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LEGAL ALERT

CPTPP: Copyright and Related Rights

Chapter 18 of the CPTPP devotes an entire section to copyright and related rights. In this regard, the Treaty regulates the following matters:

- **Recognition of rights** of reproduction, communication to the public, distribution and related rights.
- **Limitations and exceptions to exclusive rights:** The Treaty recognizes the power of parties to establish limitations or exceptions to exclusive rights provided that they do not conflict with normal exploitation and do not unreasonably prejudice the legitimate interests of the holder. In addition, parties should seek to strike a balance in their intellectual property legal systems so that they are considered for legitimate purposes such as news coverage, teaching, research, facilitating access to people with disabilities, among others.
- **Contractual transfers:** The right of persons who acquire or hold economic rights to freely transfer their rights, as well as to enjoy the benefits derived from rights acquired by creation contracts, is recognized.
- **Collective management entities:** Its special importance is recognized, and it is established that the collection and distribution of royalties is based on fair, efficient, transparent, and accountable practices.
- **Trade Secrets:** Each party must ensure legal means to prevent trade secrets from being disclosed, acquired, or used by third parties without their consent in a manner contrary to honest commercial practices. It provides for the adoption of criminal procedures and sanctions for unauthorized access, misappropriation, and fraudulent disclosure.
- **Government use of software:** The parties undertake to adopt measures or regulations, so agencies only use non-infringing software protected by copyright, and if applicable, use such software only in a manner authorized by the corresponding licenses.

With regards to Copyright and Related Rights, the parties agreed to suspend several articles of the original TPP. These are: term of protection for copyright and related rights; technological protection measures; rights management information systems; protection of encrypted program-carrying

satellite and cable signals; and "notice & take down" procedure of Internet service providers. These suspended provisions are not part of the Treaty and the agreement of all CPTPP members would be required for these provisions to apply in the future.

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