

**GOVERNMENT**

**SOCIALIST REPUBLIC OF VIETNAM**

**DECREE  
ON  
AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLES OF  
DECREE 63-CP OF THE GOVERNMENT DATED 24 OCTOBER 1996  
ON INDUSTRIAL PROPERTY**

**The Government**

*Law on the Organisation of the Government*

*Civil Code  
Civil Code*

*Law on Complaints and Denunciations*

- 8A. *Affiliated trademarks means similar trademarks registered by the same entity for the purpose of using them for products or services which are of the same kind, similar or related; and identical trademarks registered by the same entity for the purpose of using them for similar or related products or services.*
- 8B. *Well-known trademark means a trademark which has been continuously used for prestigious goods whereby such trademark has become widely known*



*the relevant appellation of origin of goods or trademark protected by the State and for determining the scope of protection of such object.*

*The Department of Industrial Property under the Ministry of Science, Technology and Environment shall be the above-mentioned authorised State body.*

*Official  
Gazette of International Trademarks of the World Intellectual*





*Applicants submitting an application for recognition of a well-known trademark shall have the right to lodge complaints with the Director of the Department of Industrial Property in relation to the refusal to recognise the well-known trademark.*

*Any third person who has rights and interests directly relating to the issuance of a certificate of protection, the acceptance to protect an internationally registered trademark under the Madrid Agreement or the recognition of a well-known trademark shall have the right to lodge a complaint with the Director of the Department of Industrial Property in relation to such matter.*

*(b) Second complaints and legal proceedings:*

*Where the complainant submitting the first complaint disagrees with the decision on resolution of the complaint by the Director of the Department of Industrial Property, he/she shall have the right to file a complaint (namely the second complaint) with the Minister of Science, Technology and Environment or to initiate a legal action in accordance with administrative legal proceedings.*

*resolving the complaint as stipulated in clause 4 of this article in which the first complaint has not been resolved, or calculated from the date on which a person authorised to receive second complaints receives or is aware of the decision on resolution of the first complaint.*

*Where an event of force majeure or other objective hindrance prevents a complainant from exercising the right to lodge a complaint within the limitation period, the limitation period for lodging a complaint shall exclude the duration of such hindrance.*

4. *The time limits for resolution of first complaints and second complaints shall be thirty (30) days and forty five (45) days respectively calculated from the date of acceptance to resolve the complaint. In complex cases, the time limits for resolution of first complaints and second complaints may extend to forty five (45) days and sixty (60) days respectively calculated from the date of acceptance to resolve the complaint. The period for amendment or addition to a complaint file shall not be included in the above-mentioned time limit.*

*Complaints shall be dealt with in accordance with the order and procedures stipulated in the Law on Complaints and Denunciations. The complainant must pay a fee for the complaint as stipulated.*



*entities possessing a trademark which is recognised as the well-known trademark*

*wnership rights with respect to an affiliated trademark shall only be transferred at the same time as all the affiliated trademarks.*

*Transfers of ownership rights with respect to a well-known trademark must ensure that the prestige of such well-known trademark is maintained*

*submission*

*such individual, legal entity or other entity shall be entitled to continue to*



- (a) *The compulsory licence shall be a non-exclusive licence;*
- (b) *The compulsory licence shall be limited within a scope and period which are sufficient to meet the objectives for such licensing;*
- (c) *The person to whom a compulsory licence is granted may not transfer the right to use under such licence to other persons, except where [such right] is transferred together with the business establishment using such licence, and may not grant sub-licences to other persons;*
- (d) *The person to whom a compulsory licence is granted must pay an amount corresponding to the economic value of the right to use under such licence, or equivalent to the price, to the licence grantor for transfer of the voluntary licence pursuant to a contract with the same scope and period of licence*

*A person who is compelled to grant a compulsory licence shall have the right to lodge a complaint regarding the decision on compulsory licensing with the Minister of Science, Technology and Environment.*

*A person submitting a request for compulsory licensing shall have the right to lodge a complaint with the Minister of Science, Technology and Environment in relation to the decision on refusal to accept the request for compulsory licensing.*

*The provisions on procedures for complaints and resolution of*

*Pursuant to article 803 of the Civil Code, where the acts of a third person using an invention, utility solution or industrial design do not fall under the exclusive right of the owner of industrial property rights, the owner of industrial property rights shall not request measures to be taken or take legal action against such acts pursuant to article 36 of this Decree in the following circumstances*

- (a) The use was not for commercial purposes;*
- (b) The use of products resulted from the owner of the object of the industrial property, the person to whom a compulsory licence was granted or a prior user putting the product onto the market (including overseas markets);*
- (c) The use was only for the purpose of maintaining the operation of means of transportation of foreigners in transit or temporarily located in the territory of Vietnam.*

- 2. The provisions of sub-clause (a) and appropriate items with respect to trademarks and appellations of origin of goods stipulated in sub-clause (b) of clause 1 of this article shall also apply to trademarks and appellations of origin of goods.*

*Civil Code*

*to such trademark if such use is able to cause confusion in relation to the origin of goods;*

- (c) Using a sign which is identical or similar to any well-known trademark, or a sign in the form of definition or phonetic transcription of such trademark for any goods or services, including goods or services of other kinds or which are not similar or related to the goods or services included in the list of prestigious goods and services bearing such well-known trademark if such use is able to cause confusion in relation to the origin of goods or cause an erroneous impression of the relation between the person using the sign and the entity possessing the trademark which is recognised as a well-known trademark.*

*Conditions for business of industrial property representation services*

*Being an enterprise established under the laws on enterprises*

2. *The authorised State body making business registration in accordance with the laws on enterprises shall be the authorised body issuing certificate of business registration of industrial property representation services to organisations which satisfy all the criteria stipulated in clause 2 of article 58 of this Decree. The above-mentioned body shall have the right to seek an opinion of the Department of Industrial Property about the satisfaction of the conditions for industrial property representation service business by enterprises applying for registration.*

*After issuing a certificate of business registration of industrial property presentation services, the body issuing the certificate of registration must provide notification to the Department of Industrial Property so that the Department of Industrial Property shall include the industrial property representation service organization in the national register.*

*eceividury nserty e o 0.6(-7ng)i o 0.aldur*

*registration in order to revoke certificates of business registration of industrial property representation services or remove the sector of industrial property representation service business (if the organisation still engages in other fields of business)*



(d) *Organising the implementation of the laws and policies on industrial*

*shall assist the Government*

*Property* *Ordinance on Protection of Industrial*

*and Inventions* *Regulations on Initiatives*

*Trademarks* *Regulations on Utility Solutions* *Regulations on*

*Industrial Property* *Regulations on Industrial Designs* *Ordinance on Protection of*

*certificates* *of*