THE PRESIDENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 07/2022/L-CTN

Hanoi, June 28, 2022

ORDER

On the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM
Pursuant to Articles 88 and 91 of the Constitution of the Socialist Republic of Vietnam;
Pursuant to Article 80 of the Law on Promulgation of Legal Documents,

PROMULGATES:

The Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property, which was passed on June 16, 2022, by the XVth National Assembly of the Socialist Republic of Vietnam at its 3rd session.

President of the Socialist Republic of Vietnam
NGUYEN XUAN PHUC

THE NATIONAL ASSEMBLY	**THE SOCIALIST REPUBLIC OF VIETNAM** **Independence - Freedom - Happiness**
No. 07/2022/QH15	*Hanoi, June 29, 2022*

LAW
AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE LAW ON INTELLECTUAL PROPERTY[1]

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Law No. 50/2005/QH11 on Intellectual Property, which had a number of articles amended and supplemented under Law No. 36/2009/QH12 and Law No. 42/2019/QH14.

Article 1. To amend and supplement a number of articles of the Law on Intellectual Property

1. To amend and supplement a number of clauses of Article 4 as follows:

a/ To amend and supplement Clauses 8, 9 and 10; add Clauses 10a, 10b, 10c and 10d below Clause 10; and amend and supplement Clause 11 and add Clause 11a below Clause 11, as follows:

"8. *Derivative work* means a work that is created on the basis of one or more than one existing work by being translated from one language into another, or which is adapted, compiled, annotated, selected, modified, musically transformed and otherwise transformed.

9. *Published work, phonogram or video recording* means a work, phonogram or video recording that has been distributed with the permission of the copyright holder or related rights holder for being made available to the public in whatever form in a reasonable quantity of copies.

10. *Reproduction* means the making of copies of the whole or part of a work or a phonogram or video recording by whatever mode or in whatever form.

10a. *Royalty* means an amount of money paid for the creation or transfer of copyright or related rights to a work, performance, phonogram, video recording or broadcast, including also royalty for authors and remuneration.

10b. *Technological measure for rights protection* means a measure that uses any technique, technology, equipment or device that, in the course of its normal operation, has the main function of protecting the copyright and related rights against acts performed without permission of the copyright holder or related rights holder.

10c. *Effective technological measure* means a technological measure for rights protection taken by the copyright holder or related rights holder to control the use of a work, performance, phonogram, video recording, broadcast or encrypted program-carrying satellite signal through an access control application, protection protocol or reproduction control mechanism.

10d. *Rights management information* means information identifying works, performances, phonograms, video recordings, broadcasts or encrypted program-carrying satellite signals; authors, performers, copyright holders, related rights holders and exploitation or use conditions; and identification numbers or codes showing the above information. Rights management information must be incorporated in

[1] *Publication Nos 573-574 (16/7/2022)*

copies or appear simultaneously with works, performances, phonograms, video recordings or broadcasts when such works, performances, phonograms, video recordings or broadcasts are transmitted to the public.

11. *Broadcasting* means the transmission by wireless means of either sounds or images or both sounds and images, either reproduced sounds or images or both reproduced sounds and images of a work, performance, phonogram, video recording or broadcast to the public, including also satellite transmission and transmission of encrypted signals in case decrypting devices are provided by broadcasting organizations to the public or provided with the consent of broadcasting organizations.

11a. *Communication to the public* means the transmission to the public of works; sounds and images of performances; or sounds, images or reproduced sounds or images fixed in phonograms or video recordings by any means other than broadcasting.";

b/ To add Clause 12a below Clause 12 and amend and supplement Clause 13 as follows:

"12a. *Confidential invention* means an invention identified by a competent agency or organization to be a state secret in accordance with the law on protection of state secrets.

13. *Industrial design* means the external appearance of a product or a part to be assembled into a complex product, embodied by three-dimensional configurations, lines, colors, or a combination of these elements, and visible in the course of exploitation of utilities of such product or complex product.";

c/ To amend and supplement Clause 20 as follows:

"20. *Well-known mark* means a mark widely known by relevant members of the public throughout Vietnam's territory.";

d/ To amend and supplement Clause 22 and add Clause 22a below Clause 22 as follows:

"22. *Geographical indication* means a sign that is used to indicate the geographical origin of a product from a specific region, locality, territory or country.

22a. *Homophonic geographical indications* means geographical indications that have the same pronunciation or spelling.".

2. To amend and supplement Clause 2, Article 7 as follows:

"2. The exercise of intellectual property rights must neither be prejudicial to the State's interests, public interests, or lawful rights and interests of organizations and individuals nor violate other relevant regulations. Organizations and individuals that exercise intellectual property rights related to the national flag, national emblem or national anthem of the Socialist Republic of Vietnam may not prevent or obstruct the popularization and use of the national flag, national emblem or national anthem.".

3. To amend and supplement Clauses 2 and 3, Article 8 as follows:

"2. To encourage and promote innovation activities and exploitation of intellectual assets through providing financial support, tax and credit incentives, and other investment support and incentives in accordance with law in order to contribute to socio-economic development and improvement of the people's material and spiritual life.

3. To provide financial support for the creation, acquisition and exploitation of intellectual property rights for public interests; to encourage organizations and individuals at home and abroad to provide donations for innovation activities and the protection of intellectual property rights.".

4. To add Article 12a above Article 13 in Section 1, Chapter I of Part Two as follows:

“Article 12a**.** Authors, co-authors

1. Author means a person who directly creates a work. In case two or more persons have jointly created a work with the intention that their contributions are combined as a whole in the complete work, these persons are co-authors.

2. Persons who provide support, contribute opinions or provide materials for others to create works are not regarded as authors or co-authors.

3. The exercise of moral rights and economic rights to a work with co-authors must be agreed upon by such co-authors, unless such work has a separable part that may be used independently without causing prejudice to the parts of other co-authors or unless otherwise provided by law.”.

5. To amend and supplement Articles 19, 20 and 21 as follows:

“Article 19**.** Moral rights

Moral rights of authors include the following rights:

1. To title their works.

Authors may license the right to title their works to organizations or individuals that acquire economic rights specified in Clause 1, Article 20 of this Law;

2. To attach their real names or pseudonyms to their works; to have their real names or pseudonyms acknowledged when their works are published or used;

3. To publish their works or authorize other persons to publish their works;

4. To protect the integrity of their works from being distorted by others; to prevent other persons from modifying or mutilating their works in whatever form prejudicial to their honor and reputation.

Article 20. Economic rights

1. Economic rights of authors include the following rights:

a/ To make derivative works;

b/ To display their works to the public directly or indirectly through phonograms, video recordings or any technical devices at places where the public may access but the public cannot freely choose the time of display and each part of works to be displayed;

c/ To reproduce directly or indirectly the whole or part of their works by any means or in whatever form, except the case specified at Point a, Clause 3 of this Article;

d/ To distribute or import for distribution to the public by sale or other forms of ownership transfer original works or copies thereof in the physical form, except the case specified at Point b, Clause 3 of this Article;

dd/ To broadcast or communicate their works to the public by wire or wireless means, via electronic information networks or by any other technical means, covering also the offering of works to the public in such a way that the public may access at places and time they choose;

e/ To lease original cinematographic works or copies thereof and computer programs, unless such computer programs are not main objects of the lease.

2. The rights specified in Clause 1 of this Article shall be exclusively exercised by authors or copyright holders, or permitted by authors or copyright holders to other organizations or individuals for exercise in accordance with this Law.

Organizations and individuals shall, when wishing to exercise one, several or all of the rights specified in Clause 1 of this Article, and Clause 3, Article 19, of this Law, ask for permission of and pay royalties and other material benefits (if any) to copyright holders, except the cases specified in Clause 3 of this Article, and Articles 25, 25a, 26, 32 and 33, of this Law. In case the making of derivative works affects the moral rights specified in Clause 4, Article 19 of this Law, the written consent of authors is required.

3. Copyright holders of works may not prevent or prohibit other organizations and individuals from:

a/ Reproducing such works only for exercising other rights in accordance with this Law; temporarily reproducing such works according to a technological process or in the course of operation of devices for transmission within a network among third parties through intermediaries, or legally utilizing such works not for independent economic purposes, with copies thereof automatically and irrestorably deleted;

b/ Subsequently distributing or importing for distribution original works or copies thereof that have been previously distributed or permitted by copyright holders for distribution.

Article 21. Copyright to cinematographic works and dramatic works

1. Copyright to cinematographic works is provided as follows:

a/ Screenwriters and directors may enjoy the rights specified in Clauses 1, 2 and 4, Article 19 of this Law;

b/ Cameramen, montage-makers, music composers, fine-art designers, sound, lighting and visual-effect designers, actors/actresses, and persons performing other creative jobs in the making of cinematographic works may enjoy the rights specified in Clause 2, Article 19 of this Law;

c/ Organizations and individuals that invest funds and physical-technical facilities for the production of cinematographic works may become holders of the rights specified in Clause 3, Article 19 and Clause 1, Article 20 of this Law, unless otherwise agreed upon in writing; and are obliged to pay royalties and other materials benefits (if any) under contracts signed with the persons specified at Points a and b of this Clause;

d/ Organizations and individuals that invest funds and physical-technical facilities for the production of cinematographic works may reach agreement with the persons specified at Point a of this Clause on titling or modification of such works;

dd/ In case screenplays or music works in cinematographic works are used independently, the authors or copyright holders of the screenplays or music works may enjoy copyright to such screenplays or music works independently, unless otherwise agreed upon in writing.

2. Copyright to dramatic works is provided as follows:

a/ Drama script authors may enjoy the rights specified in Clauses 1, 2 and 4, Article 19 of this Law;

b/ Literary work authors, music work composers, theater directors, music conductors, choreographers, stage and costume designers, and persons performing other creative jobs in the making of dramatic works may enjoy the rights specified in Clause 2, Article 19 of this Law;

c/ Organizations and individuals that invest funds and physical-technical facilities for the making of dramatic works may become holders of the rights specified in Clause 3, Article 19 and Clause 1, Article 20 of this Law, unless otherwise agreed upon in writing; and are obliged to pay royalties and other material benefits (if any) under contracts signed with the persons specified at Points a and b of this Clause;

d/ Organizations and individuals that invest funds and physical-technical facilities for the making of dramatic works may reach agreement with the persons specified at Point a of this Clause on titling or modification of such works;

dd/ In case literary works or music works in dramatic works are used independently, the authors or copyright holders of the literary works or music works may enjoy copyright to such literary or music works independently, unless otherwise agreed upon in writing.".

6. To amend and supplement Clause 1, Article 22 as follows:

"1. Computer program means a set of instructions expressed in the form of command, code, diagram or any other form and, when incorporated in a device or an equipment operated by a programming language, capable of enabling such computers or equipment to perform a job or achieve a designated result. Computer programs may be protected like literary works, irrespective of whether they are expressed in the form of source code or machine language.

Authors and copyright holders of computer programs may reach written agreement on repair or upgrading of such computer programs. Organizations and individuals having the right to legally use copies of computer programs may make backup copies to replace such copies once they are deleted or damaged or can no longer be used but may not transfer backup copies to other organizations and individuals.".

7. To amend and supplement Article 25 and add Article 25a below Article 25; and amend and supplement Article 26, as follows:

"Article 25. Exception cases in which copyright is not regarded as being infringed upon

1. Cases of use of published works in which permission of authors or payment of royalties is not required but the provision of information on names of authors and origin of the works is required:

a/ Duplication of the works for personal scientific research or learning purpose and not for commercial purposes. This provision does not apply to case of reproduction with a reproducing device;

b/ Reasonable reproduction of part of the works with a reproducing device for personal scientific research or learning purpose and not for commercial purposes;

c/ Reasonable use of the works for illustration in lectures, publications, performances, phonograms, video recordings or broadcasts for teaching purpose. Such use may cover the provision of the works in an internal computer network on the condition that there must be technical measures to ensure that only learners and teachers in a certain class may access the works;

d/ Use of the works in official-duty activities of state agencies;

dd/ Reasonable recitation of the works for commentary, introduction or illustrative purpose without misrepresenting the authors' view; for writing newspaper articles or use in periodical publications, broadcasts or documentaries;

e/ Use of the works in library activities not for commercial purposes, covering reproduction of the works archived in libraries for preservation on the condition that copies must be marked as copies for archive and with limited access in accordance with the library and archive laws; reasonable reproduction of

part of the works with a reproducing device for other persons' research or learning purpose; reproduction or transmission of the archived works for inter-library loan via the computer network, on the condition that the number of readers at a time does not exceed the number of copies of the works held by such libraries, unless it is permitted by the rights holders, and such use does not apply in case the works have been provided on the market in the digital form;

g/ Performance of dramatic, music or dance works or other forms of art performances in mass cultural, communication or mobilization activities not for commercial purposes;

h/ Photographing or televising of fine-art, architectural, photographic or applied-art works displayed at public places for the purpose of presenting images of such works not for commercial purposes;

i/ Importation of copies of others' works for personal use not for commercial purposes;

k/ Reproduction by re-publishing on newspapers, periodical publications or broadcasts or otherwise communicating to the public of lectures or speeches presented before the public within a scope appropriate to the purpose of current event reporting, unless the authors claim that they hold the copyright of such lectures or speeches;

l/ Photographing, audio-recording, video-recording or broadcasting of events for the purpose of current event reporting, with the use of works heard or seen in such events;

m/ Use of works by visually impaired people, people with print disability or people with other disabilities who are unable to access and read works by normal methods (below collectively referred to as people with disabilities) and their nurturers or caretakers and organizations satisfying the Government-specified conditions under Article 25a of this Law.

2. The use of works specified in Clause 1 of this Article must neither be contradictory to the normal exploitation of such works nor unreasonably cause prejudice to lawful interests of the author or copyright holder.

3. The reproduction of works specified in Clause 1 of this Article is not applicable to architectural works, fine-art works and computer programs, and the compilation of collections or anthologies of works.

4. The Government shall detail this Article.

Article 25a. Exception cases in which people with disabilities are not treated as copyright infringers

1. People with disabilities and their nurturers or caretakers may reproduce, perform or communicate works in accessible format copies when they have the lawful right to access original works or copies thereof. An accessible format copy means a copy of a work expressed in a manner or form suitable to people with disabilities and may only be used for personal purposes of people with disabilities and may involve appropriate and necessary technical modifications that enable people with disabilities to access the work.

2. Organizations satisfying the Government-specified conditions may reproduce, distribute, perform or communicate works in accessible format copies when they have the right to access original works or copies thereof and operate not for profit-making purposes.

3. Organizations satisfying the Government-specified conditions may distribute or communicate accessible format copies to counterparts under treaties to which the Socialist Republic of Vietnam is a contracting party without having to obtain permission of copyright holders.

4. Organizations satisfying the Government-specified conditions may distribute or communicate accessible format copies to overseas people with disabilities under treaties to which the Socialist Republic of Vietnam is a contracting party without having to obtain permission of copyright holders on

the condition that, before doing so, they do not know or have no grounds to know that such copies will be used for any other subjects other than people with disabilities.

5. People with disabilities and their nurturers or caretakers or organizations satisfying the Government-specified conditions may import accessible format copies from counterparts under treaties to which the Socialist Republic of Vietnam is a contracting party in the interest of people with disabilities without having to obtain permission of copyright holders.

6. The Government shall detail this Article.

Article 26. Limitations on copyright

1. Cases of use of published works in which permission of authors is not required but the payment of royalties and provision of information on names of authors and sources and origin of such works are required:

a/ Broadcasting organizations that use published works or works permitted by copyright holders to be fixed on phonograms or video recordings to be published for commercial purposes for making their broadcasts which are sponsored, advertised or charged in whatever form are not required to obtain permission of but have to pay royalties to copyright holders since the commencement of the use. Royalty levels and payment methods shall be agreed upon by the parties; in case no agreement can be reached, the parties shall comply with regulations of the Government.

Broadcasting organizations that use published works or works permitted by copyright holders to be fixed on phonograms or video recordings to be published for commercial purposes for making their broadcasts which are not sponsored, advertised or charged in whatever form are not required to obtain permission of but have to pay royalties to copyright holders since the commencement of the use under regulations of the Government;

b/ For works permitted by copyright holders to be fixed on phonograms or video recordings to be published for commercial purposes, organizations and individuals that use such phonograms or video recordings in their business and commercial activities are not required to obtain permission of but have to pay royalties to copyright holders of such works as agreed upon since the commencement of the use; in case no agreement can be reached, they shall comply with regulations of the Government. The Government shall provide in detail business and commercial activities mentioned in this Clause.

2. The use of works specified in Clause 1 of this Article must neither be contradictory to the normal exploitation of such works nor unreasonably cause prejudice to lawful interests of authors and copyright holders.

3. The use of works in the cases specified in Clause 1 of this Article is not applicable to cinematographic works.

4. Vietnamese organizations and individuals that enjoy preferences applicable to developing countries regarding the right to translate works from foreign languages into Vietnamese and the right to reproduce such works in their teaching or research activities not for commercial purposes under treaties to which the Socialist Republic of Vietnam is a contracting party shall comply with regulations of the Government.

5. Organizations and individuals that wish to exploit or use published works of Vietnamese organizations and individuals but cannot find or identify copyright holders of such works shall comply with regulations of the Government.”.

8. To amend and supplement Article 28 as follows:

“Article 28. Acts of infringing upon copyright

1. Infringing upon the moral rights specified in Article 19 of this Law.

2. Infringing upon the economic rights specified in Article 20 of this Law.

3. Failing to perform or improperly performing the obligations specified in Articles 25, 25a and 26 of this Law.

4. Intentionally canceling or deactivating effective technological measures taken by authors or copyright holders to protect copyright to their works for the purpose of performing the acts specified in this Article and Article 35 of this Law.

5. Manufacturing, distributing, importing, offering for sale, selling, promoting, advertising, marketing, leasing or stockpiling for commercial purposes equipment, products or components, introducing or providing services when knowing or having grounds to know that such equipment, products, components or services are manufactured or used to deactivate effective technological measures for copyright protection.

6. Intentionally deleting, removing or modifying rights management information without permission of authors or copyright holders when knowing or having grounds to know that the performance of such acts will instigate, enable, facilitate or conceal acts of infringing upon copyright in accordance with law.

7. Intentionally distributing, importing for distribution, broadcasting, communicating or providing to the public copies of works when knowing or having grounds to know that rights management information has been deleted, removed or changed without permission of copyright holders; or when knowing or having grounds to know that the performance of such acts will instigate, enable, facilitate or conceal acts of infringing upon copyright in accordance with law.

8. Failing to implement or improperly implementing regulations for being exempted from legal liability of intermediary service providers specified in Clause 3, Article 198b of this Law.".

9. To amend and supplement Articles 29, 30, 31, 32 and 33 as follows:

"Article 29. Rights of performers

1. Performers have moral rights and economic rights to their performances in accordance with this Law.

In case performers are not concurrently rights holders of performances, they may enjoy the moral rights specified in Clause 2 of this Article; rights holders of performances may enjoy the economic rights specified in Clause 3 of this Article.

2. Moral rights include the following rights:

a/ To be acknowledged when performing or distributing phonograms or video recordings, or broadcasting performances;

b/ To protect the integrity of performed figures and prevent others from distorting, modifying or mutilating works in whatever form prejudicial to the honor and reputation of performers.

3. Economic rights include exclusive rights to exercise or authorize others to exercise the following rights:

a/ To fix their live performances on phonograms or video recordings;

b/ To directly or indirectly reproduce the whole or part of their performances which have been fixed on phonograms or video recordings by any device or in whatever form, except the case specified at Point a, Clause 5 of this Article;

c/ To broadcast or communicate to the public their unfixed performances in a manner accessible by the public, unless such performances are intended for broadcasting;

d/ To distribute or import for distribution to the public their original performances and copies thereof fixed in a physical form by mode of sale or other modes of ownership transfer, except the case specified at Point b, Clause 5 of this Article;

dd/ To commercially lease to the public their original performances and copies thereof fixed in phonograms or video recordings, even after such originals and copies are distributed by performers or with permission of performers;

e/ To broadcast or communicate to the public their fixed performances, including also to provide to the public fixed performances in a manner accessible by the public at places and time they choose.

4. When exploiting or exercising one, several or all of the rights specified in Clause 3 of this Article, organizations and individuals shall obtain permission of holders of rights to such performances and pay royalties and other material benefits (if any) to the rights holders in accordance with law or as agreed upon in case such exploitation or exercise is not provided by law, except the cases specified in Clause 5 of this Article, and Articles 25, 25a, 26, 32 and 33 of this Law.

5. Holders of rights to performances may not prevent other organizations and individuals from:

a/ Reproducing performances only to exercise other rights in accordance with this Law; temporarily reproducing performances according to a technological process or in the course of operation of equipment to transmit or broadcast performances within a network among third parties through intermediaries, or lawfully utilizing their performances fixed on phonograms or video recordings not for independent economic purposes, with copies automatically and irrestorably deleted;

b/ Subsequently distributing or importing for distribution original performances, copies thereof or fixed performances which have been previously distributed by rights holders or by other parties permitted by rights holders.

Article 30. Rights of producers of phonograms and video recordings

1. Producers of phonograms and video recordings have the exclusive right to exercise or authorize other organizations and individuals to exercise the following rights:

a/ To reproduce the whole or part of their phonograms or video recordings by any devices or in whatever form, except the case specified at Point a, Clause 3 of this Article;

b/ To distribute or import for distribution to the public by the mode of sale or other modes of ownership transfer their original phonograms or video recordings or copies thereof in the physical form, except the case specified at Point b, Clause 3 of this Article;

c/ To commercially lease to the public their original phonograms or video recordings or copies thereof, even after such phonograms or video recordings are distributed by themselves or with their permission;

d/ To broadcast or communicate to the public their phonograms or video recordings, including also to provide to the public of phonograms or video recordings in a manner accessible by the public at places and time they choose.

2. When exploiting or exercising one, several or all of the rights specified in Clause 1 of this Article, organizations and individuals shall obtain permission of holders of rights to phonograms or video recordings and pay royalties and other material benefits (if any) to the rights holders in accordance with law or as agreed upon in case such exploitation or exercise is not provided by law, except the cases specified in Clause 3 of this Article, and Articles 25, 25a, 26, 32 and 33 of this Law.

3. Holders of rights to phonograms or video recordings may not prevent other organizations and individuals from:

a/ Reproducing phonograms or video recordings only to exercise other rights in accordance with this Law; temporarily reproducing phonograms or video recordings according to a technological process or in the course of operation of equipment to transmit or broadcast phonograms or video recordings within a network among third parties through intermediaries, or lawfully utilizing phonograms or video recordings not for independent economic purposes, with copies automatically and irrestorably deleted;

b/ Subsequently distributing or importing for distribution original phonograms or video recordings and copies thereof which have been previously distributed by rights holders or by other parties permitted by rights holders.

Article 31. Rights of broadcasting organizations

1. Broadcasting organizations have the exclusive right to exercise or permit others to exercise the following rights:

a/ To make broadcasts or rebroadcast their broadcasts;

b/ To directly or indirectly reproduce the whole or part of their fixed broadcasts by any device or in whatever form, except the case specified at Point a, Clause 3 of this Article;

c/ To fix their broadcasts;

d/ To distribute or import for distribution to the public by the mode of sale or other forms of ownership transfer their fixed broadcasts in the physical form, except the case specified at Point b, Clause 3 of this Article.

2. When exploiting or exercising one, several or all of the rights specified in Clause 1 of this Article, organizations and individuals shall obtain permission of holders of rights to broadcasts and pay royalties and other material benefits (if any) to the rights holders in accordance with law or as agreed upon in case such exploitation or exercise is not provided by law, except the cases specified in Clause 3 of this Article, and Articles 25, 25a, 26, 32 and 33 of this Law.

3. Holders of rights to broadcasts may not prevent other organizations and individuals from:

a/ Reproducing broadcasts only to exercise other rights in accordance with this Law; temporarily reproducing broadcasts according to a technological process or in the course of operation of equipment to transmit or broadcast broadcasts within a network among third parties through intermediaries, or lawfully utilizing broadcasts not for independent economic purposes, with copies automatically and irrestorably deleted;

b/ Subsequently distributing or importing for distribution fixed broadcasts which have been previously distributed by rights holders or by other parties permitted by rights holders.

Article 32. Exception cases in which related rights are not regarded as being infringed upon

1. Cases of use of a published performance, phonogram, video recording or broadcast in which permission of authors and payment of royalties are not required but the provision of information on such performance, phonogram, video recording or broadcast is required:

a/ Live audio recording or video recording of part of the performance for the teaching purpose not for commercial purposes or for current event reporting;

b/ Reproduction or assistance for people with disabilities to reproduce part of the performance, phonogram, video recording or broadcast for personal scientific research or learning purpose and not for commercial purposes;

c/ Reasonable reproduction of part of the performance, phonogram, video recording or broadcast for personal teaching and not for commercial purposes, unless such performance, phonogram, video recording or broadcast has been published for the teaching purpose;

d/ Reasonable recitation of the performance, phonogram, video recording or broadcast for the current event reporting purpose;

dd/ Temporary duplication by the broadcasting organization for the broadcasting purpose when enjoying the broadcasting right.

2. The use of performances, phonograms, video recordings and broadcasts specified in Clause 1 of this Article must neither be contradictory to the normal exploitation of such performances, phonograms, video recordings and broadcasts nor unreasonably cause prejudice to lawful interests of performers, phonogram or video recording producers and broadcasting organizations.

3. The Government shall detail this Article.

Article 33. Limitations on related rights

1. Cases of use of published phonograms or video recordings in which permission of authors is not required or but the payment of royalties and provision of information on such phonograms or video recordings is required:

a/ Organizations or individuals that use published phonograms or video recordings for commercial purposes for making their broadcasts which are sponsored, advertised or charged in whatever form are not required to obtain permission of but have to pay royalties to performers, producers of such phonograms or video recordings and broadcasting organizations since the commencement of the use. Royalty levels and payment methods shall be agreed upon by the parties; in case no agreement can be reached, the parties shall comply with regulations of the Government.

Organizations or individuals that use published phonograms or video recordings for commercial purposes for making their broadcasts which are not sponsored, advertised or charged in whatever form are not required to obtain permission of but have to pay royalties to performers, producers of such phonograms or video recordings and broadcasting organizations since the commencement of the use under regulations of the Government;

b/ Organizations and individuals that use published phonograms or video recordings for commercial purposes in their business and commercial activities are not required to obtain permission of but have to pay royalties to performers, producers of such phonograms or video recordings and broadcasting organizations as agreed upon since the commencement of the use; in case no agreement can be reached, they shall comply with regulations of the Government. The Government shall provide in detail business and commercial activities mentioned at this Point.

2. The use of phonograms or video recordings specified in Clause 1 of this Article must neither be contradictory to the normal exploitation of performances, phonograms, video recordings or broadcasts

nor unreasonably cause prejudice to lawful interests of performers, producers of phonograms or video recordings and broadcasting organizations.

3. Organizations and individuals that wish to exploit or use published phonograms and video recordings of Vietnamese organizations and individuals but cannot find or identify related rights holders shall comply with regulations of the Government.".

10. To amend and supplement Article 35 as follows:

"Article 35. Acts of infringing upon related rights

1. Infringing upon the rights of performers specified in Article 29 of this Law.

2. Infringing upon the rights of producers of phonograms and video recordings specified in Article 30 of this Law.

3. Infringing upon the rights of broadcasting organizations specified in Article 31 of this Law.

4. Failing to perform or improperly performing the obligations specified in Articles 32 and 33 of this Law.

5. Intentionally canceling or deactivating effective technological measures taken by related rights holders to protect their rights for the purpose of performing the acts specified in this Article and Article 28 of this Law.

6. Manufacturing, distributing, importing, offering for sale, selling, promoting, advertising, marketing, leasing or stockpiling for commercial purposes equipment, products or components, introducing or providing services when knowing or having grounds to know that such equipment, products, components or services are manufactured or used to deactivate effective technological measures for protection of related rights.

7. Intentionally deleting, removing or modifying rights management information without permission of related rights holders when knowing or having grounds to know that the performance of such acts will instigate, enable, facilitate or conceal acts of infringing upon related rights in accordance with law.

8. Intentionally distributing, importing for distribution, broadcasting, communicating or providing to the public fixed performances or copies thereof or phonograms, video recordings or broadcasts when knowing or having grounds to know that rights management information has been deleted, removed or modified without permission of related rights holders; when knowing or having grounds to know that the performance of such acts will instigate, enable, facilitate or conceal acts of infringing upon copyright in accordance with law.

9. Manufacturing, assembling, modifying, distributing, importing, exporting, offering for sale, selling or leasing equipment and systems when knowing or having grounds to know that such equipment and systems are used to or mainly help illegally decrypt encrypted program-carrying satellite signals.

10. Intentionally receiving or continuing to distribute encrypted program-carrying satellite signals when such signals have been decrypted without permission of legal distributors.

11. Failing to implement or improperly implementing regulations for being exempted from legal liability of intermediary service providers specified in Clause 3, Article 198b of this Law.".

11. To amend and supplement Article 36 as follows:

"Article 36. Copyright holders

Copyright holders mean organizations and individuals that hold one, several or all of the rights specified in Clause 3, Article 19 and Clause 1, Article 20 of this Law.".

12. To amend and supplement Articles 41, 42, 43 and 44 and add Article 44a below Article 44 in Chapter III of Part Two as follows:

"Article 41. Copyright holders being rights assignees

1. Organizations and individuals that are assigned one, several or all of the rights specified in Clause 3, Article 19 and Clause 1, Article 20 of this Law as agreed upon in contracts are copyright holders.

2. Organizations and individuals that currently manage or acquire rights to anonymous works may enjoy rights of holders until names of authors and co-authors are identified. When names of authors and co-authors are identified, holders of copyright to such works, and rights and obligations related to copyright of the organizations and individuals that currently manage or acquire rights shall be determined in accordance with this Law and other relevant laws.

Article 42. Copyright holders or related rights holders being the State

1. The State shall act as the representative of holders of copyright or related rights to:

a/ Works, performances, phonograms, video recordings and broadcasts that are created under orders placed, tasks assigned or bids tendered by the state budget-using agencies;

b/ Works, performances, phonograms, video recordings and broadcasts with copyright or related rights assigned by copyright holders, related rights holders, copyright co-holders or related rights co-holders to the State;

c/ Works, performances, phonograms, video recordings and broadcasts with their terms of protection having not yet expired of which copyright holders, related rights holders, copyright co-holders or related rights co-holders die in default of heirs, or the heirs renounce succession or are deprived of the right to succession.

2. The State shall act as the representative for management of copyright or related rights to:

a/ Works, performances, phonograms, video recordings and broadcasts for which it is impossible to find or identify copyright holders, related rights holders, copyright co-holders or related rights co-holders in accordance with law;

b/ Anonymous works until names of their authors, co-authors, copyright holders or copyright co-holders are identified, except the case specified in Clause 2, Article 41 of this Law.

3. Agencies using state budget funds to place orders, assign tasks or organize bidding for creation of works, performances, phonograms, video recordings and broadcasts shall act as the State's representatives to exercise rights of copyright holders or related rights holders in the case specified at Point a, Clause 1 of this Article.

The state management agency in charge of copyright and related rights shall act as the State's representative to exercise rights of copyright holders or related rights holders in the cases specified at Points b and c, Clause 1, and Clause 2, of this Article.

4. The Government shall detail Clauses 1 and 2 of this Article; and provide royalty levels and payment methods in the cases specified in Clauses 1 and 2 of this Article.

Article 43. Works, performances, phonograms, video recordings and broadcasts belonging to the public

1. Works with their terms of protection having expired under Clause 2, Article 27 of this Law, and performances, phonograms, video recordings and broadcasts with their terms of protection having expired under Article 34 of this Law will belong to the public.

2. All organizations and individuals have the right to use the works, performances, phonograms, video recordings and broadcasts specified in Clause 1 of this Article but shall respect moral rights of authors and performers provided in this Law and other relevant laws.

3. The Government shall detail the use of works, performances, phonograms, video recordings and broadcasts belonging to the public.

Article 44. Related rights holders

1. Related rights holders are provided as follows:

a/ Performers that use their time and invest their finance and physical-technical facilities for making performances will become holders of rights to their performances, unless otherwise agreed upon with related parties;

b/ Producers of phonograms and video recordings that use their time and invest their finance and physical-technical facilities for producing phonograms and video recordings will become holders of rights to such phonograms and video recordings, unless otherwise agreed upon with related parties;

c/ Broadcasting organizations will become holders of rights to their broadcasts, unless otherwise agreed upon with related parties.

2. Related rights holders being organizations that assign their attached units and individuals to make performances, phonograms, video recordings or broadcasts will become holders of the relevant rights specified in Clause 3, Article 29, Clause 1, Article 30, and Clause 1, Article 31, of this Law, unless otherwise agreed upon.

3. Related rights holders being organizations or individuals that enter into contracts with other organizations or individuals for making performances, phonograms, video recordings or broadcasts will become holders of the relevant rights specified in Clause 3, Article 29, Clause 1, Article 30, and Clause 1, Article 31, of this Law, unless otherwise agreed upon.

4. Organizations and individuals that inherit related rights in accordance with the law on inheritance will become holders of the relevant rights specified in Clause 3, Article 29, Clause 1, Article 30, and Clause 1, Article 31, of this Law.

5. Organizations and individuals that are assigned one, several or all of rights as agreed upon in contracts will become holders of one, several or all of the relevant rights specified in Clause 3, Article 29, Clause 1, Article 30, and Clause 1, Article 31, of this Law.

Article 44a. Principles of determination and division of royalties

1. Copyright co-holders and related rights co-holders shall reach agreement on the division of royalties in proportion to their contributions to the creation of the whole work, performance, phonogram, video recording or broadcast and their capital contribution portions and in conformity with the form of exploitation or use.

2. Royalties division proportions when a phonogram or video recording is used under Clause 1, Article 26 and Clause 1, Article 33 of this Law shall be agreed upon by the copyright holder, performer and related rights holder of such phonogram or video recording; in case no agreement can be reached, they shall comply with regulations of the Government.

3. Royalties shall be determined according to the set brackets and levels depending on type, form, quality, quantity or frequency of exploitation or use of works; harmony of interests of creators, organizations and individuals exploiting or using and the public enjoying such works, and in conformity with socio-economic conditions at the time and locations of exploitation or use.".

13. To amend and supplement Clauses 1 and 2, Article 47 as follows:

"1. Licensing of copyright and related rights means the permission by copyright holders or related rights holders for other organizations and individuals to use for a definite term one, several or all of the rights specified in Clauses 1 and 3, Article 19; Clause 1, Article 20; Clause 3, Article 29; Clause 1, Article 30; and Clause 1, Article 31, of this Law.

2. Authors may not license their moral rights specified in Clauses 2 and 4, Article 19 of this Law. Performers may not license their moral rights specified in Clause 2, Article 29 of this Law.".

14. To amend and supplement Articles 49 and 50 as follows:

"Article 49. Registration of copyright, registration of related rights

1. Registration of copyright or registration of related rights means the filing of dossiers by authors, copyright holders or related rights holders with a competent state agency for recording of information on authors, works, copyright holders and related rights holders.

2. The filing of dossiers of application for copyright registration certificates or related rights registration certificates is not a compulsory formality for enjoyment of copyright or related rights in accordance with this Law.

3. Organizations and individuals that are granted copyright registration certificates or related rights registration certificates are not obliged to bear the burden of proof of such copyright and related rights upon occurrence of disputes, unless rebutting proofs are adduced.

4. Organizations and individuals shall pay charges and fees when carrying out copyright registration or related rights registration procedures for grant, re-grant, renewal or invalidation of copyright registration certificates or related rights registration certificates.

5. The Government shall provide in detail conditions, order and procedures for grant of copyright registration certificates and related rights registration certificates.

Article 50. Dossiers for registration of copyright and related rights

1. Authors, copyright holders and related rights holders may personally file or authorize other organizations or individuals to file dossiers for registration of copyright or related rights by hand-delivery, by post or via the Online Public Service Portal to the state management agency in charge of copyright and related rights.

2. A dossier for registration of copyright or related rights must comprise:

a/ A written declaration for registration of copyright or related rights.

The written declaration must be made in Vietnamese and contain adequate information on the applicant, author, copyright holder or related rights holder; time of completion; summarized contents of the work, performance, phonogram, video recording or broadcast; names of the author and copyright holder, title of the work used to make the derivative work, in case the to-be-registered work is a derivative work; time, place and form of publication; information on certificate re-grant or renewal (if any), and the commitment on responsibility for information stated in the application. The declaration

must be signed or finger-printed by the author, copyright holder or related rights holder, unless he/she is physically unable to do so.

The Minister of Culture, Sports and Tourism shall provide forms of written declarations for registration of copyright and registration of related rights;

b/ Two copies of the work subject to copyright registration, or two copies of the fixed object subject to related rights registration;

c/ A letter of authorization, in case the applicant is an authorized person;

d/ Documents proving that the applicant is the holder of the right to freedom of creation or acquires such right from creation task assignment, entry into a creation contract, inheritance, or assignment of rights;

dd/ The written consent of co-authors, for works of joint authorship;

e/ The written consent of co-holders, if the copyright or related rights is/are under joint ownership.

3. The documents specified at Point c, d, dd and e, Clause 2 of this Article must be made in Vietnamese. Documents in foreign languages must be translated into Vietnamese.".

15. To amend and supplement Article 52 as follows:

*"*Article 52. Time limit for granting copyright registration certificates or related rights registration certificates

Within fifteen working days after receiving a valid dossier, the state management agency in charge of copyright and related rights shall grant a copyright registration certificate or related rights registration certificate to the applicant. In case of refusal to grant a copyright registration certificate or related rights registration certificate, the state management agency in charge of copyright and related rights shall notify such in writing to the applicant, clearly stating the reason.".

16. To amend and supplement Article 55 as follows:

*"*Article 55. Re-grant, renewal and invalidation of copyright registration certificates and related rights registration certificates

1. In case a copyright registration certificate or related rights registration certificate is lost or damaged, the competent state agency specified in Clause 2, Article 51 of this Law shall re-grant such certificate within seven working days after receiving a valid dossier. In case of request for change of the copyright holder or related rights holder; information on the work, author or copyright holder; or information on the subject matter of related rights or related rights holder, the competent state agency specified in Clause 2, Article 51 of this Law shall renew the copyright registration certificate or related rights registration certificate within twelve working days after receiving a valid dossier.

In case of refusal to re-grant or renew the copyright registration certificate or related rights registration certificate, the state management agency in charge of copyright and related rights shall notify such in writing to the applicant, clearly stating the reason.

2. In case the holder of a copyright registration certificate or related rights registration certificate is not the author, copyright holder or related rights holder, or the registered work, phonogram, video recording or broadcast is ineligible for protection, the competent state agency specified in Clause 2, Article 51 of this Law shall invalidate such certificate.

3. In case an organization or individual detects that the grant of a copyright registration certificate or related right registration certificate is contrary to this Law, it/he/she may request the state management agency in charge of copyright and related rights to invalidate such certificate.

4. Within fifteen working days after receiving one of the following documents, the competent state agency shall issue a decision to invalidate a copyright registration certificate or related rights registration certificate:

a/ A legally effective court judgment or ruling or a decision of a state agency competent to handle acts infringing upon intellectual property rights as specified in Article 200 of this Law regarding invalidation of the copyright registration certificate or related rights registration certificate;

b/ A written request, made by the organization or individual that has been granted the copyright registration certificate or related rights registration certificate, for invalidation of such certificate.

5. The Government shall detail this Article.".

17. To amend and supplement the title of Chapter VI in Part Two as follows:

"Chapter VI
COPYRIGHT AND RELATED RIGHTS COLLECTIVE REPRESENTATION ORGANIZATIONS, COPYRIGHT AND RELATED RIGHTS CONSULTANCY AND SERVICE ORGANIZATIONS".

18. To amend and supplement Article 56 as follows:

"Article 56. Copyright and related rights collective representation organizations

1. Copyright and related rights collective representation organizations are voluntary, self-funded and not-for-profit organizations established under agreement among authors, copyright holders and related rights holders, operating in accordance with law for performance of mandate of copyright and related rights, and submitting to the state management by the Ministry of Culture, Sports and Tourism of copyright and related rights collective representation activities.

2. Copyright and related rights collective representation organizations shall carry out the following activities as authorized in writing by authors, copyright holders and related rights holders:

a/ Performing the management of copyright and related rights; conducting negotiations for licensing, collection and division of royalties and other material benefits from the permitted exercise of authorized rights;

b/ Protecting lawful rights and interests of their members; organizing conciliations upon occurrence of disputes.

3. Copyright and related rights collective representation organizations have the following rights and obligations:

a/ To take responsibility for ensuring publicity and transparency of their management and administration activities to competent state agencies; the authorizing authors, copyright holders and related rights holders; and exploiting and using organizations and individuals;

b/ To draw up lists of the authorizing authors, copyright holders and related rights holders; works, performances, phonograms, video recordings and broadcasts currently under their management; scope of authorization; validity of authorization contracts; and plans on and results of the collection and division of royalties;

c/ To formulate and submit royalty levels and payment methods to the Minister of Culture, Sports and Tourism for approval. The Minister of Culture, Sports and Tourism shall approve royalty levels and payment methods on the basis of the principles specified in Clause 3, Article 44a of this Law;

d/ To collect and divide royalties in accordance with their charters and letters of authorization of authors, copyright holders and related rights holders containing agreements on division levels or percentages, methods and time of division, ensuring publicity and transparency in accordance with law.

The collection and division of royalties from foreign counterpart organizations or international organizations must comply with the law on foreign exchange management;

dd/ To retain part of total collected royalties to pay for the performance of their tasks on the basis of agreements of the authorizing authors, copyright holders and related rights holders. The royalty retention level shall be adjusted on the basis of agreements of the authorizing authors, copyright holders and related rights holders and may be determined in percentage of total collected royalties;

e/ To divide royalties collected from the licensing of exploitation or use to authors, copyright holders and related rights holders after subtracting the expenses specified at Point dd of this Clause;

g/ To make annual reports and extraordinary reports on their collective representation activities to competent state agencies; to submit to the examination and inspection by competent state agencies;

h/ To carry out activities in support of culture development of, promotion of creation and other social activities;

i/ To enter into cooperation and conclude agreements on reciprocal representation in the protection of copyright and related rights with counterpart bodies of international organizations and of other countries;

k/ To set up their organizational structure and apparatus, ensuring that the authorizing authors, copyright holders and related rights holders have the right to act as self-nominated candidates of or be elected as holders of their leading, managerial and control titles.

4. In case a work, phonogram, video recording or broadcast is related to rights and interests of more than one copyright and related rights collective representation organization authorized to manage it, such organizations may reach agreement to let one among them to represent them in conducting negotiations for use licensing, collection and division of royalties in accordance with their charters and letters of authorization.

5. In case copyright and related rights collective representation organizations cannot find or contact the authorizing authors, co-authors, copyright holders, related rights holders, copyright co-holders or related rights co-holders after five years' search in order to divide the collected royalties, they shall hand over such royalties to the competent state agency for management after subtracting management and search expenses in accordance with this Law and other relevant laws.

After receiving the royalties, the competent state agency shall continue making notices of search for subsequent five years. Upon the expiration of this time limit, if the competent state agency is still unable to find or contact the authors, co-authors, copyright holders, related rights holders, copyright co-holders, related rights co-holders and persons with related rights and obligations as specified by law, such royalties shall be used for the promotion of creation, public communication and intensified protection of copyright and related rights. Within the above time limit, when the authors, co-authors, copyright holders, related rights holders, copyright co-holders, related rights co-holders and persons with related rights and obligations as specified by law are found or successfully contacted, such royalties shall, after subtracting management and search expenses, be paid to those persons in accordance with law.

6. The Government shall detail this Article.”.

19. To amend and supplement Clause 1, Article 60 as follows:

“1. An invention shall be considered novel if it does not fall into one of the following cases:

a/ Being publicly disclosed through use or by means of a written description or any other form, inside or outside the country, before the filing date or priority date, as applicable, of the invention registration application.

b/ Being disclosed in another invention registration application with an earlier filing date or priority date but published on or after the filing date or priority date of such application.”.

20. To amend and supplement Clause 1, Article 72 as follows:

“1. Being a visible sign in the form of letters, words, drawings, images, holograms, or a combination thereof, represented in one or more than one color or audiographic symbol;”.

21. To amend and supplement a number of clauses of Article 73 as follows:

a/ To amend and supplement Clause 1 as follows:

“1. Signs identical with or confusingly similar to national flags, national emblems and national anthems of the Socialist Republic of Vietnam and other countries, and the International (L’Internationale);”;

b/ To add Clauses 6 and 7 below Clause 5, Article 73 as follows:

“6. Signs that are original shapes of goods or that come into compulsory existence due to technical properties of goods;

7. Signs containing copies of works, unless it is permitted by owners of such works.”

22. To amend and supplement a number of points of Clause 2, Article 74 as follows:

a/ To amend and supplement Points a, b and c as follows:

“a/ Simple shapes and geometric figures, numerals, letters or scripts of uncommon languages, unless such signs are widely used and recognized as a mark before the filing date;

b/ Conventional signs or symbols, pictures or common names in any language of goods or services, common shapes of goods or part thereof, common shapes of goods packages or containers that are regularly used and widely recognized before the filing date;

c/ Signs indicating the time, place and method of manufacturing, category, quantity, quality, properties, ingredients, intended utility, value or other characteristics, which are descriptive of goods or services, or signs making goods considerably more valuable, unless such signs become distinctive through use before the filing date;”;

b/ To amend and supplement Points dd and e as follows:

“dd/ Signs indicating the geographical origin of goods or services, unless such signs are widely used and recognized as a mark before the filing date or have been registered as collective marks or certification marks in accordance with this Law;

e/ Signs identical with or confusingly similar to marks of other organizations and individuals protected for identical or similar goods or services on the basis of registration applications with earlier filing dates

or priority dates, as applicable, including mark registration applications filed under treaties to which the Socialist Republic of Vietnam is a contracting party, unless the validity of the registration of such marks is terminated under Point d, Clause 1, Article 95 or the registration of such marks is invalidated under Article 96 according to the procedures specified at Point b, Clause 3, Article 117 of this Law;";

c/ To amend and supplement Points h and i as follows:

"h/ Signs identical with or confusingly similar to marks of other organizations and individuals protected for identical or similar goods or services, the validity of registration certificates of which has been terminated for no more than 03 (three) years, unless the validity of registration of such marks is terminated under Point d, Clause 1, Article 95 according to the procedures specified at Point b, Clause 3, Article 117 of this Law;

i/ Signs identical with or confusingly similar to others' marks recognized as well-known marks before the filing date for registration applications of goods or services which are identical with or similar to those bearing well-known marks, or for registration applications of dissimilar goods or services, if the use of such marks is likely to affect the distinctiveness of the well-known marks or the mark registration is aimed at taking advantage of the reputation of the well-known marks;";

d/ To amend and supplement Point n and add Points o and p below Point n as follows:

"n/ Signs identical with or insignificantly different from others' industrial designs which have been or are being protected on the basis of industrial design registration applications with filing dates or priority dates earlier than those of the mark registration applications;

o/ Signs identical with or confusingly similar to names of plant varieties which have been or are being protected in Vietnam if such signs are registered for plant varieties of the same species or similar species or products harvested from plant varieties;

p/ Signs identical with or confusingly similar to names or images of characters or figures in works within the scope of others' copyright protection and widely known to the public before the filing date, unless it is permitted by owners of such works.".

23. To amend and supplement the first paragraph of Article 75 as follows:

"Criteria for the consideration and evaluation of a mark as a well-known mark shall be chosen from several or all of the following criteria:".

24. To amend and supplement Article 79 as follows:

"Article 79. General conditions for geographical indications eligible for protection

1. A geographical indication will be eligible for protection if it satisfies the following conditions:

a/ The product bearing the geographical indication geographically originates from the area, locality, territory or country corresponding to such geographical indication;

b/ The product bearing the geographical indication has a reputation, quality or characteristics mainly attributable to geographical conditions of the area, locality, territory or country corresponding to such geographical indication.

2. Homophonic geographical indications satisfying the conditions specified in Clause 1 of this Article will be eligible for protection if they are used in practice in a manner not leading to consumers' confusion as to geographical origin of products bearing such geographical indications and adhering to the principle of fair treatment among organizations and individuals manufacturing products bearing such geographical indications.".

25. To amend and supplement Article 86 and add Article 86a below Article 86 as follows:

"Article 86**.** Right to register inventions, industrial designs and layout-designs

1. The following organizations and individuals have the right to register inventions, industrial designs and layout-designs:

a/ Authors who have created inventions, industrial designs or layout-designs with their own efforts and expenses;

b/ Organizations and individuals that have provided funds and material facilities to authors in the form of job assignment or hiring, and organizations and individuals assigned to manage genetic resources that have provided genetic resources or traditional knowledge about genetic resources under contracts on access to genetic resources and sharing of benefits, unless otherwise agreed upon by the parties or except the cases specified in Article 86a of this Law.

2. In case more than one organization or individual have jointly created or invested in the creation of an invention, industrial design or a layout-design, such organizations and individuals all have the registration right, which may only be exercised with their consensus.

3. Organizations and individuals that have the registration right provided in this Article may assign that right to other organizations and individuals in the form of written contract, bequeathal or inheritance in accordance with law, even in case registration applications have been filed.

Article 86a. Right to register inventions, industrial designs and layout-designs being outcomes of the state budget-funded science and technology tasks

1. For inventions, industrial designs and layout-designs being outcomes of science and technology tasks wholly funded by the state budget, the right to register them shall be given to organizations in charge of such tasks in an automatic and non-refundable manner, except the cases specified in Clause 3 of this Article.

2. For inventions, industrial designs and layout-designs being outcomes of science and technology tasks funded by the state budget as part of various funding sources, the portion of the right to register them in proportion to the amount of state budget funds shall be given to organizations in charge of such tasks in an automatic and non-refundable manner, except the cases specified in Clause 3 of this Article.

3. The right to register inventions, industrial designs and layout-designs being outcomes of science and technology tasks in the field of national defense and security is provided as follows:

a/ In case such science and technology tasks are wholly funded by the state budget, the right to register inventions, industrial designs and layout-designs belongs to the State;

b/ In case such science and technology tasks are funded by the state budget as part of various funding sources, the portion of the right to register inventions, industrial designs and layout-designs in proportion to the amount of state budget funds belongs to the State.

c/ The state owner's representative shall exercise the registration right provided at Points a and b of this Clause.

4. The Government shall detail this Article.".

26. To amend and supplement Article 88 as follows:

“Article 88. Right to register geographical indications

1. The right to register Vietnamese geographical indications belongs to the State. The State allows organizations and individuals manufacturing products bearing geographical indications, collective organizations representing such organizations and individuals or administrative management agencies of localities to which such geographical indications pertain to exercise the right to register geographical indications. Organizations and individuals that exercise the right to register geographical indications will not become owners of such geographical indications.

2. Foreign organizations and individuals that are holders of rights to geographical indications in accordance with laws of countries of origin have the right to register such geographical indications in Vietnam.”.

27. To add Article 89a below Article 89 as follows:

“Article 89a. Security control of inventions before overseas filing of registration applications

1. For inventions in technical fields that are likely to impact national defense and security, have been created in Vietnam and fall under the registration right of individuals who are Vietnamese citizens and permanently reside in Vietnam or of organizations established in accordance with Vietnam’s law, registration applications may only be filed overseas after they are filed in Vietnam for the performance of security control procedures.

2. The Government shall detail Clause 1 of this Article.”.

28. To amend and supplement Clause 2, Article 92 as follows:

“2. Protection titles of geographical indications must record organizations managing such geographical indications, protected geographical indications, particular characteristics of products bearing such geographical indications, and particular characteristics in terms of geographical conditions and geographical areas bearing such geographical indications.”.

29. To add Clauses 8 and 9 below Clause 7, Article 93 as follows:

“8. An international registration of a mark under the Madrid Protocol and Madrid Agreement Concerning the International Registration of Marks which designates Vietnam shall become effective from the date the state management agency in charge of industrial property rights issues a decision on acceptance of protection of the mark in such international registration or from the date following the date of expiration of the time limit of twelve months after the International Office issues a notice of international registration of such mark which designates Vietnam, whichever comes first. The validity duration of international registrations of marks shall be counted in accordance with the Madrid Protocol and Madrid Agreement.

9. An international registration of a mark under the Hague Agreement Concerning the International Registration of Industrial Designs which designates Vietnam shall become effective from the date the state management agency in charge of industrial property rights issues a decision on acceptance of protection of the industrial design in such international registration or from the date following the date of expiration of the time limit of six months after the International Office announces the international registration of such industrial design, whichever comes first. The validity duration of international registrations of industrial designs shall be counted in accordance with the Hague Agreement.”.

30. To amend and supplement Articles 95 and 96 as follows:

“Article 95. Termination of validity of protection titles

1. The validity of a protection title shall be wholly or partially terminated in the following cases:

a/ The protection title holder fails to pay the validity maintenance or prolongation charge or fee under regulations;

b/ The protection title holder declares to relinquish the industrial property rights;

c/ The protection title holder no longer exists or the holder of a mark registration certificate is no longer engaged in business activities without any lawful heir;

d/ The mark has not been used by its owner or his/her licensee without justifiable reasons for five consecutive years prior to the date a request for validity termination is made, unless the use is commenced or resumed at least three months before the request for termination is made;

dd/ The holder of a mark registration certificate, for collective marks, fails to control or ineffectively controls the implementation of the regulation on use of collective marks;

e/ The holder of a mark registration certificate, for certification marks, violates the regulation on use of certification marks or fails to control or ineffectively controls the implementation of such regulation;

g/ The geographical conditions decisive to reputation, quality or properties of products bearing a geographical indication have changed, resulting in the loss of reputation, quality or properties of such products;

h/ The use of the mark protected for goods or services by the mark owner or a person permitted by the mark owner leads to consumers' misunderstanding about the nature, quality or geographical origin of such goods or services;

i/ The protected mark has become a common name of goods or services registered for such mark;

k/ The foreign geographical indication is no longer protected in the country of origin.

2. In case the holder of an invention patent or a utility solution patent fails to pay the validity maintenance charge or fee within the law-specified time limit, the validity of the protection title shall, upon the expiration of such time limit, automatically terminate from the first day of the first valid year for which the validity maintenance charge or fee has not been paid.

In case the holder of a mark protection title or an industrial design protection title fails to pay the validity prolongation charge or fee within the law-specified time limit, the validity of such protection title shall, upon the expiration of such time limit, automatically terminate from the first day of the subsequent valid period for which the validity prolongation charge or fee has not been paid.

The state management agency in charge of industrial property rights shall record the termination of validity of protection titles in the National Register of Industrial Property and publish it in the Official Gazette of Industrial Property.

3. In case the holder of a protection title declares to relinquish industrial property rights provided at Point b, Clause 1 of this Article, the state management agency in charge of industrial property rights shall consider and decide to terminate the validity of such protection title.

4. Organizations and individuals may request the state management agency in charge of industrial property rights to terminate the validity of protection titles in the cases specified at Points c, d, dd, e, g, h, i and k, Clause 1 of this Article, provided that they have paid charges and fees.

5. Based on results of the examination of written requests for termination of validity of protection titles in the cases specified in Clauses 3 and 4 of this Article and opinions of related parties, the state management agency in charge of industrial property rights shall notify its refusal to terminate the validity of protection titles or shall decide to wholly or partially terminate the validity of protection titles.

6. For the cases specified at Points c, d, dd, e, g, h and i, Clause 1 of this Article, the validity of protection titles shall be terminated from the date the state management agency in charge of industrial property rights issues decisions on termination of validity of such protection titles.

For the case specified at Point k, Clause 1 of this Article, the validity of protection titles shall be terminated from the date geographical indications are no longer protected in countries of origin.

In case the state management agency in charge of industrial property rights issues a decision on termination of validity of a protection title under Clause 3 of this Article, the validity of such protection title shall be terminated from the date the state management agency in charge of industrial property rights receives a written declaration of the protection title holder.

7. The provisions of Clauses 1 thru 6 of this Article shall also apply to the termination of validity of international registrations of marks and industrial designs.

Article 96. Invalidation of protection titles

1. A protection title shall be wholly invalidated in the following cases:

a/ The mark registration applicant has bad intentions;

b/ The invention registration application is filed in contravention of regulations on security control, for the inventions specified in Article 89a of this Law;

c/ The invention registration application is made for the invention directly created based on genetic resources or traditional knowledge of genetic resources but does not disclose or inaccurately discloses the origin of the genetic resources or traditional knowledge of genetic resources stated in the application.

2. A protection title shall be wholly or partly invalidated if the whole or part of such protection title fails to comply with this Law's provisions on the right to register, conditions for protection, modification and supplementation of registration application, disclosure of invention, and the first-to-file principle in the following cases:

a/ The registration applicant has neither had nor been assigned the right to register inventions, industrial designs, layout-designs or marks;

b/ The subject matter of industrial property does not satisfy the conditions for protection specified in Article 8 and Chapter VII of this Law;

c/ The modification or supplementation of the industrial property registration application results in expansion of the scope of the subject matter disclosed or stated in the application or results in change of the nature of the subject matter subject to registration stated in the application;

d/ The invention is not fully and clearly disclosed to the extent that it may be realized by a person with average knowledge in the relevant art;

dd/ The invention is granted the protection title beyond the scope of disclosure in the initial description of the invention registration application;

e/ The invention does not adhere to the first-to-file principle specified in Article 90 of this Law.

3. For a protection title that is wholly or partly invalidated under Clause 1 or 2 of this Article, the wholly or partly invalidated contents do not become effective from the time of grant of the title.

4. Organizations and individuals may request the state management agency in charge of industrial property rights to invalidate protection titles in the cases specified in Clauses 1 and 2 of this Article, provided that they have to pay charges and fees.

The statute of limitations for exercising the right to request invalidation of a protection title is its whole term of protection, except cases of request for invalidation of protection titles for marks for the reason specified in Clause 2 of this Article, in which such statute of limitations is five years from the date of grant of the protection titles or from the date international registrations of marks take effect in Vietnam.

5. Based on results of the examination of the request for invalidation of a protection title and involved parties' opinions, the state management agency in charge of industrial property rights shall decide on invalidation of the protection title or notify the refusal to invalidate it.

6. The provisions of Clauses 1 thru 5 of this Article also apply to the invalidation of international registrations of marks and industrial designs.

7. The Minister of Science and Technology shall detail Clauses 1 and 2 of this Article.".

31. To amend and supplement Clauses 1 and 2, Article 97 as follows:

"1. The owner of a protection title or an organization or individual exercising the right to register geographical indications under Article 88 of this Law may request the state management agency in charge of industrial property rights to make modifications to the following information in such protection title, provided that it/he/she has to pay charges and fees:

a/ Modifications or error corrections in relation to the name and citizenship of the author or name and address of the protection title owner or the organization managing geographical indications;

b/ Modifications to the description of particular characteristics or quality or geographical areas bearing geographical indications; modifications to the regulation on use of collective marks or the regulation on use of certification marks.

2. At the request of the owner of a protection title or an organization or individual exercising the right to register geographical indications, the state management agency in charge of industrial property rights shall correct errors caused by its fault in such protection title. In this case, the protection title owner or organization or individual exercising the right to register geographical indications is not required to pay charges and fees.".

32. To add Point dd1 below Point dd, Clause 1, Article 100 as follows:

"dd1/ Documents on the origin of genetic resources or traditional knowledge of genetic resources in the invention registration application, for inventions directly created based on genetic resources or traditional knowledge of genetic resources;".

33. To amend and supplement Article 103 as follows:

"Article 103. Requirements for industrial design registration applications

1. Documents identifying an industrial design registered for protection in an industrial design registration application include a set of photos or drawings and a description of the industrial design shown in the set of photos or drawings.

2. The set of photos or drawings of an industrial design must fully display features of the industrial design registered for protection to the extent that a person with average knowledge in the relevant art may, based on such features, identify that industrial design.

3. The description of an industrial design displayed in the set of photos or drawings must ordinally enumerate such photos or drawings and features of the industrial design.".

34. To amend and supplement Clause 2, Article 105 as follows:

"2. The sample of a mark must be described in order to clarify constituents of the mark and the comprehensive meaning of the mark (if any); if the mark consists of words or phrases of hieroglyphic languages, such words or phrases must be transcribed; if the mark consists of words or phrases in languages other than Vietnamese, such words or phrases must be translated into Vietnamese; if the mark consists of sounds, the sample of the mark must be a tape of sounds and a graphic version of such sounds.".

35. To add Point e below Point dd, Clause 1, Article 106 as follows:

"e/ Documents explaining use conditions and format of geographical indications to ensure the distinguishability of different geographical indications, for homonymous geographical indications.".

36. To add Clause 3 below Clause 2, Article 108 as follows:

"3. Registration applications for classified inventions must comply with regulations of the Government.".

37. To amend and supplement Point dd, and add Point e below Point dd, Clause 2, Article 109 as follows:

"dd/ The applicant fails to fully pay charges and fees under regulations;

e/ The invention registration application is filed in contravention of regulations on security control, for inventions specified in Article 89a of this Law.".

38. To amend and supplement the title and a number of clauses of Article 110 as follows:

a/ To amend and supplement the title of Article 110 as follows:

"Article 110. Publicization of mark registration applications, publication of industrial property registration applications";

b/ To add Clause 1a before Clause 1 as follows:

"1a. Mark registration applications not yet accepted as valid by the state management agency in charge of industrial property rights shall be publicized right after being received.";

c/ To amend and supplement Clause 3 as follows:

"3. An industrial design registration application, a mark registration application or a geographical indication registration application shall be published within two months from the date it is accepted as valid. An industrial design registration application may be published later as requested by the applicant at the filing time, which must not exceed seven months from the filing date.".

39. To amend and supplement Article 112 and add Article 112a below Article 112 as follows:

"Article 112. Third party's opinions on grant of protection titles

From the date an industrial property registration application is published in the Official Gazette of Industrial Property to the date prior to the date of issuance of a decision on grant of a protection title, any third party may express opinions to the state management agency in charge of industrial property rights on the grant or refusal to grant a protection title in respect of such application. Such opinions

shall be recorded in writing with supporting documents or must quote the source of information as proof.

The document stating the third party's opinions shall be regarded as a source of reference information for the course of processing industrial property registration applications.

Article 112a. Objections/Opposition to industrial property registration applications

1. Before the date of issuance of a decision on grant of a protection title, any third party may make objections to the grant of the protection title within:

a/ Nine months from the date the invention registration application is published;

b/ Four months from the date the industrial design registration application is published;

c/ Five months from the date the mark registration application is published; or,

d/ Three months from the date the geographical indication registration application is published.

2. The objections specified in Clause 1 of this Article shall be recorded in writing or must quote the source of information as proof and subject to charge and fee.

3. The state management agency in charge of industrial property rights shall handle the objections specified in Clause 2 of this Article according to the order and procedures provided by the Minister of Science and Technology.".

40. To add Clauses 3 and 4 below Clause 2, Article 114 as follows:

"3. The state management agency in charge of industrial property rights may use results of the substantive examination of registration applications for inventions that are identical to the inventions registered for protection, which is carried out by a foreign patent office in the course of evaluating their protectability.

4. The Minister of Science and Technology shall provide in detail the use of results of the substantive examination of invention registration applications mentioned in Clause 3 of this Article.".

41. To amend and supplement Clause 2, Article 116 as follows:

"2. As from the time the applicant declares the withdrawal of the application, all subsequent procedures related to such application shall be terminated.".

42. To amend and supplement a number of clauses of Article 117 as follows:

a/ To amend and supplement Clause 1 and add Clause 1a below Clause 1 as follows:

"1. The grant of a protection title for an invention, an industrial design, a mark or a geographical indication registration application is refused in the following cases:

a/ There are grounds to believe that the subject matter stated in the application does not fully satisfy the conditions for protection;

b/ There are grounds to believe that the applicant does not have the right to register subject matters of industrial property or registers the mark with bad intentions;

c/ The application satisfies the conditions for the grant of a protection title but is not the one with priority date or first-to-file date falling into the case specified in Clauses 1 and 2, Article 90 of this Law;

d/ The application falls into a case specified in Clause 3, Article 90 of this Law but fails to get the consensus of all applicants;

dd/ The modification or supplementation of the application results in expansion of the scope of the subject matter disclosed or stated in such application or results in the change of the nature of the subject matter subject to registration stated in the application.

1a. In addition to the cases specified in Clause 1 of this Article, the grant of a protection title for an invention registration application shall be refused in the following cases:

a/ The invention registered for protection falls beyond the scope of disclosure stated in the initial description of the application;

b/ The invention is not fully and clearly disclosed in the invention description to the extent that it may be realized by a person with average knowledge in the relevant art;

c/ For the invention directly created based on genetic resources or traditional knowledge of genetic resources, the application does not disclose or inaccurately discloses the origin of the genetic resources or traditional knowledge of genetic resources;

d/ The application is filed in contravention of regulations on security control, for the inventions specified in Article 89a of this Law.";

b/ To amend and supplement Clause 3 as follows:

"3. For an industrial property registration application falling into the cases specified in Clause 1, 1a or 2 of this Article, the state management agency in charge of industrial property rights shall carry out the following procedures:

a/ Notifying results of the substantive examination, clearly stating the intended refusal to grant a protection title, reason for refusal, and time limit for the applicant to make an objection to such intended refusal;

b/ Suspending the application examination process in case the applicant files a request for such suspension and requests termination of validity or invalidation of the mark registration certificate in the exclusion cases specified at Points e and h, Clause 2, Article 74 of this Law. Based on results of the settlement of the request for termination of validity or invalidation of the mark registration certificate, the state management agency in charge of industrial property rights shall proceed with the application examination;

c/ Suspending the process of application examination in case of receiving a copy of the competent court's notice of acceptance of the case that the third party initiates a lawsuit concerning the right to register subject matters of industrial property or the mark is registered with bad intentions. Based on the court's settlement results, the state management agency in charge of industrial property rights shall proceed with the application examination;

d/ Deciding to refuse to grant a protection title if the applicant makes no objection or makes an unjustifiable objection to the intended refusal specified at Point a of this Clause.".

43. To amend and supplement Article 118 as follows:

"Article 118. Grant of protection titles, entry into the register

1. If an industrial property registration application does not fall into the cases of refusal to grant protection titles specified in Clauses 1, 1a and 2, and at Point d, Clause 3, Article 117 of this Law, or

the applicant makes an justifiable objection to the intended refusal specified at Point a, Clause 3, Article 117 of this Law, the state management agency in charge of industrial property rights shall:

a/ Notify results of the substantive examination, clearly stating the intention to grant a protection title for the whole or part of the application that satisfies the conditions for protection, and set the time limit for the applicant to pay relevant charges and fees or make objections to results of the substantive examination;

b/ Decide to grant a protection title and make an entry into the National Register of Industrial Property if the applicant has paid relevant charges and fees.

2. If there is an objection to results of the substantive examination, the industrial property registration application in question shall be re-examined in terms of matters subject to the objection.".

44. To add Article 119a below Article 119 in Section 3, Chapter VIII as follows:

"Article 119a. Filing and settlement of complaints about industrial property-related procedures

1. Applicants and organizations and individuals with rights and interests directly related to decisions or notices concerning the processing of registration applications for establishment of rights, maintenance, extension, modification, termination of validity or invalidation of industrial property protection titles, or registration of contracts on licensing of industrial property rights, issued by the state management agency in charge of industrial property rights, may file complaints to the state management agency in charge of industrial property rights and initiate lawsuits at court in accordance with this Law and other relevant laws.

2. Vietnamese organizations and individuals, foreigners permanently residing in Vietnam, and foreign organizations and individuals having their production and business establishments in Vietnam shall file their appeals directly or through their lawful representatives in Vietnam. Foreigners not permanently residing in Vietnam and foreign organizations and individuals having no production and business establishments in Vietnam shall file their appeals through their lawful representatives in Vietnam.

3. Complaint contents must be expressed in an appeal, which must clearly state the full name and address of the complainant; serial number, date of signing, and content of the decision on or notice of the complaint; complaint contents, arguments and proofs of the complaint; and specific request for modification or cancellation of the relevant decision or notice. The appeal shall be filed in the paper form or electronic form via the online filing system.

4. For a complaint related to the registration right or other contents subject to re-examination, the complainant shall pay charge for the re-examination.

5. The time limit for complaint settlement must comply with the law on complaints. In case the state management agency in charge of industrial property rights carries out re-examination for the cases specified in Clause 4 of this Article or the complainant modifies or supplements the complaint dossier, the time of re-examination and time of dossier modification or supplementation shall not be counted into the time limit for complaint settlement in accordance with the law on complaints.

The time limit for re-examination must comply with Clause 3, Article 119 of this Law.

6. The filing and settlement of complaints not mentioned in this Article must comply with the law on complaints.".

45. To amend and supplement a number of clauses of Article 121 as follows:

a/ To amend and supplement Clause 1 as follows:

“1. Owners of inventions or layout-designs mean organizations or individuals that are granted by the competent agency protection titles for respective subject matters of industrial property.

Owners of industrial designs mean organizations or individuals that are granted by the competent agency protection titles for such industrial designs or have internationally registered industrial designs recognized by the competent agency.

Owners of marks mean organizations or individuals that are granted by the competent agency protection titles for such marks or have internationally registered marks recognized by the competent agency or have well-known marks.”;

b/ To amend and supplement Clause 4 as follows:

“4. The owner of Vietnam’s geographical indications is the State.

The State shall grant the right to use geographical indications to organizations or individuals that produce products bearing such geographical indications in relevant localities and put such products on the market. The State shall directly exercise the right to manage geographical indications or grant that right to organizations representing interests of all organizations or individuals granted the right to use geographical indications.

The Government shall provide in detail the exercise of the right to manage geographical indications.”.

46. To amend and supplement Clause 2, Article 123 as follows:

“2. Organizations and individuals that are granted the right to use or organizations that are granted the right to manage geographical indications under Clause 4, Article 121 of this Law or in accordance with law of the country of origin of geographical indications have the right to prohibit others from using such geographical indications under Point b, Clause 1 of this Article.”.

47. To amend and supplement Point b, Clause 5, Article 124 as follows:

“b/ Selling, offering for sale, advertising for sale, displaying for sale, stockpiling for sale, or transporting goods bearing protected marks;”.

48. To amend and supplement Point b, Clause 2, Article 125 as follows:

“b/ Circulating, importing or utilizing products that have been put on the market, including also overseas markets, by owners, use rights licensees, even licensing of use rights under compulsory decisions, and persons having the use rights to subject matters of industrial property in accordance with this Law;”.

49. To amend and supplement Article 128 as follows:

“Article 128. Obligation to protect test data

1. In case the law requires applicants for licenses for circulation of pharmaceuticals or agro-chemical products to supply test results or any other data being trade secrets obtained from investment of considerable efforts, and applicants request such data to be kept secret, the competent licensing agency shall apply necessary measures so that such data will neither be used for unhealthy commercial purposes nor disclosed, unless the disclosure is necessary to protect the public.

2. For pharmaceuticals, from the date the secret data in an application are submitted to the competent agency mentioned in Clause 1 of this Article to the end of the five-year period counted from the date the applicant is granted a license, such agency may not grant licenses to any subsequent applicants if the said secret data are used in such applications without the consent of submitters of such data, except the case specified at Point d, Clause 3, Article 125 of this Law.

3. In case the agency competent to grant pharmaceutical circulation licenses permits a subsequent applicant to apply, based on the fact that a pharmaceutical has been granted a circulation license or data proving the safety and efficiency of a pharmaceutical already granted a circulation license, for a license for circulation of another pharmaceutical, the competent licensing agency shall publish on its portal or website the information on the subsequent application at least five months before the pharmaceutical stated in the subsequent application is granted a circulation license, unless the grant of a circulation license needs to be carried out earlier under relevant regulations.

4. For agro-chemical products, from the time the secret data in a license application are submitted to the competent agency defined in Clause 1 of this Article to the end of the ten-year period counted from the date the applicant is granted a license, such agency may not grant licenses to subsequent applicants if the said secret data are used in such subsequent applications or it is based on the fact that the submitter of the said secret data is granted a circulation license without the consent of such submitter, except the case specified at Point d, Clause 3, Article 125 of this Law, or if deeming the licensing necessary to ensure national defense, security and nutrition for the people or to meet other urgent needs of the society.".

50. To amend and supplement Point d, Clause 1, Article 130 as follows:

"d/ Appropriating or using domain names identical with or confusingly similar to protected marks or trade names of others or geographical indications without having the right to use, with bad intentions, or abusing reputation or popularity of respective marks, trade names or geographical indications for the purpose of seeking illegal benefits.".

51. To add Article 131a below Article 131 in Section 1, Chapter IX, Part Three as follows:

"Article 131a. Payment of compensation to invention owners for delay in grant of pharmaceutical circulation licenses

1. When carrying out procedures for maintenance of the validity of invention patents, invention patent owners are not required to pay charges for use of patents for the period of delay in the performance of procedures for registration of initial circulation of pharmaceuticals produced under such patents in Vietnam.

2. Procedures for pharmaceutical circulation registration shall be considered delayed if, upon the end of the two-year period from the date of receiving a complete dossier for circulation registration, the agency competent to grant pharmaceutical circulation licenses gives no initial reply in writing with respect to the dossier. The delay period shall be counted from the first day after the end of the two-year period from the date the agency competent to grant pharmaceutical circulation licenses receives a complete dossier to the date it gives an initial reply in writing.

3. The delay period due to the applicant's fault or due to a reason beyond control of the competent state agency shall not be counted into the periods of time specified in Clause 2 of this Article.

4. In case the invention patent owner has paid a charge amount for use of the protection title for the period regarded as the delay period, the paid amount shall be subtracted from the amount of the subsequent period of validity maintenance or refunded.

5. In order not to pay charges for use of protection titles under Clause 1 of this Article, within twelve months after pharmaceuticals are granted circulation licenses, invention patent owners shall submit to the state management agency in charge of industrial property rights a document of the agency competent to grant pharmaceutical circulation licenses certifying the delay in performance of circulation registration procedures for such pharmaceuticals.

6. The Government shall detail this Article.".

52. To add Article 133a below Article 133 as follows:

"Article 133a. The State's rights to inventions, industrial designs and layout-designs being outcomes of the state budget-funded science and technology tasks

1. The state owner representative shall publicize within ninety days for licensing of the right to register inventions, industrial designs and layout-designs being outcomes of the state budget-funded science and technology tasks to organizations and individuals that wish for registration in the following cases:

a/ Organizations in charge of science and technology tasks fail to fulfill the notification obligation under Clause 1, Article 136a of this Law;

b/ Organizations in charge of science and technology tasks send to the state owner representative a report stating that they do not wish for registration;

c/ Organizations in charge of science and technology tasks fail to file applications for registration of inventions, industrial designs and layout-designs within the time limit specified in Clause 2, Article 136a of this Law.

2. If failing to license the registration right to organizations or individuals under Clause 1 of this Article, the state owner representative shall publicize on portals or websites of agencies managing science and technology tasks contents of inventions, industrial designs and layout-designs being outcomes of state budget-funded science and technology tasks.

3. Competent state agencies may permit other organizations and individuals to use inventions, industrial designs and layout-designs being outcomes of state budget-funded science and technology tasks without having to obtain the consent of holders of the exclusive right in the following cases:

a/ Holders of the exclusive right do not apply within a reasonable time effective measures to use inventions, industrial designs and layout-designs being outcomes of science and technology tasks for which the State provides over 30% of the total capital amount as support;

b/ The use of inventions, industrial designs and layout-designs is for public and non-commercial purposes, national defense, security, disease prevention and treatment and nutrition for the people, or to meet other urgent needs of the society.

4. The payment of compensation to holders of the exclusive right in case competent state agencies permit other organizations and individuals to use inventions, industrial designs and layout-designs under Clause 3 of this Article is specified as follows:

a/ For inventions, industrial designs and layout-designs being outcomes of science and technology tasks wholly funded by the state budget, the permitted organizations and individuals may use them without having to pay compensation;

b/ For inventions, industrial designs and layout-designs being outcomes of science and technology tasks funded by the state budget among different funding sources, the permitted organizations and individuals are not required to pay compensation for the part of use rights corresponding to the amount of state budget funds but shall pay compensation for the part of use rights corresponding to the remaining investment capital amount. Compensation amounts payable to the holders of the exclusive right shall be determined under Point d, Clause 1, Article 146 of this Law.

5. The Government shall detail this Article.".

53. To amend and supplement Article 135 as follows:

“Article 135. The obligation to pay remunerations to authors of inventions, industrial designs or layout-designs

1. Except the case specified in Clause 2 of this Article, owners of inventions, industrial designs or layout-designs are obliged to pay remunerations to authors of such inventions, industrial designs or layout-designs as agreed; if no agreement is reached, the remuneration amount payable by an owner to an author must be equal to:

a/ 10% of the pre-tax profit amount earned by the owner from the use of an invention, industrial design or a layout-design; or,

b/ 15% of the total pre-tax amount received by the owner upon each payment for the licensing of an invention, industrial design or a layout-design.

2. For inventions, industrial designs and layout-designs being outcomes of state budget-funded science and technology tasks, an owner shall pay to an author a remuneration amount equal to:

a/ Between 10% and 15% of the pre-tax profit amount earned by the owner from the use of the invention, industrial design or layout-design; or,

b/ Between 15% and 20% of the total pre-tax amount received by the owner upon each payment for the licensing of the invention, industrial design or layout-design.

3. In case an invention, industrial design or a layout-design is created by co- authors, the remuneration amount specified in Clause 1 or 2 of this Article shall be applicable to the co-authors. The co-authors shall reach an agreement on the division of the remuneration amount paid by the owner.

4. The obligation to pay remunerations to authors of inventions, industrial designs or layout-designs shall exist throughout the term of protection of such inventions, industrial designs or layout-designs.”.

54. To add Article 136a below Article 136 as follows:

“Article 136a. Obligations of organizations in charge of science and technology tasks (below referred to as in-charge organizations) for inventions, industrial designs and layout-designs being outcomes of the state budget-funded science and technology tasks

1. To notify the state owner representative within thirty days from the date inventions, industrial designs and layout-designs being outcomes of the state budget-funded science and technology tasks are created.

2. To file applications for registration for the establishment of rights to inventions, industrial designs and layout-designs being outcomes of state budget-funded science and technology tasks in Vietnam within six months from the date of sending a notice to the state owner representative.

3. To pay remunerations to authors of inventions, industrial designs and layout-designs under Article 135 of this Law.

4. For science and technology tasks for which the State provides up to 30% of the total funding amount as support, the after-tax profit amount earned from the use of, licensing of the right to use, assignment of rights, or contribution of capital with inventions, industrial designs or layout-designs corresponding to the State’s contributed capital amount after the payment of remunerations to authors shall be used under financial management regulations of in-charge organizations.

5. For science and technology tasks for which the State provides over 30% of the total funding amount as support, the division of the after-tax profit amount earned from the use of, licensing of the right to use, assignment of rights, or contribution of capital with inventions, industrial designs or layout-designs

being outcomes of state budget-funded science and technology tasks after the payment of remunerations to authors must comply with the following provisions:

a/ Making payment not exceeding 10% of the after-tax profit amount to brokers (if any) under brokerage contracts;

b/ For science and technology tasks wholly funded by the state budget, at least 50% of the remaining profit amount shall be used for investment in scientific and technological activities; the remainder shall be used under financial management regulations of in-charge organizations;

c/ For science and technology tasks using different funding sources, the remaining profit amount shall be divided to the parties in proportion to the rate of their capital amounts contributed to such tasks. The profit amount corresponding to the State's contributed capital amount shall be used by in-charge organizations under Point b of this Clause.

6. In-charge organizations that are granted protection titles for inventions, industrial designs or layout-designs registered under Clauses 1 and 2, Article 86a of this Law are obliged to exercise industrial property rights under regulations, apply protection measures, and submit annual reports to agencies managing science and technology tasks on the exercise of rights, application of protection measures and division of profits.

7. The Government shall detail this Article.".

55. To add Clause 6 below Clause 5, Article 139 as follows:

"6. Rights to inventions, industrial designs and layout-designs being outcomes of state budget-funded science and technology tasks may only be assigned to organizations established under Vietnam's law or Vietnamese citizens permanently residing in Vietnam. Ownership right licensees shall fulfill the respective obligations of in-charge organizations in accordance with this Law.".

56. To add Point dd below Point d, Clause 1, Article 145 as follows:

"dd/ The use of such invention aims to meet the demand for pharmaceuticals for disease prevention and treatment of other countries eligible to import such pharmaceuticals under treaties to which the Socialist Republic of Vietnam is a contracting party.".

57. To amend and supplement a number of points of Clause 1, Article 146 as follows:

a/ To amend and supplement Point b as follows:

"b/ Such licensed use right is only limited to a scope and duration sufficient to achieve the licensing objectives, except the case specified at Point d, Clause 1, Article 145 of this Law. For an invention in semi-conductor technology, the licensing of the use right shall be only for public service and non-commercial purposes or for handling competition restraint practices in accordance with the competition law;";

b/ To amend and supplement Point d and add Point dd below Point d as follows:

"d/ The licensee shall pay to the holder of the exclusive right to use the invention a compensation amount as agreed; if no agreement is reached, the payment of such amount must comply with the Government's regulations, unless the invention use right is licensed under a compulsory decision for import of pharmaceuticals under the mechanism provided in the treaty to which the Socialist Republic of Vietnam is a contracting party and the amount of compensation for the use of the invention licensed under such compulsory decision has been paid in the country of exportation;

dd/ The use right is licensed mainly for supply of pharmaceuticals to the domestic market, except the cases specified at Points d and dd, Clause 1, Article 145 of this Law.".

58. To amend and supplement Clause 1, Article 147 as follows:

"1. The Ministry of Science and Technology shall issue decisions on licensing of the right to use inventions on the basis of considering requests for the licensing in the cases specified at Points b, c and d, Clause 1, Article 145 of this Law.

Ministries and ministerial-level agencies shall issue decisions on licensing of the right to use inventions in the fields under their respective state management in the cases specified at Points a and dd, Clause 1, Article 145 of this Law after consulting the Ministry of Science and Technology.".

59. To amend and supplement Clause 1, Article 153 as follows:

"1. Industrial property representatives have the following responsibilities:

a/ To notify charge and fee amounts and rates related to procedures for establishment and protection of industrial property rights for customers;

b/ To keep confidential information and documents related to cases in which they act as representatives;

c/ To truthfully and adequately inform all notices and requests of the state agency competent to establish and protect industrial property rights; to promptly deliver protection titles and other decisions to the represented parties;

d/ To promptly respond to requests of the state agency competent to establish and protect industrial property rights in favor of the represented parties in order to protect the latter's lawful rights and interests;

dd/ To notify the state agency competent to establish and protect industrial property rights of changes in names and addresses of, and other information on, the represented parties when necessary.".

60. To amend and supplement Article 154 as follows:

"Article 154. Conditions for industrial property representation service provision

1. A lawfully established and operating enterprise, cooperative, law-practicing organization or science and technology service organization that has at least one individual who possesses a certificate for industrial property representation service practice may provide industrial property representation services as industrial property representation service organizations, except the case specified in Clause 2 of this Article.

2. Foreign law-practicing organizations operating in Vietnam may not provide industrial property representation services.".

61. To amend and supplement Clause 2 and add Clause 2a below Clause 2, Article 155 as follows:

"2. Except the case specified in Clause 2a of this Article, an individual who satisfies the following conditions may be granted a certificate for industrial property representation service practice:

a/ Being a Vietnamese citizen having full civil act capacity;

b/ Residing permanently in Vietnam;

c/ Possessing a university degree or an equivalent degree, in case he/she wishes to practice in fields related to marks, geographical indications, trade names, repression of unfair competition or trade secrets; or possessing a university degree or an equivalent degree in natural science or technical science in case he/she wishes to practice in fields related to inventions, industrial designs and layout-designs;

d/ Having personally engaged in the field of industrial property law for five years or more or in the examination of assorted industrial property registration applications at a national or international industrial property office for five years or more, or having completed a training course on industrial property law as recognized by a competent agency;

dd/ Not currently working as a civil servant, public employee or employee in the state agency competent to establish and protect industrial property rights;

e/ Having passed a test on industrial property representation operation organized by a competent agency.

2a. Vietnamese citizens who are lawyers and permitted to practice in accordance with the Law on Lawyers and permanently reside in Vietnam may be granted a certificate for industrial property representation service practice in fields related to marks, geographical indications, trade names, repression of unfair competition or trade secrets if they have completed a training course on industrial property law as recognized by a competent agency.".

62. To amend and supplement Clause 2, Article 156 as follows:

"2. In case an industrial property representative no longer satisfies the service provision or service practice conditions specified in Article 154 or 155 of this Law, the state management agency in charge of industrial property rights shall revoke the certificate for industrial property representation practice or delete the name of such industrial property representative from the National Register of Industrial Property and announce such in the Official Gazette of Industrial Property.".

63. To amend and supplement Clause 2, Article 157 as follows:

"2. Organizations and individuals defined in Clause 1 of this Article include Vietnamese organizations and individuals; foreign organizations and foreign individuals who are nationals of the member states of the International Union for the Protection of New Varieties of Plants or of countries that have concluded with the Socialist Republic of Vietnam agreements on the protection of plant varieties; foreign individuals who permanently reside in Vietnam or have plant variety production and trading establishments in Vietnam; foreign organizations that have plant variety production and trading establishments in Vietnam; and organizations and individuals that permanently reside or have plant variety production and trading establishments in territories of the countries being members of the International Union for the Protection of New Varieties of Plants.".

64. To amend and supplement Article 158 as follows:

"Article 158. General conditions for plant varieties eligible for protection

Plant varieties eligible for protection mean those that have been bred or discovered and developed, and are novel, distinct, uniform, stable and designated by proper denominations.".

65. To amend and supplement a number of points and clauses of Article 163 as follows:

a/ To amend and supplement Clause 1 as follows:

"1. An organization or individual that registers rights to plant varieties shall designate with the state management agency in charge of rights to plant varieties a proper denomination for a plant variety, which must be the same as the denomination already registered for protection in any country being member of the International Union for the Protection of New Varieties of Plants and the country having concluded with the Socialist Republic of Vietnam an agreement on the protection of plant varieties.";

b/ To amend and supplement Point a, Clause 3 as follows:

"a/ They consist of numerals only, unless such numerals are relevant to characteristics or the breeding of such varieties or consist of also denominations of species of such varieties;";

c/ To amend and supplement Point c, Clause 3 as follows:

"c/ They might easily mislead as to features, characteristics or value of such varieties;";

d/ To add Clause 6 below Clause 5 as follows:

"6. In case the denomination of a plant variety registered for protection does not satisfy the requirements specified in Clauses 2 and 3 of this Article, the state management agency in charge of rights to plant varieties may refuse such denomination and request the registrant to designate another denomination within thirty days from the date of request. The state management agency in charge of rights to plant varieties shall acknowledge the official denomination of a plant variety from the date of grant of a plant variety protection title.".

66. To amend and supplement Articles 164 and 165 as follows:

"Article 164. Registration of rights to plant varieties

1. To obtain protection of rights to plant varieties, organizations and individuals shall file their protection registration applications with the state management agency in charge of rights to plant varieties.

2. Organizations and individuals having the right to register for protection of plant varieties (below referred to as registrants) include:

a/ Breeders who have personally bred or discovered and developed the plant varieties with their own efforts and expenses;

b/ Organizations and individuals that fund breeders to breed or discover and develop plant varieties in the form of job assignment or hiring, unless otherwise agreed upon by the parties or except the cases specified in Clauses 3 and 4 of this Article;

c/ Organizations and individuals that are licensed, inherit or take over the right to register for protection of plant varieties.

3. For plant varieties bred or discovered and developed as outcomes of science and technology tasks wholly funded by the state budget, the right to register such plant varieties shall be licensed to organizations in charge of such tasks automatically and without reimbursement.

4. For plant varieties bred or discovered and developed as outcomes of science and technology tasks funded by the state budget among different funding sources, the part of the right to register plant varieties in proportion to the amount of state budget funds shall be licensed to in-charge organizations automatically and without reimbursement.

Article 165. Representation of rights to plant varieties

1. Vietnamese organizations and individuals; and foreign organizations and individuals permanently residing in Vietnam or having plant variety production and trading establishments in Vietnam shall file applications for registration of rights to plant varieties directly or through organizations providing rights-to-plant varieties representation services; while other organizations and individuals specified in Article 157 of this Law shall file applications through organizations providing rights-to-plant varieties representation services.

2. Organizations that satisfy the following conditions may provide rights-to-plant varieties representation services as rights representation service organizations:

a/ Being Vietnamese enterprises, cooperatives, law-practicing organizations or science and technology service organizations that are lawfully established and operate, except foreign law-practicing organizations operating in Vietnam;

b/ Having at least one individual who possesses a certificate for rights-to-plant varieties representation service practice.

3. Rights-to-plant varieties representation services include representing organizations and individuals before the state agency competent to establish and protect rights to plant varieties; providing consultancy on procedures for establishment and protection of rights to plant varieties; and providing other services related to procedures for establishment and protection of rights to plant varieties.

4. Representatives of rights to plant varieties have the following responsibilities:

a/ To notify customers of charge and fee amounts and rates related to procedures for establishment and protection of rights to plant varieties;

b/ To keep confidential information and documents related to cases in which they act as representatives;

c/ To truthfully and adequately inform notices and requests of the state agency competent to establish and protect rights to plant varieties; to promptly deliver plant variety protection titles and other decisions to the represented parties;

d/ To promptly respond to requests of the state agency competent to establish and protect rights to plant varieties for the represented parties in order to protect the latter's lawful rights and interests;

dd/ To notify the state agency competent to establish and protect rights to plant varieties of changes in names and addresses of, and other information on, represented parties; or changes in names, addresses and representatives of the representing parties;

e/ Organizations providing rights-to-plant varieties representation services shall bear civil liability for persons acting as representatives of rights to plant varieties in their capacity.

5. An individual may practice rights-to-plant varieties representation services if satisfying the following conditions:

a/ Possessing a certificate for rights-to-plant varieties representation service practice;

b/ Operating in a rights-to-plant varieties representation service organization.

6. An individual may be granted a certificate for rights-to-plant varieties representation service practice if satisfying the following conditions:

a/ Being a Vietnamese citizen having full civil act capacity;

b/ Permanently residing in Vietnam;

c/ Possessing a university degree or an equivalent degree;

d/ Having personally engaged in legal affairs related to rights to plant varieties for five or more years, or having personally engaged in examination of applications for registration of rights to plant varieties in a national or international office for rights to plant varieties for five or more years, or having completed a training course on the law on rights to plant varieties as recognized by a competent agency;

dd/ Not working as a civil servant, public employee or employee in the state agency competent to establish and protect rights to plant varieties;

e/ Having passed a test of rights-to-plant varieties representation operation organized by a competent agency.

7. The Government shall provide in detail programs on training in the law on rights to plant varieties, testing of rights-to-plant varieties representation operation, and grant of certificates for rights-to-plant varieties representation service practice.".

67. To add Clause 6 below Clause 5, Article 170 as follows:

"6. The Government shall provide in detail the order and procedures for termination, restoration and invalidation of plant variety protection titles.".

68. To amend and supplement Point a, Clause 1, Article 171 as follows:

"a/ The plant variety protection registration application is filed by a person who does not have the registration right;".

69. To add Clause 3 below Clause 2, Article 172 as follows:

"3. The Government shall provide in detail the order and procedures for modification and re-grant of plant variety protection titles.".

70. To amend and supplement Point d, Clause 3, Article 176 as follows:

"d/ Notifying the acceptance of the application if such application is valid or the registrant has satisfactorily corrected errors or has made a justifiable objection to the notice mentioned at Point b of this Clause, requesting the registrant to send samples of the variety to the testing institution for the performance of technical tests at least thirty days before the first cultivation counted from the date of issuance of a notice of acceptance of the registration application for protection of such plant variety, unless the registrant performs the plant variety testing by itself/himself/herself under Clause 2, Article 178 of this Law.".

71. To amend and supplement Clause 2, Article 180 as follows:

"2. From the time the registrant withdraws the protection registration application, all subsequent procedures related to such application shall be terminated.".

72. To amend and supplement Article 183 as follows:

"Article 183. Grant of plant variety protection certificates

In case a protection registration application is not rejected under Article 182 of this Law and the registrant has paid the fee, the state management agency in charge of rights to plant varieties shall

decide to grant a plant variety protection certificate and record it in the National Register of Protected Plant Varieties.

Persons who register rights to plant varieties under Article 164 of this Law and are granted plant variety protection certificates by a competent state agency shall become holders of rights to plant varieties.".

73. To amend and supplement Clause 2, Article 189 as follows:

"2. In case the registrant is aware of the fact that the plant variety registered for protection has been subject to another person's commission of acts specified in Articles 186 and 187 of this Law, from the time the application is declared to be accepted as valid, the plant variety protection registrant may notify in writing the user of the fact that a registration application for protection of the plant variety has been filed, clearly specifying the filing date and the date such application is accepted as valid for the latter to stop or continue using the plant variety.".

74. To amend and supplement Article 191 and add Articles 191a and 191b below Article 191 in Section 2, Chapter XIV, Part Four as follows:

"Article 191. Obligations of plant variety protection certificate holders

1. Except the cases specified in Clause 2 of this Article, plant variety protection certificate holders are obliged to pay remunerations to plant variety breeders as agreed upon; if no agreement is reached, the remuneration amount payable to a plant variety breeder must be equal to:

a/ 10% of the pre-tax profit amount earned by the plant variety protection certificate holder from the use of protected plant varieties for production and business purposes;

b/ 15% of the total pre-tax amount received by the plant variety protection certificate holder upon each payment for the licensing of plant varieties; or,

c/ 35% of the total pre-tax amount received by the plant variety protection certificate holder upon the first assignment of rights to plant varieties, and the holder is not entitled to remunerations for the next assignment and the remunerations specified at Points a and b of this Clause.

2. For plant varieties being outcomes of the state budget-funded science and technology tasks, a plant variety protection certificate holder shall pay to a plant variety breeder a remuneration amount equal to:

a/ Between 10% and 15% of the pre-tax profit amount earned by the plant variety protection certificate holder from the use of protected plant varieties for production and business purposes;

b/ Between 15% and 20% of the total pre-tax amount received by the plant variety protection certificate holder upon each payment for the licensing of plant varieties; or,

c/ Between 20% and 35% of the total pre-tax amount received by the plant variety protection certificate holder upon the first assignment of rights to plant varieties, and the holder is not entitled to remunerations for the next assignment and the remunerations specified at Points a and b of this Clause.

3. In case a plant variety is bred by co-breeders, the remuneration amount specified in Clause 1 or 2 of this Article is payable to the co-breeders; and co-breeders shall agree by themselves on the division of the remuneration amount payable by the plant variety protection certificate holder.

4. The obligation to pay remunerations to breeders exists throughout the term of protection of plant varieties.

5. Fees for maintenance of validity of plant variety protection certificates shall be paid to agencies in charge of plant variety protection within three months from the date of grant of the certificates with regard to the first valid year, and in the first month of the next valid year with regard to subsequent years.

6. To preserve protected plant varieties, and provide information and reproductive materials of protected plant varieties at the request of agencies in charge of protection of plant varieties; to maintain the stability of protected plant varieties according to described characteristics at the time of grant of plant variety protection certificates.

Article 191a. Obligations of in-charge organizations for plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks

1. To file applications for registration of rights to plant varieties within twelve months from the date of pre-acceptance test of science and technology tasks.

2. To pay remunerations to plant variety breeders under Article 191 of this Law.

3. For science and technology tasks for which the State provides up to 30% of the total fund as support, the after-tax profit amount earned from the use of, licensing of the right to use, assignment of rights, or contribution of capital with plant varieties corresponding to the State's contributed capital amount after payment of remunerations to plant variety breeders shall be used under financial management regulations of in-charge organizations.

4. For science and technology tasks for which the State provides over 30% of the total fund as support, the division of the after-tax profit amount earned from the use of, licensing of the right to use, assignment of rights, or contribution of capital with plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks after payment of remunerations to plant variety breeders must comply with the following provisions:

a/ For science and technology tasks wholly funded by the state budget, at least 50% of the remaining profit amount shall be used for investment in scientific and technological activities; the remainder shall be used under financial management regulations of in-charge organizations;

b/ For science and technology tasks using different funding sources, the remaining profit amount shall be divided to the parties in proportion to their capital portions contributed to such tasks. The profit amount corresponding to the State's contributed capital amount shall be used by in-charge organizations under Point a of this Clause.

5. In-charge organizations that are granted protection certificates for plant varieties registered under Clauses 3 and 4, Article 164 of this Law are obliged to exercise rights to plant varieties under regulations, apply protection measures and submit annual reports to agencies managing science and technology tasks on the exercise of rights, application of protection measures and division of profits.

6. The Government shall detail this Article.

Article 191b. The State's rights to plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks

1. The state owner representative shall publicly notify within ninety days for assignment of the right to register plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks to organizations and individuals that wish for registration in the following cases:

a/ Organizations in charge of science and technology tasks fail to perform the obligations specified in Article 191a of this Law;

b/ Organizations in charge of science and technology tasks send to the state owner representative a written report stating that they do not wish for registration.

2. If unable to assign the registration right to organizations and individuals under Clause 1 of this Article, the state owner representative shall publicly announce on portals or websites of agencies managing science and technology tasks information stating that the plant varieties bred or discovered and developed are outcomes of the state budget-funded science and technology tasks.

3. Competent state agencies may permit other organizations and individuals to use plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks without having to obtain the consent of holders of the exclusive right in the following cases:

a/ Holders of the exclusive right fail to apply within a reasonable period of time effective measures to use plant varieties bred or discovered and developed as outcomes of state budget-funded science and technology tasks for which the State provides over 30% of the total funding amount as support;

b/ The use of such plant varieties is for public service and non-commercial purposes, national defense, security, disease prevention and treatment and nutrition for the people, or to meet other urgent needs of the society.

4. The payment of compensation to holders of the exclusive right in case competent state agencies permit other organizations and individuals to use plant varieties under Clause 3 of this Article is provided as follows:

a/ For plant varieties bred or discovered and developed as outcomes of science and technology tasks wholly funded by the state budget, the permitted organizations and individuals are not required to pay compensation;

b/ For plant varieties bred or discovered and developed as outcomes of science and technology tasks funded by the state budget among different funding sources, the permitted organizations and individuals are not required to pay compensation for the part of use rights corresponding to the state budget funding amount but shall pay compensation for the part of use rights corresponding to the remaining investment capital amount. The compensation amount payable to holders of the exclusive right shall be determined under Point d, Clause 3, Article 195 of this Law.

5. The Government shall detail this Article.".

75. To amend and supplement Clause 4 and add Clause 5 below Clause 4, Article 194 as follows:

"4. Rights to plant varieties bred or discovered and developed as outcomes of the state budget-funded science and technology tasks may only be assigned to organizations established under Vietnam's law and Vietnamese citizens permanently residing in Vietnam. Rights assignees shall fulfill the obligations of in-charge organizations in accordance with this Law.

5. The Government shall detail this Article.".

76. To amend and supplement a number of clauses of Article 198 as follows:

a/ To amend and supplement Points a and b, Clause 1 as follows:

"a/ Applying technological measures to protect rights and disseminate information on management of rights, or apply other technological measures to prevent acts of infringing upon intellectual property rights;

b/ Requesting organizations or individuals that commit acts of infringing upon intellectual property rights to terminate such acts, remove and delete infringing contents in the telecommunications network and the Internet, make public apologies or rectifications, and pay damages;";

b/ To add Clause 1a below Clause 1 and amend and supplement Clauses 2 and 3 as follows:

"1a. Intellectual property rights holders may authorize other organizations or individuals to apply the measures specified in Clause 1 of this Article in order to protect their intellectual property rights.

2. Organizations and individuals that suffer damage caused by acts of infringing upon intellectual property rights or discover acts of infringing upon intellectual property rights which cause damage to consumers or to the society may request competent state agencies to handle such acts in accordance with this Law and other relevant laws.

Organizations and individuals that inherit copyright or rights of performers may request competent state agencies to handle acts of infringing upon the rights provided in Clause 4, Article 19 and at Point b, Clause 2, Article 29 of this Law.

3. Organizations and individuals that suffer damage or are likely to suffer damage caused by unfair competitive practices may request competent state agencies to apply the civil remedies provided in Article 202 of this Law.".

77. To add Articles 198a and 198b below Article 198 as follows:

"Article 198a. Presumptions about copyright and related rights

In civil, administrative and criminal procedures on copyright and related rights, if no rebutting proof is adduced, copyright and related rights are presumed as follows:

1. Conventionally acknowledged individuals and organizations that are authors, performers, producers of phonograms or video recordings, broadcasting organizations, producers of cinematographic works or publishing houses may be considered holders of rights to such works, performances, phonograms, video recordings or broadcasts;

2. Being conventionally acknowledged as mentioned in Clause 1 of this Article is construed as being acknowledged in original works, initial fixed versions of performances, phonograms, video recordings, broadcasts and relevant documents (if any) or in corresponding copies declared as lawful in case original works, initial fixed versions of performances, phonograms, video recordings, broadcasts and relevant documents no longer exist;

3. The individuals and organizations defined in Clause 1 of this Article are entitled to corresponding copyright or related rights.

Article 198b. Legal liability for copyright and related rights to intermediary service providers

1. Intermediary service provider means an enterprise providing technical means for service users to upload digital contents in the telecommunications network and Internet; and providing online connectivity for the public to access and use digital contents in the telecommunications network and Internet.

2. Intermediary service providers shall apply technical measures and coordinate with competent state agencies and rights holders in implementing measures to protect copyright and related rights in the telecommunications network and Internet.

3. An intermediary service provider may be exempted from legal liability for acts of infringing upon copyright and related rights in the telecommunications network and Internet related to the provision or use of its services in the following cases:

a/ It only transmits digital contents or provides access to digital contents;

b/ In the course of information transmission, it automatically and temporarily performs the function of buffer storage to transmit information and make information transmission more efficient on the following conditions: only transforming information for technological reasons; complying with conditions on access and use of digital contents; adhering to specific rules of updating digital contents in a manner that is widely recognized and used by a certain industry; refraining from preventing lawful use of technologies widely recognized in a certain industry to obtain data on the use of digital contents; removing digital contents or denying access to digital contents when knowing that digital contents have been removed from the originating source or the originating source has canceled access to such digital contents;

c/ It stores digital contents of service users at the latter's request on the following conditions: not knowing that such digital contents infringe upon copyright and related rights; taking prompt actions to remove or prevent access to such digital contents when knowing that such digital contents infringe upon copyright and related rights;

d/ Other cases specified by the Government.

4. Intermediary service providers eligible for exemption from legal liability under Clause 3 of this Article are not required to supervise their own services or take the initiative in seeking evidences proving infringements.

5. Digital contents specified in this Article means works and subject matters of related rights that are protected under this Law and expressed in digital form.

6. The Government shall detail this Article.".

78. To amend and supplement a number of clauses of Article 201 as follows:

a/ To amend and supplement Clause 1 and add Clause 1a below Clause 1; and amend and supplement Clause 2 and add Clause 2a below Clause 2, as follows:

"1. Intellectual property assessment means the use by organizations or individuals specified in Clauses 2 and 3 of this Article of their professional knowledge and expertise to assess and make conclusions on matters related to intellectual property rights. Intellectual property-related judicial assessment must comply with the law on judicial assessment.

1a. Intellectual property assessment includes:

a/ Assessment of copyright and related rights;

b/ Assessment of industrial property rights;

c/ Assessment of rights to plant varieties.

2. An enterprise, a cooperative, non-business unit or law-practicing organization established and operating in accordance with law and having at least one individual who possesses an intellectual property assessor card may perform intellectual property assessment, except the case specified in Clause 2a of this Article.

2a. Foreign law-practicing organizations operating in Vietnam may not provide intellectual property assessment services.";

b/ To amend and supplement Clauses 4 and 5 as follows:

"4. Principles of performance of assessment:

a/ Compliance with law, order and procedures for assessment;

b/ Honesty, accuracy, objectivity, impartiality and timeliness;

c/ Making of professional conclusions only on matters within the requested scope;

d/ Responsibility before law for assessment conclusions;

dd/ Determination of assessment expenses based on agreements between assessment requesters and assessing individuals or organizations.

5. Assessment conclusions shall serve as one of sources of evidence for competent agencies to handle cases or matters. Assessment conclusions are not made for acts of infringing upon intellectual property rights or dispute cases.".

79. To amend and supplement Articles 212, 213 and 214 as follows:

"Article 212. Acts of infringing upon intellectual property rights subject to criminal handling

An individual or a commercial legal person that commits an act of infringing upon intellectual property rights which constitutes a crime shall be examined for penal liability.

Article 213. Intellectual property counterfeit goods

1. Intellectual property counterfeit goods specified in this Law include goods bearing counterfeit marks and goods bearing counterfeit geographical indications and pirated goods specified in Clauses 2, 3 and 4 of this Article.

2. Goods bearing counterfeit marks are goods or their packages bearing marks or signs or their stamps or labels showing signs that are identical with or indistinguishable from marks currently protected for such goods without permission of mark owners.

3. Goods bearing counterfeit geographical indications are goods or their packages bearing signs or their stamps or labels showing signs that are identical with or indistinguishable from geographical indications currently protected for such goods and the affixture of such signs is made by organizations or individuals having no right to use geographical indications under Clause 4, Article 121 of this Law or laws of the countries of origin of such geographical indications.

4. Pirated goods are copies made without permission of copyright holders or related rights holders.

Article 214. Administrative sanctions and remedies

1. Organizations and individuals that commit acts infringing upon intellectual property rights specified in Clause 1, Article 211 of this Law are subject to the application of administrative sanctions and remedies specified in the law on handling of administrative violations.

2. In addition to sanctions and remedies specified in the law on handling of administrative violations, intellectual property rights-infringing organizations and individuals are also subject to remedies of compelled distribution or use for non-commercial purposes of intellectual property counterfeit goods as

well as raw materials, materials and means used mainly for the production or trading of these intellectual property counterfeit goods, provided that such distribution or use does not affect the exploitation of rights by intellectual property rights holders and satisfies other conditions specified by the Government.

3. Administrative sanctions and the competence to administratively sanction infringements upon intellectual property rights must comply with the law on handling of administrative violations.".

80. To amend and supplement a number of clauses of Article 216 as follows:

a/ To amend and supplement Clause 2 as follows:

"2. Suspension of customs procedures for goods suspected of infringing upon intellectual property rights means a measure taken in the following cases:

a/ At the request of intellectual property rights holders in order to collect information and evidences on goods lots in question so that the intellectual property rights holders can exercise the right to request the handling of infringing acts and request the application of provisional urgent measures or preventive measures or measures to secure the administrative sanctioning;

b/ Customs offices shall take the initiative in suspending customs procedures in the course of inspection, supervision and control when detecting clear grounds to believe that imported or exported goods are intellectual property counterfeit goods.";

b/ To add Clause 5 below Clause 4 as follows:

"5. The Government shall detail Point b, Clause 2 of this Article.".

81. To add Clause 4 below Clause 3, Article 218 as follows:

"4. In case a customs office takes the initiative in suspending customs procedures, it shall immediately notify the intellectual property rights holder if it has contact information and to the importer or exporter of the suspension.

Within ten working days after the notification, if the intellectual property rights holder does not initiate a civil lawsuit and the customs office decides not to accept the case according to procedures for handling of administrative violations, the customs office shall resume carrying out customs procedures for the goods lot in question.".

82. To replace or remove words and phrases in a number of articles as follows:

a/ To replace the phrase "plastic-art works" at Point g, Clause 1, Article 14 with the phrase "fine-art works";

b/ To replace the word "performances" with the phrase "related rights", and remove the phrase "Clause 1" in Clause 2, Article 16;

c/ To replace the phrase "Article 86" with the phrase "Articles 86 and 86a" in Clause 3, Article 60; Clause 4, Article 65; and Clause 2, Article 71;

d/ To replace the phrase "validity maintenance fee" with the phrase "validity maintenance charge and fee" in Clause 1, Article 94;

dd/ To replace the phrase "validity prolongation fee" with the phrase "validity prolongation charge and fee" in Clause 2, Article 94;

e/ To replace the word “fee” with the phrase “charge and fee” in Clause 3, Article 94;

g/ To replace the phrase “filing fee” with the phrase “charge and fee” at Point c, Clause 1, Article 108;

h/ To replace the phrase “securing enforcement” with the word “protection” at Point a, Clause 1, Article 151;

i/ To replace the word “enforcement” with the word “protection” at Points b and c, Clause 1, Article 151;

k/ To replace the word “vines” with the phrase “woody climbing plants” in Article 159 and Clause 2, Article 169;

l/ To remove the phrase “Point b and” at Point a, Clause 3, Article 176;

m/ To remove the phrase “Point a, Clause 1” in Clause 2, Article 185;

n/ To remove the phrase “in Clause 79” in Clause 1, Article 203;

o/ To remove the phrase “in Clause 1, Article 122” in Clause 1, Article 209;

p/ To remove the phrase “in Chapter VIII, Part One” in Article 210;

q/ To remove the phrase “and Article 215” in Clause 4, Article 216 and Article 219.

83. To annul Clause 19, Article 4; Article 5; Clause 3, Article 51; Clause 4, Article 117; Point b, Clause 2, Article 176; and Article 215.

Article 2. To amend and supplement a number of articles of other relevant laws

1. To amend and supplement a number of articles of Law No. 54/2014/QH13 on Customs, which had a number of articles amended and supplemented under Law No. 71/2014/QH13 and Law No. 35/2018/QH14, as follows:

a/ To amend and supplement the title of Section 8, Chapter III as follows:

“Section 8
INSPECTION, SUPERVISION, SUSPENSION OF CUSTOMS PROCEDURES FOR INTELLECTUAL PROPERTY RIGHTS-RELATED EXPORTED AND IMPORTED GOODS”;

b/ To amend and supplement Clause 2, Article 73 as follows:

“2. Customs offices may decide to suspend customs procedures for imported or exported goods when intellectual property rights holders or legally authorized persons make written requests and provide evidences of their lawful holding of intellectual property rights and evidences of intellectual property rights infringements and have paid deposits or produced documents on guarantee by credit institutions as security for payment of compensation and expenses in accordance with law which may arise due to wrongful requests for suspension of customs procedures. Customs offices shall take the initiative in suspending customs procedures in the course of inspection, supervision and control when detecting clear grounds to believe that imported or exported goods are intellectual property counterfeit goods.”.

2. To amend and supplement a number of articles of Law No. 29/2013/QH13 on Science and Technology, which had a number of articles amended and supplemented under Law No. 28/2018/QH14, as follows:

a/ To amend and supplement Article 41 as follows:

“Article 41. Right to own and use scientific research and technological development outcomes
1. Organizations or individuals that invest funds and physical-technical facilities for the performance of science and technology tasks are owners of scientific research and technological development outcomes, unless otherwise agreed upon by the parties to scientific research and technological development contracts.
2. State owner representatives of outcomes of state budget-funded scientific research and technological development are as follows:

a/ The Minister of Science and Technology shall act as the representative of the owner of national science and technology task performance outcomes;

b/ Ministers, heads of ministerial-level agencies, heads of government-attached agencies, heads of other central state agencies or chairpersons of provincial-level People’s Committees shall act as representatives of the owners of performance outcomes of ministerial- or provincial-level or grassroots science and technology tasks they have approved;

c/ Heads of agencies or organizations other than those specified at Points a and b of this Clause shall act as representatives of the owners of performance outcomes of science and technology tasks they have approved.

3. State owner representatives specified in Clause 2 of this Article may consider assigning the whole or part of the right to own or use outcomes of state budget-funded scientific research and technological development under the Government’s regulations to organizations in charge of performing science and technology tasks or organizations or individuals that wish to use or exploit such scientific research and technological development outcomes, except the case specified in Clause 4 of this Article.

4. In case inventions, industrial designs, layout-designs or plant varieties are outcomes of state budget-funded science and technology tasks, the right to register such inventions, industrial designs, layout designs or plant varieties shall be assigned to organizations in charge of performing such science and technology tasks automatically and without refund or to other organizations and individuals in accordance with the Law on Intellectual Property. When granted protection titles, organizations in charge of performing science and technology tasks become owners of such inventions, industrial designs, layout-designs or plant varieties.

5. The Government shall provide in detail the right to own or use scientific research and technological development outcomes specified in this Article.”;

b/ To amend and supplement Article 43 as follows:

“Article 43. Division of profits upon the use, licensing, assignment or capital contribution with outcomes of state budget-funded scientific research and technological development

1. At least 30% of profits earned from the use, licensing, assignment or capital contribution with outcomes of state budget-funded scientific research and technological development shall be divided to authors. The profit remainder shall be divided among owners, in-charge agencies and brokers under regulations of the Government, except the case specified in Clause 2 of this Article.

2. The division of profits from the use, licensing, assignment of rights or capital contribution with inventions, industrial designs, layout-designs or plant varieties that are outcomes of state budget-funded science and technology tasks and have their intellectual property rights protected must comply with the Law on Intellectual Property.”.

3. To amend and supplement Point a, Clause 4, Article 105 of Law No. 15/2017/QH14 on Management and Use of Public Property, which had a number of articles amended and supplemented under Law No. 64/2020/QH14, as follows:

“a/ To assign the right to use or own to organizations in charge of performing scientific and technological tasks to make the best use of outcomes of such tasks or use property to commercialize outcomes of scientific research and technological development. In case the outcomes of scientific research and technological development are inventions, industrial designs, layout designs or plant varieties, to assign such right in accordance with the Law on Intellectual Property;”.

4. To amend and supplement a number of articles of Law No. 11/2012/QH13 on Prices which had a number of articles amended and supplemented under Law No. 61/2014/QH13 and Law No. 64/2020/QH14 as follows:

a/ To add Point d below Point c, Clause 1, Article 19 as follows:

“d/ Works, phonograms and video recordings in case of limitations on copyright and related rights specified in the Law on Intellectual Property.”;

b/ To amend and supplement Point c, Clause 3, Article 19 as follows:

“c/ Setting price frameworks and specific prices for:

- Land, water surface, groundwater and forests under the entire people’s ownership represented by the State, and domestic water;

- Rates of rent or rent-purchase of social houses and official-duty houses built only with state budget funds; selling prices or rent rates of state-owned houses;

- Medical examination and treatment services and education and training services provided at state-run medical examination and treatment establishments and education and training institutions;

- Royalties for the exploitation or use of works, phonograms and video recordings in case of limitations on copyright and related rights specified in the Law on Intellectual Property;”;

c/ To add Point d below Point c, Clause 1, Article 22 as follows:

“d/ Royalty brackets and rates for the exploitation or use of works, phonograms and video recordings in case of limitations on copyright and related rights specified in the Law on Intellectual Property.”.

Article 3. Effect

1. This Law takes effect on January 1, 2023, except the cases specified in Clauses 2 and 3 of this Article.

2. The provisions on the protection of sound marks take effect on January 14, 2022.

3. The provisions on the protection of test data for agrochemical products take effect on January 14, 2024.

Article 4. Transitional provisions

1. Copyright and related rights eligible for protection before the effective date of this Law may continue to be protected in accordance with this Law if their term of protection has not yet expired.

2. Copyright and related rights registration applications filed with competent agencies before the effective date of this Law may continue to be processed in accordance with provisions of law effective at the time of filing.

3. An invention, industrial design, mark and geographical indication registration application filed with the state management agency in charge of industrial property rights before the effective date of this Law may continue to be processed in accordance with the provisions of law effective at the time of filing, except the following cases:

a/ Industrial design registration applications filed from August 1, 2020, for which decisions on grant of, or refusal to grant, protection titles before the effective date of this Law must comply with Clause 13, Article 4 of the Law on Intellectual Property, which was amended and supplemented under Point b, Clause 1, Article 1 of this Law;

b/ Industrial property registration applications for which decisions on grant of, or refusal to grant, protection titles before the effective date of this Law must comply with Points e and h, Clause 2, Article 74; Point e, Clause 1, Article 106; and Point b, Clause 3, Article 117, of the Law on Intellectual Property, which was amended and supplemented under Points b and c, Clause 22; Clause 35; and Point b, Clause 42, Article 1 of this Law;

c/ Security control of inventions stated in invention registration applications for which decisions on grant of, or refusal to grant, protection titles before the effective date of this Law must comply with Article 89a, which was supplemented under Clause 27, Article 1 of this Law;

d/ Industrial property registration applications for which results of the substantive examination are not notified before the effective date of this Law must comply with Article 118 of the Law on Intellectual Property, which was amended and supplemented under Clause 43, Article 1 of this Law.

4. The provisions of Articles 86, 86a, 133a, 135, 136a, 139, 164, 191, 191a, 191b and 194 of the Law on Intellectual Property, which were amended and supplemented under Clauses 25, 52, 53, 54, 55, 66, 74 and 75, Article 1 of this Law, applicable to inventions, industrial designs, layout-designs and plant varieties being outcomes of the state budget-funded science and technology tasks shall apply to science and technology tasks assigned from the effective date of this Law.

5. Rights and obligations to industrial designs being part of products that are assembled into complex products under protection titles granted on the basis of registration applications filed before August 1, 2020, must comply with the provisions of law effective before the effective date of this Law.

Grounds for invalidation of protection titles must comply with provisions of law applicable for the consideration and grant of such protection titles.

6. Individuals who are granted certificates for industrial property representation service practice before the effective date of this Law may continue to practice industrial property representation services in accordance with their certificates. Individuals who pass tests on industrial property representation profession organized by competent agencies before the effective date of this Law may be granted certificates for industrial property representation service practice under Law No. 50/2005/QH11 on Intellectual Property, which had a number of articles amended and supplemented under Law No. 36/2009/QH12 and Law No. 42/2019/QH14.

7. Registration applications for protection of rights to plant varieties filed with competent agencies before the effective date of this Law may continue to be processed in accordance with the provisions of law effective at the time of filing. Individuals who are granted certificates for rights-to-plant varieties representation service practice before the effective date of this Law may continue to practice rights-to-plant varieties representation services in accordance with their certificates.

8. Lawsuits against intellectual property right infringements that are accepted by competent agencies before the effective date of this Law but remain incompletely settled will continue to be settled in accordance with Law No. 50/2005/QH11 on Intellectual Property which had a number of articles amended and supplemented under Law No. 36/2009/QH12 and Law No. 42/2019/QH14.

This Law was passed on June 16, 2022, by the XVth National Assembly of the Socialist Republic of Vietnam at its 3rd session.-

Chairman of the National Assembly
VUONG DINH HUE