

Legal news

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INTELLECTUAL PROPERTY LAW

Patent co-operation lessens local backlog

With Vietnam's recent and imminent free trade pacts, a great number of new businesses are seeking entry to the growing market. But first, they want to make sure that their intellectual property rights are safe – which makes for a torrent of work for the local patent office. Nguyen Nguyet Dzung and Nguyen Huong Giang of law firm Vision & Associates examine the early results of a co-operation between Japan and Vietnam to ease the backlog of patent applications.

On the basis of bilateral office agreements made in October 2015, on April 1, 2016, the National Office of Intellectual Property of Vietnam (NOIP) and the Japan Patent Office (JPO) commenced the Patent Prosecution Highway (PPH) pilot programme between the two offices. This is the very first PPH programme that the NOIP has joined so far, showing the willingness of the NOIP to use positive examination results issued by a partner jurisdiction to expedite examination of Vietnamese patent applications.

Although there are two expedited examination systems in Vietnam at present – the NOIP's standard expedited examination system stipulated in the Intellectual Property Law of Vietnam and the ASEAN Patent Examination Cooperation (ASPEC) programme between ASEAN jurisdictions – they have not been widely applied. A reason for the uncommon usage of the standard acceleration system is that the NOIP's examiners are often not willing to accept the acceleration request due to their great backlog of pending patent applications. As for the ASPEC programme, it has not been as effective as hoped since the NOIP's examiners are quite reluctant to rely on the examination results issued by the ASEAN patent offices.

This NOIP-JPO PPH pilot programme is expected to improve the current situation and shorten the substantive examination period for Vietnamese patent applications which have submitted corresponding Japanese applications.

Accordingly, applicants can now request expedited examination of their Vietnamese patent applications based on the Japanese patents/allowances for corresponding Japanese applications by following a prescribed procedure and satisfying certain requirements under this PPH pilot programme. There are some important points the applicants should keep in mind when considering participation in this programme, particularly: (i) a request for substantive examination of the Vietnamese patent application must have been filed at NOIP either prior to or at the time of the PPH request, (ii) the first office action for the Vietnamese patent application has not yet been issued by the NOIP at the time the PPH request is filed, and (iii) the claims of the Vietnamese patent applications must be identical and/or equivalent to those determined to be patentable/allowable in the corresponding Japanese applications.

This PPH pilot programme will run for three years initially, from April 1, 2016 to March 31, 2019. However, the pilot programme may be extended after a joint NOIP-JPO review and assessment of the programme implementation. It is noted that this pilot programme is not applicable on the basis of the JPO utility model applications.

In view of its handling capacity, the NOIP has agreed to accept 100 PPH requests per year at maximum in this three-year pilot period, and may refuse PPH requests which are filed thereafter. When the maximum acceptable volume of PPH requests is close to being reached, an ex-ante notice will be published by the NOIP on its website.

In the first year of the programme, the number of PPH requests at the NOIP reached 100 by August 24, 2016. After one year of operation, the PPH pilot programme has shown its remarkable effectiveness in the expedited examination of Vietnamese patent applications, with a substantial number of Vietnamese patents having been granted 9-12 months after their PPH requests. Given the huge backlog of pending cases, it has demonstrated the great efforts of NOIP's examiners in seriously implementing the pilot programme.

For this second year dating from April 1, 2017, the number of PPH requests already reached the maximum of 100 requests by May 24, 2017. Thus, this second year of the programme was closed; and any other PPH requests which could not be duly filed have to wait for the third year, starting on April 1, 2018. In view of this situation, if applicants wish to take advantage of this first-come, first-served programme, they should either have their PPH requests on hand or be well prepared to file them as soon as the NOIP resumes accepting them./.

Other Sectors

Finance

- Law No. 15/2017/QH14 dated 21 June 2017 of the National Assembly on management and use of public assets.
- Decision No. 23/2017/QD-TTg dated 22 June 2017 of the Prime Minister, on amendment and supplement to some articles of Decision No. 246/2006/QD-TTg dated 27 October 2006 of the Prime Minister, on setting up the Cooperative Development Assistance Fund and promulgating the Regulation on credit guarantee and post-investment interest support activities of this Fund.
- Decision No. 20/2017/QD-TTg dated 12 June 2017 of the Prime Minister, providing for operations of microfinance programs and projects by political, socio-political, or non-governmental organizations.
- Decision No. 1043/QD-BTC dated 5 June 2017 of the Ministry of Finance, announcing the list of administrative procedures that can be implemented through public postal services within the scope of State management functions of the Ministry of Finance.
- Circular No. 05/2017/TT-NHNN dated 30 June 2017 of the State Bank of Vietnam, on amendment and supplement to a number of articles of Circular No. 03/2016/TT-NHNN dated 26 February 2016 of the Governor of the State Bank of Vietnam, providing for a number of contents on foreign exchange control applicable to borrowing and repayment of foreign loans by enterprises.

Banking

- Resolution No. 42/2017/QH14 dated 21 June 2017 of the National Assembly, on a pilot scheme to settle credit institutions' bad debts.
- Decision No. 21/2017/QD-TTg dated 15 June 2017 of the Prime Minister, on limit for payment of insurance claim.
- Circular No. 04/2017/TT-NHNN dated 28 June 2017 of the State Bank of Vietnam, on cancellation of a number of legal documents singly or jointly promulgated by the Governor of the State Bank of Vietnam.

Trade

- Law No. 05/2017/QH14 dated 12 June 2017 of the National Assembly on Foreign Trade Control.
- Decision No. 2082/QD-TCHQ dated 21 June 2017 of the General Department of Customs, approving the scheme on "Electronic payments of taxes through banks coordinated for collection and clearance of goods on a 24 hours per day, 7 days

per week basis".

- Circular No. 65/2017/TT-BTC dated 27 June 2017 of the Ministry of Finance, promulgating Vietnam's List of Imported or Exported Goods.
- Circular No. 09/2017/TT-BKHCN dated 27 June 2017 of the Ministry of Science and Technology, providing for measurement applicable to weight measurement in retail trade.
- Circular No. 08/2017/TT-BCT dated 26 June 2017 of the Ministry of Industry and Trade, providing for registration and declaration of prices of milk and functional foods for children under 6 years old.
- Circular No. 03/2017/TT-NHNN dated 6 June 2017 of the State Bank of Vietnam, on amendment and supplement to a number of articles of Circular No.16/2012/TT-NHNN dated 25 May 2012 of the Governor of the State Bank of Vietnam, providing guidelines for a number of articles of Decree No.24/2012/ND-CP dated 3 April 2012, on control of gold trading activities.
- Circular No. 09/2017/TT-BXD dated 5 June 2017 of the Ministry of Construction, providing for export of lime and calcined dolomite.

Labour

- Decree No. 76/2017/ND-CP dated 30 June 2017, on adjustment of pensions, social insurance allowances, and monthly allowances.
- Decision No. 996/QD-LDTBXH dated 27 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, providing for the functions, tasks, powers and organizational structure of the Employment Bureau.
- Decision No. 899/QD-TTg dated 20 June 2017 of the Prime Minister, approving the target Program of Vocational Education - Employment and Labour Safety for the period 2016-2020.
- Decision No. 967/QD-BHXH dated 20 June 2017 of the Vietnam Social Insurance, on promulgation of the Regulation on assurance of information safety in the application of information technology by the Social insurance sector.
- Decision No. 812/QD-BLDTBXH dated 1 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, announcing new administrative procedures on e-transactions in the field of social insurance within the scope of the State management function of the Ministry of Labour, War Invalids and Social Affairs.
- Circular No. 18/2017/TT-BLDTBXH dated 30 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, providing guidelines for adjustment of pensions, social insurance allowances, and monthly allowances stipulated in Clauses 1, 2, 3 and 8, Article 1 of Decree No. 76/2017/ND-CP dated 30 June 2017.
- Circular No. 58/2017/TT-BTC dated 13 June 2017 of the Ministry of Finance,

providing guidelines for a number of policies on financial support to organizations and units using labour from ethnic minorities in mountainous areas and especially difficult areas.

- Circular No. 16/2017/TT-BLDTBXH dated 8 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, detailing a number of contents on technical testing activities of labour safety for machines, equipment and supplies subject to strict requirements on labour safety.
- Circular No. 15/2017/TT-BLDTBXH dated 8 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, providing for criteria and standards for accreditation of vocational education.

Health

- Decree No. 75/2017/ND-CP dated 20 June 2017, providing for the functions, tasks, powers and organizational structure of the Ministry of Health.
- Decision No. 2623/QĐ-BYT dated 20 June 2017 of the Ministry of Health, announcing the amended or supplemented administrative procedures and repealed administrative procedures in Decree No. 109/2016/ND-CP dated 1 July 2016, on issuance of professional practice certificates to practitioners and issuance of operation licenses to medical examination and treatment establishments.
- Decision No. 2429/QĐ-BYT dated 12 June 2017 of the Ministry of Health, promulgating the Criteria for evaluating the quality of medical laboratories.
- Decision No. 19/2017/QĐ-TTg dated 5 June 2017 by the Prime Minister, on promulgation of a financial mechanism for pilot application to programs and projects funded by ODA capital and preferential loans for the Health sector.
- Decision No. 2286/QĐ-BYT dated 2 June 2017 of the Ministry of Health, providing for the standards and formats of output data used in the management, assessment, and payment of medical examination and treatment expenses under health insurance.
- Circular 28/2017/TT-BYT dated 28 June 2017 of the Ministry of Health, providing for management of Antiretroviral drugs (ARVs) used in control of HIV/AIDS, which are centrally procured at the national level using health insurance funds, and cost assistance in the form of co-payment for anti-HIV medicines for HIV infected people with health insurance cards.
- Circular No. 27/2017/TT-BYT dated 28 June 2017 of the Ministry of Health, providing for the standard and use of ambulances.
- Circular No. 26/2017/TT-BYT dated 26 June 2017 of the Ministry of Health, providing guidelines for the functions, tasks, powers and organizational structure of Centres for Disease Control of provinces and centrally-run cities.

Education

- Decision No. 2206/QD-BGDDT dated 30 June 2017 of the Ministry of Education and Training, announcing the newly-issued administrative procedures within the scope of management function of the Ministry of Education and Training.
- Decision No. 2161/QD-BGDDT dated 26 June 2017 of the Ministry of Education and Training, promulgating the Plan of fulfilment of the objective of sustainable development of education and training up to 2025, with an orientation to 2030.
- Decision No. 2056/QD-BGDDT dated 15 June 2017 of the Ministry of Education and Training, announcing the List of legal documents on conditions of investment and operation in the field of education, which are wholly or partially no longer valid.
- Circular No. 17/2017/TT-BLDTBXH dated 30 June 2017 of the Ministry of Labour, War Invalids and Social Affairs, promulgating the Work Regulation for pupils and students in intermediate schools and junior colleges.
- Circular No. 14/2017/TT-BGDDT dated 6 June 2017 of the Ministry of Education and Training, promulgating the Regulations on standards and procedures for development and revision of general education programs; organization and operation of the National Council for Appraisal of the General Education Programs.

Transport

- Law No. 06/2017/QH14 dated 16 June 2017 of the National Assembly on Railways.
- Decision No. 3971/QD-UBND dated 30 June 2017 of the People's Committee of Hanoi, announcing the administrative procedures under the authority of the Department of Transport in the area of Hanoi.
- Decision No. 1628/QD-BKHHCN dated 21 June 2017 of the Ministry of Science and Technology, on promulgation of the National technical regulations - Bitumen.
- Decision No. 3206/QD-UBND dated 21 June 2017 of the People's Committee of Ho Chi Minh City, promulgating the Regulations on management, operation and maintenance of works in specialized fields, which have been assigned to Department of Transport in the area of Ho Chi Minh City.
- Decision No. 1640/QD-BGTVT dated 6 June 2017 of the Ministry of Transport, promulgating the Regulation on clerical work and use of electronic documents and digital signatures of the Ministry of Transport.
- Circular No. 60/2017/TT-BTC dated 15 June 2017 of the Ministry of Finance, on guidelines for the regime for management, use, payment and settlement of costs

for road management and maintenance.

- Circular No. 19/2017/TT-BGTVT dated 6 June 2017 of the Ministry of Transport, providing for management and assurance of flight operations.
- Circular No. 18/2017/TT-BGTVT dated 01/06/2017 of the Ministry of Communications and Transport promulgating the technical - economic norms for depth survey.

Construction - Land

- Resolution No. 48/NQ-CP dated 13 June 2017 of the Government, approving the codification results for the legislation with respect to Land and 35 items.
- Decision No. 3704/QD-UBND dated 21 June 2017 of the People's Committee of Hanoi, on supplement to Decision No. 3203/QD-UBND dated 24 May 2017 of the People's Committee of Ho Chi Minh City on issuance of price list taken as the basis for calculation of registration fee applicable to houses and personal income tax on transfer of houses in the area of Hanoi.
- Decision No. 23/2017/QD-UBND dated 16 June 2017 of the People's Committee of Hanoi, repealing Decision No. 01/2013/QD-UBND dated 4 January 2013 of the People's Committee of Hanoi, promulgating the Regulation on management and use of condominiums in the area of Hanoi.
- Decision No. 3542/QD-UBND dated 12 June 2017 of the People's Committee of Hanoi, announcing new administrative procedures, amended or supplemented administrative procedures, and repealed administrative procedures in the field of land under the authority of Department of Natural Resources and Environment and district-level People's Committees in the area of Hanoi.
- Decision No. 20/2017/QD-UBND dated 1 June 2017 of the People's Committee of Hanoi, promulgating the Regulations on land allocation limit, level of recognition of land use rights, the minimum dimensions and area of land allowed to be divided for households and individuals in the area of Hanoi.

Natural Resources - Environment

- Decree No. 73/2017/ND-CP dated 14 June 2017, on collection, management, exploitation and use of information and data on natural resources and environment.
- Decision No. 22/2017/QD-UBND dated 12 June 2017 of the People's Committee of Hanoi, promulgating the Regulations on formulation, assessment and approval of plans of response to incidents of oil spills of ports, facilities and projects in the area of Hanoi.
- Decision No. 2324/QD-BNN-KHCN dated 7 June 2017 of the Ministry of Agriculture and Rural Development, approving the List of environmental tasks of

which the implementation starts from 2018.

- Circular No. 11/2017/TT-BTNMT dated 29 June 2017 of the Ministry of Natural Resources and Environment, providing for the work of protection of State secrets in the Natural Resources and Environment sector.
- Circular No. 62/2017/TT-BTC dated 19 June 2017 of the Ministry of Finance, providing for collection rates and regime for collection, submission, management and use of fees for certification of qualifications for environmental protection in importing scrap as production materials.
- Circular No. 59/2017 / TT-BTC dated 13/06/2017 of the Ministry of Finance providing for rates for collection, regime for collection, payment, management and use of assessment fees for licensing hazardous waste treatment.
- Circular No. 10/2017 / TT-BTNMT dated 06/06/2017 of the Ministry of Natural Resources and Environment providing for the process of thematic mapping by 1: 5,000, 1: 10,000, 1: 500,000, 1: 1,000,000 remote sensing.
- Circular No. 09/2017 / TT-BTNMT dated 06/06/2017 of the Ministry of Natural Resources and Environment on technical regulations for development and update of the national remote sensing database.
- Circular No. 08/2017 / TT-BTNMT dated 06/06/2017 of the Ministry of Natural Resources and Environment providing for measurement procedures for remote sensing image control.

Science - Technology

- Law No. 07/2017/QH14 dated 19 June 2017 of the National Assembly on Transfer of Technology.
- Decision No. 1537/QD-BKHHCN dated 13 June 2017 of the Ministry of Science and Technology, on cancellation of the National technical regulations - Rules for decentralization and technical supervision of floating storage - Rules for decentralization and technical supervision of subsea pipeline systems.
- Decision No. 787 / QD-TTg dated 05/06/2017 of the Prime Minister approving the addition of national products under the National Product Development Program up to 2020.
- Circular No. 10/2017/TT-BKHHCN dated 28 June 2017 of the Ministry of Science and Technology, providing for construction, management, exploitation, use, maintenance and development of the National database on sciences and technologies.
- Circular No. 07/2017/TT-BKHHCN dated 16 June 2017 of the Ministry of Science and Technology, on amendment and supplement to a number of articles of Circular No.27/2012/TT-BKHHCN dated 12 December 2012 of the Minister of Science and Technology, providing for the State inspection of the imported

goods' quality under the management of the Ministry of Science and Technology.

Information - Communications

- Decision No. 989/QD-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, providing for the functions, tasks, powers and organizational structure of the National Electronic Authentication Centre.
- Decision No. 966/QD-BTTTT dated 20 June 2017 of the Ministry of Information and Communications, providing for the functions, tasks, powers and organizational structure of the Computerization Bureau.
- Decision No. 959/QD-BTTTT dated 20 June 2017 of the Ministry of Information and Communications, providing for the functions, tasks, powers and organizational structure of the Information Technology Department.
- Decision No. 939/QD-BTTTT dated 16 June 2017 of the Ministry of Information and Communications, providing for the functions, tasks, powers and organizational structure of the External Information Bureau.
- Circular No. 15/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, providing for the System of statistical criteria for the Information and Communications sector.
- Circular No. 14/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, on amendment and supplement to a number of contents of Circular No. 18/2011/TT-BTTTT dated 30 June 2011 of the Minister of Information and Communications, promulgating the procedure for validation of public terrestrial mobile base stations.
- Circular No. 13/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, providing for technical requirements on connection of information systems and databases with the national database.
- Circular No. 12/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, on amendment and supplement to a number of contents of Circular No. 17/2011/TT-BTTTT dated 30 June 2011 of the Minister of Information and Communications, promulgating the List of telecommunications equipment and radio stations subject to compulsory technical validation.
- Circular No. 11/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, on amendment and supplement to a number of articles of Circular No. 08/2013/TT-BTTTT dated 26 March 2013 of the Minister of Information and Communications, providing for control of telecommunications services' quality.
- Circular No. 09/2017/TT-BTTTT dated 23 June 2017 of the Ministry of

Information and Communications, providing for the ratio, time and duration of contents for children and warnings for those contents which are not appropriate for children on audial newspapers, visual newspapers, printed newspapers, electronic newspapers and publications.

- Circular No. 08/2017/TT-BTTTT of the Ministry of Information and Communications, on amendment and supplement to a number of articles of Circular No. 17/2016/TT-BTTTT dated 28 June 2016 of the Minister of Information and Communications, detailing the process of and procedures for registration of provision of information content services on mobile telecommunication networks.
- Circular No. 07/2017/TT-BTTTT dated 23 June 2017 of the Ministry of Information and Communications, providing for the national postal codes.
- Circular No. 57/2017/TT-BTC dated 2 June 2017 of the Ministry of Finance, on amendment and supplement to a number of articles of Circular No. 11/2014/TT-BTC dated 17 January 2014, providing guidelines for a number of provisions of Decree No. 86/2013/ND-CP dated 29 July 2013, on business of prize-winning electronic games for foreigners.

Administration - Judiciary

- Law No. 12/2017/QH14 dated 20 June 2017 of the National Assembly, amending and supplementing a number of articles of Criminal Code No.100/2015/QH13.
- Law No. 11/2017/QH14 dated 20 June 2017 of the National Assembly, on Legal Aid.
- Law No. 10/2017/QH14 dated 20 June 2017 of the National Assembly on the State's Liability for Compensation.
- Resolution No. 41/2017/QH14 dated 20 June 2017 of the National Assembly, on implementation of Criminal Code No. 100/2015/QH13, which was amended and supplemented by Law No. 12/2017/QH14, and on the effectiveness of the Criminal Proceedings Code No. 101/2015/QH13, Law No. 99/2015/QH13 on Organization of Criminal Investigation Agencies, Law No. 94/2015/QH13 on temporary Arrest and Detention.
- Resolution No. 49/NQ-CP dated 13 June 2017 by the Government, on amendment and supplement to a number of articles related to administrative procedure control, administrative procedure reform, and “one-stop shop” and continuously-connected “one-stop shop” mechanism as stipulated in a number of Government's Resolutions.
- Decision No. 120/QD-TANDTC dated 19 June 2017 of the Supreme People's Court, promulgating the Regulation for handling responsibilities of a person holding a judicial title in the People's Courts.
- Decision No. 3132/QD-UBND dated 16 June 2017 of the People's Committee of

Ho Chi Minh City, announcing the administrative procedures within the scope of management functions of the South Zone's Management Board, which are standardized in Ho Chi Minh City.

- Decision No. 3131/QD-UBND dated 16 June 2017 of the People's Committee of Ho Chi Minh City, announcing the administrative procedures under the authority of the Management Board of Export Processing Zones and Industrial Zones, which are standardized in Ho Chi Minh City.
- Decision No. 3585/QD-UBND dated 13 June 2017 of the People's Committee of Hanoi, announcing the list of expired legal documents issued by the People's Council or People's Committee of Hanoi.
- Decision No. 846/QD-TTg dated 9 June 2017 of the Prime Minister, promulgating the List of online public services at Levels 3 and 4 to be implemented in ministries, branches and localities in 2017.
- Decision No. 847/QD-LDTBXH dated 9 June 2017 of the Ministry of Labour, War Invalids and Social Affairs announcing newly-issued administrative procedures in the field of children within the scope of State management functions of the Ministry of Labour, War Invalids and Social Affairs.

Agriculture - Forestry - Fishery

- Law No. 08/2017/QH14 dated 19 June 2017 of the National Assembly on Irrigation.
- Decision No. 2593/QD-BNN-KHCN dated 21 June 2017 of the Ministry of Agriculture and Rural Development, approving the additional list of scientific and technological tasks by order under the Program on agricultural development applying high technologies for selection and direct assignment from 2018.
- Decision No. 2432/QD-BNN-TT dated 13 June 2017 of the Ministry of Agriculture and Rural Development, promulgating the Table of HS codes for the list of plant varieties permitted for production and trade in Vietnam.
- Decision No. 3580/QD-UBND dated 13 June 2017 of the People's Committee of Hanoi, announcing administrative procedures within the scope of management function of the Department of Agriculture and Rural Development of Hanoi.
- Circular No. 64/2017/TT-BTC dated 27 June 2017 of the Ministry of Finance, providing guidelines on exemption of citizenship fees, civil status and residency registration fees for people permitted to reside in accordance with an Agreement between the Government of the Socialist Republic of Vietnam and the Government of the Lao People's Democratic Republic on resolution of the problem of free migrants and married couples without marriage certificates in the border areas of the two countries in implementation of procedures for citizenship, civil status registration, residence registration and other documents related to personal identity.

- Circular No. 13/2017/TT-BNNPTNT dated 20 June 2017 of the Ministry of Agriculture and Rural Development, on promulgation of National technical regulations in veterinary medicine.
- Circular No. 12/2017/TT-BNNPTNT dated 7 June 2017 of the Ministry of Agriculture and Rural Development, promulgating the National technical regulations on technical requirements for establishments breeding and rearing Tilapia.

Enterprise

- Law No. 04/2017/QH14 dated 12 June 2017 of the National Assembly on Support to Small and Medium Enterprises.
- Decree No. 71/2017/ND-CP dated 6 June 2017, providing guidelines on corporate governance applicable to public companies.

Miscellaneous

- Law No. 09/2017/QH14 dated 19 June 2017 of the National Assembly on Tourism.
- Resolution No. 39/2017/QH14 dated 19 June 2017 of the National Assembly, approving a Treaty amending the Treaty on determination of national borderline between the Socialist Republic of Vietnam and the Democratic Republic of Vietnam Lao with respect to the revised starting point of the Vietnam-Laos national borderline.
- Decision No. 24/2017/QD-TTg dated 30 June 2017 of the Prime Minister, providing for mechanism for adjusting the average electricity retail price level.
- Decision No. 07/2017/QD-KTNN dated 20 June 2017 of the State Audit, issuing the State Audit's process of operational auditing.

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