

VIETNAM - PATENT DEVELOPMENTS IN 2002

New Regulations and Practices

Time Limit for Entry into the Vietnam-National Phase under PCT Chapter I

On 13 March 2002, the NOIP issued a Notice stating that the time limit of 31 months will apply, as from 1 April 2002, to international applications in respect of which the period of 21 months from the priority date expires on or after 1 April 2002.

US-Vietnam Bilateral Trade Agreement

Bilateral Trade Agreement (BTA) was signed between the United States and Vietnam and took effect on 10 December 2001. Chapter II of the Agreement is modeled after the TRIPS Agreement and contains minimum standards for the protection and enforcement of intellectual property rights. Under Article 18 of the BTA, Vietnam agrees to fully implement the intellectual property obligations outlined in the BTA within specific time periods counted from December 10, 2001. The deadline for the patent obligations was December 10, 2002. Generally, provisions relating to patents in the Vietnam laws and regulations are in conformity with those provided for in Article 7 of the BTA.

Patent Claims

Composition-of-matter claims, process claims, method claims, or product-by-process claims have been recently permissible under the practice of the National Office of Industrial Property (NOIP).

Patents for Industrial Designs

In the past, many industrial designs were patented which did not fully meet the protection requirements, especially the requirement of non-obviousness. Last year, the NOIP's examiners have paid more attention to this requirement and refused a lot. Further, some objects, like 2-dimensional prints or pictures applied to products, have been excluded from the design protection in several cases without legitimate reasons. The NOIP has not yet issued guidelines for this practice.

News

Regulations under Draft

- Circular for implementing the Decree 63/CP on detailed provisions of industrial property has been completed by the NOIP and sent to various competent authorities and some qualified IP agents for comments.
- Circular on enforcement of IPR has been being drafted by the NOIP, the Supreme People 's Court.

Cooperative activities between the NOIP and other foreign patent offices and others

- **STAR-Vietnam** (a USAID-funded project to assist the Government of Vietnam implement the BTA and to support Vietnam's accession into the WTO): (i) STAR helped the NOIP identify, among others, the provisions relating to patent that are not in conformity with the BTA and correct them; (ii) STAR incorporated with the NOIP, USPTO, CAFC, IPI in organizing seminars on "Intellectual Property and the BTA" in Hanoi and Ho Chi Minh City. Mr. Le Hoai Duong of LE & LE presented a talk as a part of the seminars on "Patent Law and Policy".
- **Intellectual Property Office of Australia:** compiling a pamphlet of IP objects and guidelines on filing applications thereof.
- **European Patent Office:** signing a MOU with EPO for the period 2003-2004 on training the NOIP's examiners, organizing seminars on enforcement of patent rights.
- **Japanese Patent Office:** exchanging results of the examination of industrial designs.
- **Intellectual Property Institute of Switzerland:** organizing seminars on, among others, UPOV Convention.
- **Korean Intellectual Property Office:** signing a MOU to designate KIPO as the International Searching Authority (ISA) and the International Preliminary Examining Authority (IPEA) for the international applications originated from Vietnam.
- **Russian Patent Office:** signing an Agreement on exchange of industrial property information, including patent information.

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