



MEASURES UNDERTAKEN BY VIETNAM TO ADDRESS COUNTERFEITING AND PIRACY IN ONLINE AND PHYSICAL MARKETPLACES

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CONTENT

- I. IP Vietnam
- II. Viet Nam IP enforcement authorities
- III. Viet Nam IP enforcement measures
- IV. National IP Strategy until 2030
- V. Anti-counterfeiting activities on physical marketplaces
- VI. Legislations on anti-counterfeiting in online marketplaces
- VII. Anti-counterfeiting activities on online marketplaces



I. IP Vietnam

Under the Ministry of Science and Technology, the Office has the main functions and tasks:

- Implementing legal documents, promulgated strategies, master plans, programs, projects concerning IP;
- Coordinating to amend, terminate or cancel of IP regulations; implement activities of IP dissemination and education.
- Coordinating to implement IP international cooperation activities.
- Providing professional opinion for enforcement agencies.

II. Viet Nam IP enforcement authorities

- ▶ Market Surveillance

Conducting market investigation activities to prevent legal violations in commercial activities: smuggling, production of and trade in counterfeit, inferior goods, IPR violations within internal market;

- ▶ Science and Technology Inspectorate

Under Ministry of Science and Technology and Department of Science and Technology at the Provinces, Inspecting and dealing with acts of industrial property right infringement throughout the country;

- ▶ Economic Police

Preventing the financing, production, trafficking, and sales of counterfeit and infringing goods and IPR criminal violations;

- ▶ Customs

Supervision to detect import and export goods containing signs of IPR infringement at the port or border.

III. Viet Nam IP enforcement measures



1. Civil procedure

This measure is provided in the Intellectual Property Law of 2005, amended 2019. As the intellectual property right is a civil right, the owner of intellectual property rights may request competent authorities to compel the infringer, to terminate the infringing act and to pay a compensation for the damages.

2. Criminal procedure

Criminal measures shall be applied in case of dangerous acts, which show signs of constituting an intellectual property crime in accordance with the provisions of the Penal Code.

Article 192-195, Criminal Code 2015, amended and supplemented 2017.

3. Administrative measures

This procedure is against those intellectual property infringements which are not serious enough to be subjects to criminal procedure and the right holder does not wish to take this case in front of the Court to be dealt with Civil Code 2015.

- Article 211-215 of IP Law 2005 on handling of infringement of IP rights with administrative and criminal measures



Border procedure

The Customs is responsible for border control with respect to the infringing goods as counterfeit goods concerning trademarks and geography indication via import activities.

This agency is organized center and local level

IV. National IP Strategy until 2030

On August 22, 2019, the Prime Minister signed Decision No. 1068 / QD-TTg approving the Intellectual Property Strategy until 2030.

The strategy to guide the development of Vietnam's intellectual property system in the coming period follows three major guiding perspectives, which are:

- Develop a synchronous and effective intellectual property system at all stages of creation, establishment, exploitation and **protection of intellectual property rights**, creating an environment that encourages innovation and meets requirements. international integration, making intellectual property an important tool to improve national competitiveness, promote economic, cultural and social development.
- Intellectual property policy is an integral part of the national strategy and policies on socio-cultural and social development and sectors and fields.
- Intellectual property activities have the active participation of all subjects in society, in which research institutes, universities, and creative individuals, especially businesses play a role. leading in the creation and exploitation of intellectual property.

National IP Strategy until 2030

The Strategy sets out 5 target groups to achieve, namely:

- ▶ By 2030, Vietnam belongs to the group of ASEAN leading countries in terms of creativity, protection and exploitation of intellectual property rights.
- ▶ The establishment of industrial property rights and rights to plant varieties ensure fast, transparent, fairness, promptly meeting the requirements of businesses and society.
- ▶ **Effective enforcement of intellectual property laws has been significantly improved, infringement of intellectual property rights has been significantly reduced.**
- ▶ New intellectual assets of Vietnamese individuals and organizations have increased both in quantity and quality, significantly improving Vietnam's intellectual property index in the global innovation index.
- ▶ Improved efficiency in the use of intellectual property rights and a significant increase in the number of products with high intellectual property content.

National IP Strategy until 2030

The strategy sets out nine groups of tasks and solutions to be implemented, including groups of solutions on:

- Completing policies and laws on intellectual property;
- Improve the effectiveness and efficiency of state management on intellectual property;
- **Focus on promoting and improving the efficiency of enforcement of intellectual property rights;**
- Promote activities to create intellectual property;
- Encourage and improve the efficiency of exploitation of intellectual property;
- Development of supporting intellectual property activities;
- Strengthening human resources for intellectual property activities;
- Establish a culture of intellectual property in society;
- Actively, actively cooperate and integrate internationally on intellectual property.



V. Anti-counterfeiting activities on physical marketplaces

- ▶ According to reports from enforcement agencies, in 2020, functional forces throughout the country have made great efforts in implementation industrial property rights in order to repel counterfeit goods, goods infringing industrial property rights.
- ▶ According to reports of functional forces of localities, in total nationwide, there were 2,457 cases of handling infringement of industrial property rights carried out, of which mainly on trademarks with 2,455 cases, the total amount of fines was 21,533. 347,000 VND with more than 200,000,000 products handled. The above data shows that the number of cases of industrial property rights infringement being handled decreased by 25% (in 2019 it was 3,293 cases), a decrease of 19% in the total number of fines (in 2019 it was 26,536,667,000 VND) compared to the previous year. 2019. The handling of IP rights infringement in localities mainly focuses on goods infringing on trademark rights. The main form of sanction applied is warning, fine and confiscation of counterfeit goods on intellectual property.
- ▶ A typical IPR case: in Lao Cai province; The General Department of Customs has directed the Anti-Smuggling and Investigation Department to assume the prime responsibility for, and coordinate with the central and Lao Cai's functional forces in, inspecting and arresting 97 Chinese transport vehicles (equivalent to 200 conts). The value of the shipment is over 130 billion VND.
- ▶ Contribute to the results of the enforcement forces, in 2020, the Intellectual Property Office of Vietnam has provided 184 official documents providing professional opinions, including 04 documents related to inventions, 02 documents related to industrial designs, 178 documents related to trademarks (up 2.7% compared to the previous year).

VI. Legislations on anti-counterfeiting in online marketplaces

1. Legislation of IPR infringement (industrial property) in online market
 - Civil Code 2015;
 - Penal Code 2015;
 - Intellectual Property Law 2005, amended and supplemented in 2019;
 - Decree No. 99/2013 / ND-CP dated August 29, 2013 on sanctioning of administrative violations in the field of industrial property
 - Circular 11/2015 / TT-BKHCN dated June 26, 2015 detailing and guiding the implementation of a number of articles of the Government's Decree No. 99/2013 / ND-CP dated August 29, 2013 to sanction administrative violations in the field of industrial property.

Article 10. Acts of infringement of industrial property rights on the Internet

Acts considered meeting the conditions specified in Clauses 1, 2 and 3, Article 5 of Decree 105/2006 / ND-CP amended and such behavior occurs on the **Internet** but is aimed at consumers, or users who believe in Vietnam are also concluded as an infringement of industrial property rights and be administratively sanctioned under the provisions of Articles 10, 11 and 12 of Decree 99/2013 / ND-CP.

Legislations on anti-counterfeiting in online marketplaces

2. Legislation of **copyright piracy** in online market

- Civil Code 2015;
- Penal Code 2015;
- Intellectual Property Law 2005, amended and supplemented in 2019;
- Decree No. 100/2006 / ND-CP of the Government guiding the Civil Code, the Intellectual Property Law on copyright and related rights;
- Decree No. 105/2006 / ND-CP dated September 22, 2006 detailing and guiding the implementation of a number of articles of the Intellectual Property Law regarding the protection of intellectual property rights and the state management of property, intellectual property;
- Decree No. 21/2015 / ND-CP dated February 14, 2015 providing for royalties and remuneration for cinematographic works, fine arts, photography, theater and other performing arts;
- Decree No. 131/2013 / ND-CP dated October 16, 2013 of the Government stipulating the sanctioning of administrative violations of copyright and related rights;



Legislations on anti-counterfeiting in online marketplaces

3. Upcoming legislation

- ▶ The Ministry of Industry and Trade has submitted to the Government a decree replacing Decree 52/2013/ND-CP dated May 16, 2013 of the Government on e-commerce. The replacement decree will set out new principles of online management. The alternative decree will not differentiate between e-commerce and traditional commerce, but equality between these two economic environments. That is, in the traditional commercial environment, when the goods regulations want to exchange, buy and sell, what factors must be complied with, the regulations on the Internet environment are the same. Previously, the responsibilities of the manager of e-commerce trading floors have not been defined, but mainly around sellers, in this alternative Decree will stipulate the responsibilities of the owner of the e-commerce trading floor.

VII. Anti-counterfeiting activities on online marketplaces

- ▶ On April 18, 2019 in Hanoi, the Department of E-Commerce and Digital Economy in coordination with the Department of Competition and Consumer Protection (Ministry of Industry and Trade) organized a training workshop on Consumer Protection in electricity trade. At this event, the major e-commerce floors of Vietnam including: Adayroi.com, Lazada.vn, Sendo.vn, Shopee.vn, Tiki.vn signed "Say no to counterfeit goods in e-commerce."
- ▶ During the social isolation due to the Covid-19 epidemic in 2020:
 - ▶ On July 7, 2020, the General Department of Market Control coordinated with the Mobile Police Command to inspect the warehouse at 145 Hoang Dieu, Lao Cai city, thereby discovering 160,000 footwear and eyewear products, watches, consumer goods, cosmetics ... illegally imported brands such as LV, Gucci, Chanel, Adidas ... According to the employees' claims, they were hired by the warehouse owner to livestream to sell goods on their accounts. Facebook such as Thao Tran, Shoes with the same price ... each day this group sells over 1,000 orders, monthly retail revenue is more than 10 billion; Bank-based transaction statements show that, in less than 2 years, subjects have sold goods worth more than VND 649 billion



Anti-counterfeiting activities on online marketplaces

- ▶ The Department of Cyber Security and High-Tech Crime Prevention - Ministry of Public Security and Hanoi Market Management Department simultaneously checked 5 sales and warehouse locations of two branded business websites, menshop79.com. and Menshopfashion.com discovered and seized nearly 2,000 counterfeit products of Gucci, Louis Vuitton, Hermes, Versace, Burberry ... brands.
- ▶ The inspection team requested that e-commerce floors such as Sendo.vn, Shopee.vn, Chotot.com, Lazada.vn, Tiki.vn ... handle about 16,200 booths and 32,880 products. business violations on the network environment.

Online IPR infringement case

Early 2021, due to the impact of the Covid-19 epidemic and social distancing, the subjects operate mainly by selling online on the social network facebook and via e-commerce platforms: Lazada, Shopee...

- On January 2021 - Facebook: <https://www.facebook.com/TranDung.Thoi> Trang, address in Phu My, Yen Phong commune (Yen Mo, Ninh Binh). Through inspection, it was discovered that the store was trading 562 Gucci, Zara, and Nike clothing products with signs of counterfeiting of protected trademarks in Vietnam and 1,650 cloth masks with no basis to identify the source. origin of production, origin of goods...

- On March 17, the General Department of Market Surveillance coordinated with Nam Dinh Department of Market Surveillance and PC 03- Nam Dinh Provincial Police to raid the warehouse of counterfeit goods of Hermes, LV, Chanel... at Dai Lai village, Vinh commune. Hao, Vu Ban district, Nam Dinh province. Through inspection, the warehouse of more than 500 m² was stocked with tens of thousands of products, mainly counterfeit bags of the Hermes brand (a luxury fashion house based in Paris, France). When the competent force checked, the representative of the warehouse could not present documents proving the legal origin of the goods. It is estimated that up to 20,000 - 30,000 infringing products are stored here. Mainly handbags with fake brands like Hermes, LV, Chanel. The functional forces had to use up to 10 3.5-ton trucks to move all the infringing goods at this warehouse. The infringing shipment was estimated at about 6 billion VND.



Online IPR infringement case

- On March 25, tens of thousands of fashion products with signs of counterfeiting of famous brands such as: LV, Gucci, Nike ... were stored in a rented three-storey house at address 2, DV04 southwest of Linh Dam (Hoang Mai province, Hanoi city) were suddenly inspected and seized by the Market Surveillance Team No. 15, Hanoi Department of Market Surveillance.
- On March 29, the Market Surveillance Team No. 16, Hanoi Department of Market Surveillance in coordination with the Economic Police Team, rushed to inspect the 100 m² warehouse at Long Bien district, Hanoi City. Here, functional forces seized thousands of fake fashion footwear products of famous brands Dior, Chanel, Gucci, Burberry, Adidas, LV, Zara, Hermes..



Thank
you