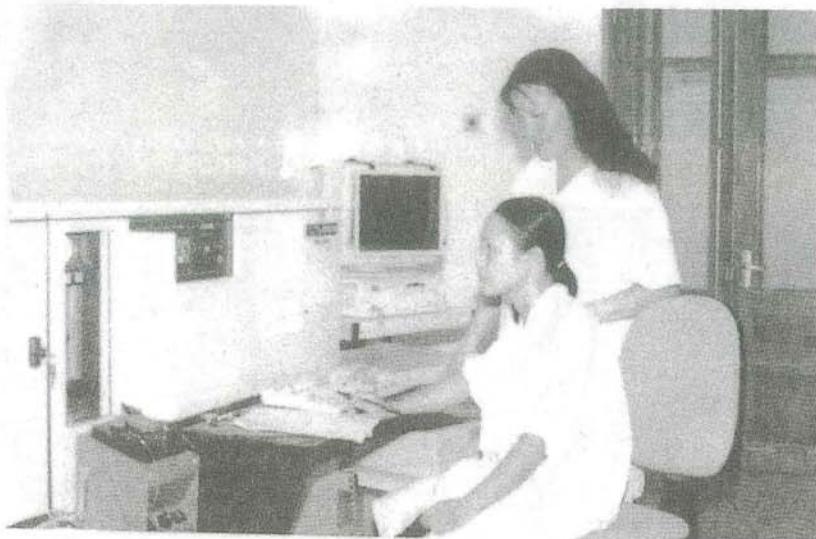


ON INTELLECTUAL PROPERTY IN VIETNAM

by Dr. LÊ KHOA



In the national economy, the intellect and scientists manufacture new intellectual products such as software, books, scripts and films, and new technologies for new commodities with cheaper prices meeting the market demand. The Vietnamese law recognizes their copyrights and enterprises wishing to use these products have to make contracts with the owners: either buy or lease in a particular period. The buyers either have exclusive rights to exploit or use them only in their enterprises while the authors still sell rights of use to others.

I. CHARACTERISTICS OF THE INTELLECTUAL PROPERTY:

The intellectual property has following characteristics:

1. The product must be a new technique or new work not duplicated from former authors. The novelty is a feature of intellectual products forcing producers to rack their brains with a view to making products be-

ore others because people in different areas may discover new similar techniques. For example, there are two groups of scientists in the U.S. and France find the same way to detect HIV viruses. If one group has prior findings and claim to the property, that implies invalidation of others' claims. It is sometimes difficult to determine this right. In this case, after many years of disputes, the copyright is eventually agreed to be equally shared to these American and French scientists. As a result, to secure the priority right, the producers should register their invention at the Copyright Department to be granted copyright certificates. In HCMC, there are two branches of the Department are responsible for this task, one for technical copyrights and another for artistic and software ones. The registration fee is VND100,000 for literary and artistic copyrights and VND400,000 for software. When registering, the author must submit two original documents indicating newly invented contents

and clarifying whether the research expenses come from his/her own budget or an organization's fund. In the latter case, the copyright is owned by the organization. These HCMC-based branches will consider and propose the Department to issue copyright certificates. When acquiring their certificates, the authors can exploit their innovations on their own, or transfer the copyrights to others, and sue those who pirate, use or sell their intellectual products on the market. The Vietnamese law basically has no wide gap in intellectual property regulations as compared with developed countries in the world.

2. The intellectual products, besides artistic or literary works, have time-based values because the science and technology changes very fast. Such software as Word Perfect or Fox Pro was widely used by computer users previously, now they have to give way to better Microsoft Word and Microsoft Excel. Therefore, these software producers and sellers face a tough time. In contrast, Bill Gate, director of the Microsoft Company, becomes one of the richest on the world. To maintain its dominance in the market, Microsoft always create new products with higher quality and more utilities than former ones, for example, Windows 97, 98 and 2000.

3. New intellectual products, if higher quality and more utilities than former ones, will contribute to rapid economic growth. In the computer industry, the continuous appearance of new software and computers with stronger and more useful processors, as well as Internet utilities has helped the U.S. economy with great successes in the competition with Japan. Because Vietnam cannot manufacture computer accessories, so it has to spend large funds of foreign currency on importing foreign computers and their components. Moreover, their values go down very fast, by 20-30% annually due to the emergence of new counterparts.

Textbooks are also rewritten every two or three years because some of their contents become outdated before new inventions and findings.

4. To attain the feature of newness and superiority, the authors spend far more time and efforts to find new quality and update their products. However, the paradox is that their income from selling products remains modest and unsuitable to their efforts.

Given the market economy, the Government implements some measures to protect the authors' earnings from their intellectual property, but the problem still encounters a lot of obstacles.

II. THE OBSTACLES TO PRIVATE AUTHORS WHEN USING INTELLECTUAL PROPERTY IN VIETNAM

After making new inventions, private authors encounter many difficulties in exploiting their copyrights.

- If private companies buy these rights, they pay first attention to the commercialization and profitability of new intellectual products. However, the high quality products are not always dominant in the market because they face harsh competition with pirated goods. As a result, the scientists find hard to sell their products or must sell them for low prices that are incompatible with their efforts.

- In Vietnam, the costs of publishing license, printing, and commission for distributors (25-30% of the selling price) also damp the authors in commercializing their intellectual property.

III. THE GOVERNMENT'S MANAGEMENT

Due to important effects of intellectual products on the national economic development, the Government has soon taken necessary measures to support the scientists as follows:

1. The scientific research institutes have been established. Scientists may work here as employees or contributors in order to manufacture their intellectual products. Then the institutes consider and evaluate their work and pay them. However, the practice remains some defects. These offices may bureaucratize scientists and give them fewer incentives for innovation. Some of scientific officers have no valuable work during many years. Regarding outside contributors, although they receive their royalty, their regular income is still low.

Another shortcomings of these institutes include their inventions lagging far behind from production and economic life. They lack essential information to focus their studies on boosting production and business. At present, Government's research agencies are allocated large budgets and have a large staff. The restructuring of these organizations is a must to attract talent scientists. This is also a feasible plan to develop Vietnamese intellectual products. The most effective solution is to re-



place their staff with guest contributors and to raise their royalty.

Some agencies organize bids for research projects instead of hiring the employees. The bidders must be influential scientists. They are required to submit their plan and estimate outcomes as well as costs. The office will establish a commission including famous scientists to select the best solution. This practice mobilizes a lot of local scientists and proves more effective than hiring employees to do research.

2. The contests should be organized to motivate inventors. In Vietnam, there are annual prizes for the best articles on newspapers, the nic-

est architecture as well as best solutions for certain problems given by occupational associations and governmental agencies.

3. In addition, the Government should accelerate the process of equitizing state companies producing intellectual products. When becoming stockholders, scientists and authors may find motives to make new inventions and create works which are of high quality and acceptable on the market. At the same time, the authorities should give necessary assistance and incentives such as land lease, tax...to private organizations in doing their research and producing intellectual goods. ■