



## 2. Certification of documents

### 2.1 Certification of the originals of documents

In the course of carrying out the invention/ utility registration procedures, all originals of the transaction documents must be certified by the very subjects under whose names the documents are compiled according to the following regulations:

- a) If the subjects under whose names the documents are compiled are individuals, there must be the signatures together with the full names of the subject or of the competent representatives who sign on behalf of the subjects;
- b) If the subjects under whose names the documents are compiled are organizations which are compulsory to use seals, the signatures of the competent representatives of such subjects must be affixed with such seals.

### 2.2. Certification of copies

- a) Documents being copies made in any form of copying must be certified as true copies of the originals according to the provisions of this Point 2.2.b if they are to be used as official documents in the process of carrying out the procedures for registration of inventions/ utility solutions.



- d) The date of issuance of the authorization letters;
- e) The signatures and/or stamps of issuers of the authorization letters;
- f) The authorization time limits.

The authorization letters which do not state the authorization time limits shall be regarded as indefinitely valid and only cease to be invalid when the authorizers declare to terminate the authorization.

4.3. The authorized parties must be individuals permitted to carry out the invention/utility solution registration procedures prescribed at Point 3.2 of this Circular, or the industrial property representation service organizations.

4.4. When carrying out the invention/utility solution registration procedures under authorization, the authorized parties must submit the original authorization letters. Any changes in the authorization scope and the termination of authorization ahead of term must be notified in writing to the National Office of Intellectual Property and competent agencies and they shall be only effective as from the date on which these agencies receive such notices.

4.5. If the authorization letters state the authorization scope embracing may jobs related to independent procedures and the original ones have been filed with the National Office of Intellectual Property, when carrying out subsequent procedures, the authorized parties must precisely state the serial numbers and the date of filing of the dossiers containing such authorization letters.

## CHAPTER II APPLICATION AND HANDLING THEREOF

### Section 1 APPLICATIONS

#### 5. Requirements on the formality of applications

5.1. The formality of applications must meet the following requirements:

- a) The applications' documents must be in Vietnamese, except for documents which may be presented in other languages as prescribed at Points 5.2 and 5.3 of this Circular;
- b) The applications documents must be presented vertically (particularly, drawings, plans, charts and tables may be represented horizontally) on only one side of paper sheets of size A4 (210mm

- c) For documents required to be made according to set forms, such forms must be used and filed in appropriate section;
- d) If a document contains many pages, ~~each~~ must be numbered with Arabic numerals;
- e) All documents must be typewritten or printed in hard-to-fade ink clearly, cleanly, without erasure and correction;
- f) The terms used in the applications must be common ones; any signs, units of measurement and electronic fonts used therein ~~must~~ comply with Vietnamese standards;
- g) The applications may be enclosed with supporting materials being things that carry electronic data constituting part or whole of the applications' documents, and presented according to the regulations of the National Office of Intellectual Property on the document form.

5.2 The following documents may be in languages other than Vietnamese, but must be translated into Vietnamese:

- a) Authorization letters;
- b) Document certifying the lawful application filing right if the applicants en Tw ( )T79de(l)-2.4.2(





b) The claims must not make reference to the description sections and drawings, except for



a) Apart from the general requirements from on the invention/utility solution description sections

## FILING AND RECEIVING OF APPLICATIONS

### 7. Filing of Applications

Applications may be filed with the National Office of Intellectual Property or any other application-receiving places set up by the National Office of Intellectual Property. Applications may also be sent via registered mail to the above-aid application-receiving place.

### 8. Receiving of applications

8.1 Upon receiving the applications, the National Office of Intellectual Property shall have to:

- a) Check the list of documents inscribed in the declarations;
- b) Take note of disparities between the list of documents inscribed in the declarations and the quantities of documents actually contained in the applications;
- c) Preliminarily examine the applications so as to conclude whether to receive the applications or not under Point 8.2 of this Circular, then affix a stamp certifying the date of filing the applications on the declarations, if agreeing to receive the applications;
- d) Issue to the applicants the receipts of the applications already affixed with the stamp certifying the date of filing the applications and recording the result of checking the list of documents, which are signed by, and inscribed with the full names of, the application-receiving officials.

8.2 The National Office of Intellectual Property shall not receive applications which lack one of the following compulsory documents:

- a) The declarations, which must contain the names and addresses of the applicants;
- b) The descriptions, including the claims;
- c) Voucher on the payment of the application-filing fee.

8.3 Where the applications are rejected, within 15 days after receiving such applications, the National Office of Intellectual Property must send the applicants the notices on its refusal to receive their applications, clearly stating the reasons therefor and fix a two month time limit (starting from the date of notification) for the applicants to correct any defects.

If, within the fixed time limit, the applicant file fully the documents prescribed at Point 8.2 of this Circular, their applications shall be deemed as being received on the date of fully filing such documents.

For the rejected applications, the National Office of Intellectual Property shall not have to return to the applicants the applications' documents but must refund the paid charges and fees according to the procedures for refunding of charges and fees prescribed in this Circular.

Section 3  
FORMALITY EXAMINATION OF APPLICATIONS

9. Purposes and contents of formality examination

Formality examination of applications means examining the compliance with the regulations on the form of applications, then making conclusions on whether the applications are considered valid or not.

Valid applications shall be further considered. Invalid applications shall be rejected (not further considered)

10. Valid applications

10.1. Applications shall be considered valid if they do not fall into one of the following cases:

- a) Applications are made in languages other than Vietnamese, except for the cases prescribed at Points 5.2 and 5.3 of this Circular;
- b) The declarations contain insufficient information on the authors, the applicants, the

- a) The application fail to ensure unity;
- b) The applications fail to meet the requirements on the presentation form;
- c) Information on the applicants in different documents is inconsistent, erased or not certified according to regulations;
- d) The application filing fee, application publication fee and technical solution classification charge (if done by the National Office of Intellectual Property) have not yet been paid.

11.2 The National Office of Intellectual Property shall notify the applicants of the defects prescribed at Point 11.1 and, within 2 months as from the date of notification, the applicants must correct such defects.

## 12. Determination of the dates of filing applications

12.1. The date of filing an application is the date on which the application arrives at the National Office of Intellectual Property, which is recorded in the receipt stamp affixed on the declaration.

12.2. For international applications designating and/or selecting Vietnam and satisfying the requirements set forth at Point 58 or 59, the filing date is the date of filing the International application.

## 13 Determination of the priority date

13.1. If the applications contain no requests to enjoy the priority right or they do but such requests are not accepted by the National Office of Intellectual Property, the priority date shall be the date of filing the applications.

13.2. If the applications contain requests to enjoy priority right, the priority date (or priority dates) is the date stated in such requests and accepted by the National Office of Intellectual Property.

## 14. Notices on acceptance of applications

If the applications are considered valid, the National Office of Intellectual Property shall have to send to the applicants the notices on acceptance of valid applications, which must clearly state the names and addresses of the applicants; the names of the industrial property representation service organizations (if the applications are filed through such organizations); the names of the objects stated in the applications; the dates of filing the applications and the serial numbers and priority date of the applications. If the requests to enjoy the priority right are rejected, the reason therefor must be clearly stated

## 15. Refusal of applications

If the applications are considered invalid, the National Office of Intellectual Property shall send to the applicants the notices on its intention to refuse the applications, clearly stating the defects rendering the applications invalid and fixing a 2-month time limit starting from the date of notification for the applicants to give their opinions on such intention.

Where the applicants give no feedback or give implausible opinions on the intention to refuse the applications, the National Office of Intellectual Property shall issue formal notices on its refusing

## 19. The contents of publication of applications

## 22. Purposes of the substantive examination

The purposes of the substantive examination are to evaluate the patentability of the objects stated in the applications according to the protection criteria, and to determine the corresponding scope (volume) of protection.

## 23. Use of the results of information search in the course of substantive examination

23.1. When conducting the substantive examination, the National Office of Intellectual Property must search information in the minimum information sources prescribed at Point 34.2 of this Circular in order to make comparison and evaluate the objects stated in the applications according to the protection criteria.

23.2. In the course of substantive examination of the applications involving the priority right, the National Office of Intellectual Property may use the results of examination of information search and the results of examination of the relevant applications already filed abroad. The applicants may furnish the National Office of Intellectual Property with the following documents in service of the substantive examination:

- a) The results of information search or examination of the applications already filed abroad for the objects stated in the applications;
- b) The copies of the patents or other protection titles granted on the basis of the applications filed abroad for the objects stated in the applications;
- c) Documents related to the technical conditions of the objects stated in the applications, which are furnished to the applicants by the foreign patent agencies.

## 24. Consideration of opinions of third parties

In the course of substantive examination of applications, the National Office of Intellectual Property must take into consideration the third parties' opinions (if any) for or against the grant of the protection titles. The National Office of Intellectual Property must notify such opinion holders whether their opinions are accepted or, if not, clearly state the reason therefor.

## 25. Request for correction of form-related defects, explanation of contents of applications

25.1. In the course of substantive examination of applications the National Office of Intellectual Property may request the applicants to expound the contents of their applications' documents or correct defects related to their applications' form. If the applicants fail to satisfy such requests, their applications shall be considered withdrawn and not be further considered.

25.2. The National Office of Intellectual Property must not request the applicants to supply information beyond the scope of nature of the objects stated in their applications, and, in particular, must not request the applicants to supply information which they want to keep secret.

25.3. Any amendment or supplementation of the applications' documents must be effected by the applicants themselves. The National Office of



28.3. The evaluation of each object shall be completed if:

- a) Reasons are found to conclude that the objects fail to meet any of the protection criteria.
- b) No reason is found to conclude that the objects fail to meet any of the protection criteria.

In case a), the substantive examination shall end with the conclusion that the objects fail to meet the protection criteria.

In case b), the substantive examination shall end with the conclusion that the objects meet the protection criteria.

## 29. Notification of the substantive examination results

29.1. The National Office of Intellectual Property must notify the results of substantive examination of the applications to the applicants and the substantive examination requesters, clearly stating whether or not the objects meet the protection criteria.

29.2. If the objects stated in the applications do not meet the requirements for the grant of invention/utility solution patents or if they do not fail to meet the protection criteria, the notices on the substantive examination results must clearly state the intention to refuse to grant the protection titles and the reasons therefor, and also fix a 2-month time limit starting from the date of notification for the applicants to give their opinions; if the scope (volume) of protection is too wide, the notices must clearly state the reasons therefor and the intention to narrow it.

29.3. If the objects meet the protection criteria but the applications still contains defects, the notices on the substantive examination results must clearly state such defects and fix a 2-month time limit starting from the date of notification for the applicants to give their opinions or correct the defects, and also notify the intention to refuse to grant the protection titles in cases the applicants fail to correct the defects satisfactorily or give implausible protests.

29.4. If the objects meet the protection criteria or, in the cases stated at Points 29.2 and 29.3 of this Circular, the applicants have narrowed the scope (volume) of protection to make the objects meet the protection criteria, or they have corrected the defects satisfactorily and/or given plausible protests, the notices on the substantive examination results (or the second notices on the substantive examination results for the cases stated at Points 29.2 and 29.3 of this Circular) must fix a time limit for the applicants to pay the charge for publication of the protection titles, the fee for registration and grant of the protection titles and the fee for maintenance of the validity thereof in the first year. Such time limit is 2 months counting from the date of notification.

29.5. If, within the fixed time limit, the applicants fail to correct defects or correct them unsatisfactorily and/or give no protests or give implausible protests, the National Office of Intellectual Property shall formally refuse to grant the protection titles to them.

If the notices on the substantive examination results fix the time limit for payment of charges and fees prescribed at Point 29.4 of this Circular but the applicants fail to pay the publication fee, the registration fee and the fee for the grant of the protection titles within such fixed time limit, the National Office of Intellectual Property shall refuse to grant the protection titles. If, within the

fixed time limit, the applicants only pay the publication fee, the registration fee and the fee for the grant of the protection titles but do not pay the fee for maintenance of the validity in the first year, the protection titles shall still be granted but the validity thereof shall be suspended under Article 28.2b of the Decree.

29.6. For the applications involving many objects, if only some of such objects fall into the case stated at Point 29.5 of this Circular, the refusal to grant the protection titles shall only pertain to such objects (the protection titles shall still be granted to the remaining objects). To be granted the protection titles, the applicants must amend the descriptions of the other remaining objects which meet the requirements set forth at Point 6 of this Circular.

### 30. Time limit for substantive examination

30.1. The time limit for substantive examination of the applications is 12 months counting from the date of receipt of the substant



b) Technical solutions can and only can take one of the following forms:

- Technical solutions in physical forms (tools, machinery, equipment, accessories, electric circuits...), expressed as an assemblage of information for identifying a man-made product characterized by the structural signs (characteristics), which has the function (utility) of serving as a means to satisfy a certain human need.
- Technical solutions in material forms (materials, substances, food, pharmaceuticals...), expressed as an assemblage of information for identifying a man-made product characterized by the presence signs (characteristics), percentages and state of its components, which has the

b) The creation, manufacture, use, exploitation or performance of the above-mentioned solution can be repeated with the same results ~~the~~ results stated in the description.

33.3. The technical solutions shall be considered inapplicable in the following cases:

a) The nature of the objects or instructions for the performance of the objects run counter to the fundamental scientific principles (for example, non-compliance with ~~the~~ principle of energy preservation, etc);

b) The objects comprise elements/components which are not technically interrelated or cannot be interconnected (linked, bound, interdependent...);

c) The objects contain internal contradictions;

d) Instructions on the objects may be performed only in a limited number of times (but not repeatedly);

e) In order to perform the solutions, the ~~performers~~ performers must possess special skills which cannot be taught or instructed to other persons;

f) The results obtained from different times of performance are not identical;

g) The obtained results are different from the results stated in the application;

h) There are no or insufficient most important instructions for performing the solutions;

i) For other plausible reasons.

34. Evaluation of novelty of technical solutions

34.1. A technical solution shall be considered novel if meeting the conditions prescribed in Clause 1, Article 4 of the Decree.

34.2. Compulsory minimum information sources:

a) In order to evaluate the novelty of the ~~tech~~ solutions stated in the applications, at least information in the following compulsory sources must be searched (but the search is not limited to such minimum sources):

- All other applications which have been received by the National Office of Intellectual Property, have the same classification indexes as those of the objects stated in the applications – up the grade classification indexes (the third –class indexes) and have the priority date earlier than that of the applications, excluding ~~g~~ applications which have not been or will not be published;
- The invention applications and/or patents published/granted by other organizations or nations within 25 years before the priority date of the applications, which are preserved in the patent database available at the National Office of In

b) In necessary and possible cases, the search may be extended to scientific reports, reports on the results of research programs, subjects... in the same technical field, which have been published and preserved at the National Center for Scientific and Technological Information and Documents.

34.3. Search purposes; search reports



If there are grounds to confirm that the technical solutions stated in the applications fail to meet at least one of the protection criteria, the technical solutions shall be considered inpatentable and the National Office of Intellectual Property refuse to grant the invention/utility solution patents. On



b) The protection titles or duplicates thereof are damaged (so torn, dirty, fading...that they are unusable), on the condition that the damaged protection titles or duplicates thereof must be returned.

41.2. Registration of inventions or registration of utility solutions includes the items corresponding to each protection title, each covering:

a) Information on the protection titles (serial numbers), dates of the grant of the protection titles; names of the protected objects; the protection scope (volume), and valid duration; the names and addresses of the protection title owners, the full names of the authors.

b) Information on the applications for the grant of the protection titles (the serial numbers and the dates of filing of the applications, their priority dates, the names of the industrial property representation service organizations (if any));

c) All information on the amendments of the pr

#### 44.1. General requirements

The appeal dossiers must meet the requirements on their form prescribed at Points from 5.1.a to 5.1.e of this Circular. Each appeal dossier shall touch upon a complained decision or notice. It may touch upon many decisions or notices if they share the same contents and complaining arguments, provided that the complainants ~~may~~ pay the prescribed appeal charge for each complained decision or notice.

#### 44.2. A appeal dossier must comprise:

- a) The appeal declaration, made according to a set form;

46.1. At any point of time the complainants ~~may~~ send written notifications on withdrawing their appeal dossiers. If the withdrawal of appeal dossiers are effected by the industrial property representation organizations, the right to withdraw written appeals must be clearly inscribed by the complainants in the authorization letters.

46.2. Withdrawn dossiers shall be regarded as not filed. The complainants shall not be returned the dossiers as well as the paid appeal charges.

#### 47. Processing of appeal dossiers

47.1. Within 10 days after receiving the appeal dossiers, the ~~persons~~ competent to settle appeals must examine them against the form requirements and issue written notices to the appeals on whether such dossiers are to be processed or not, stating the date of processing the dossiers or clearly stating reasons for not processing them.

47.2. The appeal dossiers shall not be processed in the following cases:

- a) The complainants do ~~not~~ have the right to complain;
- b) The appeal dossiers are filed later ~~than~~ the prescribed statute of limitations;
- c) The appeal dossiers fail to meet the requirem

amending and supplementing the dossiers and be counted into the time limit for settling appeals.

#### 50. Effect of appeal-settling decisions

Any industrial property procedures dependant on the appeal settlement results shall only be carried out on the basis of:



- f) To send one copy (dossier copy) of the international applications of Vietnamese origin to the International Bureau and one copy (the search copy) to the International Searching Authorities;
- g) To send and receive mails of the applicants and from international agencies.

#### 56. Languages

International applications of Vietnamese origin filed with the National Office of Intellectual Property must be in English or Russian.

#### 57. International Searching Authorities and International Preliminary Examination Authorities

For international applications of Vietnamese origin, the competent International Searching Authorities and International Preliminary Examination Authorities are Patent, Industrial Property or Intellectual Property offices of Australia, Austria, the Russian Federation, Sweden, the Republic of Korea and the European Patent Office.

#### 58. International applications designating Vietnam

If the international applications designate Vietnam, the National Office of Intellectual Property shall be the designated agency. In this case, in order to enter the national stage, within 31 months as from the priority date, the applicants must submit to the National Office of Intellectual Property:

- a) The declarations requesting the grant of invention/utility solution patents, made according to a set form;
- b) The copies of the international applications (cases where the applicants request to enter the national stage before the international publication date);
- c) The Vietnamese translations of the international applications: the descriptions, including the description sections, the claims, notes of drawings and the abstracts (the published versions or the original versions filed for the first time, if the applications are not published yet, and the amendments and the written explanations thereon, if the PCT applications have been amended under Article 19 of the PCT);
- d) The amended descriptions and abstracts (in case there are amendments stated at Point 58.c of this Circular);
- e) National charges and fees.

#### 59. International applications selecting Vietnam

If the applications for international preliminary examination select Vietnam, the National Office of Intellectual Property shall be the selected agency. In this case, the selection of Vietnam is





#### 64. International applications considered withdrawn

Apart from the cases where the international applications are considered withdrawn under the provisions of the PCT and the Regulation on the PCT implementation, in the cases where national fees are not paid to the National Office of Intellectual Property or there are no Vietnamese translations after the expiry of the ~~time~~ ~~limits~~ ~~prescribed~~ ~~at~~ ~~Points~~ ~~58~~ ~~and~~ ~~59~~ of this Circular, the international applications designating or selecting Vietnam shall be considered





b) The refunded charges or fees are converted into those for other procedures. In case of refunding charges or fees through intermediaries, the recipients must bear the remittance costs. The requesters for the refunding of charges and/or fees must submit the declarations requesting the refunding of charges and/or fees, made according to a set form issued by the National Office of Intellectual Property, clearly stating the method of refunding charges and/or fees they opt for.

76.2. If accepting the requests for the refunding charges and/or fees, the National Office of Intellectual Property shall make refunding notices, clearly stating the to be refunded amounts and the refunding method, then send them to the requesters. The persons who are refunded the charges and/or fees must sign the vouchers on the refunding of charges and/or fees, made by the National Office of Intellectual Property.

If declining the requests for the refunding of charges and/or fees, the National Office of

79.2. If the industrial property related official duty performers commit any law-breaking acts, they shall be disciplined under the provisions of the Government's Decree No. 97/1998/ND-CP of November 17, 1998 on disciplining public employees and their material responsibilities and the Labor Code.

79.3. If the industrial property related official duty performers commit any law breaking acts thus causing damage to other persons, they must pay compensations therefor under the provisions of the Government's Decree No, 47/CP of May 3, 1997 on the settlement of compensation for damage caused by State employees and competent persons of the procedural agencies.

## 80. Appeals

Apart from the decision and notices related to the right establishment procedures, the persons carrying out the industrial property procedures prescribed in this Circular may lodge appeals or initiate lawsuits against other decisions or notices of the National Office of Intellectual Property and competent agencies according law provisions on appeals, denunciations and administrative procedures.

The order and procedures for lodging appeals and settling appeals prescribed in Article 27 of the Decree and at Points 47, 48, 49 and 50 of this Circular shall also apply, mutatis mutandis, to appeals about the above-said decisions or notices.

## 81. Regulations on applications and the order of carrying out industrial property procedures

The regulations on applications and the order of carrying out the invention/utility solution registration procedures complainant with the provisions of the Decree and this Circular shall be promulgated by the Ministry of Science and Technology in another document.

## 82. Implementation

This Circular supersedes the provisions on 36/15.00 o[(81)--.0007 Tc .0335 Tw [(p21 )5.1(o)r