

## From China to Vietnam: Are Individual Voices Protected by Intellectual Property?

Voices play a multifaceted role in human society, serving as tools for communication, identity verification, and even artistic expression. Individual voices represent a unique and valuable intangible asset, holding significance both personally and commercially. However, the rapid advancement of AI technology has raised novel questions regarding the intellectual property (IP) protection of individual voices regarding the IP protection of individual voices. Can voices be considered a form of non-traditional IP and be protected under the law? Is new legislation necessary to shield individual voices from AI encroachment? How can we distinguish between legitimate and infringing voice usage?

KENFOX IP & Law Office is dedicated to providing insights and perspectives on the evolving legal landscape surrounding individual voices in the context of the AI boom. Our aim is to equip stakeholders with the knowledge necessary to identify the risks, challenges, and opportunities associated with this critical issue.

### 1. AI and Individual Voice Rights: A lawsuit in China

The lawsuit between voice actress Yin and Beijing Intelligent Technology Company (“BCT”) is a prime example of the challenges surrounding personal voice and AI. In this case, Yin sued BCT for using her voice in [AI products](#) without her permission.

Yin discovered that her voice was being used illegally in several popular applications, generated using AI text-to-speech (TTS) technology. Yin's voice was sourced from previous recordings made by Beijing Cultural Media Company (Defendant 2), which were then licensed to a software company (Defendant 3) for AI processing and TTS product development.

According to Yin's lawsuit, while BCT may own the copyright to the original recordings, using her voice for AI products required additional permission. BCT's actions [infringed](#) on her IP rights and right of publicity.

In a landmark ruling, the Beijing People's Court ruled in favor of voice actress Yin, ordering (i) BCT and the defendants to immediately cease using Yin's voice in TTS products. (ii) BCT must compensate Yin RMB 250,000 (approximately USD 34,500) for economic and reputational damages, and (iii) BCT must publicly apologize to Yin for using her voice illegally.

While the Court considered IP law related to the use of an individual's voice and image in commercial products, there appears to be no clear explanation of whether or not voice and image are considered subjects of IP protection. However, from an IP perspective, it can be seen that:

*[i] Right to voice:* Yin owns the rights to her voice, considered a form of intangible property, and has the right to control its use. Using someone's voice without their consent may infringe on this right. In this case, Yin alleges that BCT used her voice without her permission, violating her IP rights.

*[ii] Right of publicity:* The right of publicity allows individuals to control the use of their image, voice, and other identifying characteristics for commercial purposes. Yin recorded her voice for Beijing Cultural Media Company (Defendant 2). Defendant 2 holds the copyright to the recording, but this right does not include the right to use Yin's voice for other purposes, such as in TTS products. BCT's use of Yin's voice from the recording without her consent may infringe on her right of publicity in the recording.

Yin's lawsuit is a prime example of the new challenges in protecting IPR in the digital age. The use of AI can create near-perfect replicas of voices and images, leading to a higher risk of IPR infringement, requiring laws and legal practices to adapt to protect individuals' rights.

### 2. Individual Voice and Protection Mechanisms in Vietnam

#### 2.1. How Can Individual Voices Be Legally Protected in Vietnam?

In fact, each individual possesses unique biological characteristics that may include facial features, retinal scans, voice, fingerprints, and more. In Vietnam, an individual's voice is categorized as "sensitive

personal data" according to Article 2.4(d) of Decree No. 13/2023/NĐ-CP on personal data protection. Personal data is defined as information in the form of symbols, letters, numbers, images, sounds, or similar forms on the electronic environment associated with a specific person or that helps identify a specific person.

Personal data, including voice, is protected by law against violations. Depending on the severity of the violation, it can be addressed through administrative, civil, or criminal measures.

In Vietnam, an individual's voice is categorized as one of the biological characteristics associated with that individual and is protected under the provisions of personal data protection laws.

## 2.2. Can Individual Voices Be Protected Under IP Rights in Vietnam?

By the time of the third amendment to Vietnam's IP Law in 2022, "sound marks expressed in graphic form" (or sound marks) were officially protected. In general, a sound mark can be a sound clip, a combination of different types of sounds such as musical instruments, singing, animal sounds, sounds emitted from other objects, etc., which are sufficient for an average consumer to remember and distinguish. The question arises as to whether an individual's voice is protected under Vietnam's IP Law.

Individual voices are not listed as objects of exclusive protection such as patents, industrial designs, trademarks, or [copyrights](#) under Article 3 of Vietnam's IP Law for the purpose of exclusive protection. Vietnam has also not established mechanisms for registering the protection of individual voices. Therefore, it can be understood that individual voices are not protected under Vietnamese law as IP rights.

However, current practices show that individual voices can be used as a means or tool for the purpose of selling tangible goods or promoting the use of a company's services. Today, with the rapid development of technology, voices are widely used in many fields, from commerce and advertising to entertainment. Voices can be used as a means or element to attract attention, convey messages, and build a business's identity, reputation, and brand. In this way, voices are tools for promoting commerce, influencing consumer purchasing decisions, increasing sales, creating a competitive advantage in commercial activities, and building effective brands. To a certain extent, although this issue is still new and unfamiliar, voices can also perform the function of distinguishing goods and services of the same type from different businesses, similar to other [non-traditional trademarks](#).

Therefore, with the development of non-traditional trademarks, the protection of individual voices as a type of IP right is not without basis.

## 2.3. Protecting Individual Voices as IP: What Are the Challenges?

However, protecting individual voices as a subject of IP rights poses several challenges. Similar to non-traditional trademarks, a series of questions need to be satisfactorily addressed to ensure a balance between the rights of voice holders and the common interests of the community (noting that protection does not restrict freedom of speech or hinder artistic creation).

- *Criteria for assessing uniqueness:* Which voices are considered unique and eligible for protection? What level of distinction from ordinary voices is required for protection? What factors affect the uniqueness of a voice (intonation, pronunciation, etc.)? These are issues that need to be considered on a scientific basis.
- *Scope of protection:* Should the entire voice be protected or only specific elements (pronunciation, intonation, etc.)? What is the level of protection for different parts of the voice? How can legitimate use of the voice be distinguished from infringement? These are the questions that need to be clarified regarding the scope of protection when an individual voice is suspected of infringement. Otherwise, the establishment of a mechanism for protecting individual voices as a subject of IPR will be only on paper and have no practical value.
- *Rights of the owner:* What rights does the voice owner have (use, transfer, allow use, etc.)? How can the rights of the voice owner be ensured? What is the dispute resolution mechanism in case of infringement of voice ownership rights?

- *Impact on industries:* How will the protection of individual voices affect professions that use voices (voice actors, singers, etc.)? How can a balance be struck between the rights of voice owners and the common good of the community, given that there may be people with similar voices? How will the law address this issue?
- *The role of technology:* What role can AI technology play in the protection and management of voice ownership rights? How can AI technology be applied effectively and responsibly in this field?

#### 2.4. Individual voices: How to protect under IPR?

While individual voices are not yet independently protected as IP subject matters, they can be protected under IP law in certain circumstances. However, the scope and type of protection may vary depending on the laws of each country and the specific context. Individual voices can be legally protected in respect of:

- *Copyright:* Individual voices can be protected under copyright law when they are recorded as part of a performance. This means that unauthorized use of the recorded voice may constitute copyright infringement and could lead to legal consequences.
- *Trademark:* In certain instances, unique voices can be registered as trademarks under the category of "sound marks." This protection typically applies to voices that are particularly distinctive, highly recognizable, and closely associated with a specific brand or character.
- *Countering AI-Powered Fraud:* In response to technological advancements, some countries, like the United States, are drafting legislation to address the emerging issues surrounding IPR for individual voices and images. The proposed "No AI FRAUD Act" aims to establish specific IP rights for these personal assets, particularly in the context of AI-generated replicas.

#### Final thoughts

The protection of individual voices under personal data protection laws in Vietnam marks a significant step forward. However, to ensure comprehensive protection and provide greater benefits for individuals, incorporating voice protection as an IP right is essential. Several countries worldwide have already recognized individual voices as a form of IP. Aligning with this trend would help Vietnam ensure consistency with international law and facilitate international cooperation, particularly in the face of the booming AI technology landscape.

Protecting individual voices under IP rights can serve as a catalyst for creativity and innovative uses of voices. When voices are recognized as IP assets, individuals are empowered to experiment and utilize their voices in unique ways, leading to a surge in creative expression. This, in turn, can drive the growth of voice-based creative industries, such as voice recognition technology, virtual assistant applications, and audio production.

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