



IMPROVEMENT OF IP LEGISLATION AND SERVICE QUALITY OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM

*INTELLECTUAL PROPERTY OFFICE OF VIET NAM
10/2020*



A. Plan for future amendments to the national IP legal framework

B. Initiatives for enhancing the quality of service of the IP office



A. PLANS FOR FUTURE AMENDMENTS TO THE NATIONAL IP LEGAL FRAMEWORK

IP Law was launched in 2005, revised and supplemented in 2009, and 2019

Role of IP Law

- Create legal corridor for establishment, exploitation and protection of IPRs**
- Create wholesome business environment;**
- Partly encouraging creation, promoting technology transfer and attract foreign investment**
- Foster the national socio-economic development;**
- Levering the IP protection system of Viet Nam to TRIPS's standard**



A. PLANS FOR FUTURE AMENDMENTS TO THE NATIONAL IP LEGAL FRAMEWORK

Shortcomings of IP Law

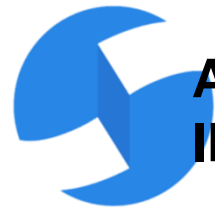
- **Incompatible with new demand of the science and technology development, socio-economic development and development trend of international IP system...;**
- **Unreasonable, infeasible;**
- **Incompatible with new needs of international integration (commitments under FTAs).**



A. PLANS FOR FUTURE AMENDMENTS TO THE NATIONAL IP LEGAL FRAMEWORK

Objectives :

- **Meet the demands after 10 year of implementation, overcome the shortcomings of the current legislation system**
- **Institutionalize, incorporate international commitment, create legal framework for IP activities in Viet Nam**
- **Ensure the stability, unity, complexity, transparency, feasibility, accessibility, effectiveness and efficiency of the IP legislation system, with a view to contributing to the national development.**



A. PLANS FOR FUTURE AMENDMENTS TO THE NATIONAL IP LEGAL FRAMEWORK

LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE IP LAW

I. ROADMAP

II. POLICIES ON INDUSTRIAL PROPERTY AND ENFORCEMENT



ROADMAP

11/2020	4/2021	12/2021	5-6/2022	7/2022	Timeline
Draft is open for comments	Submit the Draft to the Government	Submit the Draft to the National Assembly for considering	Submit the Draft to the National Assembly for approval	The Law comes into effect	



I. POLICIES ON INDUSTRIAL PROPERTY AND ENFORCEMENT

6 groups of policies related to industrial property and enforcement

- 1. Encouraging the creation, exploitation and dissemination of inventions, industrial designs and layout designs arising from State funded researches*
- 2. Facilitating the procedures for establishment of industrial property rights*
- 3. Ensuring a adequate and balanced level of IP protection*
- 4. Improving the effectiveness of IP support activities*
- 5. Improving the efficiency of IPR enforcement activities*
- 6. Ensuring serious implementation of Vietnam's international commitments on IP protection*



**GROUP 1: ENCOURAGING THE CREATION, EXPLOITATION AND DISSEMINATION OF INVENTIONS,
INDUSTRIAL DESIGNS AND LAYOUT DESIGNS ARISING FROM THE STATE FUNDED RESEARCH**

Objective:

Overcome the shortcomings relating the protection and exploitation of IPR to inventions, industrial designs and layout-design arising from the State funded researches.

Content:

Amend the IP law to allow organizations that conduct the State funded researches to acquire ownership of IP rights to inventions, industrial design and layout-design made with State's funding with several conditions, limitations and obligations.



GROUP 2: *FACILITATING THE ESTABLISHMENT PROCEDURES OF INDUSTRIAL PROPERTY RIGHTS*

Objective: Addressing the inadequacies of the current legislation on establishment procedure of Industrial property rights


- (i) Third party opinion**
- (ii) Security control to patent applications**
- (iii) Document in Industrial Design application**
- (iv) Appeal procedure**



GROUP 2: CONT

Content:

- **Third party opinion: Third party opposition and observation, 3-9 months**
- **Documents identifying designs: simplify requirement for the documents (descriptions)**
- **Security control to patent applications: limit the subjects of this procedure.**
- **Appeal procedure: provide for typical elements of industrial property (time limit for appeal settlement; fees for appeal settlement; and authorization to follow the appeal procedure)**



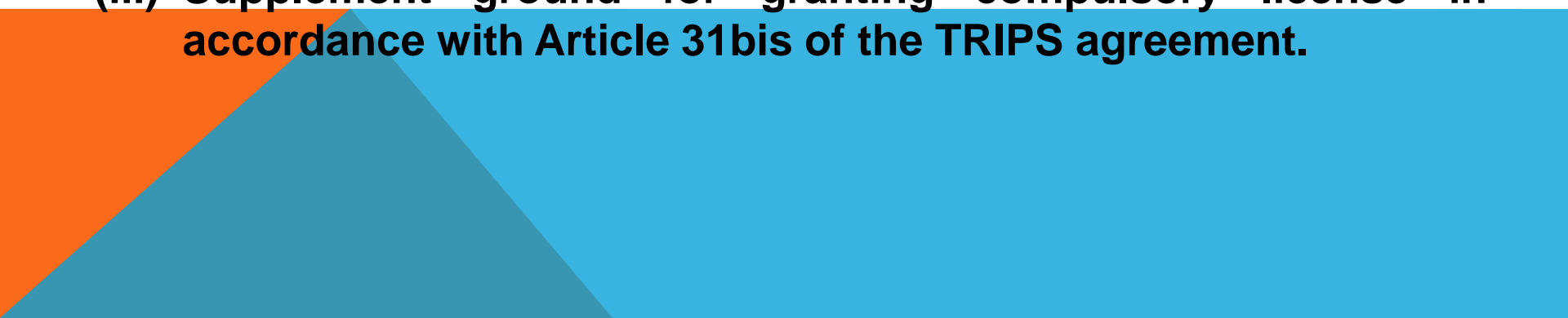
GROUP 3: ENSURING A ADEQUATE AND BALANCED LEVEL OF IP PROTECTION

Objective:

Ensuring the balance, rationality in the provisions on protection of patent, trademark and geographical indication through clarifying or supplementing to the current legislation

Content:

➤ *Patent:*

- (i) broaden the prior art which is used to evaluate the novelty of the invention;**
 - (ii) supplement grounds for cancellation of patents**
 - (iii) Supplement ground for granting compulsory license in accordance with Article 31bis of the TRIPS agreement.**
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GROUP 3: CONT

➤ ***Trademark:***

(i) dealing the conflict between name of plant variety and trademark;

(ii) abolish provision on associated trademark

(iii) Trademarks registered with bad faith

(iv) Other issues coming from the implementation of the IP law

➤ ***Geographical indication:* clarify the ability of protection for homonymous GI**



GROUP 4: IMPROVING THE EFFECTIVENESS OF IP SUPPORT ACTIVITIES

Objective:

Addressing weaknesses of provisions on scope of activities of IP representatives, fields of IP representative; conditions for practicing IP assessment

Content:

- **Divide to two groups: patent representative (patent, design and layout design); and (ii) trademark representative (trademark, geographical indication, trade name and unfair competition).**
- **Conditions for practicing: replace condition “pass the professional exam” with “finish the training course on IP assessment” or other experiences v.v..**




GROUP 5: IMPROVING THE EFFICIENCY OF IPR ENFORCEMENT ACTIVITIES

Objective:

Improve the efficiency of IP rights enforcement through solving a number of shortcomings related to measures to handle infringements of IP rights; border measures.

Content:

- **Administrative enforcement measure: applied for infringing acts relating to counterfeit trademark goods, counterfeit GI goods, and infringing copyrights goods**
 - **Border measures: applied for suspected trademark and GI infringing goods, pirated copyright goods.**
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GROUP 6: IMPLEMENTATION OF VIETNAM'S INTERNATIONAL COMMITMENTS ON IP PROTECTION

Objective:

- **Implement commitments under CPTPP**
- **Implement commitments under EVFTA**

Content:

- **Trademark: allow registration of sound mark; supplement grounds for termination of trademark registration**
- **Industrial design: clarify conditions for protection of a design of a part of a complex product**
- **Border enforcement: allow ex officio action by custom authority to suspected trademark counterfeit goods and pirated copyright goods.**



GROUP 6: CONT

- **Patent: compensation for patent right holders if there is a delay in market approval process;**
- **Undisclosed information:**
 - **test data exclusivity in the field of agro-chemical products within 10 year;**
 - **obligation to publish marketing authorisation applications within a period of 5 months if the applicant rely on a permitted pharmaceutical product in his application so that the patent right holders can have time to seek for enforcement measures;**



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- **B. IMPROVEMENT OF THE QUALITY SERVICE OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM**



B. IMPROVEMENT OF THE QUALITY SERVICE OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM

NATIONAL INTELLECTUAL PROPERTY STRATEGY TO 2030

**SOLUTION “Improve the effectiveness and efficiency of the state
management of intellectual property”**



B. IMPROVEMENT OF THE QUALITY SERVICE OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM

PLAN FOR IMPLEMENTATION OF THE NATIONAL INTELLECTUAL PROPERTY STRATEGY BY MOST

MAIN TASKS

- 1. Promoting the application of information technology on handling administrative procedures, administering and processing the application of industrial property; providing online public services**
- 2. Amending the examination manual for industrial property applications:**
 - Patent, trademark, GI (2021);**
 - Design (2023);**
 - Other related procedures**



B. IMPROVEMENT OF THE QUALITY SERVICE OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM

IMPLEMENTATION PLAN OF THE NATIONAL INTELLECTUAL PROPERTY STRATEGY BY MOST

MAIN TASKS (cont)

- 3. Developing the project of consolidating the organizational structure and operation of the agency in charge of establishment of industrial property rights**
 - Organizational structure,**
 - Resources for operation**
- 4. Upgrading the system of IP database of industrial property, ensuring to serve activities of research and development, establishment, exploitation and protection of IP rights**



B. IMPROVEMENT OF THE QUALITY SERVICE OF THE INTELLECTUAL PROPERTY OFFICE OF VIET NAM

- **ONGOING TASKS**
 - **Providing online public services following the roadmap;**
 - **Developing the project of consolidating the organizational structure and operation of the agency in charge of establishment of industrial property rights**
 - **Establish one door division;**
 - **Supervising the implementation of administrative procedures at the IP Office and reviewing provision on administrative procedure for establishing IP rights**



Thank you for your attention!

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