with attribution and without unreasonably affecting the normal exploitation of the work, it is not considered infringement. However, if the "quotation" essentially replaces the need to read the original work, commercially exploits the content of the news agency, or is used excessively, it should be treated as infringement. This is where law enforcement agencies must strike a balance between protecting copyright and ensuring the free flow of information in a democratic society.

Conclusion

Current Vietnamese legal regulations on handling copyright infringement of online news works have made significant progress compared to the past. (i) Firstly, the law has broadly defined copyright infringement acts, including acts related to technological measures, information management, and the responsibility of intermediaries. (ii) Secondly, the multi-tiered civil, administrative, and criminal handling mechanism provides flexibility depending on the nature and extent of the violation. (iii) Thirdly, civil measures such as forcing the cessation of the act, apologies, corrections, compensation for damages, and removal of infringing copies have direct implications for online newspapers. (iv) Fourthly, the new system of administrative penalty decrees has strengthened the legal basis for handling infringements in the digital environment. (v) Fifthly, the law has begun to recognize the responsibility of intermediaries and digital platforms, in line with the trend of digital content governance.

However, limitations remain evident. (i) Firstly, the law lacks specific criteria for handling infringing acts such as

"reworking," rewriting using AI, scraping data, or exploiting the creative structure of online journalistic works. (ii) Secondly, the compensation mechanism lacks a specialized method for quantifying digital damages such as lost website traffic, reduced advertising revenue, lost search rankings, or data degradation. (iii) Thirdly, regulations on digital evidence in online journalistic copyright disputes lack specific guidance. (iv) Fourthly, administrative jurisdiction risks being fragmented across multiple legal fields, slowing down response speed. (v) Fifthly, the responsibility of digital platforms in supporting the handling of violations has been acknowledged, but further clarification is needed regarding deadlines, procedures, information provision, prevention of recidivism, and coordination with state agencies.

Therefore, Vietnamese law needs to specify further the responsibilities of intermediary service providers and digital platform owners. It needs to define what constitutes a valid notification of copyright infringement clearly; the time limit for processing after receiving a notification; the obligation to temporarily remove or restrict access; the mechanism for counter-notification by the uploader; the obligation to retain evidence; the responsibility for handling repeat offender accounts; and the platform's responsibility if it fails to act appropriately when it knows or should have known about the infringement.

One can refer to the conditional exemption model in the US DMCA Section 512 (United States Congress, 1998) ^[5]. According to this approach, the platform is not considered absolutely responsible for all user-uploaded content. However, it is exempt only if it fulfills its legal obligations, particularly by promptly processing violation notices and having policies for repeat offenders. Vietnam could adopt this balanced approach: the platform is not inherently responsible for all content, but cannot remain uninvolved when a valid notification is received or when the infringement is systematic, clear, and commercially motivated.

For online journalistic works, the notification processing time should be shorter than for other types of works because the value of the article depends heavily on the time of publication. Consideration could be given to regulations allowing temporary removal or access disabling within 24 to 48 hours in cases with clear evidence, such as full-text copying, use of proprietary images or videos, logo cropping, reposting paid content, or re-exploiting proprietary investigative content. The counter-notification mechanism should still be maintained to prevent abuse of rights, but it should not unduly delay the protection of rights in the initial stages.

Furthermore, regulations regarding infringement in the digital environment need improvement. Article 28 of the Intellectual Property Law lists acts of copyright infringement, such as copying, distributing, communicating works to the public, creating derivative works, or using works without permission. However, for online newspapers, clearer guidance is needed on content modification. The assessment of infringement should not be based solely on the percentage of word overlap. However, it should consider significant similarities in structure, data selection, presentation order, data processing, visual elements, graphics, videos, titles, creative messaging, and the marketability of the original work.

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