

Patent Infringement in Vietnam: VIPRI's Expert Analysis and Approach

The Vietnam Intellectual Property Research Institute (**VIPRI**) is a research institution under the Ministry of Science and Technology that provides expert opinions on IP infringement cases concerning **industrial property** subject matters such as inventions, industrial designs, designs of semi-conducting closed circuits, trade secrets, marks, trade names, and geographical indications.

How does VIPRI reach an expert opinion that there is an infringing element to a patented invention?

To reach an expert opinion that there is an infringing element to a patented invention, the Vietnam Intellectual Property Research Institute (VIPRI) typically employs a multi-step process. Here are some general steps that VIPRI may take:

Reviewing the patent: VIPRI will start by reviewing the details of the patent in question, including its claims, specification, and drawings. This helps VIPRI to understand the scope of the patent protection and the specific features of the patented invention.

Examining the alleged infringing product or process: VIPRI will then examine the product or process that is alleged to be infringing on the patent. This will typically involve a detailed analysis of the features and elements of the product or process, as well as a comparison of those features and elements with the claims of the patent.

Identifying the elements of the patented invention: VIPRI will compare the features of the patented invention with the features of the alleged infringing product or process. This helps VIPRI to identify any similarities or differences between the two and determine whether there are any elements of the patented invention present in the alleged infringing product or process.

Assessing the scope of the patent: VIPRI will assess the scope of the patent to determine whether the alleged infringing product or process falls within the scope of the patent claims. This involves a detailed analysis of the language used in the patent claims and an examination of any relevant prior art.

Formulating an expert opinion: Based on the above analysis, VIPRI will formulate an expert opinion on whether there is an infringing element to the patented invention. This opinion will take into account the specific features of the patent and the alleged infringing product or process, as well as any relevant legal and technical considerations.

In light of the foregoing, the process of reaching an expert opinion that there is an infringing element to a patented invention requires a thorough understanding of both the patent and the alleged infringing product or process, as well as relevant legal and technical considerations. The expert opinion of VIPRI is highly regarded in Vietnam and can be used as evidence in legal proceedings related to patent infringement.

How does VIPRI compare between a patented invention and an alleged infringing product/process?

To compare between a patented invention and an alleged infringing product/process, the Vietnam Intellectual Property Research Institute (VIPRI) typically follows a process that involves several steps:

Examination of the patent: VIPRI will begin by examining the patent in question to understand its scope and claims. This examination will include a review of the patent's language, drawings, and any other relevant materials.

Analysis of the allegedly infringing product or process: VIPRI will then analyze the allegedly infringing product or process, to determine its features and elements. This analysis will typically involve a detailed review of the product or process, including any relevant documentation, specifications, or other materials.

Comparison of the patent and the allegedly infringing product or process: VIPRI will then compare the patent with the allegedly infringing product or process. This comparison will typically involve a detailed analysis of the features and elements of the product or process, as well as a comparison of those features and elements with the claims of the patent.

Identification of similarities and differences: Based on the comparison and analysis described above, VIPRI will identify any similarities and differences between the patent and the allegedly infringing product or

process. This identification of similarities and differences is the basis for the expert opinion regarding infringement.

Determination of infringement: Finally, based on the identification of similarities and differences, VIPRI will determine whether the allegedly infringing product or process infringes on the patent. This determination will take into account the specific language used in the patent claims, as well as the interpretation of that language in light of relevant legal principles.

In general, the process used by VIPRI to compare between a patented invention and an alleged infringing product or process involves careful examination and analysis of both the patent and the allegedly infringing product or process, as well as consideration of relevant legal principles and industry practices. This allows VIPRI to provide an expert opinion regarding whether there is infringement, which can be used to inform legal action to protect the patent holder's rights.

**By Nguyen Vu QUAN
Partner & IP Attorney**

Contact

KENFOX IP & Law Office

Building No. 6, Lane 12/93, Chinh Kinh Street, Nhan Chinh Ward, Thanh Xuan District, Hanoi, Vietnam

Tel: +84 24 3724 5656

Email: info@kenfoxlaw.com / kenfox@kenfoxlaw.com