

# Problems With Rules on the Intellectual Property in Vietnam

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## 1. Problems with protection of corporate intellectual property in Vietnam

### a. From authorities' side:

- Companies have to spend a long time waiting for licenses or patents to be granted.

- Procedures for checking information in order to estimate ability for registration is time consuming.

- There is no common database about commercial names from all over the country, so provincial services of planning and investment and district economic offices could only check within their district or province before granting licenses. That is why disputes over commercial names and trademarks are widespread.

- It's difficult to have related documents certified because the public notary isn't responsible for this job.

### b. From the side of applicants for registration:

- Applicants are reluctant to have their brand names and trademarks registered because of time-consuming procedures.

- Applicants (except for big companies) rarely carry out inspection in advance and establish the right to their intellectual property before launching their products into the market. They usually do everything in reverse: introducing their products to put out some feelers, and having their products registered when the product is accepted by consumers.

And as a result, they usually meet the following risks:

- + The design couldn't get registered because it has no novelty (the product has been on sale.)

- + The brand name couldn't get registered because somebody else has registered it intentionally or accidentally; or because the brand name contains reserved items.

In certain cases, of course, applicants could take various measures to protect their brand names, such as rebuying the registered ones, cancelling or eliminating the previous registration. In these cases, however, the applicants have to spend a lot of time and money on complaint procedures, which sometimes lead to lawsuits or legal disputes.

## 2. Problems with the protection of Vietnamese intellectual property in foreign countries

Up to now, most Vietnamese companies have only registered for protection for brand names of their products in foreign countries. They usually meet with the following problems:

- Selecting a foreign organization to act in behalf of the Vietnamese company (to have necessary documents translated and certified, etc.)

- Some countries require sworn statements that the Vietnamese laws don't provide for.

- Making copies at the public notary office.

- Difference in Vietnamese and foreign concepts of kinds of compa-

nies: for example, there is no concept of "cơ sở kinh doanh" (concern) in the American laws, and Vietnamese company has to make long explanations.

- Brand names including place names.

- High registration fee.

## 3. Frequently-met disputes

The most common disputes are over violations of trademarks, and of industrial design.

- Disputes about the establishment of property rights.

- The use of signs similar to other trademarks.

- Disputes over industrial designs, which could lead to the need to justify the novelty or eliminate the granted license.

## 4. Advice for companies

- Making researches and registration before launching the product to the market in order to avoid risks.

- Making plan to register future trademarks in order to ensure a firm legal basis for the use.

- Consulting advisory firms about objects to be protected, and having them check information and estimate possibility of register in advance.

- Registering for protection in countries where the products are, or will be, on sale in order to avoid loss of market share, or legal costs when getting back the trademarks that have been registered by other legal entity. ■

