



## **GUIDANCE FOR REGISTRATION OF INDUSTRIAL DESIGN IN VIETNAM**

### **Requisite Information**

1. Applicant: full name, address and nationality;
2. Inventor: full name, address and nationality;
3. Title of the claimed design;
4. Class of the claimed design according to the Locarno International Classification (*if available*);
5. Priority data: filing number, date and country (*if applicable*).

### **Requisite Documents**

1. Photos/drawings illustrating the design in different views (*front, rear, left, right, top, bottom and perspective*) and other supporting views such as cross-sectional or partly enlarged views (*if available*);
2. English description of the claimed design;
3. Power of Attorney (*neither notarization nor legalization is required*).
4. Certified copy of priority documents (*as to applications claiming priority under the Paris Convention*).

### **Important Notes**

#### ***Conditions for granting an industrial design patent in Vietnam:***

- An industrial design is eligible for registration in Vietnam if it meets 3 substantive requirements: (i) novelty <sup>1</sup>, (ii) creativity <sup>2</sup>, and (iii) industrial applicability <sup>3</sup>.

#### ***Timeline for a design patent in Vietnam:***

- Formality examination: 1 month from filing date;
- Publication of application: within 2 months from the date of acceptance as to form;
- Substantive examination: 7 months from publication date of application;
- Estimated time for obtaining patent for industrial design: 10-12 months;
- The deadline for submitting the priority document(s) is 3 months from the filing date.
- Term of design rights: 5 years from filing date; renewable twice, each for 5 years.

#### ***Provisional protection to an industrial design in Vietnam:***

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<sup>1</sup> The term "**novelty**" generally implies that (i) the design should not be included in publications or catalogues, promoted through sales or exhibition, or exposed in any way that would allow someone to identify it prior to application; and (ii) the design differs from other designs which have been publicly disclosed by use or by means of written descriptions or in any other form either inside or outside Vietnam prior to the filing date or the priority date, as applicable, of the application for registration of the design.

<sup>2</sup> The "**creativity**" generally implies a person of ordinary skill in the arts cannot easily create a given design using internationally or domestically recognized designs, or using domestically recognized shapes, patterns, colors, or a combination thereof.

<sup>3</sup> The "**industrial applicability**" implies articles with the same design that can be produced in large quantities by industrial or handicraft production methods.

- From the date of publication of the design application, the applicant is entitled to notify any third party who starts using such industrial design. If such a party continues the use notwithstanding the actual notice, as soon as an industrial design patent is granted in Vietnam, the owner thereof is entitled to request the user of such industrial design to pay a compensation equivalent to the price for licensing of such industrial design within the relevant scope and duration of use.

#### **Checking status of design applications:**

- Applicants may proactively check status of their design applications based on a digital library (namely, Industrial Property Digital Library (IP-Lib).

Please access <http://iplib.noip.gov.vn/WebUI/WSearchPAT.php>

- The IP-Lib is set up under a JICA's project to provide information on published patent applications and granted patents to public. That is, any one could access the source of information on the website of the Intellectual Property Office of Vietnam (IP Vietnam). The system may allow public to do some basic searches including title of industrial design, applicant name, application number, etc. The shortage of the system is that some information of the filed applications may not be timely or fully updated. Therefore, the best way for applicants to check the status of their design applications is through a professional IP agent in Vietnam.

#### **Post grant issues:**

- *Post-grant amendments:* A design patent in Vietnam may be amended only by narrowing the scope of protection, more precisely by deleting one or more variants/embodiments or designs from the set of products covered by the design patent.
- *Renewal:* The initial term of protection begins on the date of grant and ends 5 years computed from the filing date of the relevant application. A patent for industrial design is renewable for 2 consecutive five-year terms if a renewal request is filed to the IP Vietnam within 6 months before the expiration date.

#### **Design right infringement remedies:**

- When an industrial design is infringed, the holder may pursue the infringement through **administrative**, **civil** or **border control** route to fight thereagainst, depending on the nature and severity of the infringement. If the allegedly infringing products are found to be imported into Vietnam via customs, priority should be given to recordal of customs supervision for the design patent in Vietnam. **Criminal remedies** do not apply to industrial design infringement in Vietnam.
- For more detail on remedies on design right infringement in Vietnam, please access <https://kenfoxlaw.com/measures-to-deal-with-industrial-design-infringement-in-vietnam>.

#### **Design enforcement cases:**

Some typical design cases are provided in our websites at

- <https://kenfoxlaw.com/to-register-or-to-lose-a-costly-lesson-from-a-typical-industrial-design-dispute-in-vietnam>
- <https://kenfoxlaw.com/an-infringement-case-of-industrial-design-rights-settled-under-civil-route-in-vietnam>