



INSIGHTS TO IPR LANDSCAPE OF VIETNAM

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Intellectual Property

The Term Intellectual Property

- Covers a wide number of rights
- Is not very precise
 - “**property**” means that IP grants real property protection
 - “**intellectual**” fits well only copyright, it is not accurate for the other fields

Origins and historical background

- Protecting intellectual property is a rather new idea
- Physical/tangible property: property was the right to dispose of movable and immovable goods
- Some early signs of protection for “immaterial goods” (Venetian Patent act 1474)
- IP protection gained shape during the 18th Century (1709 Statute of Queen Anne in the UK)

What kind of IPR can be protected in Vietnam?



COPYRIGHTS

Literary artistic and scientific works. Performances, phonograms, video recordings broadcasts
Software and data collections



PATENTS

Invention (novel - inventive step- industrial application)
Utility solution (novel – industrial application)



INDUSTRIAL DESIGNS

Appearance of a product: individual, perceivable aesthetical content, pattern or color.
(new – creative – industrial application)



TRADE MARKS

Distinctive sign
That allows consumers to distinguish good of service



GI

Geographical indications: a name or a sign that connect to a specific place and therefore to qualities reputation or characteristics



TRADE SECRETS

Information obtained from financial or intellectual investment activities which has not been disclosed and is applicable in business

Why your Business Plan shall include an IP Strategy?

Is there a problem...?

- IP is borne national: - granted by national law - applies within national borders - to the national companies
- Trade goes international: - worldwide marketing - transfer of technology - worldwide risks

Why is IP important to businesses?

- IPR as intangible assets are a key factor in the competitiveness of businesses in the global economy
- IP is a primary method for securing a return on investment in innovation

Strategies

Identify your IP assets to protect

Prioritize protection needs

Assess vulnerability of your business asset according to specific countries of interest

Collect information on local IP protection and practice and adapt to them

Register your core IP as soon as possible

Think about online protection (if relevant for your products)

Set aside a reasonable budget to be prepared to enforce your rights if needed

IPR protection in Vietnam

WTO
(1995)

The Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPs"):

minimum standards of protection for IPR
procedures members should provide for the enforcement

Paris
Convention
(1883)

National treatment (same protection to nationals of other Contracting States)

Right of priority the applications filed within a certain period of time will be regarded as if they had been filed on the same day as the first application.

Berne
Convention
(1886)

National treatment

Automatic protection no formality

Independence of protection independent of the existence of protection in the country of origin of the work

Madrid
Agreement
(1891)

System to protect a **mark** in a large number of countries by obtaining an international registration that has effect in each of the designated Contracting Parties

IPR protection in Vietnam

Copyright

- Moral rights last indefinitely – Economic rights 50 y. after the death of the Author
- Registration took 15 days

Invention Patent

- Right last 20 y. from the filing date
- Registration took 20 m.

Utility Solution Patent

- Right last 10 y. from the filing date
- Registration took 18 m.

Industrial design

- Right last 5 y. (plus max. 10 y. extension)
- Registration took 15 m.

Trade marks

- Right last 10 y. renewable
- Registration took 12-15 m.

How much does it cost to file an application?

Copyrights

• 100.000 VND (4 €) to 400.000 VND (15 €)

Invention Patent

• 2.730.000 VND (102 €)

Utility Solution Patent

• 2.730.000 VND (102 €)

Industrial design

• 3.010.000 VND (113 €)

Trademarks

• 1.000.000 VND (35 €)

Common Infringements in Vietnam

- Backdoor sales
- Infringement by third party manufacturing
- Infringement by potential partners
- Import and sales counterfeits
 - Online infringements
 - Bad-faith registrations

Safeguards and Strategies

- NDA
- Confidentiality clauses

- Time is key

AGREEMENTS

**SUPERVISING
MARKETS**



- Registration
- 1 year validity + 1 year renewal

**BORDER
MEASURES**

**CEASE &
DESIST
LETTERS**

- May work in case of small infringers, scaring them off

Final Tips and Watch out

Register before entering the market to minimize the risk

The legal framework in Vietnam is relatively sound, but the enforcement of these laws is an issue

Piracy and counterfeiting are wide spread

The different kind IPR enjoy different types of protection

The success of an administrative action greatly depends on the choice of enforcement authority

Criminal action can be taken against copyright infringement and trade mark counterfeiting only

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