

GOVERNMENT OF VIETNAM

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

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DECREE

ELABORATION ON SEVERAL ARTICLES AND IMPLEMENTATION MEASURES OF THE LAW ON INTELLECTUAL PROPERTY REGARDING INDUSTRIAL PROPERTY RIGHTS, PROTECTION OF INDUSTRIAL PROPERTY RIGHTS, RIGHTS TO PLANT VARIETIES, AND STATE MANAGEMENT OF INTELLECTUAL PROPERTY

Pursuant to the Law on Organization of the Government of Vietnam dated June 19, 2015; the Law on Amendments to the Law on Organization of the Government of Vietnam and the Law on Organization of the Local Government of Vietnam dated November 22, 2019;

Pursuant to the Law on Intellectual Property dated November 29, 2005; the Law on amendments to the Law on Intellectual Property dated June 19, 2009; the Law on amendments to the Law on Insurance Business and the Law on Intellectual Property dated June 14, 2019, and the Law on amendments to the Law on Intellectual Property dated June 16, 2022;

At the request of the Minister of Science and Technology of Vietnam;

The Government of Vietnam hereby promulgates the Decree elaborating on several articles and implementation measures of the Law on Intellectual Property regarding industrial property rights, protection of industrial property rights, rights to plant varieties, and state management of intellectual property.

Part one

GENERAL PROVISIONS

Article 1. Scope

This Decree provides for the elaboration and implementation measures of regulations of the Law on Intellectual Property on:

1. Right establishment, right holders, contents, and limitations of industrial property rights, transfer of industrial property rights, industrial property representatives, and measures to promote industrial property.
2. Identification of acts of infringement, nature, and severity of industrial property right infringements, rights to plant varieties, identification of damage, request and settlement of infringement handling requests, handling of infringements upon industrial property rights and

rights to plant varieties, control of imports and exports concerning industrial property rights and rights to plant varieties, assessment of industrial property rights and rights to plant varieties, and state management of intellectual property.

Article 2. Regulated entities

1. Vietnamese and foreign organizations and individuals meeting the requirements for grant of protection of industrial property rights in Vietnam according to international treaties to which Vietnam is a signatory.
2. Organizations and individuals that have granted protection of industrial property rights and/or rights to plant varieties or have acts of infringement on industrial property rights and/or rights to plant varieties as prescribed by the Law on Intellectual Property.
3. Other relevant organizations and individuals.

Article 3. Interpretation of terms

For the purpose of this Decree, the following terms shall be construed as follows:

1. “Vietnamese organizations and individuals” are individuals, juridical persons, and other right holders as prescribed by civil laws.
2. “Applicants” are organizations and/or individuals applying for the establishment of industrial property rights or organizations and individuals applying for the handling of acts of infringement on industrial property rights and/or rights to plant varieties.
3. “Paris Convention” means the Paris Convention for the Protection of Industrial Property dated 1883, amended in 1967 and 1979.
4. “PCT Treaty” means the Patent Cooperation Treaty dated 1970, amended in 1984 and 2001.
5. “Madrid Agreement” means the Madrid Agreement Concerning the International Registration of Marks dated 1891, amended in 1979.
6. “Madrid Protocol” means the Madrid Protocol Concerning Madrid Treaty dated 1989, amended in 2006 and 2007.
7. “Hague Agreement” means the Hague Agreement Concerning the International Deposit of Industrial Designs and its Document dated 1999.
8. “PCT application” means an invention registration application submitted under the PCT Treaty.

9. “PCT application designating or selecting Vietnam” means a PCT application submitted at any member of the PCT Treaty, including Vietnam, specifying Vietnam is the designated or selected country.

10. “PCT national phase application” means a PCT application designating or selecting Vietnam submitted to an industrial property right authority.

11. “PCT application originating from Vietnam” means a PCT application submitted from Vietnam, which requests the grant of protection to any member of the PCT Treaty, including Vietnam.

12. “Madrid application” means an application for the international registration of marks submitted under the Madrid Agreement or Madrid Protocol.

13. “Madrid application originating from Vietnam” means a Madrid application requesting a grant of protection to marks at other members of the Madrid Treaty or Madrid Protocol submitted from Vietnam.

14. “Madrid application designating Vietnam” means a Madrid application requesting a grant of protection to marks in Vietnam, originating from other members of the Madrid Treaty or Madrid Protocol.

15. “Hague application” means an application for the international registration of industrial designs submitted under the Hague Agreement.

16. “Hague application designating Vietnam” means a Hague application requesting a grant of protection to industrial designs in Vietnam, originating from any member of the Hague Agreement, including Vietnam.

17. “Hague application originating from Vietnam” means a Hague application submitted from Vietnam requesting a grant of protection of industrial designs at any member of the Hague Agreement, including Vietnam.

18. “International Office” means the International Office of the World Intellectual Property Organization (WIPO).

19. “Acts of infringement” are acts of infringement on industrial property rights and/or rights to plant varieties.

20. “Handling of infringements” means the handling of infringements on industrial property rights and/or rights to plant varieties.

21. “Violators” are organizations and/or individuals infringing on industrial property rights and/or rights to plant varieties.

22. “Infringement factors” are factors created from infringements on industrial property rights and/or rights to plant varieties.

23. “Act subject to examination” means an act that is suspected and examined to determine whether it is an infringement or not.

24. “Subjects under examination” are subjects suspected and examined to determine whether they are violators of industrial property rights and/or rights to plant varieties or not.

25. “Application for infringement handling” means an application for the adoption of measures to handle acts of infringement.

26. “Law on Intellectual Property” means the Law on Intellectual Property dated November 29, 2005, amended by the Law on amendments to the Law on Intellectual Property dated June 19, 2009, the Law on amendments to the Law on Insurance Business and the Law on Intellectual Property dated June 14, 2019, and the Law on amendments to the Law on Intellectual Property dated June 16, 2022.

Part two

STATE MANAGEMENT OF INTELLECTUAL PROPERTY

Article 4. Uniform principle of state management of intellectual property

The organization of the state management of intellectual property prescribed in Article 10 and Article 11 of the Law on Intellectual Property shall be based on the uniform principles of objectives, contents, and measures under the general directive of the Government of Vietnam with specific assignment of responsibilities and strict cooperation between ministries, ministerial agencies, governmental agencies, and People's Committees of all levels.

Article 5. Responsibility for taking charge and cooperating in state management of intellectual property

1. The Ministry of Science and Technology of Vietnam shall take charge and cooperate with the Ministry of Culture, Sports and Tourism of Vietnam, the Ministry of Agriculture and Rural Development of Vietnam, ministerial agencies, governmental agencies, People's Committees of all levels, and relevant agencies in performing the following activities to ensure the uniform state management of intellectual property:

a) Developing, promulgating, and organizing the implementation of general strategies, policies, and legal documents on the protection of intellectual property rights or presenting them to competent authorities for promulgation.

b) Monitoring, urging, and inspecting the implementation of general tasks of industrial property assigned to ministries, ministerial agencies, governmental agencies, and People's Committees of

all levels by the National Assembly of Vietnam or the Government of Vietnam as prescribed in Article 10 and Article 11 of the Law on Intellectual Property and this Decree;

c) Summarizing, assessing, and reporting on the performance of the protection of intellectual property rights to the Government of Vietnam, proposing specific policies and measures to improve the efficiency of the intellectual property system, and ensuring the uniform state management of intellectual property;

d) Developing and directing the implementation of general programs and schemes for the protection of intellectual property rights, measures to cooperate between intellectual property right protection authorities;

dd) Negotiating and concluding the participation in and implementation of general international treaties on intellectual property; proposing the settlement of national disputes concerning intellectual property in international relationships;

e) Developing the database system and establishing the national information network on state management of intellectual property and protection of intellectual property rights.

2. The Ministry of Culture, Sports and Tourism of Vietnam shall cooperate with the Ministry of Science and Technology of Vietnam in performing tasks prescribed in Clause 1 of this Article; ensure the implementation of state management of copyrights and related rights and ensure that policies, strategies, and legal documents on copyrights and related rights are in uniformity with general policies, strategies, and legal documents on intellectual property; periodically or irregularly provide information on state management and protection of intellectual property rights for the Ministry of Science and Technology of Vietnam for cooperation in handling arising issues and summarization for report to the Prime Minister of Vietnam.

3. The Ministry of Agriculture and Rural Development of Vietnam shall cooperate with the Ministry of Science and Technology in performing tasks prescribed in Clause 1 of this Article; ensure the implementation of state management of rights to plant varieties and ensure that policies, strategies, and legal documents on the protection of rights to plant varieties are in uniformity with general policies, strategies, and legal documents on intellectual property; periodically or irregularly provide information on state management and protection of intellectual property rights for the Ministry of Science and Technology of Vietnam for cooperation in handling arising issues and summarization for report to the Prime Minister of Vietnam.

Article 6. Responsibilities of the Ministry of Science and Technology of Vietnam regarding industrial property

The Ministry of Science and Technology of Vietnam shall:

1. Develop and organize the implementation of strategies and policies on the protection of industrial property rights.

2. Promulgate and organize the implementation of legal documents on industrial property or present them to competent authorities for promulgation.
3. Organize the system of agencies performing the state management of industrial property.
4. Provide professional guidance, training, and advanced training in industrial property.
5. Organize the establishment of industrial property rights, registration of contracts of transfer of industrial property rights, and performance of other procedures concerning protection titles of industrial property rights.
6. Exercise rights to compulsory transfer of invention licensing rights according to Article 147 of the Law on Intellectual Property.
7. Take charge or cooperate in implementing measures to protect legitimate rights and benefits of organizations, individuals, the State, and society regarding industrial property.
8. Manage the industrial property assessment and the issuance of industrial property assessor cards.
9. Inspect compliance with industrial property laws; settle complaints and denunciations, and handle violations against industrial property laws.
10. Organize informative and statistical operations on industrial property; manage and organize operations concerning national databases on industrial property.
11. Organize the education, dissemination, and universalization of knowledge, policies, and laws on industrial property.
12. Manage the activities of industrial property representatives; issue practicing certificates of industrial property representative services.
13. Perform international cooperation in industrial property; propose the settlement of disputes between Vietnam and other countries over industrial property.
14. Perform other tasks assigned by the Government of Vietnam.

Article 7. Cooperation in state management of intellectual property

1. The Ministry of Science and Technology of Vietnam shall take charge and cooperate with the Ministry of Culture, Sports and Tourism of Vietnam, the Ministry of Agriculture and Rural Development of Vietnam, and relevant agencies in protecting, inspecting, and handling infringements on intellectual property rights.
2. Intellectual property authorities shall provide adequate and timely answers for requests from authorities of intellectual property right infringement handling.

3. Intellectual property authorities shall participate in inspectorates or inspection delegations upon requests to serve the inspection.

Article 8. Responsibilities of ministries, ministerial agencies, governmental agencies, and People's Committees of provinces and centrally affiliated cities regarding intellectual property

Ministries, ministerial agencies, governmental agencies, and People's Committees of provinces and centrally affiliated cities shall, within their scope of functions and tasks, cooperate with the Ministry of Science and Technology of Vietnam, the Ministry of Culture, Sports and Tourism of Vietnam, and The Ministry of Agriculture and Rural Development of Vietnam in:

1. Performing tasks prescribed in Clause 1 Article 5 of this Decree and directly performing specific tasks assigned by the Government of Vietnam.
2. Ensuring the local implementation of policies and laws on intellectual property in conformity and compliance with the Law on Intellectual Property and its guiding documents.
3. Periodically or irregularly provide information on state management and protection of intellectual property rights for the Ministry of Science and Technology of Vietnam for cooperation in handling arising issues and summarization for report to the Prime Minister of Vietnam.

Article 9. Responsibilities of ministries, ministerial agencies, governmental agencies, and People's Committees of provinces and centrally affiliated cities regarding industrial property

1. Regarding the state management of local industrial property, People's Committees of the provinces and centrally affiliated cities shall:
 - a) Organize the implementation of policies and laws on industrial property;
 - b) Develop, issue, and organize the implementation of local regulations on industrial property;
 - c) Organize the management system of local industrial property and perform measures to improve the efficiency of such a system;
 - d) Disseminate and universalize knowledge, policies, and laws on industrial property, perform measures to promote industrial property;
 - dd) Guide and support organizations and individuals in performing industrial property procedures;
 - e) Cooperate with relevant agencies in protecting industrial property rights and handling violations against industrial property laws;

e) Inspecting compliance with industrial property laws and settling complaints and denunciations of local industrial property;

h) Manage local geographical indications, including location names and other signs indicating the geographical origin of local specialties;

i) Conduct international cooperation in local industrial property.

2. Ministries, ministerial agencies, and governmental agencies shall organize and direct the implementation of industrial property laws and manage the subject matters of industrial property under their management.

Part three

INDUSTRIAL PROPERTY RIGHTS

Chapter I

ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS

Section 1. GENERAL REGULATIONS ON ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS

Article 10. Grounds and procedures for establishing industrial property rights

1. Industrial property rights to an invention, layout design, industrial design, mark, and geographical indication shall be established based on a protection grant decision of the industrial property right authority issued to the applicant for such subjects according to Chapter VII, Chapter VIII, and Chapter IX of the Law on Intellectual Property and Appendix I of this Decree.

Industrial property rights to an internationally registered mark under the Madrid Agreement and Madrid Protocol shall be established based on a decision to grant protection to such a mark issued by an industrial property right authority.

Industrial property rights to an internationally registered industrial design under the Hague Agreement shall be established based on a decision to grant protection to such an industrial design issued by an industrial property right authority.

2. Industrial property rights to a well-known mark shall be established based on the actual use practice of such a mark according to Article 75 of the Law on Intellectual Property without having to carry out registration procedures. When using the rights and handling a dispute over the rights to the well-known mark, the owner shall prove his/her rights with evidence prescribed in Point c Clause 5 Article 91 of this Decree.

3. Industrial property rights to a trade name shall be established based on the actual legal use of such a name corresponding to the area (territory) and business line without having to carry out

registration procedures. When using the rights and handling a dispute over the rights to the trade name, the owner shall prove his/her rights via evidence prescribed in Point b Clause 5 Article 91 of this Decree.

4. Industrial property rights to a business secret shall be established based on the financial, intellectual investment, or other legal methods to find out, create, or achieve information and information security forming such a business secret without having to carry out registration procedures. When using the rights and handling a dispute over the right to the business secret, the owner shall prove his/her right via evidence prescribed in Point a Clause 5 Article 91 of this Decree.

5. Anti-unfair competition rights shall be established based on the actual anti-unfair competition activities without having to carry out registration procedures at industrial property right authorities. When using the anti-unfair competition rights, holders shall prove their rights via evidence specifying subjects, fields, territories, and business time concerning competition.

Article 11. Industrial property rights under international treaties

1. If any international treaty concerning industrial property rights to which Vietnam is a signatory stipulates the recognition and protection of industrial property rights of organizations and/or individuals of members according to Article 6 of the Law on Intellectual Property, such industrial property rights shall be recognized and protected in Vietnam.

Industrial property rights shall be protected within a scope and period appropriate to international treaties. Registration procedures according to the Law on Intellectual Property are not required.

2. The Ministry of Science and Technology of Vietnam shall disclose every essential information concerning industrial property rights recognized and protected in Vietnam under international treaties.

Article 12. Priority rights of registration applications for inventions, industrial designs, or marks

Priority rights of registration applications for inventions, industrial designs, or marks prescribed in Article 91 of the Law on Intellectual Property shall be applied as follows:

1. If the applicant wishes to have priority rights according to the Paris Convention, his/her applicant shall be accepted if the following requirements are met:

a) The applicant is a Vietnamese citizen or a citizen of a member country of the Paris Convention or a member of another country residing or having a production or business facility in Vietnam or any member country of the Paris Convention;

b) The first application has been submitted in Vietnam or any member country of the Paris Convention, containing content corresponding to the request for priority rights of the registration application for inventions, industrial designs, or marks;

c) The registration application is submitted within the following period since the submission of the first application: 6 months for registration applications for industrial designs or marks and 12 months for registration applications for inventions;

d) The registration application for inventions, industrial designs, or marks specifies the request for priority rights enclosed with copies of the first application prescribed in Point b of this Clause in case of submission in a foreign country with a confirmation of the agency receiving the first application. Copies of the first application may be submitted within 3 months from the date of the registration application submission;

dd) The applicant adequately pays fees for priority rights.

2. The first application submitted in Vietnam or any member country of the Paris Convention according to Point b Clause 1 of this Article is the application eligible for confirming its submission date at any concerned member country, regardless of its processing results.

3. If the applicant wishes to have priority rights under another international treaty, his/her request will be accepted if he/she meets the requirements for priority rights prescribed in such an international treaty.

Article 13. Rights to register industrial property under international treaties

1. Foreign organizations and individuals meeting the requirements for protection of industrial property rights in Vietnam according to Article 2 of this Decree may apply for industrial property in Vietnam under international treaties on or related to procedures for submitting international applications.

2. Vietnamese organizations and individuals may submit international registration applications for industrial property to request protection of their rights in Vietnam if prescribed by international treaties.

Article 14. Security control of inventions

1. Regarding technical inventions affecting national defense and security listed in Appendix VII of this Decree created in Vietnam and subject to registration rights of individuals who are Vietnamese citizens residing in Vietnam or organizations established under the law of Vietnam, the control procedure shall be performed before the industrial property right authority discloses such registration applications to meet the requirements for overseas submission of invention registration applications according to Clause 1 Article 89a of the Law on Intellectual Property.

2. The Ministry of National Defense of Vietnam and the Ministry of Public Security of Vietnam shall designate agencies receiving and processing requests for invention identification in invention registration applications in technical fields affecting national defense and security as prescribed in Clause 3 of this Article.

3. Within 1 month from the date of receiving the written notification from the invention registration applicant under the national format of the expected overseas submission for the security control of inventions according to Clause 1 of this Article or the date the PCT application originating from Vietnam is submitted through the industrial property right authority, in case the invention is suspected to fall under Clause 1 of this Article, the industrial property right authority shall suspend the appraisal of the application and submit a written document requesting the performance of the identification of inventions in technical fields affecting national defense and security to the agency designated by the Ministry of National Defense of Vietnam and/or the Ministry of Public Security of Vietnam. The agency designated by the Ministry of National Defense of Vietnam and/or Ministry of Public Security of Vietnam shall issue a document identifying if the invention specified in the application is subject to technical fields affecting national defense and security or not within 3 months after the date the industrial property right authority submits the requesting document.

4. Regarding the invention registration application prescribed in Clause 3 of this Article, the industrial property right authority shall notify the applicant of the suspension of the appraisal procedure of the application for the performance of the security control procedure under Article 89a of the Law on Intellectual Property within 7 working days after submitting the requesting document to the agency designated by the Ministry of National Defense of Vietnam and/or Ministry of Public Security of Vietnam.

5. Within 20 days from the date of receiving the notification of the agency designated by the Ministry of National Defense of Vietnam and/or Ministry of Public Security of Vietnam on the subject in the invention registration application is subject to technical fields affecting national defense and security according to Clause 3 of this Article, the industrial property right authority shall notify the applicant of such information while requesting the applicant to perform procedures for state secret protection according to laws within 1 month after receiving the notification and the following procedures:

a) Regarding an invention registration application submitted under the national format: if the applicant submits the mentioned application under procedures appropriate to state secret protection laws, the application shall be continued to be processed under laws. If the applicant fails to comply with state secret protection laws when submitting the mentioned application within a prescribed period, such application is considered to be withdrawn and shall be destroyed by the industrial property right authority under state secret protection laws, excluding cases where the applicant has evidence proving that the invention is not a state secret.

b) Regarding a PCT application originating from Vietnam submitted through the industrial property right authority: such application shall be destroyed according to state secret protection laws, and Point e Clause 1 Article 20 of this Decree shall be applied, excluding cases where the applicant has evidence proving that the invention is not a state secret.

6. The industrial property right authority shall continue the processing of the application in the following cases:

a) The industrial property right authority does not receive any notification from the agency designated by the Ministry of National Defense of Vietnam and/or Ministry of Public Security of Vietnam after the 3-month period prescribed in Clause 3 of this Article.

b) The agency designated by the Ministry of National Defense of Vietnam and/or Ministry of Public Security of Vietnam notifies that the invention in the application is not subject to technical fields affecting national defense and security.

The industrial property right authority shall notify the applicant of the continuation of the processing of the application within 1 month from the time prescribed in Point a of this Clause or the the date of receiving the notification prescribed in Point b of this Clause.

7. Regarding an application subject to cases prescribed in Clause 6 of this Article, the applicant may submit such registration application overseas.

Article 15. Time limit calculation

1. The methods of calculating time limits in industrial property shall comply with regulations on time limits of the Civil Code.

2. The time limit for an applicant and related parties to submit, amend, and supplement documents or provide suggestions may be extended once equal to the time limit prescribed in the notification of the industrial property right authority, providing that the petitioner submits the document requesting the extension before the end date of the prescribed time limit and pays fees for the extension as per regulation.

3. The time limit does not include when there is any force majeure or objective obstacle making the organization or individual fail to perform their concerned tasks and rights within the scope of the time limit if such an organization or individual requests and has reasonable evidence proving such a state. If the request is accepted, the industrial property right authority shall issue a notification and/or notification revoking the issued decision and/or notification regarding the failure to promptly perform tasks and rights of the individual or organization and restore the processing of the application to its previous state.

4. Force majeure means an objective event that cannot be predicted (such as natural disasters, epidemics, etc.) and cannot be remedied despite applying necessary and permissible measures.

Objective obstacles mean obstacles caused by objective situations (such as sickness, work or study at a faraway location, etc.), making persons with rights and tasks unable to know their legitimate rights and benefits are infringed upon or fail to perform their tasks and rights.

Article 16. Amendments and supplements to industrial property registration applications

1. Before the industrial property right authority decides to refuse or accept the application or issue or refuse to issue the protection title, the applicant may:

a) Amend or supplement documents in the application, providing that such an amendment or supplement does not extend the scope (volume) of protection in the description of the invention registration application, set of photos, drawings, and descriptions of industrial designs displayed in the set of photos and drawings regarding an industrial design registration application or in the mark and list of goods and services regarding a mark registration application without changing the nature of the subjects specified in the application;

b) Change the name, address, country code of the applicant, name, nationality, address of the inventor, layout design, and/or industrial design; industrial property representative.

2. Amendments and supplements to the application shall be performed as follows:

a) In case the applicant proactively amends or supplements the application after the industrial property right authority approves the valid application, including changes to the legal representative in Vietnam, the application for such amendments or supplements shall be made following Form No. 04 in Appendix II of this Decree;

b) In case of amendments or supplements to the application before the industrial property right authority accepts or refuses the valid application or amendments or supplements based on a notification of the industrial property right authority concerning such an application, the request for amendments or supplements shall be made in writing, specifying the content of the amendments or supplements;

c) The applicant may request amendments or supplements to the same content related to many applications with the same subject matter of industrial property rights in one statement or document requesting such amendments or supplements;

d) Any petitioner for amendments or supplements to applications shall pay:

d1) Fees for appraisal of the request for amendments or supplements for each amendment content according to regulations and copies of receipts (in case of paying fees via postal services or directly to the account of the industrial property right authority);

d2) Fees for disclosure of information on amendments or supplements to the application according to regulations if the amendment or supplement content must be disclosed as prescribed in Point a Clause 3 of this Article. In case amendments or supplements must be done to remedy errors caused by the industrial property right authority, the applicant shall not pay the disclosure fees;

dd) Regarding requests for amendments or supplements to the following documents, the application shall submit the corresponding documents that have been amended or supplemented:

dd1) A part or a whole of the description and/or summary of the invention regarding an invention registration application;

dd2) 4 sets of photos or sets of drawings, descriptions of integrated circuits produced according to the layout design regarding a layout design registration application;

dd3) 4 sets of drawings or 4 sets of photos and descriptions regarding an industrial design registration application;

dd4) 5 samples of marks and the list of goods and services with such marks regarding a mark registration application;

dd5) Description of the specific characteristics of the product with geographical indications, maps of the corresponding geographical area with geographical indications regarding a geographical indication registration application.

Documents amending or supplementing the application shall comply with regulations on such documents prescribed in Appendix I of this Decree. Regarding requests for amendments or supplements as prescribed in Points dd1, dd2, and dd3 of this Clause, the applicant shall submit a detailed presentation of the amendment or supplement content for comparison with the initially submitted documents.

e) Regarding cases of changing the name, address, country code of the applicant, name, and nationality of the author, the applicant shall submit a confirmation document (original or certified copy) or a legal document (certified copy) proving the changes (decision on changes to the name, address; enterprise registration certificate recording the changes to name, address, etc.). Regarding cases of changing the industrial property representative, the applicant shall submit a statement on changing the industrial property representative.

3. The industrial property right authority shall process requests for amendments and/or supplements to applications as follows:

a) Disclose amended or supplemented content in case the request for amendments or supplements to relevant information is formally valid as stated in the decision on valid application acceptance; name, nationality of the inventor, industrial design, layout design; summary of the invention enclosed with drawings (if any); set of photos or drawings of the industrial design; mark sample and list of goods and services enclosed; description of the specific characteristics and the name of the product with geographical indications;

b) Appraise the amendment or supplement content in compliance with Article 109 of the Law on Intellectual Property and relevant laws in case the applicant requests amendments or supplements to the application under Point a Clause 2 of this Article;

c) Regarding any request for amendments or supplements to the submitted application after the notification of the intended issuance of the protection title that falls into the following cases, the application shall be re-appraised, and the applicant shall pay fees as per regulation:

c1) Amendments to information related to the nature of the subject specified in the application: description of the invention; description, set of photos, drawings of the industrial design; mark

sample, list of goods and services with the mark, regulation on the use of the collective mark, regulation on the use of the certification mark; description of the specific characteristics of the product with geographical indications, geographical area corresponding to the geographical indications;

c) Changes to the mark applicant;

d) Notify the acceptance or refusal of the request for amendments or supplements within the time limit prescribed in Clause 4 Article 119 of the Law on Intellectual Property;

dd) Notify the acceptance or refusal of the request for amendments or supplement to the application in the documents sent to the applicant during the processing of the concerned industrial property registration application regarding the case prescribed in Point b Clause 2 of this Article.

Article 17. Splitting, withdrawing industrial property registration applications; requesting appraisal of content, and converting invention registration applications

1. Splitting industrial property registration applications shall be performed as follows:

a) Before the industrial property right authority decides to accept the application or issue or refuse the issuance of the protection title, the applicant may split the application (splitting one or several technical solutions in the invention registration application, one or several industrial designs in the industrial design registration application, or a part of the list of goods and services in the mark registration application to one or more new applications, called split application);

b) A split application carries a new application number and is dated as the submission date of the initial application or the prioritized date(s) of the initial application (if any). For each split application, the applicant shall pay the application submission fees and every fee for procedures performed independently from the initial application (aside from the procedures performed at the initial application that are not required for re-performance at the split application) and be exempted from the fees for appraisal of request for priority rights (except for cases of splitting industrial design applications due to the inability to ensure uniformity). The split application shall be appraised regarding its format and continue to be processed under incomplete procedures for the initial application. The split application shall be disclosed as per regulation;

c) The application shall submit a presentation on the subject matter of protection request and the amended content compared to the initial application when submitting the split application;

d) The initial application (after the splitting) shall continue to be processed under procedures for processing applications or amending applications.

2. Withdrawing industrial property registration applications according to Article 116 of the Law on Intellectual Property shall be performed as follows:

a) The withdrawal of the application shall be performed by the applicant or his/her authorized representative via written statements. Regarding an application submitted by a representative, the authorizing document shall specify the authorization of the withdrawal of the application or be enclosed with an order letter specifying the number of applications to be withdrawn;

b) Within 2 months from the date of receiving the request, the industrial property right authority shall:

b1) Issue a notification of the acceptance of the application withdrawal in case it complies with Point a of this Clause, terminate the processing of the application, and record the withdrawal to the application record. A withdrawn industrial property registration application cannot be restored but can be used as the grounds for requesting priority rights according to Clause 3 Article 116 of the Law on Intellectual Property;

b2) Issue a notification of the intended refusal of the withdrawal in case the application withdrawal does not comply with Point a of this Clause and impose a 2-month time limit from the notification issuance date for the applicant to remedy his/her deficiencies;

b3) Issue a refusal notification of the application withdrawal if the applicant fails to remedy his/her deficiencies within the time limit prescribed in Point b2 of this Clause or fails to provide a qualified remedy.

3. Converting an invention registration application according to Point dd Clause 1 of Article 115 of the Law on Intellectual Property shall be performed as follows:

a) Before the industrial property right authority decides to refuse or accept the application, issue or refuse to issue the protection title, the applicant may convert the request for issuance of the invention patent into the request for the utility solution patent or vice versa for the whole or a part of the application, providing that the applicant pays the submission fees for the conversion application as per regulation. In case of converting a part of the application, the applicant shall split the application before requesting the conversion.

b) After receiving the valid conversion request, the industrial property right authority shall continue to perform procedures for processing the conversion application under relevant regulations and shall not re-perform the procedures done to the application before the conversion request.

4. Any third party requesting the industrial property right authority to appraise the content of the invention registration application under Article 113 of the Law on Intellectual Property shall comply with the following regulations:

a) The request for the appraisal of the content of the invention registration application shall be made following Form No. 05 Appendix I of this Decree;

b) The time limit for submitting the mentioned request shall comply with Clause 1 and Clause 2 Article 113 of the Law on Intellectual Property;

- c) Petitioner shall pay the fees for looking up and appraising the content as per regulation;
- d) The request shall be notified to the applicant within 3 months after receiving the request;
- dd) If the request is invalid, within 1 month after receiving the request, the industrial property right authority shall issue a notification and impose a 2-month time limit from the notification issuance date for the petitioner to remedy his/her deficiencies. If the petitioner fails to remedy his/her deficiencies within the imposed time limit or provides an unqualified remedy, the industrial property right authority shall issue a notification of declining to appraise the content of the application;
- e) If the request is valid, the industrial property right authority shall appraise the content of the application under Article 114 of the Law on Intellectual Property and relevant laws and notify the petitioner of the results.

Article 18. Recording changes to applicants of industrial property registration applications

1. Before the industrial property right authority decides to refuse or accept the application, issue or refuse to issue the protection title, the applicant may request the industrial property right authority to record the changes to the applicant based on the transfer, inheritance, or decision of the competent authority.
2. Recording changes to the applicant due to applicant transfer shall be performed as follows:
 - a) An application for recording of changes due to application transfer includes:
 - a1) A request for the recording of the application transfer following Form No. 05 Appendix II of this Decree;
 - a2) Documents on the transfer of the industrial property registration application (original or certified copy) specifying the names and addresses of the transferring party and the receiving party; the number of applications to be transferred or information adequate to confirm such applications;
 - a3) Copies of payment invoices of fees and charges as per regulation (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority);
 - b) Request for the recording of changes due to the transfer of several applications of the same applicant may be carried out in the same statement, providing that the payment for appraisal fees under regulations corresponding to the number of applications requested for transfer recording is made;
 - c) Request for the recording of changes due to application transfer shall be processed similarly to the processing of a request for amendments or supplements to the application according to Article 16 of this Decree. If the request for the recording of changes due to the transfer of the mark registration application is submitted after the issuance of the notification of the intended

issuance of the protection title, the mark registration application shall be re-appraised, and disclosure of the transfer content shall be made. The petitioner shall pay the application appraisal fees and disclosure fees as per regulation.

3. The recording of changes to the applicant due to the inheritance or decision of the competent authority shall be performed according to a request based on the asset inheritance during the merger, division, and splitting of juridical persons or joint venture, association, and establishment of new juridical persons of the same owner, trading form conversion, or decision of the Court or other competent authorities. Procedures for requesting the recording of changes to the applicant in the mentioned cases shall be performed similarly to the procedures for amending or supplementing applications prescribed in Article 16 of this Decree.

Section 2. PCT APPLICATION AND ITS PROCESSING

Article 19. PCT application

1. PCT applications include PCT applications originating from Vietnam and PCT national phase applications.

2. Regarding a PCT application originating from Vietnam, the applicant may submit the application through an industrial property right authority or directly to the International Office. Any application submitted directly to the International Office shall be made in a language prescribed in the PCT Convention and meet the requirements for the format and content prescribed in the PCT Convention. Any application submitted through the industrial property right authority shall be made in English, each application shall be made in 1 copy and meet the requirements for the format and content prescribed in the PCT Convention, and the applicant shall pay fees for the preliminary inspection of the format and fees and charges prescribed by the Implementation Regulation of the PCT Convention and fees and charges laws of any member country designated in the PCT application.

3. Regarding a PCT designating or selecting Vietnam, for it to be into the national phase, the applicant shall submit the following documents to the industrial property right authority within 31 months from the priority date (if the application requests priority rights) or the date of submission of the international application:

- a) Invention registration statement, following Form No. 01 Appendix I of this Decree;
- b) Copies of the international application (in case the applicant requests the national phase before the international disclosure date);
- c) A Vietnamese translation of the description and summary in the international application (disclosed copy or initial copy if the application is yet to be disclosed, and amended copy and amendment explanation if the international application has been amended according to Article 19 and/or Article 34.2(b) of the PCT Convention);

d) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority);

dd) Authorizing documents (in case the request is submitted by a representative).

Article 20. Processing PCT applications originating from Vietnam submitted via industrial property right authorities

1. After receiving the PCT application originating from Vietnam, the industrial property right authority shall:

a) Collect fees for the preliminary inspection of the application format;

b) Identify if the subject matter of the protection request in the application is a state secret or not;

c) Provide notifications of fees as per regulation for the applicant to transfer to the International Office and the international search agency according to the PCT Convention;

d) Inspect and process the application following the PCT Convention;

dd) Transfer the application to the International Office and the international search agency in case the application meets the preliminary requirements for the format, fees under national laws are paid fully and promptly, and the subject matter of the protection request in the application is not a state secret;

e) Cancel further work in case the subject matter of the protection request in the application is a state secret.

2. After the PCT application originating from Vietnam has been transferred to the International Office by the industrial property right authority, regarding transactions concerning such an application, the applicant shall carry it out directly with the International Office or the competent authority of the concerned member country of the PCT Convention designated in the application as prescribed by the PCT Convention.

Article 21. Processing of PCT national phase applications

A PCT national phase application shall be processed as follows:

1. Request for priority rights in the PCT national phase application shall be processed in compliance with the PCT Convention and its Implementation Regulation. To have priority rights, the applicant shall:

a) Reaffirm the request for priority rights in the statement;

b) Pay fees for the appraisal of the request for priority rights;

c) Submit the Vietnamese translation of documents submitted to the International Office according to requests from the industrial property right authority and necessary documents according to Rule 17.1(a) of the Implementation Regulation of the PCT Convention.

2. The applicant may amend or supplement documents in the application. Amendments or supplements to documents in the application shall comply with the following regulations:

a) Article 28 and 41 of the PCT Convention, Rule 52.1(b) and Rule 78.1(b) of the Implementation Regulation of the PCT Convention, and Article 115 of the Law on Intellectual Property;

b) Authorizing documents, documents on transfer rights to the submit international phase application (if any) shall be submitted within 34 months from the priority date (if the application requests priority rights) or the date of submission of the international application;

c) Amendment or supplement documents submitted to the industrial property right authority by the applicant shall be made in Vietnamese.

3. The PCT national phase application shall be processed on the first day of the 32nd month from the priority date (if the application requests priority rights) or from the submission date of the international application. If the applicant has a document requesting early processing of the PCT national phase application, the application shall be processed before the time limit prescribed in this Clause in compliance with Article 23.2 of the PCT Convention.

4. The PCT national phase application shall be appraised regarding its format and content under prescribed procedures for invention registration applications submitted under the national format and disclosed within 2 months after the date of valid application acceptance.

Section 3. HAGUE APPLICATION AND ITS PROCESSING

Article 22. Hague application

1. Hague applications include Hague applications designating Vietnam and Hague applications originating from Vietnam.

2. Regarding a Hague application originating from Vietnam, the applicant may submit the application through an industrial property right authority or directly to the International Office. Any application submitted directly to the International Office shall be made in a language prescribed in the Hague Agreement and meet the requirements for the format and content prescribed in the Hague Agreement.

3. Any application submitted through the industrial property right authority shall be made in English, each application shall be made in 2 copies and meet the requirements for the format and content prescribed in the Hague Agreement, and the applicant shall pay fees for international transfer of the application and fees and charges prescribed by the Hague Agreement and fees and charges laws of any designated member country.

Article 23. Processing Hague applications originating from Vietnam submitted via industrial property right authorities

1. If the Hague application originating from Vietnam is submitted through the industrial property right authority, such an authority shall:

- a) Collect the fees for international transfer of the application;
- b) Notify the fees that the applicant has to pay directly to the International Office under the Hague Agreement within 20 days from the date of receiving the application;
- c) Conduct a preliminary inspection of the application format within 15 days after receiving the application;
- d) If the application has deficiencies, the industrial property right authority shall notify the applicant of such deficiencies and impose a 12-day time limit for the applicant to adopt remedial measures;
- dd) Transfer the Hague application originating from Vietnam to the International Office within 1 month after receiving the application.

2. The date on which the industrial property right authority receives the Hague application will be considered the submission date of the international registration application for industrial designs if the International Office receives that application within 1 month after the date displayed on the receipt seal of the industrial property right authority.

3. After the Hague application originating from Vietnam has been transferred to the International Office, regarding transactions concerning such an application, the applicant shall carry it out directly with the International Office or the competent authority of the concerned member country of the Hague Agreement designated in the application as prescribed by the Hague Agreement.

Article 24. Processing Hague applications designating Vietnam

After receiving a notification of the International Office, the industrial property right authority shall process the Hague application designating Vietnam as follows:

1. The industrial property right authority shall appraise the content of the application similarly to the procedure applicable to the industrial design registration application submitted under the national format, except for cases prescribed in Clauses 2, 3, 4, 5, 6, 7, and 9 of this Clause. Within 6 months from the date of the notification issuance of the International Office, the industrial property right authority shall conclude the protective capacity of the industrial design specified in the application.

2. In case the industrial design specified in the application meets the requirements for protection according to the laws of Vietnam and the application does not have any deficiency, the industrial property right authority shall:

a) Before the 6-month time limit prescribed in Clause 1 of this Article ends, issue a decision to accept the protection of the internationally registered industrial design specified in the application, record the information to the National Industrial Design Register (the part for Internationally Registered Industrial Design) and send the statement on protection acceptance of the internationally registered industrial design to the International Office following the form of the International Office;

b) Disclose the decision on the Industrial Property Official Gazette within 2 months from the decision issuance date.

3. In case the industrial design does not meet the requirements for protection or the application has deficiencies (lack of photos/drawings, resulting in the inadequate description of the design characteristics of the industrial design or the international registration does not comply with statements of Vietnam or there is information to be verified, etc.), before the 6-month time limit prescribed in Clause 1 of this Article ends, the industrial property right authority shall issue a refusal notification following the form of the International Office, specifying the content and reason for the refusal and send such a notification to the International Office.

4. In case several industrial designs do not meet the requirements for protection or the application has deficiencies concerning several industrial designs (lack of photos/drawings, resulting in the inadequate description of the design characteristics of the industrial designs or the international registration does not comply with statements of Vietnam, or there is information to be verified, etc.), before the 6-month time limit prescribed in Clause 1 of this Article ends, the industrial property right authority shall:

a) Issue a refusal notification regarding any industrial design that fails to meet the requirements for protection or any deficiency following the form of the International Office, specifying the content and reason for the refusal and send such a notification to the International Office;

b) Issue a decision to accept the protection of any industrial design that meets the requirements for protection without any deficiency, record the information to the National Industrial Design Register (the part for Internationally Registered Industrial Design), and send the statement on protection acceptance of the internationally registered industrial design to the International Office following the form of the International Office, which specifies the industrial design accepted for protection;

c) Disclose the decision on the Industrial Property Official Gazette within 2 months from the decision issuance date.

5. Within 3 months from the date the industrial property right authority issues the refusal notification according to Clause 3 and Clause 4 of this Article, the applicant may amend his/her deficiencies or object to the refusal of the industrial property right authority. Any amendment to

deficiencies or objection to the refusal prescribed in the notification shall be carried out similarly to the procedure applicable to the industrial design registration application submitted under the national format, including regulations on application submission methods.

In case the Hague application is expected to be refused due to failure to meet the uniformity requirements of applications as prescribed in Article 101 of the Law on Intellectual Property, the applicant may remedy such a deficiency by splitting one or several industrial designs in the application to one or many new applications. The industrial property right authority shall split the application and issue decisions and notifications of new applications independently from the initial application.

6. In case the applicant provides qualified amendments to deficiencies and/or reasonable objections, within 3 months as prescribed in Clause 5 of this Article, the industrial property right authority shall:

a) Issue a decision to accept the protection of internationally registered industrial design regarding any industrial design that meets the requirements for protection, record the information to the National Industrial Design Register (the part for Internationally Registered Industrial Design), and send the statement on protection acceptance of the internationally registered industrial design to the International Office after the refusal following the form of the International Office, which specifies the industrial design accepted for protection;

b) Disclose the decision on the Industrial Property Official Gazette within 2 months from the decision issuance date.

7. In case the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections regarding the refused industrial designs after the 3-month time limit prescribed in Clause 5 of this Article, the industrial property right authority shall issue a decision to refuse the protection of internationally registered industrial design of such industrial designs.

8. After the 3-month time limit from the date the International Office issues a notification of the Hague application designating Vietnam but the applicant fails to submit any document proving priority rights or has such a document refused by the industrial property right authority, the application shall be considered not having any request for priority rights.

9. Procedures for complaining and settling complaints for decisions prescribed in Clauses 2, 3, 4, 6, and 7 of this Article shall be carried out similarly to procedures applicable to industrial design registration applications submitted under the national format. In case several or all of the previously refused industrial designs are accepted for protection as the result of the complaint settlement, the industrial property right authority shall send the statement on protection acceptance of the internationally registered industrial design to the International Office after the refusal following the form of the International Office, which specifies the industrial designs accepted for protection.

10. In case a third party has a suggestion on the Hague application designating Vietnam before the date of issuance of the protection acceptance decision, such a suggestion shall be considered as a reference for the processing of the Hague application designating Vietnam.

Section 4. MADRID APPLICATION AND ITS PROCESSING

Article 25. Madrid application

1. Madrid applications include Madrid applications originating from Vietnam and Madrid applications designating Vietnam.

2. Regarding a Madrid application originating from Vietnam, the applicant shall submit the application through an industrial property right authority.

3. A Madrid application originating from Vietnam includes:

a) Statement on request for the international registration of marks originating from Vietnam, following Form No. 01 Appendix II of this Decree in Vietnamese;

b) 2 MM2 statements following the form of the International Office in English or French;

c) 2 samples of the mark identical to the mark in the registration application submitted in Vietnam (base application) or the certificate of mark registration (base registration);

d) 2 MM18 statements in English (if the application designates the USA);

dd) Authorizing documents in Vietnamese (in case the application is submitted by a representative);

e) Payment receipts of fees for procedures for international registration of marks originating from Vietnam;

g) Other relevant documents (if necessary).

4. The Madrid application originating from Vietnam shall meet the requirements for the format and content according to regulations. The applicant shall provide information for the statement with adequacy, accuracy, and compliance with regulations and in uniformity with the information specified in the base application or registration.

Article 26. Processing Madrid applications originating from Vietnam and relevant requests

1. After receiving the Madrid application originating from Vietnam, the industrial property right authority shall conduct the appraisal to determine if the application meets the requirements prescribed in Clause 3 and Clause 4 Article 25 of this Decree and perform the following procedures:

- a) If the application has deficiencies, the industrial property right authority shall notify the applicant of such deficiencies for the applicant to provide amendments. If the applicant fails to amend the deficiencies within the 3-month time limit from the date the industrial property right authority issues the notification, the application shall be considered to be withdrawn;
- b) If the application does not have deficiencies or the applicant has provided qualified amendments to deficiencies, the industrial property right authority shall issue a notification of fees and charges that the applicant has to pay directly to the International Office, provide an application confirmation signature and transfer the application to the International Office within 15 days after issuing the mentioned notification;
- c) The date on which the industrial property right authority receives the Madrid application originating from Vietnam will be considered the international registration date of that application if the International Office receives that application within 2 months after the date displayed on the receipt seal of the industrial property right authority. If the application is not submitted to the International Office within the mentioned time limit, the date on which the International Office receives the application will be considered the international registration date.

2. After the Madrid application originating from Vietnam is submitted to the International Office, the industrial property right authority shall let the applicant know via a notification and continue to process (in cooperation with the applicant if necessary) notifications and requests from the International Office or carry out operations concerning the application (if any).

3. Requests arising after the Madrid application originating from Vietnam is issued with an international registration book, such as late designation (extension of protection territory), amendments to the name and/or address of the owner of the international registration, limitation of the list of goods and services, renewal of the international registration validity, designation of the representative, changes to the representative, recording of international registration transfer, etc., may be carried out directly with the International Office or through the industrial property right authority. Any request submitted through the industrial property right authority shall be enclosed with the following documents:

- a) Statement on request following Form No. 02 Appendix II of this Decree in Vietnamese;
- b) 2 corresponding statements following the form of the International Office;
- c) Authorizing documents in Vietnamese (in case the request is submitted by a representative);
- d) Payment receipts of fees for appraisal of amendments, transfer, renewal, territorial extension, limitation of the list of goods and services, and termination or abrogation of the validity of marks internationally registered originating from Vietnam, etc.;
- dd) Other relevant documents (if necessary).

4. After receiving requests prescribed in Clause 3 of this Article, the industrial property right authority shall perform the following procedures:

a) If the request application has deficiencies, the industrial property right authority shall notify the applicant of such deficiencies for the applicant to provide amendments. If the applicant fails to amend the deficiencies within the 3-month time limit from the date the industrial property right authority issues the notification, the request shall be considered to be withdrawn;

b) If the request application does not have deficiencies or the applicant has provided qualified amendments to deficiencies, the industrial property right authority shall issue a notification of fees and charges that the applicant has to pay directly to the International Office, provide a request confirmation signature and transfer the request to the International Office within 10 days after issuing the mentioned notification.

5. In case of an international registration renewal request submitted through the industrial property right authority, the applicant shall submit the request within 6 months before and/or within 1 month after the expiry date of the international registration. In case of requesting the international registration renewal during a grace period, the request application shall be submitted to the industrial property right authority within 1 month from the end date of the grace period.

Article 27. Processing Madrid applications designating Vietnam

1. After receiving the notification of the International Office regarding the Madrid application designating Vietnam, the industrial property right authority shall appraise the content of the application similarly to the procedure applicable to the mark registration application submitted under the national format, except for cases prescribed in Clause 3 and Clause 10 of this Article. Within 12 months from the date the International Office issues the notification, the industrial property right authority shall conclude the protective capacity of the mark.

2. In case the mark meets the requirements for protection according to the laws of Vietnam, the industrial property right authority shall:

a) Before the 12-month time limit prescribed in Clause 1 of this Article ends, issue a decision to accept the protection of the mark internationally registered in Vietnam, record the information to the National Industrial Design Register (the part for Internationally Registered Marks) and send the protection statement to the International Office;

b) Disclose the decision on the Industrial Property Official Gazette within 2 months from the decision issuance date.

The protection scope (volume) is determined based on the content of the request in the international registration of marks recognized by the International Office and accepted by the industrial property right authority.

3. If the mark has a part or all of the goods and services not meeting the requirements for protection or the mark meets the requirement for protection but its international registration has deficiencies (lack of regulations on the use of the collective mark, certification mark, photos or drawings describing the 3-dimensional illustration of the mark, etc.), before the 12-month time

limit prescribed in Clause 1 of this Article ends, the industrial property right authority shall issue a temporary refusal notification, specifying the content and reason for the intended refusal and send that notification to the International Office.

4. Within 3 months from the date the industrial property right authority issues the notification of temporary refusal of a part or all of the goods and services, the applicant may amend deficiencies or object to the intended refusal of the industrial property right authority.

Amendments to deficiencies or objection to the intended refusal shall be carried out similarly to the procedure applicable to the mark registration application submitted under the national format, including regulations on application submission methods.

5. If the industrial property right authority intends to refuse a part or all of the list of goods and services specified in the temporary refusal notification, if the applicant provides qualified amendments to deficiencies and/or has reasonable objections to the intended refusal within the 3-month time limit prescribed in Clause 4 of this Article, the industrial property right authority shall:

a) Issue a decision to accept the protection of the mark internationally registered in Vietnam with the scope (volume) of protection corresponding to the goods and services meeting the requirements for the protection, record the information to the National Industrial Design Register (the park for Internationally Registered Marks), and send the protection statement after the temporary refusal notification to the International Office;

b) Disclose the decision on the Industrial Property Official Gazette within 2 months from the decision issuance date.

6. In case the industrial property right authority intends to refuse a part of the list of goods and services specified in the temporary refusal notification, if the applicant fails to amend deficiencies or provides unqualified amendments or does not have any objection or has unreasonable objections to the intended refusal after the 3-month time limit prescribed in Clause 4 of this Article, the industrial property right authority shall apply the procedures prescribed in Clause 5 of this Article to goods and services meeting the requirements for protection (goods and services not specified in the temporary refusal notification).

7. In case the industrial property right authority intends to refuse all of the list of goods and services specified in the temporary refusal notification, if the applicant fails to amend deficiencies or provides unqualified amendments or does not have any objection or has unreasonable objections to the intended refusal after the 3-month time limit prescribed in Clause 4 of this Article, the industrial property right authority shall issue a decision to refuse the protection of marks internationally registered in Vietnam and send such a notification of complete refusal to the International Office.

8. Procedures for complaining and settling complaints for decisions prescribed in Point a Clause 2 and Clauses 5, 6, 7 of this Article shall be carried out similarly to procedures applicable to mark registration applications submitted under the national format if there are grounds proving

that such decisions are issued contrary to laws on contents and issuance order. The applicant shall be notified of the results of the complaint settlement by the industrial property right authority. If a part or a whole of the list of goods and services refused in refusal decisions is accepted for protection, or there are changes to exclusion elements (not separately protected) as a result of the complaint settlement, the industrial property right authority shall send decisions concerning mark protection following the form of the International Office on corresponding contents to the International Office.

9. From the date the international registration of the mark is accepted for protection in Vietnam, according to the request of the owner of the mark, the industrial property right authority shall issue a confirmation certificate of marks internationally registered in Vietnam, providing that related fees and charges are paid under regulations.

10. From the date the Madrid application is disclosed by the International Office on the Official Gazette to before the issuance date of the protection acceptance decision, or after the 12-month time limit from the date the International Office notifies the application designating Vietnam, depending on any of the mentioned period, if a third party has suggestions on the Madrid application designating Vietnam, such suggestions shall be considered as reference during the processing of the application.

Article 28. Converting international registration of marks to applications submitted under the national format

1. In case an international registration of a mark in Vietnam of an owner that is an individual or an organization of a member of the Madrid Protocol expires according to Article 6 of the Madrid Protocol, that owner may submit a conversion application to the industrial property right authority to register protection for such a mark regarding a part or all of the goods and services of the list of goods and services recognized in the expired international registration of the mark as prescribed in Article 9^{quinquies} of the Madrid Protocol. The mark conversion registration application shall be accepted as valid if it meets the following requirements:

- a) The application is submitted within 3 months after the date of recording in the International Register on the corresponding expired international registration;
- b) The international registration has never been subject to a complete refusal, termination, or cancellation in Vietnam;
- c) The application is made following Form No. 03 Appendix II of this Decree (with the list of goods and services in Vietnamese in the conversion application smaller or equal to the list of goods and services that expires in the corresponding international registration);
- d) The application meets all of the other requirements for the format of the mark registration application according to the laws of Vietnam;

dd) The applicant adequately pays fees and charges according to regulations applicable to mark registration applications submitted under the national format, except for cases prescribed in Point b Clause 2 of this Article.

The submission date of the conversion mark registration application is the international registration date or the late designation date (in case of late designation of Vietnam). If the international registration is eligible for priority rights under international treaties, the conversion mark registration application shall be recorded with the corresponding priority rights, except for cases where there are grounds abrogating such rights.

2. The industrial property right authority shall appraise the conversion mark registration application according to regulations on requirements for conversion prescribed in Clause 1 of this Article and the following principles:

a) Regarding elements on the selected format accepted by the International Office in the corresponding international registration, the industrial property right authority shall not perform the re-appraisal, except for cases where the application has deficiencies (lack of regulations on the use of the collective mark, certification mark, photos or drawings describing the 3-dimensional illustration of the mark, etc.). The industrial property right authority shall issue a decision to refuse the application in case the application fails to meet the requirements prescribed in Clause 1 of this Article.

b) Regarding a mark registration application converted from an international registration accepted for protection in Vietnam, the industrial property right authority shall not perform the re-appraisal. If the application meets the requirements for conversion prescribed in Clause 1 of this Article, the industrial property right authority shall perform procedures for notifying the intended issuance of the protection title, issuing a decision on grant of the protection title, recording to the National Industrial Design Register, disclosing the decision on the Industrial Property Official Gazette as for applications submitted under the national format.

c) Regarding valid conversion mark registration application that does not fall into the case prescribed in Point b of this Clause, the industrial property right authority shall perform procedures for valid application acceptance, application disclosure, and content appraisal and carry out other procedures as for mark registration applications submitted under the national format.

Section 5. PROTECTION TITLE

Article 29. Amending information on protection titles, changing information in the National Industrial Property Register

1. A protection title records information prescribed in Clause 1 Article 92 of the Law on Intellectual Property and is made following the form prescribed in Appendix II of this Decree. The protection title is issued under electronic and paper forms (if the applicant requests the paper form). The owner of the protection title, organization, or individual permitted by the State to

perform the rights to geographical registration may request the industrial property right authority to record changes to information on the protection title in the following cases:

- a) Changes to the name and address of the owner of the protection title; organization managing geographical indications; name and nationality of the author of the invention, industrial design, or layout design;
- b) Changes to the owner of the protection title (transfer of ownership due to the merger, division, and splitting of juridical persons or joint venture, association, and establishment of new juridical persons of the same owner, trading form conversion, or decision of the Court or other competent authorities);
- c) Amendments to the description of the specific characteristics of the product with geographical indications, geographical area corresponding to the geographical indications, regulations on the use of the collective mark, and regulation on the use of the certification mark.

Regarding requests for recording changes to information on the protection title, the petitioner shall pay the fees for the appraisal of the amendment request for the protection title, fees for registration, and fees for disclosure of the decision to record amendments to the protection title.

2. The owner of the protection title, organization, or individual permitted by the State to perform rights to geographical indication registration may request the industrial property right authority to record changes to the industrial property representative of the owner of the protection title in the National Industrial Property Register. Regarding requests for changes to the industrial property representative, the petitioner shall submit an authorizing document of the owner of the protection title and pay fees for the appraisal of the request, fees for registration, and fees for disclosure of decisions to record changes to the information on the industrial property representative under regulations.

3. The owner of the protection title may request the industrial property right authority to narrow the scope of protection according to Clause 3 Article 97 of the Law on Intellectual Property in the following cases:

- a) Request for reduction of one or several goods and services from the list of goods and services specified in the Certificate of Mark Registration or elimination of small details that are exclusion elements (not separately protected) not affecting the distinctiveness of the mark specified in the Certificate of Mark Registration;
- b) Request for reduction of one or several independent points depending on the scope (request) of protection specified in the invention patent or utility solution patent;
- c) Request for elimination of one or several industrial design schemes, one or several products in the product set in the industrial design patent.

Regarding a request for narrowing the protection scope, the petitioner shall pay the fees for appraisal of the request for narrowing the protection scope, fees for registration, and fees for disclosure of decisions to amend the protection title.

4. Depending on the content that needs to be amended according to Clauses 1, 2, and 3 of this Article, the request application shall include 1 set of the following documents:

a) Statement on request following Form No. 06 Appendix II of this Decree specifying in the request for recording changes. A statement requesting amendments may amend many protection titles if they have the same amendment content, providing that the petitioner pay the prescribed fees for each protection title;

b) Original protection title in case it is granted in paper form;

c) Documents confirming changes to the name and address (original or certified copy); decisions on changes to the name and address; business registration licenses specifying changes to the name and address; other legal documents proving changes to the name and address (original or certified copy) in case of requesting changes to name and address;

d) Documents proving the transfer of ownership according to Point b Clause 1 of this Article (documents proving the merger, division, and splitting of juridical persons or joint venture, association, and establishment of new juridical persons of the same owner, trading form conversion, or decision of the Court or other competent authorities) in case of requesting changes to the owner of the protection title;

dd) Documents on detailed presentation of the amendment content;

e) 5 sets of photos or drawings of the amended industrial design (in case of requesting amendments to the industrial design); 2 descriptions of the specific characteristics of the product with geographical indications, maps of the corresponding geographical area with geographical indications (in case of requesting amendments to geographical indications); 2 copies of the amended regulation on the use of the collective mark or certification mark (in case of requesting amendments to the collective or certification mark); 5 mark samples (in case of requesting amendments to the mark sample according to Point a Clause 3 of this Article);

g) Authorizing documents (in case the request is submitted by a representative);

h) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

5. Request for amendments to the protection title or recording of changes to the industrial property representative in the National Industrial Property Register shall be processed as follows:

a) Within 2 months after receiving the request, the industrial property right authority shall assess the request for amendments to the protection title according to Point a and Point b Clause 1 of this Article. If the request is considered valid, the industrial property right authority shall issue a

decision on the amendment to the protection title, record the information to the protection title, and register and disclose the decision on the Industrial Property Official Gazette within 60 days after issuing the decision. If the request has deficiencies or is invalid, the industrial property right authority shall issue a notification of the intended refusal of the request, specifying the reason and imposing a 2-month time limit from the notification issuance date for the petitioner to amend the deficiencies or object to the refusal. After the imposed time limit, if the petitioner fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse the amendment to the protection title;

b) Regarding requests for amendments to the protection title according to Point c Clause 1 and Clause 3 of this Article, procedures for the re-appraisal of the corresponding application shall be performed under Article 114 of the Law on Intellectual Property and relevant laws. The time for re-appraisal is not included in the time for the processing of requests for amendments to the protection title;

c) Within 2 months after receiving the request, the industrial property right authority shall assess the request for recording changes to the industrial property representative in the National Industrial Property Register according to Clause 2 of this Article. If the request application is considered valid, the industrial property right authority shall issue a decision to record changes to the industrial property representative to the National Industrial Property Register and register and disclose the decision on the Industrial Property Official Gazette within 60 days after issuing the decision. If the request has deficiencies or is invalid, the industrial property right authority shall issue a notification of the intended refusal of the request, specifying the reason and imposing a 2-month time limit from the notification issuance date for the petitioner to amend the deficiencies or object to the refusal. After the imposed time limit, if the petitioner fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse to record the changes to the industrial property representative.

6. If any deficiency is detected in the protection title, the industrial property right authority shall revoke the protection title with deficiencies and re-issue it with amended information itself or based on the request of the person who detects the deficiency. The owner of the protection title shall pay the fees for the appraisal of the request for amendments to the protection title according to Clause 1 Article 97 of the Law on Intellectual Property and the fees for disclosure of amendment information in case the protection title has deficiencies that have been disclosed if the deficiencies are caused by the owner. If the deficiencies are caused by the industrial property right authority, the owner shall not pay the disclosure fees.

7. The industrial property right authority shall issue copies of the protection title and re-issue the protection title or its copies in the following cases:

a) In case the industrial property rights are jointly owned, the protection title shall only be issued to the first person in the list of applicants. Other co-owners may request the industrial property right authority to issue copies of the protection title, providing that they pay the issuance fees;

b) In case the protection title or the copy of the protection title is lost, damaged, torn, dirty, faded to the point of being unusable, or disassembled without the seal, the industrial property right owner may request the industrial property right authority to re-issue the protection title of the copy, providing that the corresponding fees are paid;

c) Request for issuance of copies of the protection title or re-issuance of the protection titles or its copies shall be made in writing, except for cases where the request has been specified in the statement on registration of subject matter of industrial property. A request application shall include 1 set of the following documents:

c1) Statement on request for the issuance of copies of the protection title or re-issuance of the protection title or its copies following Form No. 09 Appendix II of this Decree;

c2) 2 mark samples, 2 sets of photos or drawings of the industrial design identical to the mark samples, and sets or photos or drawings of the industrial design in the original protection title;

c3) Authorizing documents (in case the request is submitted by a representative);

c4) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority);

d) Processing of requests for issuance of copies of the protection title or re-issuance of the protection title or its copies:

d1) Within 1 month after receiving the request, the industrial property right authority shall assess the request for issuance of copies of the protection title or re-issuance of the protection title or its copies. In case the request for issuance of copies of the protection title or re-issuance of the protection title or its copies comply with Points a, b, and c of this Clause, the industrial property right authority shall issue a decision to issue copies of the protection title or re-issue the protection title or its copies and record the information to the registration session of the corresponding protection title in the National Industrial Property Register;

d2) Contents of copies of the protection title shall specify the information of the corresponding protection title and be labeled as "Copy". Contents of the re-issued protection title or its copies shall specify the information of the initial protection title or its copies and be labeled as "Re-Issued Copy". The industrial property right authority shall disclose the re-issuance of the protection title or its copies on the Industrial Property Official Gazette within 60 days after issuing the decision;

d3) If the request for issuance of copies of the protection title or re-issuance of the protection title or its copies fails to comply with Point c of this Clause, the industrial property right authority shall issue a notification and impose a 2-month time limit from the notification issuance date for the applicant to amend deficiencies or have objections. After the imposed time limit, if the petitioner fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a

decision to refuse the issuance of copies of the protection title or re-issuance of the protection title or its copies with specific explanations and reasons.

8. Procedures for issuing copies of the certificate of registration of transfer contract of subject matter of industrial property right or re-issuing such certificate shall be performed similarly to the procedures prescribed in Clause 7 of this Article.

Article 30. Maintaining the validity of invention patents and utility solution patents

1. A request application for maintenance of the validity of an invention patent/utility solution patent shall include the following documents:

a) Statement following Form No. 07 Appendix II of this Decree in Vietnamese;

b) Authorizing documents (in case the request is submitted by a representative);

c) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

2. Request for validity maintenance of the protection title and fees for appraisal of the request, fees for validity maintenance, fees for the use of the protection title, registration fees, and disclosure fees shall be paid to the industrial property right authority within 6 months before the end date of the validity of the protection title. This request may be submitted after the mentioned time limit, but shall not be later than 6 months from the end date of the previous validity period of the protection title and the owner of the protection title shall pay fees for each month late under fees and charges laws.

3. Within 1 month from the date of receipt of the request application for validity maintenance of the protection title and fees and charges prescribed in Clause 1 and Clause 2 of this Article, the industrial property right authority shall assess the request application and perform the following procedures:

a) If the request application is considered valid, issue a notification of the validity maintenance of the protection title, record the information to the National Industrial Property Register, and disclose it on the Industrial Property Official Gazette within 60 days after issuing the notification;

b) If the request application has deficiencies or is invalid, issue a notification of the intended refusal of maintenance, specifying the reason and imposing a 2-month time limit from the notification issuance date for the petitioner to amend the deficiencies or object to the refusal. After the imposed time limit, if the petitioner fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse the validity maintenance of the protection title.

Article 31. Renewing the validity of industrial design patents and certificates of mark registration

1. An industrial design patent shall be renewed up to 2 consecutive times, 5 years each. If the protected industrial design has many schemes, the industrial design patent may be renewed for one or several schemes, which must contain the basic scheme. A certificate of mark registration may be renewed multiple times, 10 years each for a part or a whole of the list of goods and services.

2. A request application for renewal of the validity of an industrial design patent or certificate of mark registration shall include the following documents:

a) Statement requesting the validity renewal following Form No. 07 Appendix II of this Decree;

b) Original industrial design patent or certificate of mark registration (if the protection title is issued in paper form and the recording of the renewal into the protection title is requested);

c) Authorizing documents (in case the request is submitted by a representative);

d) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

The same application may be used to request the validity renewal for one or many protection titles if they have the same subject matter and owner.

3. The request application and fees for appraisal of the request, fees for validity renewal of the protection title, fees for the use of the protection title, fees for registration, and fees for disclosure of the decision on validity renewal of the protection title shall be paid by the owner of the industrial design patent or certificate of mark registration to the industrial property right authority within 6 months from the date the mentioned patent/certificate expires. This request may be submitted after the mentioned time limit, but shall not be later than 6 months from the end date of the previous validity period of the protection title and the owner of the protection title shall pay fees for each month late under fees and charges laws.

4. Within 1 month after receiving the request application, the industrial property right authority shall assess the application and perform the following procedures:

a) If the application is valid, issue a decision to renew the validity of the protection title, record the information to the protection title (if requested), and register and disclose the decision to renew the validity of the industrial design patent or certificate of mark registration on the Industrial Property Official Gazette within 60 days after issuing the decision;

b) Issue a notification of the intended refusal of the renewal, specifying the reason and imposing a 2-month time limit from the notification issuance date for the petitioner to amend the deficiencies or object to the refusal in one of the following cases:

- b1) Request application for renewal is invalid or submitted contrary to the prescribed procedures;
- b2) The petitioner is not the owner of the corresponding industrial design patent or certificate of mark registration.

After the imposed time limit, if the petitioner fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse to renew the validity of the industrial design patent or certificate of mark registration.

- c) After the renewal procedure is completed, if the owner of the industrial design patent or certificate of mark registration requests the industrial property right authority to record the validity renewal decision into the protection title, the owner shall perform procedures for amendments to the protection title and pay fees and charges under regulations.

Article 32. Terminating or abrogating the validity of protection titles

1. Any organization or individual requesting the termination or abrogation of the validity of the protection title according to Clause 4 of Article 95, Clause 4 Article 96 of the Law on Intellectual Property shall pay the request fees, fees for appraisal of the request for termination or abrogation of the validity of the protection title, fees for registration, and fees for disclosure of the decision on the termination or abrogation of the validity of the protection title.

2. A request application for the termination or abrogation of the validity of the protection title shall comply with the following regulations:

- a) One application may request the termination or abrogation of the validity of one or several protection titles if the specified reason is the same, providing that the petitioner pay fees and charges for each protection title;

- b) A request application shall content 1 set of the following documents:

- b1) Statement requesting the termination or abrogation of the validity of the protection title following Form No. 08 Appendix II of this Decree;

- b2) Evidence (if any);

- b3) Authorizing documents (in case the request is submitted by a representative);

- b4) Explanation for the request (specifying certificates, reasons, legal grounds, the content of the request for the termination or abrogation of a part or a whole of the validity of the protection title), and relevant documents;

- b5) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

3. A request application for the termination or abrogation of the validity of the protection title shall be processed as follows:

a) The request application for termination or abrogation of the validity of the protection title shall be processed under Article 95, Article 96, and Clause 3 Article 220 of the Law on Intellectual Property and this Article. Regarding the request for abrogation of the validity of the protection title, the industrial property right authority shall re-appraise the content of the corresponding application according to Article 114 of the Law on Intellectual Property and relevant laws;

b) In case a third party requests the termination or abrogation of the validity of the protection title, within 1 month after receiving the request, the industrial property right authority shall provide a written notification on the third party's suggestions for the owner of the protection title, imposing a 2-month time limit for the owner to provide any suggestion. The industrial property right authority may organize a direct exchange between the third party and the concerned owner;

c) The industrial property right authority shall, on the basis of assessing the suggestions of parties, issue a decision to terminate/abrogate a part or a whole of the validity of the protection title or a notification declining the termination/abrogation according to Clause 5 Article 95 and Clause 5 Article 96 of the Law on Intellectual Property;

The time limit for issuing the decision or notification mentioned in this Point is 3 months from the end date of the 2-month time limit prescribed in Point b of this Clause or after the end date of the 3-month time limit prescribed in Point a Clause 4 and Point a Clause 5 of this Article and the owner does not have any suggestion or from the date of receipt of the suggestion of the owner. This time limit may be extended for up to 3 months if the owner has a suggestion different from the party requesting the termination or abrogation of the validity of the protection title.

If the owner declares to renounce the industrial property rights according to Clause 3 Article 95 of the Law on Intellectual Property, the mentioned time limit shall be 15 days after receiving the request.

The time to implement other procedures necessary to process the request for termination or abrogation of the validity of the protection title shall not be included in the above time.

d) In case of disagreement over the decision or notification of the processing of the request for termination or abrogation of the validity of the protection title of the industrial property right authority prescribed in Point c of this Clause, the petitioner or organization or individual prescribed in Point b of this Clause may submit a complaint about such a decision or notification according to complaint laws concerning industrial property procedures;

dd) The decision on termination or abrogation of the validity of the protection title shall be recorded to the National Industrial Property Register and disclosed on the Industrial Property Official Gazette within 60 days after its issuance date.

4. A request application for the termination or abrogation of the international registration of a mark shall be processed as follows:

a) Regarding a request application for termination or abrogation of the validity of the international registration of a mark under the Madrid Agreement or Madrid Protocol submitted by a third party, the industrial property right authority shall notify the owner of the mark of the request for termination or abrogation of the validity of the international registration of the mark through the International Office, imposing a 3-month time limit from the notification issuance date for the owner to have any suggestions;

b) The validity of the international registration of the mark may be terminated or abrogated partly or wholly regarding the list of goods and services;

c) If the industrial property right authority issues a decision to terminate or abrogate the validity of the international registration of the mark regarding a part or a whole of the list of goods and services and this decision no longer subject to a complaint or administrative lawsuit, the industrial property right authority shall issue a notification terminating or abrogating the validity or the international registration of the mark following the form of the International Office, specifying the list of goods and services whose validity is terminated or abrogated and send this notification to the International Office;

d) Other regulations concerning the processing of requests for termination or abrogation of the validity of mark protection titles based on the mark registration applications submitted under the national format shall apply to the processing of requests for termination or abrogation of the validity of the international registration of marks.

5. A request application for the termination or abrogation of the international registration of an industrial design shall be processed as follows:

a) Regarding a request application for termination or abrogation of the validity of the international registration of an industrial design under the Hague Agreement submitted by a third party, the industrial property right authority shall notify the owner of the industrial design of the request for termination or abrogation of the validity of the international registration of the industrial design through the International Office, imposing a 3-month time limit from the notification issuance date for the owner to have any suggestions;

b) The international registration of the industrial design may have its validity abrogated for one or all of the industrial designs in the registration;

c) If the industrial property right authority issues a decision to terminate or abrogate the validity of the international registration for one or all of the industrial designs and this decision no longer subject to a complaint or administrative lawsuit, the industrial property right authority shall issue a notification terminating or abrogating the validity or the international registration of the industrial design following the form of the International Office, specifying industrial designs whose validity is terminated or abrogated and send this notification to the International Office;

d) Other regulations concerning the processing of requests for termination or abrogation of the validity of industrial design protection titles issued based on the industrial design registration

applications submitted under the national format shall apply to the processing of requests for termination or abrogation of the validity of the international registration of industrial designs.

Chapter II

HOLDERS, CONTENTS, AND LIMITATIONS OF INDUSTRIAL PROPERTY RIGHTS

Article 33. Holders of industrial property rights

1. Holders of industrial property rights include organizations and individuals owning subject matters of industrial property prescribed in Article 121 of the Law on Intellectual Property or organizations and individuals authorized by industrial property owners.

2. In case a protection title of an invention, industrial design, layout design, or mark is issued to many organizations and individuals according to Clause 2 Article 86, Clause 5 Article 87, and Clause 3 Article 90 of the Law on Intellectual Property, the industrial property rights shall be jointly owned by such organizations and individuals. Co-owners shall exercise their ownership rights under civil laws.

Article 34. Scope of industrial property rights

1. The scope of the industrial property rights to an invention, industrial design, layout design, mark, or geographical indication is determined based on the scope of protection recorded in the National Industrial Design Register, International Register of Marks, and International Register of Industrial Designs or the protection title, certificate of international registration of the mark, or decision on the protection acceptance of the internationally registered industrial design.

2. The scope of rights to a trade name is determined based on the scope of protection of the trade name, including the trade name, business field, and business territory where the trade name is used by the holder legally. The registration of the name of a business organization or individual in business procedures is not considered as using such the name but a condition for its use to be legal.

3. The scope of rights to a business secret is determined based on the scope of protection of the business secret, including the collection of information forming the state secret arranged in an accurate and adequate order for extraction.

4. Holders of industrial property rights shall receive rights and perform obligations under the protection scope with conditions prescribed in Articles 132, 133, 133a, 134, 135, 136, 136a, and 137 of the Law on Intellectual Property.

Article 35. Rights of authors of inventions, industrial designs, and layout designs

1. The moral rights of authors prescribed in Clause 2 Article 122 of the Law on Intellectual Property shall be protected indefinitely.

2. Rights to receive remuneration of authors prescribed in Clause 3 Article 122 of the Law on Intellectual Property shall be protected throughout the protection period of inventions, industrial designs, and layout designs.

3. If there is no other agreement between the owner and the author, the settlement of remuneration shall be performed within 30 days from the date the owner receives the payment of the transfer of use rights or within 90 days from the end date of the fiscal year if the remuneration of the author is determined according to Point a Clause 1 Article 135 of the Law on Intellectual Property.

Article 36. State management responsibilities for signs of geographical origins

1. People's Committees of provinces and centrally affiliated cities shall take charge and cooperate with the Ministry of Agriculture and Rural Development of Vietnam and the Ministry of Industry and Trade of Vietnam in identifying types of specialties, characteristics of products, production processes of specialties with geographical indications under the management of ministries and central and local authorities based on the local planning.

2. People's Committees of provinces and centrally affiliated cities shall permit the use of other location names and signs indicating the geographical origins of local specialties for the registration of collective marks and certification marks; submit the applications for registration of geographical indications used for local specialties or authorize People's Committees of districts, district-level towns, district-level cities, and centrally affiliated cities or professional agencies of People's Committees of provinces and centrally affiliated cities to carry out the submission.

3. The Minister of Science and Technology of Vietnam shall provide guidelines on the criteria for identifying other location names and signs indicating the geographical origins of products.

Article 37. Exercising rights to ownership of geographical indications

1. Regarding geographical indications of Vietnam, agencies and organizations that may manage geographical indications (hereinafter referred to as "geographical indication management organizations") prescribed in Clause 4 Article 121 of the Law on Intellectual Property include:

a) The People's Committee of a province or centrally affiliated city where there are geographical areas corresponding to the geographical indications in case the geographical indications belong to one province;

b) People's Committees of provinces or centrally affiliated cities that are authorized representatives of other People's Committees of provinces or centrally affiliated cities where there are geographical areas corresponding to the geographical indications in case the geographical indications belong to multiple provinces;

c) People's Committees of districts, district-level town, district-level cities, or centrally affiliated cities or professional agencies of People's Committees of provinces or centrally affiliated cities

authorized to manage the geographical indications by People's Committees of provinces or centrally affiliated cities;

d) Agencies or organizations granted rights to manage geographical indications by People's Committees of provinces or centrally affiliated cities, providing that such entities represent the benefits of all the organizations and individuals granted rights to use geographical indications according to Clause 4 Article 121 of the Law on Intellectual Property.

2. Geographical indication management organizations prescribed in Point d Clause 1 of this Article may exercise the rights of owners to geographical indications prescribed in Clause 2 Article 123 and Article 198 of the Law on Intellectual Property.

3. Regarding foreign geographical indications, owners and organizations may exercise the rights of owners to geographical indications. Geographical indication management organizations shall be identified under the laws of the country of origin of such geographical indications.

Article 38. Exercising rights to geographical indication management of geographical indication management organizations

1. Geographical indication management organizations prescribed in Clause 1 Article 37 of this Decree shall:

a) Develop and issue regulations on geographical indication management;

b) Manage geographical indications according to their issued regulations;

c) Prepare and disclose lists of organizations and individuals using geographical indications based on notifications of such organizations and individuals. The mentioned lists shall be updated upon any change;

d) Adopt measures to manage the use of geographical indications of organizations and individuals producing products with geographical indications to ensure that such products meet the standards of the nature, specific quality, and reputation in conformity with the descriptions of the specific natures of products with geographical indications;

dd) Monitor and perform measures to prevent and forbid acts of infringement on rights to geographical indications; request competent authorities to handle any violation under laws;

e) Report on the management of geographical indications to industrial property right authorities once every two years.

2. Geographical indication management regulations prescribed in Point a Clause 1 of this Article shall meet the following requirements:

a) Geographical indication management regulations include:

a1) Products with geographical indications: names, descriptions (characteristics, specific quality, production process, production area, etc.) corresponding to the content in the descriptions of specific characteristics of the products;

a2) Recognition of organizations and individuals using geographical indications: applications for recognition of organizations and individuals using geographical indications include recognition requests, documents proving that organizations and individuals engage in the production of products with geographical indications at the geographical areas corresponding to the geographical indications and other documents (if necessary); the assessment of applications, inspection and assessment of the authentication of documents, including compliance with descriptions of specific characteristics of products with geographical indications (if necessary) and recording of information of organizations and individuals into the list of organizations and individuals using geographical indications;

a3) Inspection and control mechanisms of the use of geographical indications: inspection and control contents (geographical origins, characteristics, specific quality of products, production processes, etc.); inspection and control plans; inspection and control tools and measures; inspection and control authorities and organizations, etc.;

a4) Rights and responsibilities of organizations and individuals using geographical indications: organizations and individuals shall ensure the maintenance of the characteristics, specific quality, and reputation of the products with geographical indications; provide notifications for geographical indication management organizations to be recorded in the lists of organizations and individuals using geographical indications before using geographical indications; report on the use of geographical indications to geographical indication management organizations annually, etc.;

a5) Rights and responsibilities of geographical indication management organizations in the management of geographical indications;

a6) Funding for geographical indication management;

a7) Measure to handle violations of Regulations.

b) Suggestions or opinions on geographical indication management regulations of organizations and individuals engaging in the production of products with geographical indications shall be collected before the issuance.

c) Geographical indication management regulations shall not include unreasonable limitations of legal rights to use geographical indications of organizations and individuals engaging in the production of products with geographical indications.

Article 39. Protecting agrochemical product test data

1. Agrochemical products are chemical products used in agriculture and rural development.

2. Agrochemical product test data shall be protected if such data meets the conditions prescribed in Clause 1 Article 128 of the Law on Intellectual Property and is requested for protection by the applicant when applying for marketing authorization.

3. Authorities competent to issue marketing authorization for agrochemical products shall protect the test data prescribed in Clause 2 of this Article.

Article 40. Using subject matters of industrial property

1. Acts of circulating products are prescribed in Point d Clause 1, Point b Clause 2, and Point b Clause 7 of Article 124 of the Law on Intellectual Property, including selling, displaying for sale, and transporting products.

2. The use of mark samples practically different from the protected mark samples by the owners or persons authorized by the owners is considered as the use of marks according to Clause 5 Article 124 of the Law on Intellectual Property if the difference is insignificant and does not change the distinctiveness of marks.

Article 41. Using inventions on behalf of the State

1. The use of inventions on behalf of the State for public interests, non-commercial purposes, national defense and security, disease prevention and treatment, and nutrition for the people or the satisfaction of other essential needs of society according to Clause 1 Article 133 of the Law on Intellectual Property shall be performed by ministries, ministerial agencies, or designated organizations and individuals based on the issuance of decisions on compulsory transfer of rights to use inventions prescribed in Point a Clause 1 Article 145 and Paragraph 2 Clause 1 Article 147 of the Law on Intellectual Property. If the imported products or products with use rights transferred by the receiving party under a production contract meet the requirements for national defense and security, disease prevention and treatment, and nutrition for the people or other essential needs of society, the right holder shall be considered to have fulfilled the use obligations according to Article 136 of the Law on Intellectual Property.

2. Procedures for issuing decisions on compulsory transfer of rights to use inventions in case of using inventions on behalf of the State shall comply with Article 55 and Article 56 of this Decree.

Article 42. Compensating owners of inventions for late issuance of marketing authorization of pharmaceutical products

1. In case the procedure for first-time registration of marketing authorization of pharmaceutical products falls behind schedule according to Article 131a of the Law on Intellectual Property, after the marketing authorization is issued, within 2 months from the date the applicant submits the written request following Form No. 02 Appendix I of this Decree, authorities competent to issue marketing authorization of pharmaceutical products shall issue confirmation of the late issuance of marketing authorization, specifying the time delayed.

2. If the owner of the invention patent has a written document following Form No. 03 Appendix I of this Decree enclosed with confirming documents of the authority competent to issue marketing authorization of pharmaceutical products on the late issuance of marketing authorization as prescribed in Clause 1 of this Article, the industrial property right authority shall notify the owner of compensation schemes and shall:

a) Exempt the owner from paying fees for the use of the invention patent during the time the procedure for registering marketing authorization of pharmaceutical products produced under such a patent is delayed during the processing of the request for validity maintenance;

b) Deduct the paid fees for the next processing of validity maintenance request if the fees for the use of the invention patent are paid during the delay;

c) Refund use fees to the owner of the invention patent within 3 months after receiving the valid application according to regulations in case the owner decides not to maintain the validity or the invention patent expires.

3. Regarding pharmaceutical products produced under many invention patents, the owner shall be exempted from the use fees of every concerned invention patent.

Chapter III

INVENTIONS, INDUSTRIAL DESIGNS, LAYOUT DESIGNS THAT ARE RESULTS OF TASKS OF SCIENCE AND TECHNOLOGY FUNDED BY STATE BUDGET

Article 43. Rights to register inventions, industrial designs, and layout designs that are the results of tasks of science and technology funded by the state budget

1. Automatic assignment of rights to register inventions, industrial designs, and layout designs that are results of the tasks of science and technology funded by the state budget prescribed in Clause 1 and Clause 2 Article 86a of the Law on Intellectual Property means the presiding organization has the rights to register any invention, industrial design, and layout design when they are created during the implementation of tasks of science and technology without having to carry out the procedure for assigning registration rights of the representative of state ownership.

2. The determination of rights to register inventions, industrial designs, and layout designs that are results of tasks of science and technology invested in by multiple sources, including the state budget prescribed in Clause 2 and Point b Clause 3 Article 86a of the Law on Intellectual Property is as follows:

a) The organization presiding over the tasks shall have part of the rights to register inventions, industrial designs, and layout designs corresponding to the state budget investment. If the inventions, industrial designs, and layout designs are the results of tasks of science and technology in national defense and security, part of the rights shall be long to the State and exercised by the representative of state ownership according to Clause 3 of this Article;

b) Other organizations and individuals shall have part of the rights to register inventions, industrial designs, and layout designs corresponding to their investment.

3. Representatives of state ownership prescribed in Point c Clause 3 Article 86a of the Law on Intellectual Property are:

a) The Minister of Science and Technology of Vietnam regarding national tasks of science and technology, except for ones prescribed in Point b of this Clause;

b) Ministers, heads of ministerial agencies, governmental agencies, and other central agencies, and Chairpersons of People's Committees of provinces regarding national tasks of science and technology assigned for management and tasks of science and technology approved by them;

c) Heads of agencies and organizations regarding tasks of science and technology approved by them.

Article 44. Obligations to notify and register inventions, industrial designs, and layout designs that are results of tasks of science and technology funded by state budget

1. The date of the invention, industrial design, or layout design created according to Clause 1 Article 136a of the Law on Intellectual Property is the date the presiding organization receives the written report of the author or acknowledges that the invention, industrial design, or layout design is created as the results of a task of science and technology, depending on which condition comes first.

2. Within 1 month from the date on which the invention, industrial design, or layout design is created according to Clause 1 of this Article, the presiding organization shall send a written notification to the representative of state ownership, specifying the information on such an invention, industrial design, or layout design, registration needs, and the nation to have the registration application submitted to (if any). In case of not carrying out the procedure for establishing rights to the above subjects, the presiding organization shall send a written notification to the representative of state ownership within 10 days before the end date of the time limit prescribed in Clause 2 Article 136a of the Law on Intellectual Property.

3. The author of the invention, industrial design, or layout design and the presiding organization shall ensure the confidentiality of the information on such a subject until the application for registration of the subject is submitted or the representative of state ownership discloses the content of the invention, industrial design, or layout design under Clause 2 Article 133a of the Law on Intellectual Property.

4. The application for registration of an invention, industrial design, and layout design created as a result of a task of science and technology funded by the state budget may only be transferred to an organization established under the law of Vietnam or a Vietnamese citizen residing in Vietnam. The receiving party shall perform the corresponding obligations of the presiding organization according to the Law on Intellectual Property and this Decree.

5. When carrying out the procedure for establishing industrial property rights according to intellectual property laws to inventions, industrial designs, or layout designs that are the results of tasks of science and technology funded by the state budget, the presiding organization shall:

a) Send a written notification to the management authority of science and technology tasks of the results of the processing of the application for registration of the invention, industrial design, or layout design within 7 working days from the date the industrial property right authority issues a decision or notification of the processing result of the mentioned application;

b) Within 7 working days after the end date of the time limit prescribed in Clause 1 and Clause 2 Article 113 of the Law on Intellectual Property, send a written notification to the management authority of science and technology tasks of the invention application considered withdrawn according to Clause 3 Article 113 of the Law on Intellectual Property with specific explanations.

c) Send a notification to the management authority of science and technology tasks for the performance of the procedure for transferring rights to register the invention, industrial design, or layout design that is a result of a task of science and technology funded by the state for other organizations or individuals according to Article 45 of this Decree in the following cases:

c1) The application for registration of the invention, industrial design, or layout design is refused due to invalidity, except for the case where the refusal is due to the subject specified in the application is not subject to protection in the name of the invention, industrial design, or layout design according to Articles 59, 64, and 69 of the Law on Intellectual Property;

c2) The application for registration of the invention, industrial design, or layout design is withdrawn before its disclosure according to the regulations.

Article 45. Assigning rights to register inventions, industrial designs, and layout designs that are the results of tasks of science and technology funded by the state budget to other organizations and individuals

1. The representative of state ownership shall assign the management authority of science and technology to issue public disclosure on its website or web portal for organizations and individuals in need to submit applications requesting the assignment of rights to register inventions, industrial designs, and layout designs in cases prescribed in Clause 1 Article 133a of the Law on Intellectual Property and cases prescribed in Point Clause 5 Article 44 of this Decree.

2. Information disclosed under Clause 1 of this Article includes the name and technical field of the invention, industrial design, or layout design created as the result of a science and technology task, assignment method, and information access.

3. The organizations and individuals in need prescribed in Clause 1 of this Article may access the detailed information on inventions, industrial designs, or layout designs that are the results of tasks of science and technology under Clause 2 of this Article if they submit written requests to management authorities of science and technology tasks and commit to ensure the confidentiality and use the information for non-commercial purposes.

4. The organizations and individuals in need prescribed in Clause 1 of this Article shall submit applications requesting the assignment of rights to register inventions, industrial designs, or layout designs following Form No. 01 of Appendix III to management authorities of science and technology tasks.

5. Management authorities of science and technology tasks shall process requests for the assignment of registration rights under the following regulations:

a) Inspection of the validity of the application. If the application is invalid, within 5 working days from the receipt date of the application, the management authority of science and technology tasks shall send a written notification to the organization or individual and impose a 10-day time limit from the notification issuance date for the organization or individual to remedy deficiencies;

b) Within 7 working days after the end date of the time limit for public notification according to Clause 1 Article 133a of the Law on Intellectual Property, the management authority of science and technology tasks shall report on the decision to assign rights to register the invention, industrial design, or layout design to the eligible organization or individual to the representative of state ownership;

c) In case many organizations and individuals requesting the assignment of rights to register an invention, industrial design, or layout design have valid applications, the representative of state ownership shall send written notifications of the intended assignment to such organizations and individuals for them to co-exercise the registration rights and be a joint applicant for such an invention, industrial design, or layout design and impose a 7-working-day time limit for organizations and individuals to propose any suggestion on the notification. After the above time limit, if concerned organizations and individuals disagree to become the joint applicant in writing or do not have any written response, within 5 working days after the end date of the above time limit, the representative of state ownership shall issue a decision to assign the rights to register the invention, industrial design, or layout design to the organizations and individuals that agree with the notification of the intended assignment in writing.

6. Organizations and individuals receiving the assignment of rights shall submit applications for establishing rights to the invention, industrial design, or layout design within 6 months after being assigned according to Clause 5 of this Article and perform other corresponding obligations of the presiding organization according to the Law on Intellectual Property and this Decree.

7. After 90 days from the date of notification issuance prescribed Clause 1 of this Article, if it is unable to assign registration rights to the organizations and individuals in need, the representative of state ownership shall assign the management authority of science and technology tasks to publicly disclose that the invention, industrial design, or layout design is the created as the result of a task of science and technology on its website or web portal for organizations and individuals to utilize and use according to laws.

Article 46. Exercising industrial property rights and adopting measures to protect inventions, industrial designs, and layout designs that are the results of tasks of science and technology funded by state budget

1. To ensure the exercise of industrial property rights and efficient utilization of inventions, industrial designs, and layout designs that are results of tasks of science and technology funded by the state budget, the presiding organization issuing protection titles to such subjects shall:

a) Apply appropriate measures to protect industrial property rights to the mentioned subjects, including the performance of necessary procedures for maintaining and renewing the validity of protection titles of the mentioned subjects;

b) Determine and adopt appropriate commercial utilization measures.

2. Annually, the presiding organization issuing protection titles to inventions, industrial designs, and layout designs that are the results of tasks of science and technology funded by the state budget shall submit reports to the management authority of science and technology tasks, including the following contents:

a) Situation of the commercial utilization and assessment of the efficiency of the utilization of inventions, industrial designs, and layout designs;

b) The total profit that the presiding organization has received from the use and transfer of use rights, transfer of rights, investment in patents of inventions, industrial designs, and layout designs, the settlement of remuneration for authors, and profit distribution enclosed with the financial statement of the presiding organization independently audited;

c) Measures to protect rights currently in implementation.

Article 47. Procedures for permitting other organizations and individuals to use inventions, industrial designs, and layout designs that are the results of tasks of science and technology funded by state budget

1. The reasonable period of time according to Point a Clause 3 Article 133a of the Law on Intellectual Property is 4 years after the date of invention registration application submission or 3 years from the date of issuance of the invention patent; 3 years after the submission date of applications for registration of industrial designs or layout designs or 2 years after the date of issuance of the industrial design patent, certificate of registration of semiconductor integrated circuit layout design, depending on which time period ends later.

2. Authorities competent to approve science and technology tasks according to science and technology laws shall proactively, or upon requests of other organizations and individuals, issue decisions to permit the use of inventions, industrial designs, and layout designs that are the results of science and technology tasks funded by the state budget in cases prescribed in Clause 3 Article 133a of the Law on Intellectual Property based on consultation with the Ministry of Science and Technology of Vietnam.

3. Decisions prescribed in Clause 2 of this Article shall specify the scope and conditions that may be used by other organizations and individuals, including:

- a) Rights to use inventions, industrial designs, or layout designs that are exclusive or non-exclusive;
- b) Use rights may only be exercised within the scope and time period adequate to achieve the targets of the use permission;
- c) Organizations and individuals permitted by competent authorities shall not transfer the rights to other entities.

Authorities competent to approve science and technology tasks shall send decisions on use permission to persons permitted to use inventions, industrial designs, and layout designs, right holders, and industrial property right authorities.

4. Organizations and individuals requesting permission to use inventions, industrial designs, or layout designs that are the results of tasks of science and technology funded by the state budget prescribed in Clause 2 of this Article shall submit applications to authorities competent to approve science and technology tasks, including the following documents:

- a) Applications for permission to use inventions, industrial designs, or layout designs that are the results of tasks of science and technology funded by the state budget following Form No. 02 Appendix III of this Decree;
- b) Documents proving that requests for permission to use inventions, industrial designs, or layout designs that are the results of tasks of science and technology funded by the state budget have reasonable grounds.

5. Authorities competent to approve science and technology tasks shall process applications according to the following regulations:

- a) Inspection of the validity of the application. If the application is invalid, within 5 working days from the receipt date of the application, the authority competent to approve science and technology tasks shall send a written notification to the organization or individual and impose a 20-day time limit from the notification issuance date for the organization or individual to remedy deficiencies;
- b) Within 7 working days from the receipt date of the valid application, the authority competent to approve science and technology tasks shall notify the right holder of the request for permission to use the invention, industrial design, or layout design and impose a 1-month time limit from the notification issuance date for the right holder to provide written answers, except for requests subject to Point b Clause 3 Article 133a of the Law on Intellectual Property where the authority competent to approve science and technology tasks does not have to notify the right holder.

c) After the above time limit, the authority competent to approve science and technology tasks shall process the request for use permission and suggests of the right holder based on the applications and suggestions provided by concerned parties. If the request for permission to use the invention, industrial design, or layout design does not have reasonable grounds according to Clause 3 Article 133a of the Law on Intellectual Property, the authority competent to approve science and technology tasks shall issue a decision to refuse the request with specific explanations. If the request has reasonable grounds, the authority competent to approve science and technology tasks shall issue a decision to permit the use.

6. The right holder may request the termination of use permission when the grounds prescribed in Clause 3 Article 133a of the Law on Intellectual Property no longer exist and are unlikely to reappear. The request for the termination of use permission shall be prepared in writing and sent to the authority competent to approve science and technology tasks enclosed with proving documents.

Chapter IV

SECRET INVENTION

Article 48. Applications for registration of secret inventions

1. The application for registration of a secret invention shall be submitted in paper form to the industrial property right authority in compliance with Clause 1 and Clause 2 Article 89 of the Law on Intellectual Property.

2. An application for registration of a secret invention shall include:

a) Documents prescribed in Article 100 of the Law on Intellectual Property bearing the seal of confidentiality according to state secret protection laws (except for invoices for fees and charges);

b) Documents proving that the registration subject in the application is a state secret according to state secret protection laws.

3. The application for secret invention registration shall be accepted if the mandatory information and documents prescribed in Clause 1 Article 108 of the Law on Intellectual Property and Point b Clause 2 of this Article are provided.

Article 49. Procedures concerning secret inventions

1. Procedures for processing secret invention registration applications and issuing protection titles to secret inventions, maintaining, amending, terminating, and abrogating the validity of protection titles of secret inventions shall comply with the corresponding regulations of the Law on Intellectual Property and guiding documents regarding invention registration applications, except for cases prescribed in Clauses 2, 3, 4, and 5 of this Article.

2. An application for secret invention registration shall have its content appraised within 18 months from the date the application is accepted as valid if the request for a content appraisal is submitted before the date the application is accepted as valid or from the date of receipt of the request for a content appraisal if such a request is submitted after the date the application is accepted as valid.

3. Any document specifying suggestions of a third party or objections shall be considered as a source of information serving the processing of the application for secret invention registration. If it is not possible to determine the information or whether the disclosure of information in documents according to this Clause is in compliance with state secret protection laws, the industrial property right authority shall cooperate with the Ministry of Public Security of Vietnam in determining the appropriateness of the disclosure of information in documents according to this Clause to state secret protection laws.

4. Complaint procedures prescribed in Article 119a of the Law on Intellectual Property shall not be applicable to decisions or notifications of secret invention registration applications and other applications concerning secret inventions.

5. Secret invention registration applications and secret invention protection titles shall not be disclosed on the Industrial Property Official Gazette.

Article 50. Processing declassified secret invention registration applications and secret invention protection titles

1. Secret invention registration applications and secret invention protection titles shall be declassified according to Article 22 of the Law on State Secret Protection.

2. In case of clear grounds indicating that the invention in the secret invention registration application or the invention protected under the protection title is not in compliance with Clause 1 Article 2 of the Law on State Secret Protection, the industrial property right authority shall issue a notification requesting the applicant to re-determine whether such an invention is a state secret according to state secret protection laws and impose a 3-month time limit from the notification issuance date for the applicant to reply.

3. Regarding cases of declassification prescribed in Clause 1 of this Article, authorities and organizations competent to conduct declassification according to state secret protection laws shall provide notifications for industrial property right authorities, applicants, and owners of invention protection titles of the declassification.

4. Any Invention registration application that is declassified according to Clause 1 of this Article or confirmed to not be state secrets by the applicant according to Clause 2 of this Article shall have a submission date similar to the submission date of the secret invention registration application and continue to be processed under the Law on Intellectual Property regarding invention registration applications.

5. Any protection title that is declassified according to Clause 1 of this Article or confirmed to not be state secrets by the applicant according to Clause 2 of this Article shall have an issuance date similar to the issuance date of the secret invention protection title and relevant procedures shall be performed under the Law on Intellectual Property regarding protection titles.

6. In case of permitted declassification, the declassified secret invention registration application and secret invention patent/secret utility solution patent shall be disclosed on the Industrial Property Official Gazette within 3 months from the date of declassification.

Article 51. Registering secret inventions abroad

Submission of secret invention registration applications abroad shall be performed in compliance with state secret protection laws.

Article 52. Managing the use of secret inventions

The use of secret inventions protected under Article 123 of the Law on Intellectual Property shall be in compliance with state secret protection laws.

Chapter V

TRANSFER OF INDUSTRIAL PROPERTY RIGHTS

Article 53. Compensating for rights to use inventions transferred under compulsory decisions

1. Compensation for rights to use an invention under a compulsory decision according to Point d Clause 1 Article 146 of the Law on Intellectual Property shall be determined according to the economic value of the transferred rights with consideration for the following elements:

- a) Price of the transfer of rights to use the invention under contract;
- b) Investment in the creation of the invention, including consideration for the state budget funding (if any);
- c) Profits from the use of the invention;
- d) Remaining validity period of the protection title;
- dd) Necessity level of the transfer of the rights to use the invention;
- e) Transfer scope and time limit;
- g) Other elements directly determining the economic value of the transferred use rights.

2. Compensation for rights to use transferred inventions under compulsory decisions in case of failed agreement between the receiving party and the right holder shall not exceed 5% of the net selling price of products produced according to the invention, providing that compliance with Clause 1 of this Article is ensured.

3. If necessary, the authority competent to issue decisions on the compulsory transfer of invention use rights may establish a council to determine the compensation according to laws.

Article 54. Rights to request decisions on compulsory transfer of invention use rights

Organizations and individuals that have the capability, tasks, or needs to use inventions as prescribed in Points a, b, c, and dd or are subject to anti-competitive activities as prescribed in Point d Clause 1 Article 145 of the Law on Intellectual Property may request the competent person prescribed in Clause 1 Article 147 of the Law on Intellectual Property to issue decisions on compulsory transfer of invention use rights following Article 55 and Article 56 of this Decree.

Article 55. Applications for decisions on compulsory transfer of invention use rights

1. An application for a decision on compulsory transfer of invention use rights includes the following documents:

a) Statement on request for compulsory transfer of invention use rights following Form No. 04 Appendix I of this Decree;

b) Documents proving that the request for the decision on compulsory transfer of invention use rights has reasonable grounds according to laws as prescribed in Clauses 2, 3, 4, 5, 6, and 7 of this Article;

c) Authorizing documents (in case the request is submitted by a representative);

d) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

2. If the request for the decision on compulsory transfer of invention use rights is based on Point a Clause 1 Article 145 of the Law on Intellectual Property, the application shall specify the practical needs to use the invention for public purposes, non-commercial purposes, national defense and security, disease prevention and treatment, or nutrition for the people or other essential needs of society and contain documents at the time of submission proving that the owner of the invention patent has not used the invention and such an act will affect the achievement of the listed purposes.

3. If the request for the decision on compulsory transfer of invention use rights is based on Point b Clause 1 Article 145 of the Law on Intellectual Property, the application shall contain documents proving that the owner of the invention patent has not fulfilled obligations of using the invention prescribed in Clause 1 Article 136 and Clause 5 Article 142 of the Law on Intellectual Property. The application submission time must be 4 years after the submission date

of the registration application for the concerned invention and 3 years after the issuance date of the invention patent.

4. If the request for the decision on compulsory transfer of invention use rights is based on Point c Clause 1 Article 145 of the Law on Intellectual Property, the application shall contain documents proving that the person in need to use the invention fails to reach an agreement with the owner of the invention patent regarding the conclusion of invention use contract after a reasonable period of negotiation over the reasonable price and commercial conditions, specifying the need to use the invention, time spent on negotiating, price, and specific commercial conditions proposed by the person in need.

5. If the request for the decision on compulsory transfer of invention use rights is based on Point d Clause 1 Article 145 of the Law on Intellectual Property, the application shall contain documents proving that the owner of the invention patent has committed anti-competitive acts banned by competition laws.

6. If the request for the decision on compulsory transfer of invention use rights in the field of semiconductor technology is based on Point a and Point d Clause 1 Article 145 and Point b Clause 1 Article 146 of the Law on Intellectual Property, the application shall contain documents providing that the use of the concerned invention is only for public or non-commercial purposes or the owner of the invention patent has committed anti-competitive acts banned by competition laws.

7. If the request for the decision on compulsory transfer of invention use rights is based on Point dd Clause 1 Article 145 of the Law on Intellectual Property, the application shall contain documents proving the use of the invention is for the needs for foreign pharmaceutical products for disease prevention and treatment eligible for importation according to Article 31^{bis} of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Article 56. Procedures for processing applications for decisions on compulsory transfer of invention use rights

1. Applications for decisions on compulsory transfer of invention use rights shall be submitted in compliance with the following regulations:

a) Applications subject to cases prescribed in Points b, c, and d Clause 1 Article 145 of the Law on Intellectual Property shall be submitted to the Ministry of Science and Technology of Vietnam;

b) Applications subject to cases prescribed in Points a and dd Clause 1 Article 145 of the Law on Intellectual Property shall be submitted to ministries and ministerial agencies concerning inventions;

c) The Ministry of Science and Technology of Vietnam, ministries, and ministerial agencies shall designate an authority to receive and appraise applications prescribed in this Clause (hereinafter referred to as "application appraisal authority").

2. An applications for a decision on compulsory transfer of invention use rights shall be appraised as follows:

Within 2 months from the date of receipt of the application, the application appraisal authority shall assess the application according to the following regulations:

a) If the application is valid, within 20 days from the application receipt date, the application appraisal authority shall issue a notification of the request for transfer of invention use rights under a compulsory decision to the owner of the invention patent and request such a person to propose any suggestion in writing within 1 month after receiving the notification; request concerned parties to conduct a re-negotiation to overcome disagreements to conclude the transfer contract of invention use rights if necessary. In case of disagreement between parties, if the refusal to conclude the contract of the right holder party is unreasonable, report the results of the application assessment to and request the Minister of Science and Technology of Vietnam or the concerned Minister or head of the concerned ministerial agency to issue a decision on compulsory transfer of invention use rights.

If the request is subject to cases prescribed in Point a Clause 1 Article 145 of the Law on Intellectual Property and the use of the invention for public and non-commercial purposes, the concerned Ministry or ministerial agency may issue a decision on compulsory transfer of invention use rights without having to request the owner of the invention patent to provide any suggestion or parties to negotiate.

b) If the request for the decision on transfer of invention use rights does not have any reasonable ground according to Article 145 of the Law on Intellectual Property, the application appraisal authority shall report the results of the application assessment to and request the Minister of Science and Technology of Vietnam or the concerned Minister or head of the concerned ministerial agency to issue a notification of intended refusal, specifying the reasons and imposing a 1-month time limit from the notification issuance date for the applicant to propose any suggestion on the intended refusal.

The time when the applicant remedies deficiencies of the application or has objections shall not be included in the time limit for application assessment.

c) Regarding applications subject to cases prescribed in Point a and Point dd Clause 1 Article 145 of the Law on Intellectual Property, application appraisal authorities of ministries and ministerial agencies shall send copies of such applications to the Ministry of Science and Technology of Vietnam for suggestions (through the application appraisal authority of the Ministry of Science and Technology of Vietnam) before presenting them to the Ministers and heads of ministerial agencies for decisions according to Points a and b of this Clause. Within 20 days from the application receipt date, the application appraisal authority of the Ministry of Science and Technology of Vietnam shall assess the applications and submit reports to the Minister of Science and Technology for written requests for the concerned Ministers or heads of concerned ministerial agencies to issue decisions on compulsory transfer of invention use rights or refusal notifications.

3. Within 20 days from the date of receipt of the report on the results of the application assessment of the application appraisal authority of the Ministry of Science and Technology of Vietnam, the Minister of Science and Technology of Vietnam shall consider issuing a decision on compulsory transfer of invention use rights or send notification of refusal of the request for compulsory transfer of invention use rights to the applicant, specifying the reasons.

Within 20 days from the date of receipt of the written request of the Minister of Science and Technology of Vietnam, the concerned Minister or head of the concerned ministerial agency shall consider issuing a decision on compulsory transfer of invention use rights or send notification of refusal of the request for compulsory transfer of invention use rights to the applicant, specifying the reasons.

In case of disagreement with the request of the Minister of Science and Technology of Vietnam, the concerned Minister or head of the concerned ministerial agency shall provide a written notification, specifying the reasons.

4. The concerned Minister or head of the concerned ministerial agency shall send the decision on the compulsory transfer of invention use rights to the receiving party, owner of the invention patent, and application appraisal authority of the Ministry of Science and Technology of Vietnam.

The application appraisal authority of the Ministry of Science and Technology of Vietnam shall record the decision to the National Industrial Property Register within 1 month and disclose it on the Industrial Property Official Gazette within 2 months from the date of decision issuance.

Article 57. Requesting termination of invention use rights under compulsory decisions

1. The termination of the invention use rights under a compulsory decision shall be imposed or decided by a Minister, head of a ministerial agency, or person issuing the decision.

2. A request for the termination of invention use rights under a compulsory decision shall include the following documents:

a) Document requesting the termination of invention use rights under a compulsory decision;

b) Documents proving that grounds leading to the transfer of invention use rights under a compulsory decision no longer exist and are unlikely to reappear and the termination of invention use rights does not cause any damage to the receiving party under a compulsory decision;

c) Authorizing documents (in case the request is submitted by a representative);

d) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the application appraisal authority of the Ministry of Science and Technology of Vietnam).

3. Procedures for receiving and processing requests for termination of invention use rights under compulsory decisions and issuing termination decisions shall be carried out similarly to the procedures for receiving and processing requests for transfer of invention use rights under compulsory decisions prescribed in Article 55 of this Decree.

Article 58. Applications for registration of contracts of transfer of industrial property rights

1. An application for registration of a contract of transfer of industrial property rights shall include a set of the following documents:

a) Statement on registration of the contract of transfer of industrial property rights following Form No. 01 Appendix IV of this Decree;

b) 1 copy of the contract (original or certified copy according to regulations). If the contract is in a language other than Vietnamese, it must be enclosed with a Vietnamese translation. If the contract has many pages, each page must bear the confirmation signatures of related parties or an affixed seal;

c) Original protection title in case it is granted in paper form;

d) Agreement documents of co-owners on the transfer of industrial property rights in case the corresponding industrial property rights are jointly owned;

dd) Authorizing documents (in case the request is submitted by a representative);

e) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority);

g) Regarding applications for registration of contracts of transfer of collective marks or certification marks, aside from the above documents, the following documents are also required:

g1) Regulations on the use of collective marks or certification marks of the receiving parties according to Article 105 of the Law on Intellectual Property;

g2) Documents proving the rights to submit applications of the receiving parties regarding the certification marks or collective marks according to Clause 3 and Clause 4 Article 87 of the Law on Intellectual Property.

In this case, the industrial property right authority shall re-appraise rights to submit applications and regulations on the use of marks. Applicants shall pay application appraisal fees aside from fees and charges for applications for registration of contracts of transfer of industrial property rights according to regulations.

2. An application for registration of a contract of transfer of the subject matter of industrial property shall include the following documents:

a) Statement on registration of the contract of transfer of the subject matter of industrial property following Form No. 02 Appendix IV of this Decree;

b) 2 copies of the contract (original or copy enclosed with the original for comparison, except for certified copy under regulations). If the contract is in a language other than Vietnamese, it must be enclosed with a Vietnamese translation. If the contract has many pages, each page must bear the confirmation signatures of related parties or an affixed seal;

c) Agreement documents of co-owners on the transfer of the subject matter of industrial property in case the corresponding industrial property rights are jointly owned;

d) Authorizing documents (in case the request is submitted by a representative);

dd) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

3. Each application for registration of the contract of transfer of industrial property rights shall be recorded once for every transfer step. In case the subject matter of industrial property is transferred through many steps, each step requires the submission of a separate application for registration of the contract of transfer of industrial property rights.

Article 59. Procedures for processing applications for registration of contracts of transfer of industrial property rights

1. In case the application for registration of the contract of transfer of industrial property rights does not have any deficiency prescribed in Clause 3 of this Article, the industrial property right authority shall:

a) Issue a decision to record the transfer of industrial property rights (regarding a contract of transfer of industrial property rights) and a decision to issue a certificate of registration of the contract of transfer of subject matter of industrial property (regarding a contract of transfer of rights to use subject matter of industrial property);

b) Regarding a contract of transfer of industrial property rights: record the information to the protection title of the new owner; in case of transfer of a part of the list of goods and services with the protected mark, issue a certificate of mark registration to the receiving party and determine the limitation of the list of goods and services in the original protection title applicable to such a transfer;

c) Regarding a contract of transfer of rights to use subject matter of industrial property: issue a certificate of registration of the contract of transfer of rights to use subject matter of industrial property to the applicant; stamp the registration on 2 copies of the contract, send 1 to the applicant and archive the other;

d) Record the transfer of industrial property rights to the National Industrial Property Register;

dd) Issue a decision to record the transfer of industrial property rights and a decision to issue a certificate of registration of the contract of transfer of rights to use subject matter of industrial property on the Industrial Property Official Gazette within 2 months from the decision issuance date.

2. In case the application for registration of the contract of transfer of industrial property rights has the deficiencies prescribed in Clause 3 of this Article, the industrial property right authority shall:

a) Issue a notification of the intended refusal of the contract registration, specifying the deficiencies and imposing a 2-month time limit from the notification issuance date for the applicant to amend the deficiencies or object to the intended refusal;

b) Issue a decision on the refusal of the contract registration if the applicant fails to amend the deficiencies, provides inadequate amendments, does not have any objection, or provides inadequate objections after the imposed time limit.

3. An application for registration of the contract of transfer of industrial property rights shall be considered to have deficiencies in one of the following cases:

a) Invalid statement;

b) Lack of one of the mandatory documents;

c) Invalid authorizing document;

d) Copies of the contract without any validity confirmation;

dd) Name or address of the transferring party in the contract is not consistent with the corresponding information in the protection title or the contract that is the ground for the transfer of rights, authorizing document, or statement; name or address of the receiving party in the contract is not consistent with the name and address in the authorizing document or statement;

e) The contract does not sufficiently have the signatures (and seals, if any) of the transferring party and the receiving party;

g) The transferring party is not the owner of the protection title;

h) The subject matter of industrial property is no longer protected under a protection title or subject to a dispute;

i) The transfer contract lacks the corresponding mandatory contents prescribed in Article 140 or Clause 1 Article 144 of the Law on Intellectual Property;

k) The contract has content not in compliance with regulations on conditions for restricting the transfer of industrial property rights prescribed in Article 139 of the Law on Intellectual Property

or clauses restricting the rights of the receiving party of rights to use the subject matter of industrial property unreasonably as prescribed in Clause 2 Article 144 of the Law on Intellectual Property;

l) There are grounds confirming that the transfer of industrial property rights infringes upon the industrial property rights of a third party.

4. The time limit for processing the application for registration of the contract of transfer of industrial property rights is 2 months. The time limit for the applicant to amend deficiencies shall not be included in the processing time of the application.

5. After the application for registration of the contract of transfer of industrial property rights has been submitted to the industrial property right authority, if the concerned parties have a dispute over the contract, the industrial property right authority shall suspend the assessment of the application until it is settled and continue the assessment process after receiving documents proving the dispute settlement according to regulations.

6. Before the industrial property right authorities issue any decision to record or refuse to record the registration of the contract of transfer of industrial property rights, if one of the concerned parties wishes to withdraw the application for registration of the contract of transfer of industrial property rights, there must be mutual consent from both parties to the withdrawal of the submitted application, except for cases of application withdrawal due to inability to remedy deficiencies requested by the industrial property right authority.

Article 60. Restrictions on transfer of rights to marks

1. The transfer of rights to a mark prescribed in Clause 4 Article 139 of the Law on Intellectual Property shall be considered to confuse the properties and origins of goods and services bearing such a mark in the following cases:

a) The transferred mark is identical or similar to the point of causing confusion over other marks under the protection of certificates of mark registration or international registration of marks owned by the transferring party;

b) A part of the goods and services bearing the transferred mark is similar to the part of the remaining goods and services of the list of goods and services owned by the transferring party, and the use of such a mark and part of goods and services of the receiving party may potentially cause confusion over the commercial origins of goods and services (in case of the scope of transfer is a part of the list of goods and services);

c) The transferred mark contains elements that are signs causing confusion or misunderstanding over the origins, quality, value, etc., of the goods and services within the transfer scope for users.

2. Rights to collective marks and certification marks shall only be transferred to organizations meeting the requirements regarding organizations entitled to the registration of such collective marks and certification marks.

Article 61. Recording content amendments, renewal, and premature termination of validity of contracts of transfer of rights to use subject matters of industrial property

1. Content amendments, renewal, and premature termination of the validity of a registered contract of transfer of rights to use the subject matter of industrial property shall be recorded at the industrial property right authority according to this Article.

2. Applications for the recording of content amendments, renewal, or premature termination of the validity of contracts shall be carried out as follows:

a) An application for the recording of content amendments, renewal, or premature termination of the validity of the contract of transfer of rights to use the subject matter of industrial property shall be made in writing and include the following documents:

a1) Statement on the request for the recording of content amendments, renewal, or premature termination of the contract of transfer of rights to use the subject matter of industrial property following Form No. 03 Appendix IV of this Decree;

a2) Original certificate of registration of the contract of transfer of rights to use the subject matter of industrial property (in case of registration of content amendments or renewal of the validity of the contract);

a3) Documents proving the amendments to names and addresses of parties in the contract;

a4) Agreements and documents recording specific clauses that need to be amended in the contract, including the renewal or premature termination of the contract;

a5) Authorizing documents (in case the request is submitted by a representative);

a6) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

b) An application for contract renewal shall be submitted within 1 month from its end prescribed in the certificate of registration of the contract of transfer of rights to use the subject matter of industrial property.

3. Within 1 month from the receipt date of the application for the recording of content amendments, renewal, or premature termination of the contract, the industrial property right authority shall assess the application in compliance with the following regulations:

a) If the application is valid, the industrial property right authority shall issue a decision to record the content amendments, renewal, or premature termination of the contract of transfer of rights to use the subject matter of industrial property; record amendments or renewal of the validity of the contract of transfer of rights to use the subject matter of industrial property to the certificate of registration of the contract of transfer of rights to use the subject matter of industrial property; record the amendments, renewal, or premature termination of the contract of transfer of rights to

use the subject matter of industrial property the National Industrial Property Register; disclose decisions on the recording of amendments, renewal, or premature termination of the contract of transfer of rights to use the subject matter of industrial property on the Industrial Property Official Gazette within 2 months from the decision issuance date;

b) If the application has deficiencies, the industrial property right authority shall issue a notification of the intended refusal of the recording of content amendments, renewal, or premature termination of the contract of transfer of rights to use the subject matter of industrial property, specifying the deficiencies of the application and imposing a 2-month time limit from the date of notification issuance for the applicant to amend such deficiencies or have objections to the intended refusal.

After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any object, or provides inadequate objections, the industrial property right authority shall issue a decision to refuse the recording of content amendments, renewal, or premature termination of the contract of transfer of rights to use the subject matter of industrial property.

Chapter VI

INDUSTRIAL PROPERTY REPRESENTATIVES

Article 62. Training program on industrial property laws

1. The training program on industrial property laws shall ensure the provision of necessary knowledge and skills in utilizing industrial property laws for learners to resolve matters concerning the protection of industrial property rights with a minimum duration of 20 studying units or 18 credits (including at least 40% of the training duration is for practice, professional internship, or graduation internship).
2. The Ministry of Science and Technology of Vietnam shall develop a framework training program on industrial property laws following the criteria prescribed in Clause 1 of this Article.
3. The training courses on industrial property laws prescribed in Point d Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property taught under the framework program prescribed in Clause 2 of this Article shall be recognized by the Ministry of Science and Technology of Vietnam.
4. Individuals shall be considered to have graduated from the training courses on industrial property laws prescribed in Point d Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property if they graduate from the training course on industrial property rights and meet the requirements prescribed in Clause 2 of this Article and are recognized by the Ministry of Science and Technology of Vietnam according to Clause 3 of this Article.

Article 63. Professional inspection of industrial property representatives

1. The professional inspection of industrial property representatives shall be performed to assess the capacity of utilizing industrial property laws to resolve specific matters concerning the establishment and protection of industrial property rights.

2. The industrial property right authority shall periodically organize the professional inspection of industrial property representatives once every 2 years. The plan to organize the professional inspection of industrial property representatives shall be disclosed on the web portal of the industrial property right authority.
3. The results of the inspection shall be notified to the participants by the industrial property right authority. Participants may request the industrial property right authority to re-examine the results of the inspection.
4. The results of the inspection of individuals complying with Point e Clause 2 Article 155 of the Law on Intellectual Property shall have a validity of 5 years (from the date of notification of inspection results) for requesting the industrial property authority to issue the practicing certificate of industrial property representative services.
5. The council for professional inspection of industrial property representatives established by the industrial property right authority shall organize the professional inspection of industrial property representatives according to the regulation on professional inspection of industrial representatives issued by the industrial property right authority.
6. Individuals meeting the requirements prescribed in Points a through dd Clause 2 Article 155 of the Law on Intellectual Property may register for participation in the professional inspection of industrial property representatives according to Clause 7 of this Article.
7. An application for participation in the inspection, submitted to the industrial property right authority, shall include a set of the following documents:
 - a) Statement on inspection registration, following Form No. 01 Appendix V of this Decree;
 - b) Copies of the bachelor's degree or equivalences prescribed in Point c Clause 2 Article 155 of the Law on Intellectual Property (the original shall be presented for comparison, excluding cases of certified copies);
 - c) Copies of the graduation certificate of the course on industrial property laws recognized by the Ministry of Science and Technology of Vietnam as prescribed in 62 of this Decree (the original shall be presented for comparison, excluding cases of certified copies); or copies of the recruitment decision or labor contract and other documents (with confirmation of the concerned agency or organization) proving at least 5 years of experience in direct appraisal of applications for registration of industrial property at a national or international agency of industrial property or operations concerning industrial property laws prescribed in Point d Clause 2 Article 155 of the Law on Intellectual Property, including inspection, supervision, trial, legislation, legal consulting, and state management of industrial property; scientific study (with the title of researcher) and industrial property teaching (the original shall be presented for comparison, excluding cases of certified copies);
 - d) 2 photos sized 3 x 4 (cm);
 - dd) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).
8. The application for inspection registration shall be processed by the industrial property right authority within 20 days from the receipt date according to the following procedures:

- a) If the application is valid, the industrial property right authority shall notify the applicant of the eligibility for participation in the inspection while notifying the expected time, location, and schedule;
- b) If the application is invalid, the industrial property right authority shall issue a notification of the deficiencies of the application and impose a 1-month time limit from the notification issuance date for the applicant to amend such deficiencies;
- c) If the applicant fails to amend the deficiencies or provides inadequate amendments, the industrial property right authority shall issue a decision to refuse the acceptance of the application for inspection registration, specifying the reasons.

Article 64. Issuing, reissuing, and revoking practicing certificates of industrial property representative services.

1. The issuance of practicing certificates of industrial property representative services shall be performed as follows:

a) Industrial property right authorities shall issue practicing certificates of industrial property representative services to individuals meeting the requirements prescribed in Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property if they request the issuance and pay the fees prescribed by laws;

b) An application for issuance of the practicing certificate of industrial property representative services shall include a set of the following documents:

b1) Statement on request for the issuance of the practicing certificate of industrial property representative services following Form No. 02 Appendix V of this Decree;

b2) Copies of the graduation certificate of the course on industrial property laws and copies of the lawyer card regarding cases of request for issuance of practicing certificates prescribed in Clause 2a Article 155 of the Law on Intellectual Property (the original shall be presented for comparison, excluding cases of certified copies);

b3) 2 photos sized 3 x 4 (cm);

b4) Copies of citizen ID (the original shall be presented for comparison, excluding cases of certified copies), except for the case where the statement on request for the issuance of the practicing certificate of industrial property representative services already has information on the citizen ID number;

b5) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) The application for issuance of the practicing certificate of industrial property representative services shall be processed by the industrial property right authority within 1 month from the receipt date under the following procedures:

c1) If the application is valid, the industrial property right authority shall issue a decision on the issuance of the practicing certificate of industrial property representative services, specifying the name, date of birth, permanent address, citizen ID number, certificate number, and practicing field of the certificate holder; record the issuance to the National Industrial Property

Representative Register and disclose the information on the Industrial Property Official Gazette and its web portal within 2 months from the decision issuance date;

c2) If the application is invalid, the industrial property right authority shall issue a notification of the deficiencies of the application and impose a 1-month time limit from the notification issuance date for the applicant to amend such deficiencies;

c3) If the applicant fails to amend the deficiencies or provides inadequate amendments, the industrial property right authority shall issue a decision to refuse the issuance of the practicing certificate of industrial property representative services, specifying the reasons.

d) The practicing certificate of industrial property representative services shall be made following Form No. 03 Appendix V of this Decree.

2. The re-issuance of practicing certificates of industrial property representative services shall be performed as follows:

a) In the following cases, the industrial property right authority shall re-issue practicing certificates of industrial property representative services if the industrial property representatives submit requests and pay the fees and charges according to regulations:

a1) The information in the practicing certificate of industrial property representative services prescribed in Point c1 Clause 1 of this Article has been changed;

a2) The practicing certificate of industrial property representative services is lost, defective, or damaged (torn, dirty, faded, etc.) to the point of being unusable;

a3) Eligibility for the practicing certificate of industrial property representative services is restored in case of revocation of the mentioned certificate due to inability to meet the requirements prescribed in Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property.

b) An application for re-issuance of the practicing certificate of industrial property representative services, submitted to the industrial property right authority, shall include a set of the following documents:

b1) Statement on the request for the re-issuance of the practicing certificate of industrial property representative services following Form No. 04 Appendix V of this Decree;

b2) 2 photos sized 3 x 4 (cm);

b3) Copies of citizen ID (the original shall be presented for comparison, excluding cases of certified copies), except for the case where the statement on request for the re-issuance of the practicing certificate of industrial property representative services already has information on the citizen ID number, regarding the case prescribed in Point a1 of this Clause;

b4) Documents proving that the eligibility for issuance of the practicing certificate of industrial property representative services has been adequately restored regarding the case prescribed in Point a3 of this Clause;

b5) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) The application for re-issuance of the practicing certificate of industrial property representative services shall be processed by the industrial property right authority within 20

days from the receipt date following procedures similar to the procedure for issuing the practicing certificate of industrial property representative services prescribed in Point c Clause 1 of this Article.

d) If the practicing certificate of industrial property representative services is defective due to an error of the industrial property right authority, the mentioned authority shall re-issue the practicing certificate of industrial property representative services within 5 working days from the date of receipt of the request of the certificate holder without charging any fee.

3. The revocation of practicing certificates of industrial property representative services shall be performed as follows:

a) A practicing certificate of industrial property representative services shall be revoked by the industrial property right authority in the following cases:

a1) The certificate holder no longer satisfies the requirements prescribed in Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property;

a2) The certificate holder has his/her practicing certificate revoked under a decision of the industrial property right authority according to Clause 4 Article 156 of the Law on Intellectual Property;

b) The industrial property right authority proactively or upon a request of an organization or individual revokes the practicing certificate of industrial property representative services if there are grounds confirming that the certificate holder falls into one of the cases prescribed in Point a of this Clause;

c) Any organization or individual that requests the revocation of a practicing certificate of industrial property representative services shall submit a set of documents as follows:

c1) An application for the revocation of a practicing certificate of industrial property representative services;

c2) Documents proving grounds for the revocation of the practicing certificate of industrial property representative services.

d) Procedures for the revocation of a practicing certificate of industrial property representative services:

d1) If an organization or individual requests the revocation of the practicing certificate of industrial property representative services according to Point c of this Clause, within 1 month from the date of receipt of the request, the industrial property right authority shall provide a written notification of such a request for the certificate holder and impose a 1-month time limit from the notification date for the certificate holder to provide any suggestion. The industrial property right authority shall, based on the suggestions of concerned parties, issue a decision to revoke the practicing certificate or refuse the revocation of the practicing certificate and send it to the concerned parties;

d2) If there are grounds confirming that the certificate holder no longer satisfies the requirements prescribed in Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property, the industrial property right authority shall issue a written notification of the intended revocation of the practicing certificate of industrial property representative services to the certificate holder and impose a 1-month time limit from the notification date for the certificate holder to provide

any suggestion. d2) If there are grounds confirming that the certificate holder no longer satisfies the requirements prescribed in Clause 2 and Clause 2a Article 155 of the Law on Intellectual Property, the industrial property right authority shall issue a written notification of the intended revocation of the practicing certificate of industrial property representative services to the certificate holder and impose a 1-month time limit from the notification date for the certificate holder to provide any suggestion.

d3) In case of a decision to revoke the practicing certificate of industrial property representative services of a competent authority, within 1 month from the receipt date of the mentioned decision, the industrial property right authority shall issue a decision to revoke the practicing certificate of industrial property representative services;

d4) The industrial property right authority shall record the decision on the revocation of the practicing certificate of industrial property representative services to the National Industrial Property Representative Register and disclose it on the Industrial Property Official Gazette within 2 months from the decision issuance date.

Article 65. Recording and removing names of industrial property representatives

1. The recording of organizations eligible for industrial property representative services shall be performed as follows:

a) Organizations satisfying the requirements prescribed in Article 154 of the Law on Intellectual Property shall be recorded as industrial property representative service providers in the National Industrial Property Representative Register and disclosed on the Industrial Property Official Gazette by the industrial property right authority if they submit requests and pay the fees prescribed by laws.

Branches and other affiliates of eligible organizations, according to Article 154 of the Law on Intellectual Property, may only engage in industrial property representative services on behalf of their superior organizations.

b) An application for the recording of an industrial property representative service provider to the National Industrial Property Representative Register submitted to the industrial property right authority by an organization satisfying the requirements prescribed in Article 154 of the Law on Intellectual Property shall include a set of the following documents:

b1) Statement on the request for the recording of the industrial property representative provider following Form No. 05 Appendix V of this Decree, which adequately specifies the information on the organization and the information on the authorized industrial property representative;

b2) Copies of the recruitment decision or labor contract of the organization with the holder of the practicing certificate of industrial property representative services (the original shall be presented for comparison, excluding cases of certified copies);

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 20 days from the receipt date of the application for the recording of the industrial property representative service provider, the industrial property right authority shall assess the application following procedures similar to the procedure for issuing the certificate of industrial property representative services prescribed in Point c Clause 1 Article 64 of this Decree.

2. The recording of industrial property representatives shall be performed as follows:

a) Individuals eligible for practicing industrial property services may request the industrial property right authority to record them as the industrial property representatives in the National Industrial Property Representative Register and disclose the information on the Industrial Property Official Gazette according to Clause 1 Article 156 of the Law on Intellectual Property and this Clause, and pay the fees prescribed by regulations.

b) An application for the recording of an industrial property representative to the National Industrial Property Representative Register submitted to the industrial property right authority by an individual satisfying the requirements prescribed in Article 155 of the Law on Intellectual Property shall include a set of the following documents:

b1) Statement on the request for the recording of the industrial property representative following Form No. 06 Appendix V of this Decree, which adequately specifies the information on the individual and the information on the industrial property representative service provider where the individual works;

b2) Copies of the recruitment decision or labor contract of the industrial property representative service provider with the individual (the original shall be presented for comparison, excluding cases of certified copies);

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 20 days from the receipt date of the application for the recording of the industrial property representative, the industrial property right authority shall assess the application following procedures similar to the procedure for issuing the certificate of industrial property representative services prescribed in Point c Clause 1 Article 64 of this Decree.

3. The recording of changes to the information of industrial property representative service providers shall be performed as follows:

a) The industrial property representative service provider may request the industrial property right authority to record the changes concerning the information recorded in the National Industrial Property Representative Register (including the full name, transaction name, abbreviated name, and address of the organization, business field of industrial property representative services, full name and certificate number of the industrial property representative in the organization) according to this Point and shall pay the fees prescribed by regulations.

b) An application for the recording of changes to the information of the industrial property representative service provider submitted to the industrial property right authority shall include the following documents:

b1) Statement on the request for the recording of changes to the information of the industrial property representative service provider following Form No. 07 Appendix V of this Decree;

b2) Copies of the amended certificate of business registration or amended certificate of operation registration in the case of changing the name and address (the original shall be presented for comparison, excluding cases of certified copies), excluding the case where the enterprise identification number is declared in the statement on request for the recording of changes to the industrial property representative service provider;

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 20 days from the receipt date of the application for the recording of changes to the information of the industrial property representative service provider, the industrial property right authority shall assess the application following procedures similar to the procedure for issuing the certificate of industrial property representative services prescribed in Point c Clause 1 Article 64 of this Decree.

4. The removal of the names of industrial property representative service providers shall be performed as follows:

a) The industrial property representative service provider shall perform the procedure for removing its name from the National Industrial Property Representative Register at the industrial property right authority in the following cases:

a1) The industrial property representative service provider abandons or terminates the business of industrial property representative services;

a2) The industrial property representative service provider no longer satisfies the requirements prescribed in Article 154 of the Law on Intellectual Property;

b) An application for the removal of the name of the industrial property representative service provider submitted to the industrial property right authority shall include the following documents:

b1) State on request for the removal of the name of the industrial property representative service provider following Form No. 08 Appendix V of this Decree;

b2) Documents proving that the organization is no longer eligible for engaging in industrial property representative services;

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 20 days from the receipt date of the application for the removal of the name of the industrial property representative service provider, the industrial property right authority shall assess the application following procedures similar to the procedure for issuing the certificate of industrial property representative services prescribed in Point c Clause 1 Article 64 of this Decree.

5. The removal of the names of industrial property representatives shall be performed as follows:

a) The industrial property representative shall perform the procedure for removing his/her name from the National Industrial Property Representative Register when he/she no longer satisfies the practicing requirements prescribed in Point b Clause 1 Article 155 of the Intellectual Property.

b) An application for the removal of the name of the industrial property representative submitted to the industrial property right authority shall include the following documents:

b1) State on request for the removal of the name of the industrial property representative following Form No. 09 Appendix V of this Decree;

b2) Documents proving that the holder of the practicing certificate of industrial property representative services no longer satisfies the practicing requirements prescribed in Point b

Clause 1 Article 155 of the Law on Intellectual Property (decision on termination of the labor contract or other documents);

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority);

c) Within 20 days from the receipt date of the application for the removal of the name of the industrial property representative, the industrial property right authority shall assess the application following procedures similar to the procedure for issuing the certificate of industrial property representative services prescribed in Point c Clause 1 Article 64 of this Decree.

Chapter VII

MEASURES TO PROMOTE INDUSTRIAL PROPERTY

Article 66. Provision of training and advanced training for industrial property personnel

1. The Ministry of Science and Technology of Vietnam shall elaborate on the content, training program, and advanced training in industrial property.

2. The Ministry of Science and Technology of Vietnam shall take charge and cooperate with relevant ministries and central authorities in providing advanced training in industrial property for people engaging in the state management, appraisal, assessment, and handling of violations and infringements concerning industrial property.

Article 67. Ensuring industrial property information

1. The industrial property information system includes a collection of information concerning all of the subject matters of industrial property protected in Vietnam, information sorted for specific purposes or themes of foreign subject matters of industrial property categorized and arranged appropriately and conveniently for search (lookup), distribution, and use.

2. The Ministry of Science and Technology of Vietnam shall develop and manage industrial property information storages and develop tools to classify, search, guide the search, and use the domestic and foreign industrial property information; organize the supply of information adequately, promptly, and accurately to ensure the access to information storages for any subject that wishes to use such information for the establishment and protection of industrial property rights, research, development, and business; manage and carry out the sharing, connection, utilization, international cooperation, and other operations concerning the national database on industrial property.

Article 68. Extending the use scope of inventions, industrial designs, and layout designs of the State

1. Regarding inventions, industrial designs, and layout designs owned by the State, in case the capacity for using them of the owner of the protection title fails to meet the social demand, other organizations of the State may request the owner of the protection title to transfer the rights to use such inventions, industrial designs, or layout designs with the following requirements:

a) Rights to use inventions, industrial designs, or layout designs to be transferred are non-exclusive and forbidden from transferring to another person;

b) The use scope of inventions, industrial designs, or layout designs of the receiving party shall not affect the capacity for using such inventions, industrial designs, or layout designs to the fullest extent of the owner of the protection title;

c) In case the inventions, industrial designs, or layout designs are used for non-commercial purposes, the price for transferring the rights that the receiving party must pay the owner of the protection title shall be 50% of the amount that a non-state receiving party must pay for the receipt of rights to use such inventions, industrial designs, or layout designs with other equivalent conditions.

2. The transfer of rights to use inventions, industrial designs, or layout designs of the State to state organizations prescribed in Clause 1 of this Article shall not affect the rights of the owner of the protection title in the transfer of rights to use the mentioned subjects to non-state organizations.

Article 69. Encouraging social organizations and socio-vocational organizations to engage in industrial property

Social organizations and socio-vocational organizations operating in fields concerning industrial property shall be facilitated to perform social consulting and criticism functions on industrial property and intensified non-public social services to adequately promote the support for the operations of state authorities and holders of industrial property rights.

Article 70. Other measures to encourage creative activities

The State encourages and supports technological creative activities by:

1. Sponsoring technical creative competitions.
2. Commending and disseminating experience, creative measures, and advanced examples of creative labor.
3. Supporting the establishment and protection of industrial property rights regarding the results of creative activities.

Part four

PROTECTION OF INDUSTRIAL PROPERTY RIGHTS AND RIGHTS TO PLANT VARIETIES

Chapter I

DETERMINATION OF ACTS, NATURE, AND LEVEL OF INFRINGEMENT AND DAMAGE IDENTIFICATION

Section 1. GROUNDS TO DETERMINE ACTS, NATURE, AND LEVEL OF INFRINGEMENT

Article 71. Application of civil, administrative, and criminal measures to protect industrial property rights and rights to plant varieties

Acts of infringement may, based on the nature and level, be handled by civil, administrative, and criminal measures according to Part Five (Protection of Industrial Property Rights) of the Law on Intellectual Property and the following regulations:

1. Civil measures shall be applied to handle any act of infringement at the request of the holder of industrial property rights or rights to plant varieties or the organization or individual with damage caused by the infringement, even if such an act has been or is being handled by administrative or criminal measures.

The procedure for requesting the application of civil measures and the competence and procedure for applying civil measures shall comply with civil procedure laws.

2. Administrative measures shall be applied to handle any act of infringement that falls into one of the cases prescribed in Article 211 of the Law on Intellectual Property at the request of the holder of industrial property rights or rights to plant varieties, the organization or individual with damage caused by such acts, or a competent authority.

Forms, fines, competence, and procedure for fining acts of infringement and measures to remedy the consequences in compliance with the Law on Intellectual Property and administrative handling laws concerning industrial property rights and rights to plant varieties.

3. Criminal measures shall be applied to handle any act of infringement if such an act has sufficient elements to constitute a crime according to the Criminal Code.

The competence and procedure for applying criminal measures shall comply with criminal procedure laws.

Section 72. Determination of violations

Acts are considered infringements on industrial property rights and rights to plant varieties according to Articles 126, 127, 129, and 188 of the Law on Intellectual Property when the following grounds are found:

1. The subject in consideration falls into the scope of subjects under protection;
2. There are elements of infringement in the subject in consideration;
3. The person who commits the act that is in consideration is not the holder of industrial property rights or rights to plant varieties and is not a person permitted by laws or a competent authority according to Clause 2 and Clause 3 Article 125, Article 133, Clause 3 Article 133a, Article 134, Clause 2 Article 137, Article 145, Article 190, and Article 195 of the Law on Intellectual Property;
4. The act in consideration takes place in Vietnam. The act will also be considered to take place in Vietnam if it occurs on the Internet and is carried out on an information website under a Vietnamese domain name or with the display language of Vietnamese or aims at consumers or information users in Vietnam.

Article 73. Grounds to identify subjects of protection

1. The identification of subjects of protection shall be performed by assessing documents and evidence proving the arising grounds and establishment of rights according to Article 6 of the Law on Intellectual Property.
2. Regarding industrial property rights registered at competent authorities, the subjects of protection shall be identified according to the certificates of registration confirmation, protection titles, and documents enclosed with such certificates of registration confirmation and protection titles.

3. Regarding trade names, the subjects of protection shall be identified based on the use progress, fields, and territories using such trade names.

4. Regarding business secrets, the subjects of protection shall be identified based on documents specifying the content and nature of the business secrets and presenting and describing the corresponding confidentiality measures.

5. Regarding famous marks, the subjects of protection shall be identified based on documents and evidence that the marks are used widely to achieve their fame following the criteria prescribed in Article 75 of the Law on Intellectual Property.

6. Regarding geographical indications protected under international treaties, the subjects of protection shall be identified according to international treaties or the National Industrial Property Register.

7. Rights to plant varieties shall be determined according to plant variety protection titles issued by competent authorities.

Article 74. Elements of infringement on invention ownership

1. Elements of infringement on rights to inventions may be in one of the following forms:

- a) A product or any part of the product is identical or similar to a product or any part of the product under the scope of invention protection;
- b) A procedure is identical or similar to a procedure under the scope of invention protection;
- c) A product or any part of the product is produced under a procedure identical or similar to a procedure under the scope of invention protection.

2. The ground to determine elements of infringement on rights to inventions is the scope of invention protection determined according to the invention patents, utility solution patents, or excerpts from the National Industrial Property Register.

Article 75. Elements of infringement on rights to layout designs

1. Elements of infringement on rights to layout designs may be in one of the following forms:

- a) A layout design is created from an illegal copy of a protected layout design;
- b) A semiconductor integrated circuit is created illegally following a protected layout design;
- c) A product or any part of the product with a semiconductor integrated circuit prescribed in Point b of this Clause.

2. The ground to determine elements of infringement on rights to layout designs is the scope of protection of rights to layout designs determined according to certificates of registration of semiconductor integrated circuit or excerpts from the National Industrial Property Register.

Article 76. Elements of infringement on rights to industrial designs

1. Elements of infringement on rights to industrial designs refer to when a product or any part for assembly into a complex product whose external appearance does not differ significantly from the protected industrial design.

2. The ground to determine elements of infringement on rights to industrial property is the scope of protection of industrial designs determined according to the industrial design patents,

decisions on acceptance of the protection of industrial designs internationally registered, or excerpts from the National Industrial Property Register.

3. A product or any part for assembly into a complex product whose appearance is considered to not differ significantly from a protected industrial design if it falls into one of the following cases:

a) The product or any part for assembly into the complex product in consideration, even if it has an issued industrial design patent, has an appearance that is a combination of design features that forms a whole that is a copy or essentially a copy (nearly indistinguishable) of a protected industrial design of another person;

b) The product or any part for assembly into the complex product is considered to have an external appearance that is a combination of design features that forms a whole that is a copy or essentially a copy of an industrial design of at least one product in the protected set of products of another person.

Article 77. Elements of infringement on rights to marks

1. Elements of infringement on rights to marks refer to signs attached to goods, goods packaging, means of services, transaction documents, signs, advertising means, and other means of businesses that are identical or similar to the point of confusion over the protected marks.

2. The ground to assess elements of infringement on rights to marks is the scope of protection of marks, including mark samples and lists of goods and services determined in the certificates of mark registration, confirmation certificates of internationally registered marks protected in Vietnam, or excerpts from the National Industrial Property Register or determined via the assessment of evidence proving the famous marks according to Article 75 of the Law on Intellectual Property.

3. In order to determine if a suspicious sign is an element of infringement on rights to a mark, it is necessary to compare such a sign to the related mark while comparing the goods and services bearing that sign to the goods and services under the protection scope. An element of infringement may only be confirmed when the following requirements are met:

a) The suspicious sign is identical or similar to the point of confusion over the mark under the scope of protection. Specifically, a sign is considered identical to a protected mark if it has the same structure and presentation or similar to the point of confusion over a mark under the protection scope if there are several components completely identical to or similar to the point that they cannot be easily distinguished from each other in terms of structure, pronunciation, transcription, meanings, presentation, or colors regarding a visible sign and melody or tone regarding a sound sign and the use of the sign can potentially cause confusion over the goods and services bearing the mark for consumers;

b) Goods and services that bear the suspicious sign are identical or similar to the goods and services under the protection scope if they are identical or similar in terms of nature or functions and uses and have the same consumption channel or have connections with each other in terms of nature, functions, or implementation methods.

4. Regarding famous marks, suspicious signs are considered elements of infringement if:

a) The suspicious signs meet the requirements prescribed in Point a Clause 3 of this Article;

b) Goods and services bearing the suspicious signs meet the requirements prescribed in Point b Clause 3 of this Article, or the goods and services are not identical, similar, or related to goods and services bearing the famous marks, but they can potentially cause confusion for consumers over the goods origins and services or make a false impression on the relationship between the persons producing and trading such products and services with the owners of the famous marks.

Article 78. Elements of infringement on rights to geographical indications

1. Elements of infringement on rights to geographical indications displayed in the form of signs attached to goods, goods packaging, means of services, transaction documents, signs, advertising means, and other means of businesses that are identical or similar to the point of confusion with the protected geographical indications.

2. The ground to assess elements of infringement on rights to geographical indications is the scope of protection of geographical indications determined according to certificates of registration of geographical indications, international treaties that have contents of recognition and protection of geographical indications, or excerpts from the National Industrial Property Register.

3. In order to determine if a suspicious sign is an element of infringement on rights to a protected geographical indication, it is necessary to compare such a sign to the related geographical indication while comparing the product bearing that sign to the product with the protected geographical indication based on the following grounds:

a) The suspicious sign is identical or similar to the point of confusion over the protected geographical indication. Specifically, a sign is considered identical to a protected geographical indication if it has the same wording structure, including pronunciation and transcription of letters, meanings, or images and symbols under the scope of protection of the geographical indication. A sign is considered similar to the point of confusion over the protected geographical indication if it is similar in terms of wording structure, including pronunciation and transcription of letters, meanings, or images and symbols under the scope of protection of the geographical indication and misleads consumers that the product bearing the suspicious sign originates from a protected geographical area;

b) The product bearing the suspicious sign is identical or similar to the product bearing the protected geographical indication in terms of nature, functions, uses, and consumption channel;

c) Regarding wines and brandies, aside from the regulations prescribed in Point a and Point b of this Clause, signs that are identical with protected geographical indications, even if they are presented in the form of definition, transcription, or words indicating types, styles, forms, or equivalences used for products not originating from geographical areas with protected geographical indications are also considered elements of infringement on rights to geographical indications.

Article 79. Elements of infringement on rights to trade names

1. Elements of infringement on rights to trade names displayed in the form of commercial indications attached to goods, goods packaging, means of services, transaction documents, signs, advertising means, and other means of businesses that are identical or similar to the point of confusion with the protected trade names.

2. The ground to assess elements of infringement on rights to trade names is the scope of protection of trade names determined based on the evidence showing the legal use of such trade names provided by the trade name owners, which identifies the subjects of business, business facilities, business operations, business fields, and business areas and the process of using the trade names.

3. In order to determine if a suspicious sign is an element of infringement on rights to a trade name, it is necessary to compare such a sign to the protected trade name, the subject of the business, the business facility, and the business operation related to the suspicious sign, and the goods and services bearing such a sign to the goods and services of the protected trade name based on the following grounds:

a) The suspicious sign is identical or similar to the point of confusion over the protected trade name. Specifically, a sign is considered identical to a protected trade name if they are identical in terms of wording structure, including pronunciation and transcription of the trade name. A sign is considered similar to a protected trade name if they are similar in terms of structure, pronunciation, and transcription of the trade name, confusing the consumers over the subject of business, business facility, and business operation under the protected trade name;

b) Goods and services that bear the suspicious sign are considered identical or similar to goods and services bearing the protected trade name if they are identical or similar in terms of nature or functions and uses and have the same consumption channel, or have connections with each other in terms of nature, functions, or implementation methods.

Article 80. Elements of infringement on rights to plant varieties

1. Elements of infringement on rights to plant varieties considered to constitute acts of infringement are as follows:

a) Plant propagation materials, intact seedlings, harvested products, or any material that can potentially grow into the complete seedlings of protected plant varieties;

b) Names of plants or characters that are similar to the point of confusion over the display on goods, goods packaging, means of services, transaction documents, signs, advertising means, and other means of businesses or the names of the protected plant varieties;

c) Machinery, equipment, storage, preservation, transport vehicles, or other equipment serving the processing and storage of seeds, plant propagation materials, and harvested materials for making seeds of protected plant varieties.

2. The ground to determine elements of infringement on rights to plant varieties is the scope of unexpired plant variety protection titles.

Article 81. Grounds to determine nature and level of infringement on industrial property rights and rights to plant varieties

1. The nature of infringement prescribed in Clause 1 Article 199 of the Law on Intellectual Property is determined based on the following grounds:

a) Circumstances and motives for infringement: unintentional infringement, intentional infringement, infringement due to being controlled or dependent, first-time infringement, and repeated infringement;

b) Methods of infringement: independent infringement, organized infringement, self-perpetuated acts of infringement, and acts of bribing, deceiving, or forcing others to commit acts of infringement.

2. The level of infringement prescribed in Clause 1 Article 199 of the Law on Intellectual Property is determined based on the following grounds:

- a) Territorial scope, time, volume, and scale of the infringement;
- b) Impacts and consequences of the infringement.

Section 2. DAMAGE IDENTIFICATION

Article 82. Principles of identifying damage to industrial property rights and rights to plant varieties

1. Damage caused by infringement on industrial property rights and rights to plant varieties prescribed in Article 204 of the Law on Intellectual Property means the actual physical and spiritual loss caused by acts of infringement directly to the right holders.

2. Actual loss shall be identified if there are the following grounds:

- a) Physical or spiritual benefits are real and belong to the aggrieved person;
- b) The aggrieved person can potentially gain the benefits prescribed in Point a of this Clause;
- c) There is a reduction or loss of benefits for the aggrieved person after the occurrence of the infringement compared to the potential gain of such benefits when the infringement does not occur, and such infringement is the main source that causes such reduction or loss.

3. The level of damage shall be determined in conformity with the elements of infringement on rights for subjects of industrial property rights and rights to plant varieties. The determination of damage levels shall be based on evidence of the damage provided by concerned parties, including the results of the request for damage identification and table of damage with elaboration on grounds to identify and calculate the damage.

Article 83. Loss of assets

1. Loss of assets shall be determined based on the level of deterioration or loss of value in money of the subject of industrial property rights or rights to plant varieties under protection.

2. The value in money of the subject of industrial property rights or rights to plant varieties prescribed in Clause 1 of this Article shall be determined by one or more of the following grounds:

- a) Price for the transfer of the ownership or price for the transfer of rights to use the subject of industrial property rights or rights to plant varieties;
- b) Value of business capital contribution by industrial property rights or rights to plant varieties;
- b) Value of industrial property rights or rights to plant varieties in the total number of assets of the enterprise;
- d) Value of investment in the creation and development of the subject of industrial property rights or rights to plant varieties, including costs of marketing, research, advertising, labor, taxes, and other costs.

Article 84. Spiritual loss

Damage to the honor, dignity, reputation, fame, and other spiritual losses caused to the author of inventions, industrial designs, layout designs, and plant varieties according to the Law on Intellectual Property refers to when the moral rights of the mentioned subjects are infringed on, making the author receive damage to the honor and dignity or decrease or loss of credibility (prestige), reputation, and trust due to misunderstanding.

Article 85. Decrease of incomes and profits

1. Incomes and profits prescribed in Point a Clause 1 Article 204 of the Law on Intellectual Property include:

- a) Incomes and profits from direct use or utilization of subjects of industrial property rights or rights to plant varieties;
- b) Incomes and profits from leases on subjects of industrial property rights or rights to plant varieties;
- c) Incomes and profits from the transfer of rights to use subjects of industrial property rights or rights to plant varieties.

2. Decrease of incomes and benefits shall be determined following one or more of the following grounds:

- a) Direct comparison of the actual incomes or profits before and after the occurrence of the violations corresponding with each type of income prescribed in Clause 1 of this Article;
- b) Comparison of the output, quantity of actual products, goods, and services consumed or the supply of the mentioned subjects before and after the occurrence of the violations;
- c) Comparison of the actual market sale prices of the products, goods, or services before and after the occurrence of the violations.

Article 86. Loss of business opportunities

1. Business opportunities prescribed in Point a Clause 1 Article 204 of the Law on Intellectual Property include:

- a) The actual capacity for directly using or utilizing subjects of industrial property rights or rights to plant varieties in business;
- b) The actual capacity for leasing subjects of industrial property rights or rights to plant varieties;
- c) The actual capacity for transferring rights to use subjects of industrial property rights or rights to plant varieties or transferring subjects of industrial property rights or rights to plant varieties;
- d) Loss of other business opportunities caused by acts of direct infringement.

2. Loss of business opportunities means the damage to the value in money of the income that is supposed to belong to the aggrieved person when performing the capacities prescribed in Clause 1 of this Article if the related act of infringement does not occur.

Article 87. Reasonable expenses for damage prevention and remedy

Reasonable expenses for damage prevention and remedy prescribed in Point a Clause 1 Article 204 of the Law on Intellectual Property include the expenses for temporary detention,

preservation, and storage of infringing goods, expenses for the implementation of temporary emergency measures, reasonable expenses for hiring lawyers, assessment services, and preventing and remedying acts of infringement, and expenses for notification and rectification on mass media concerning acts of infringement.

Chapter II

REQUESTS AND PROCESSING OF REQUESTS OF ACTS OF INFRINGEMENT

Article 88. Exercising rights to self-protection

1. Organizations and individuals shall exercise rights to self-protection prescribed in Article 198 of the Law on Intellectual Property and this Article.
2. Technological measures prescribed in Point a Clause 1 Article 198 of the Law on Intellectual Property include:
 - a) Inclusion of the information on instructions on arising grounds, protection titles, owners, scope, protection period, and other information on industrial property rights and rights to plant varieties to the products and means of services (hereinafter referred to as "products" in this Article) for notifying that the products are subjects of industrial property rights or rights to plant varieties under protection and warning other people from conducting any act of infringement;
 - b) Use of technical equipment or measures to mark, recognize, distinguish, and protect any product under protection.
3. Requests for termination of acts of infringement prescribed in Point b Clause 1 Article 198 of the Law on Intellectual Property shall be carried out in the form of written notifications sent to the perpetrators by the holders of industrial property rights or rights to plant varieties. Written notifications shall include the information on instructions on arising grounds, protection titles, scope, and protection period and impose a reasonable time limit for the perpetrators to terminate their acts of infringement.
4. Requests for competent state agencies to handle acts of infringement prescribed in Point c Clause 1 Article 198 of the Law on Intellectual Property shall comply with Articles 89, 90, 91, 92, 93, and 94 of this Decree.

Article 89. Applications for handling of infringement

1. An application for the handling of infringement shall include:
 - a) Application preparation date;
 - b) Name and address of the petitioner or name of the representative in case the request is performed via the representative;
 - c) Name of the authority receiving the application;
 - d) Name and address of the perpetrator; name and address of the suspected perpetrator in case of requesting for suspension of customs procedures for imports and exports suspected to be infringed on;
 - dd) Name and address of the organization or individual with related rights and benefits (if any);
 - e) Name and address of the witness (if any);

- g) Summarized information on the infringed industrial property rights or rights to plant varieties: type of rights, grounds of arising rights, and summary of the subject of the rights;
- h) Summarized information on the act of infringement: date and place of infringement, short description of the infringing product, act of infringement, and other information (if any);
- i) Content of the request for the application of violation handling measures;
- k) List of documents and evidence enclosed with the application;
- l) Signature of the applicant and seal (if any).

2. The application for the infringement handling shall contain documents and evidence backing the request. The mentioned documents and evidence shall comply with Article 90 of this Decree.

Article 90. Documents and evidence enclosed with applications for infringement handling

1. The petitioner shall enclose the following documents and evidence with the application for infringement handling to back his/her request:

- a) Evidence of right holder if the petitioner is the owner or the person who receives the transfer of or inherits industrial property rights or rights to plant varieties;
- b) Evidence of occurred infringement or evidence to suspect that imports or exports infringe on industrial property rights or rights to plant varieties regarding an application for temporary suspension of customs procedures;
- c) Other documents and evidence backing the petitioner's request.

2. If the application for infringement handling is carried out via an authorized representative, the authenticated or certified authorizing document shall be enclosed with the application. If the application is carried out via a legal representative, documents proving the status of the legal representative shall be enclosed with the application.

Article 91. Evidence of right holders

1. Regarding an invention, industrial design, layout design, mark, or plant variety, the evidence of the right holder is one of the following documents:

- a) Copy of the invention patent, utility solution patent, industrial design patent, certificate of registration of semiconductor integrated circuit, certificate of mark registration, or plant variety protection title enclosed with the original for comparison, excluding the cases of copies certified under regulations;
- b) Excerpt of the National Industrial Property Register or excerpt of the National Register of Protected Plant Varieties issued by the authority competent to register the concerned subjects.

2. Regarding a mark internationally registered under the Madrid Agreement and Madrid Protocol indicating Vietnam, the evidence of the right holder is the confirmation certificate of an internationally registered mark protected in Vietnam issued by the industrial property right authority or its certified copy or excerpt of the National Industrial Property Register (the part for Internationally Registered Marks).

3. Regarding an industrial design internationally registered under the Hague Agreement indicating Vietnam, the evidence of the right holder is the copy of the decision to accept the protection of the industrial design internationally registered issued by the industrial property

right authority enclosed with the original for comparison or its certified copy or excerpt of the National Industrial Property Register (the part for Internationally Registered Industrial Designs).

4. Regarding a geographical indication, the evidence of the right holder is one of the following documents:

a) Certificate of registration of the geographical indication or excerpt of the National Industrial Property Register;

b) List of organizations and individuals using the geographical indication according to Point c Clause 1 Article 38 of this Decree or other documents proving the right holder under the law of the country of origin in case of foreign geographical indication protected in Vietnam.

5. Regarding other subjects of industrial property, the evidence of the right holder means the documents, items, and information on the grounds to establish the corresponding rights according to Points a, b, c Clause 3 Article 6 of the Law on Intellectual Property and is elaborated as follows:

a) Regarding a business secret: descriptions of content, storage forms, protection methods, and measures to achieve the business secret;

b) Regarding a trade name: documents proving the legal use of the trade name, business field, and business location using the trade name, and the process of using the trade name;

c) Regarding a famous mark: documents specifying the criteria for assessment of the famous mark under Article 75 of the Law on Intellectual Property and presentation of the use process that makes the mark famous;

d) Regarding a geographical indication protected under an international treaty: documents and information in the international treaty containing the content of recognition and protection of the geographical indication or excerpt of the National Industrial Property Register;

dd) Regarding a plant variety: unexpired plant variety protection title, decision on issuance or re-issuance of the plant variety protection title, or excerpt of the National Register of Protected Plant Varieties and evidence collected from sources prescribed in Article 94 of the Civil Procedure Code.

6. If the petitioner for infringement handling is the person who receives the transfer of the rights to the subject of industrial property rights or rights to plant varieties, transfers the rights to use the subject of industrial property rights or rights to plant varieties, or inherits the subject of industrial property rights or rights to plant varieties, aside from the documents prescribed in Clauses 1, 2, and 3 of this Article, it is necessary to present the original or legal copy of the contract of the transfer of rights to the subject of industrial property rights or rights to plant varieties, contract of the use of the subject of industrial property rights or rights to plant varieties, or document confirming the rights to inherit the subject of industrial property rights or rights to plant varieties. In case the transfer has been recorded in the protection title, the certificate of contract registration of the transfer of rights to the subject of industrial property rights or rights to plant varieties, or certificate of contract registration of the use of the subject of industrial property rights or rights to plant varieties, the mentioned documents are also considered evidence of the status of the right holder.

Article 92. Evidence of infringement

1. The following documents and items shall be considered evidence of infringement:
 - a) Original or legal copy of the related description, sample, or item specifying the protected subject;
 - b) Related sample, item, photo, and video of the product in consideration;
 - c) Explanation or comparison between the product in consideration with the protected subject;
 - d) Minutes, testimonies, and other documents proving the infringement.
2. Documents and items prescribed in Clause 1 of this Article shall be made into a list with a confirmation signature of the petitioner for infringement handling.

Article 93. Responsibilities of petitioners for infringement handling

Petitioners for infringement handling shall ensure and take responsibility for the honesty of their provision of information, documents, and evidence.

Article 94. Applying and settling applications for infringement handling

1. An application for infringement handling shall be submitted to any of the infringement handling authorities prescribed in Article 200 of the Law on Intellectual Property.
2. After receiving the application for infringement handling, if the request is within the jurisdiction of another authority, the receiving authority shall instruct the applicant to submit the application to the competent authority or transfer it to the competent authority for settlement within 10 days from the date of receiving the application.
3. If the application for infringement handling fails to ensure a sufficient number of necessary documents, evidence, and items, the infringement handling authority shall request the applicant to provide supplements and impose a reasonable time limit that does not exceed thirty days for the applicant to supplement the necessary documents and evidence.
4. The infringement handling authority shall refuse the request for infringement handling and specify the reasons in the following cases:
 - a) The applicant fails to satisfy the request of the infringement handling authority regarding the supplement to related documents, evidence, and items after the imposed time limit prescribed in Clause 3 of this Article;
 - b) The prescriptive period for infringement handling expires as prescribed by laws;
 - c) Verification results of the infringement handling authority deny the infringement described in the application for infringement handling;
 - d) A competent authority issues a document on insufficient grounds to handle the infringement.
5. In case of a dispute over or complaint about the subject of rights, protection capacity, or protection scope of industrial property rights or rights to plant varieties, the authority that receives the application for infringement handling shall instruct the applicant to perform the procedure for requesting the settlement of the dispute or complaint at a competent authority within 10 days from the date the dispute arises.

Chapter III

HANDLING OF GOODS INFRINGING ON INDUSTRIAL PROPERTY RIGHTS AND RIGHTS TO PLANT VARIETIES

Article 95. Evaluating infringing goods

1. Regulations on infringing goods:

a) Infringing goods are components or details (hereinafter referred to as “parts”) of products that contain elements of infringement and may be put on the market as independent products;

b) In case the element of infringement cannot be separated into a part of a marketable independent product according to Point a of this Clause, the infringing goods shall be the whole product that contains such an element of infringement.

2. Values of infringing goods shall be determined by the infringement handling authority at the time the infringement occurs based on the following orders of priority:

- a) Listed prices of infringing goods;
- b) Actual sale prices of infringing goods;
- c) Aggregate costs of infringing goods, if not yet circulated;
- d) Purchase prices of infringing goods.

3. Values of infringing goods are determined by parts of the infringing product prescribed in Point a Clause 1 of this Article or by the total value of the infringing product according to Point b Clause 1 of this Article.

4. In case the application of the grounds prescribed in Clause 2 of this Article is not viable or there is a disagreement between the infringement handling authority and the equivalent financial authority on evaluating the infringing goods, the pricing shall be decided by the council for infringing goods evaluation.

The establishment, composition, and working principle of the council for infringing goods evaluation shall comply with civil and administrative violation handling laws.

Article 96. Handling infringing goods

1. Regarding counterfeit goods in terms of marks, geographical indications, and ingredients, materials, and equipment used for the production and trading of such goods, the infringement handling authority may:

- a) Distribute or put them into use for non-commercial purposes according to Article 97 of this Decree;
- b) Destroy them according to Article 98 of this Decree;
- c) Force the goods owner, carriers, or hoarders to eliminate elements of infringement and bring the goods out of the territory of the Socialist Republic of Vietnam regarding goods in transit that are counterfeit in terms of marks, re-export the goods regarding imported goods that are counterfeit in terms of marks and imported ingredients, materials, and equipment used for the production and trading of counterfeit goods in terms of marks. In case of failure to eliminate elements of infringement from goods, ingredients, materials, and equipment used for the production and trading of the mentioned goods, measures prescribed in Clause 4 of this Article shall be appropriately applied.

Regarding imported goods and imported ingredients, materials, and equipment used for the production and trading of counterfeit goods in terms of geographical indications, depending on each specific case, the infringement handling authority shall force the elimination of elements of infringement and apply appropriate measures prescribed in Clause 4 of this Article.

2. Regarding goods infringing on industrial property rights or rights to plant varieties that are not counterfeit foods in terms of marks, geographical indications, and ingredients, materials, and equipment used for the production and trading of such goods, the infringement handling authority shall force the goods owner, carrier, or hoarder to eliminate elements of infringement from the goods and apply appropriate measures prescribed in Clause 4 of this Article.

Regarding imports that are goods infringing on industrial property rights or rights to plant varieties that are not counterfeit foods in terms of marks, geographical indications, and ingredients, materials, and equipment used for the production and trading of such goods, the infringement handling authority shall apply appropriate measures prescribed in Point c Clause 1 of this Article.

3. Ingredients, materials, and equipment that have a sole function to create or commercially utilize counterfeit goods in terms of marks, geographical indications, and goods infringing on industrial property rights or rights to plant varieties or are solely used for the mentioned purposes shall be considered ingredients, materials, and equipment used for the production and trading of counterfeit goods in terms of marks and geographical indications and goods infringing on industrial property rights or rights to plant varieties.

4. Depending on each specific case, the infringement handling authority shall decide to apply the measures prescribed in Point a and Point b Clause 1 of this Article or force organizations or individuals producing infringing goods to recall such goods that have been put into their distribution channel upon the request of right holders to apply the measures prescribed in Point a and Point b Clause 1 of this Article or other necessary measures. While deciding on the infringement handling, the infringement handling authority may consider requests from concerned parties.

Article 97. Forcing distribution or use for non-commercial purposes

1. The forced distribution or use for non-commercial purposes for counterfeit goods in terms of marks and geographical indications and goods infringing on industrial property rights or rights to plant varieties shall meet the following requirements:

a) Goods have use values that cannot harm human health, animals, plants, and the environment and are not cultural products with toxic content;

b) Elements of infringement have been eliminated from the goods;

c) The distribution or use is not aimed toward profit and does not unreasonably affect the normal utilization of rights of holders of industrial property rights and rights to plant varieties, prioritizing humanitarian, charitable, or social benefit purposes;

d) Persons receiving the distribution or taking charge of the use are not the potential customers of the holders of industrial property rights or rights to plant varieties.

2. The regulations prescribed in Clause 1 of this Article shall also apply to ingredients, materials, and equipment used for the production and trading of counterfeit goods in terms of marks and

geographical indications and goods infringing on industrial property rights and rights to plant varieties.

Article 98. Forcing destruction

Measures to force the destruction of counterfeit goods in terms of marks and geographical indications, goods infringing on industrial property rights and rights to plant varieties, and ingredients, materials, and equipment used for the production and trading of such goods shall be applied in case of ineligibility for applying the measure to force the distribution or use for non-commercial purposes prescribed in Article 97 of this Decree.

Chapter IV

CONTROL OF EXPORTS AND IMPORTS CONCERNING INDUSTRIAL PROPERTY RIGHTS AND RIGHTS TO PLANT VARIETIES

Article 99. Rights to request control of exports and imports concerning industrial property rights and rights to plant varieties

Holders of industrial property rights and rights to plant varieties may apply for inspection and supervision in person or via legal representatives to detect imports and exports that have signs of infringement on industrial property rights or rights to plant varieties or apply for temporary suspension of customs procedures for imports and exports suspected to infringe on industrial property rights or rights to plant varieties.

Article 100. Competence to receive applications

Customs authorities are competent to receive applications for inspection or supervision or applications for suspension of customs procedures according to Clause 1 Article 75 of the Customs Law.

Article 101. Procedure for processing applications

1. Within 20 days after receiving the valid set of applications for inspection or supervision of imports or exports or within 2 working days after receiving the set of applications for suspension of customs procedures, the customs authority shall consider issuing a notification of application acceptance if the applicant has fulfilled the obligations prescribed in Points a, b, c Clause 1 and Clause 2 Article 217 of the Law on Intellectual Property. In case of refusal, the customs authority shall provide written answers and explanations for the applicant.
2. After accepting the application for inspection or supervision of imports or exports, the General Department of Vietnam Customs shall send notifications of the acceptance to the Customs Departments of provinces, cities, and the designated authority of the General Department of Vietnam Customs to implement the inspection or supervision. The Customs Departments of provinces, cities, and the designated authority of the General Department of Vietnam Customs shall, based on the notifications of the General Department of Vietnam Customs, look up data on the system to organize the implementation within the areas under their management.
3. Sub-Departments of Customs shall conduct the inspection or supervision to detect goods with signs of infringement or decide to suspend the customs procedures based on the request for suspension of customs procedures.

Article 102. Procedure for processing goods suspected of infringement

1. In case goods are detected to have signs of infringement, at the request of the holder of industrial property rights or rights to plant varieties or in order to perform the competence to impose administrative fines, the customs authority shall issue a decision to suspend customs procedures and notify the holder of industrial property rights or rights to plant varieties and the owner of the shipment owner of such a suspension of the shipment, specifying the names, addresses, fax numbers, and phone numbers of concerned parties and the reason and time of the suspension.

2. The customs authority shall continue to perform customs procedures for the shipment subject to suspension according to Clause 3 Article 218 of the Law on Intellectual Property in the following cases:

a) The decision to suspend the customs procedures is suspended or revoked according to a decision on the settlement of complaint or denunciation;

b) The applicant for the suspension of customs procedures withdraws the application.

Article 103. Competence and procedure for proactively suspending customs procedures

1. During the inspection, supervision, and control, if there are clear grounds to suspect imports or exports are counterfeit goods in terms of marks or geographical indications, the Sub-Department of Customs shall proactively issue a decision to suspend the customs procedures for such goods.

2. The Sub-Department of Customs shall immediately send a notification of the suspension to the holder of rights to marks or geographical indications if there is contact information and the importer or the exporter.

3. The time of suspension of customs procedures is 10 days from the date the Sub-Department of Customs notifies the right holder according to Clause 2 of this Article.

4. During the suspension of customs procedures, the Sub-Department of Customs that decides on the suspension shall:

a) Request the importer or exporter or the holder of rights to the marks or geographical indications (in case of having contact information) to provide documents related to the goods (catalogs, assessment conclusions, foreign documents, conclusions of the settlement of similar cases, etc.);

b) Take samples or permit the concerned organization or individual to take the sample for assessment, additional assessment, or re-assessment at a professional organization of customs or other assessment organizations according to regulations (if necessary);

c) Cooperate and consult with industrial property authorities upon disputes or denunciations of the right holder, protection capacity, protection scope of rights to marks or geographical indications, and competence to handle violations;

d) Submit reports to the Customs Department of the province or city and the General Department of Vietnam Customs for directives on the timely settlement of complicated cases.

5. After the suspension period of customs procedures:

a) In case the customs authority determines that the goods subject to the suspension are counterfeit goods in terms of marks or geographical indications and the violation is within its jurisdiction, the customs authority shall impose an administrative fine for the act of infringing on

rights to marks or geographical indications and counterfeit goods in terms of marks or geographical indications as prescribed by laws. In case it is determined that the violation is not within the jurisdiction of the customs authority, it shall hand over the case to other intellectual property protection right authorities for handling;

b) If the applicant files a civil lawsuit, the customs authority shall comply with the suggestions of the court;

c) In case of receiving a document from the industrial property right authority notifying the dispute or complaint about the right holder, protection capacity, or scope of protection of rights to marks or geographical indications, the customs authority shall continue to carry out the customs procedures for the shipment, except for the case where the customs authority already has a decision to accept the case under procedures for administrative violation handling;

d) If it is determined that the violation has criminal signs according to the Criminal Code, the customs authority shall hand over the case to a competent authority for investigation and prosecution as prescribed by laws;

dd) If the customs authority decides that the goods subject to suspension are not counterfeit goods in terms of marks or geographical indications, it shall continue to carry out the customs procedures for the shipment and send notifications to concerned parties.

6. In case the proactive suspension of customs procedures is improper, causing damage to the owner of the goods, the Sub-Department of Customs shall compensate for the damage and pay every arising cost as per regulation.

Article 104. Procedures for controlling imports and exports concerning industrial property rights and rights to plant varieties

Procedures for controlling imports and exports concerning industrial property rights and rights to plant varieties shall comply with this Decree and relevant customs laws.

Chapter V

ASSESSMENT OF INDUSTRIAL PROPERTY RIGHTS AND RIGHTS TO PLANT VARIETIES

Section 1. ASSESSORS AND ASSESSMENT ORGANIZATIONS OF INDUSTRIAL PROPERTY RIGHTS AND RIGHTS TO PLANT VARIETIES

Article 105. Forms of assessment activities of assessors of industrial property rights and rights to plant varieties

1. An assessor of industrial property rights or rights to plant varieties may operate under an assessment organization of industrial property rights or rights to plant varieties or conduct independent operations.
2. Forms of activities of assessors shall be recorded to the list of assessors of industrial property rights and list of assessors of rights to plant varieties prescribed in Article 109 and Article 112 of this Decree.
3. If assessors operate on behalf of assessment organizations of industrial property rights or rights to plant varieties, the information on such assessors shall be recorded to the list of

assessors under organizations following the procedure for issuing certificates of assessment organizations.

Article 106. Rights and obligations of assessors of industrial property rights and rights to plant varieties

1. Assessors of industrial property rights and rights to plant varieties may:
 - a) Refuse the assessment in case the relevant documents are insufficient, hold no value to draw an assessment conclusion, or are not subject to the assessment specialty prescribed in the assessor's card;
 - b) Refuse to receive the assessment sample in case there is a risk of harm to health or the sample is too bulky to be stored;
 - c) Use the assessment result, the professional conclusion, or suggestions from experts for the assessment;
 - d) Request agencies, organizations, or individuals to provide information and documents concerning the subject of assessment for the assessment unless otherwise provided by law (regarding assessors of industrial property rights or rights to plant varieties operating independently);
 - dd) Exercise other rights as prescribed by laws.
2. Assessors of industrial property rights and rights to plant varieties shall:
 - a) Operate in compliance with the assessment specialty prescribed in the assessor's card;
 - b) Perform the assessment in compliance with Clause 4 Article 201 of the Law on Intellectual Property;
 - c) Prepare assessment documents and explain the assessment conclusion upon request from the petitioner for the assessment, organizations or individuals with related rights and benefits, or competent authorities;
 - d) Preserve and store documents and samples concerning the assessment case as prescribed by laws;
 - dd) Independently draw the assessment conclusion and take responsibility for such a conclusion. In case of intentionally drawing a false conclusion that damages the concerned organizations or individuals, compensate for the damage;
 - e) Refuse the assessment in case of having rights or benefits related to the subject of assessment, the assessment case, or other reasons affecting the objectivity of the assessment conclusion or in cases where the refusal is prescribed by other laws;
 - g) Ensure the confidentiality of information and documents at the request of authorities, organizations, or individuals requesting the assessment and compensate for damage in case of disclosure of confidential information causing damage to the concerned authorities, organizations, or individuals;
 - h) Take legal liability for acts of taking advantage of the role of assessor and the assessment for profiteering or intentionally drawing false assessment conclusions;

- i) Inform and report on the assessment activities every 6 months and every year in writing to state management authorities of industrial property rights and rights to plant varieties;
- k) Fulfill other obligations as prescribed by laws.

Article 107. Rights and obligations of assessment organizations of industrial property rights and rights to plant varieties

1. Assessment organizations of industrial property rights and rights to plant varieties may:
 - a) Hire assessors of industrial property rights or rights to plant varieties to assess by cases;
 - b) Request agencies, organizations, or individuals to provide information and documents concerning the subject of assessment for the assessment unless otherwise provided by law;
 - c) Exercise other rights as prescribed by laws.
2. Assessment organizations of industrial property rights and rights to plant varieties shall:
 - a) Operate in compliance with the assessment field prescribed in the certificate of assessment organization;
 - b) Perform the assessment in compliance with Clause 4 Article 201 of the Law on Intellectual Property;
 - c) Preserve and store documents and samples concerning the assessment case as prescribed by laws;
 - d) Ensure the confidentiality of information and documents at the request of authorities, organizations, or individuals requesting the assessment and compensate for damage in case of disclosure of confidential information causing damage to the concerned authorities, organizations, or individuals;
 - dd) Refuse the assessment in cases it is prescribed by other laws;
 - e) Take legal liability for acts of taking advantage of the role of assessor and the assessment for profiteering or intentionally drawing false assessment conclusions;
 - g) Inform and report on the assessment activities every 06 months and every year in writing to state management authorities of industrial property rights and rights to plant varieties;
 - h) Fulfill other obligations as prescribed by laws.

Section 2. CONTENT OF STATE MANAGEMENT OF INDUSTRIAL PROPERTY ASSESSMENT

Article 108. Professional inspection of industrial property assessment

1. The professional inspection of industrial property assessment shall be performed to assess the capacity for using knowledge and specialty to assess and conclude matters concerning industrial property rights.
2. The organization of the professional inspection of industrial property assessment shall be performed as follows:
 - a) Industrial property right authority is the authority competent to organize the professional inspection of industrial property assessment;

b) The industrial property right authority shall disclose notifications on its web portal, specifying the conditions for participating in the inspection, application submission procedures, inspection content, and expected time and location of the inspection;

c) The inspection shall be organized within 3 months from the date when at least 5 participants have their applications approved according to Clause 4 of this Article;

d) The results of the inspection shall be notified to the participants by the industrial property right authority. Participants may request the industrial property right authority to re-examine the results of the inspection;

dd) The results of the inspection shall have a validity of 5 years for requesting the industrial property right authority to issue industrial property assessor's cards.

3. The council for professional inspection of industrial property assessment established by the industrial property right authority shall organize the professional inspection of industrial property assessment according to the regulation on professional inspection of industrial property assessment issued by the industrial property right authority.

4. Registration for participation in the professional inspection of industrial property assessment shall be performed as follows:

a) Individuals meeting the following requirements shall be eligible for registering for participation in the inspection according to this Article:

a1) Being Vietnamese citizens with sufficient legal capacity;

a2) Residing in Vietnam;

a3) Having good moral qualities;

a4) Having at least bachelor's degrees with specialties suitable for the field registered for inspection;

a5) Having professionally worked in the field registered for inspection for at least 5 years.

b) An application for participation in the professional inspection of industrial property assessment submitted to the industrial property right authority shall include a set of the following documents:

b1) Statement on registration for participation in the professional inspection of industrial property assessment, following Form No. 01 Appendix VI of this Decree;

b2) Copies of the bachelor's degree or post-university degree (the original shall be presented for comparison, excluding cases of certified copies);

b3) Copies of the recruitment decision, labor contract, or other documents proving the actual professional operations (the original shall be presented for comparison, excluding cases of certified copies);

b4) 2 photos sized 3 x 4 (cm);

b5) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 20 days after receiving the application, the industrial property right authority shall process the application according to the following regulations:

c1) If the application is valid, the industrial property right authority shall issue a notification of application acceptance, stating whether the inspection plan has been set or has not been set due to an insufficient number of participants according to Clause 2 of this Article;

c2) If the application has deficiencies, the industrial property right authority shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse the acceptance of the application, specifying the reasons.

Article 109. Issuing, re-issuing, and revoking industrial property assessor's cards

1. The industrial property right authority is competent to issue, re-issue, and revoke industrial property assessor's cards and establish and disclose the list of industrial property assessors according to the procedures prescribed in Clauses 2, 3, 4, and 5 of this Article.

2. The issuance of industrial property assessor's cards shall be performed as follows:

a) The industrial property authority shall issue industrial property assessor's cards to persons meeting the requirements prescribed in Clause 3 Article 201 of the Law on Intellectual Property if such persons apply for the issuance and pay the prescribed fees. Requirements for eligibility for issuance of industrial property assessor's cards prescribed in Clause 3 Article 201 of the Law on Intellectual Property shall be understood as follows:

a1) "Residing in Vietnam" shall be understood as having a permanent residence in Vietnam according to residence laws;

a2) "Having good moral qualities" shall be understood as not being subject to any administrative fine for violations of industrial property laws, not committing acts of violating professional ethics, not being subject to criminal prosecution, or having unspent convictions;

a3) "Having at least bachelor's degrees with specialties suitable for the field requested for issuance of assessor's cards" shall be understood as having bachelor's degrees or post-university degrees in natural science or technical science regarding the specialty of assessment of inventions and layout designs; having any other bachelor's degrees or post-university degrees regarding other assessment specialties;

a4) "Having professionally worked in the field requested for issuance of assessor's cards for at least 5 years" shall be understood as having directly settled disputes or denunciations or engaged in the inspection, examination, legislation, or legal consulting regarding industrial property, or scientific research with the title of researcher, industrial property teaching with the title of lecturer for at least 5 years or having directly engaged in the explanation and guidance on laws, developed regulations, directly prepared or approved appraisal results of contents of applications for invention registration (including utility solutions) or applications for registration of industrial designs, marks, or geographical indications (including the names and origins of goods) at national or international industrial property authority for at least 5 years, or having engaged in the practice of industrial property representative services for at least 5 years.

b) An application for the issuance of an industrial property assessor's card submitted to the industrial property right authority shall include a set of the following documents:

b1) Statement on request for the issuance of the assessor's card, following Form No. 02 Appendix VI of this Decree;

b2) Copies of citizen ID (the original shall be presented for comparison, excluding cases of certified copies), except for the case where the statement on request for the issuance of the industrial property assessor's card already has information on the citizen ID number;

b3) 2 photos sized 3 x 4 (cm);

b4) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

c) Within 1 month after receiving the application, the industrial property right authority shall assess the application according to the following regulations:

c1) If the application is valid, the industrial property right authority shall issue a decision on the issuance of the assessor's card, specifying the name, date of birth, permanent address, citizen ID number, assessor's card number, and assessment specialty of the person with the issued card; record the issuance to the National Industrial Property Assessment Register and disclose the information on the Industrial Property Official Gazette and its web portal within 2 months from the decision issuance date;

c2) If the application is invalid, the industrial property right authority shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the industrial property right authority shall issue a decision to refuse the issuance of the assessor's card, specifying the reasons.

c3) The assessor's card shall be made following Form No. 04 Appendix VI of this Decree.

3. The re-issuance of industrial property assessor's cards shall be performed as follows:

a) In the following cases, the industrial property right authority shall decide to re-issue industrial property assessor's cards if the assessors submit requests and pay the fees and charges according to regulations:

a1) The industrial property assessor's card is lost, defective, or damaged (torn, dirty, faded, etc.) to the point of being unusable;

a2) The information in the industrial property assessor's card prescribed in Point c1 Clause 2 of this Article has been changed.

b) The assessor shall request the industrial property right authority to re-issue the industrial property assessor's card for the recording of changes prescribed in Point a2 of this Clause;

c) An application for the re-issuance of an industrial property assessor's card submitted to the industrial property right authority shall include a set of the following documents:

c1) Statement on request for the re-issuance of the assessor's card, following Form No. 03 Appendix VI of this Decree;

c2) Copies of citizen ID (the original shall be presented for comparison, excluding cases of certified copies), except for the case where the statement on request for the re-issuance of the

assessor's card already has information on the citizen ID number, regarding the case prescribed in Point a2 of this Clause;

c3) 2 photos sized 3 x 4 (cm);

c4) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the industrial property right authority).

d) The processing of the application for the re-issuance of the industrial property assessor's card shall be performed as follows:

d1) Within 20 days from the receipt date of the application for the re-issuance of the industrial property assessor's card, the industrial property right authority shall assess the application following the procedure similar to the procedure for issuing the industrial property assessor's card prescribed in Point c Clause 2 of this Article.

d2) If the industrial property assessor's card is defective due to an error of the industrial property right authority, the mentioned authority shall re-issue the industrial property assessor's card within 5 working days from the date of receipt of the request of the person with the issued card without charging any fee.

4. The revocation of an industrial property assessor's card shall be performed as follows:

a) An industrial property assessor's card shall be revoked in the following cases:

a1) There is evidence confirming that the assessor's card has been issued contrary to laws;

a2) The person with the issued assessor's card no longer meets the requirements prescribed in Clause 3 Article 201 of the Law on Intellectual Property;

a3) The person with the issued assessor's card no longer engages in the assessment operations;

a4) The person with the issued assessor's card is subject to the disciplinary revocation of the assessor's card under a decision of the competent authority.

b) The industrial property right authority proactively or upon a request of an organization or individual revokes the assessor's card if there are grounds confirming that the person with the issued card falls into one of the cases prescribed in Point a of this Clause;

c) An application for the revocation of an industrial property assessor's card submitted to the industrial property right authority shall include a set of the following documents:

a1) Application for the revocation of the industrial property assessor's card;

c2) Evidence backing up the grounds to request for the revocation of the industrial property assessor's card.

d) The procedure for revoking the industrial property assessor's card shall be performed as follows:

d1) If an organization or individual requests the revocation of the industrial property assessor's card according to Point c of this Clause, within 1 month from the date of receipt of the request, the industrial property right authority shall provide a written notification of such a request for the person with the issued assessor's card and impose a 1-month time limit from the notification date for him/her to provide any suggestion. The industrial property right authority shall, based on the

suggestions of concerned parties, issue a decision to revoke the industrial property assessor's card or refuse the revocation of the industrial property assessor's card and send it to the concerned parties;

d2) If there are grounds confirming that the person with the issued industrial property assessor's card no longer satisfies the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property, the industrial property right authority shall issue a written notification of the intended revocation of the industrial property assessor's card to the person with the issued industrial property assessor's card and impose a 1-month time limit from the notification date for him/her to provide any suggestion. The industrial property right authority shall, based on the suggestions of the person with the issued industrial property assessor's card, issue a decision to revoke the industrial property assessor's card to him/her or provide a notification of not revoking the industrial property assessor's card for him/her;

d3) In case of a decision to revoke the industrial property assessor's card of a competent authority, within 1 month from the receipt date of the mentioned decision, the industrial property right authority shall issue a decision to revoke the industrial property assessor's card;

d4) The industrial property right authority shall record the decision on the revocation of the industrial property assessor's card to the National Industrial Property Assessment Register and disclose it on the Industrial Property Official Gazette and its web portal within 2 months from the decision issuance date.

5. The preparation and disclosure of the list of industrial property assessors shall be performed as follows:

a) The industrial property right authority shall prepare the list of industrial property assessors, including the information recorded according to decisions on issuance, re-issuance, and revocation of industrial property assessor's card and disclose or update it on its web portal annually;

b) The industrial property right authority shall notify the local industrial property right authority of information on changes concerning assessor's cards of assessors working for the corresponding local industrial property assessment organizations to serve the issuance, re-issuance, or revocation of certificates of local assessment organizations within 2 months from the decision issuance date.

Article 110. Issuing, re-issuing, and revoking certificates of industrial property assessment organizations

1. Competence in issuing, re-issuing, and revoking certificates of industrial property assessment organizations is as follows:

a) Industrial property right authorities are competent to issue, re-issue, and revoke certificates of industrial property assessment organizations for public service providers that are scientific and technological organizations registering for scientific and technological operations at the Ministry of Science and Technology of Vietnam according to Clauses 2, 3, 4, and 5 of this Article.

b) Local industrial property right authorities are competent to issue, re-issue, and revoke certificates of industrial property assessment organizations for organizations prescribed in Clause

2 Article 201 of the Law on Intellectual Property registering for business and operations at local competent authorities according to Clauses 2, 3, 4, and 5 of this Article.

2. The issuance of certificates of industrial property assessment organizations shall be performed as follows:

a) Local industrial property right authorities and industrial property right authorities shall issue certificates of industrial property assessment organizations to organizations meeting the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property if such organizations apply for the issuance and pay the prescribed fees.

b) An application for the issuance of a certificate of industrial property assessment organization submitted to the industrial property right authority or the local industrial property right authority shall include a set of the following documents:

b1) Statement on the request for the issuance of the certificate of industrial property assessment organization following Form No. 05 Appendix VI of this Decree;

b2) Copies of the recruitment decision or labor contract between the organization and its industrial property assessor (the original shall be presented for comparison, excluding cases of certified copies);

b3) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

c) Within 1 month after receiving the application, the industrial property right authority or the local industrial property right authority shall assess the application according to the following regulations:

c1) If the application is valid, the industrial property right authority or the local industrial property right authority shall issue a decision on the issuance of the certificate of assessment organization, specifying the full name, business name, address, and code of the organization and its assessment specialty corresponding to the assessment specialty of its assessors and the list of industrial property assessors that are its members; record the issuance to the National Industrial Property Assessment Register and disclose the information on the Industrial Property Official Gazette and its web portal within 2 months from the decision issuance date;

c2) If the application has deficiencies, the industrial property right authority or the local industrial property right authority shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection, or provides inadequate objections, the industrial property right authority or the local industrial property right authority shall issue a decision to refuse the issuance of the certificate of industrial property assessment organization, specifying the reasons.

c3) The certificate of industrial property assessment organization shall be made following Form No. 07 Appendix VI of this Decree.

3. The re-issuance of certificates of industrial property assessment organizations shall be performed as follows:

a) In the following cases, the industrial property right authority or the local industrial property right authority shall decide to re-issue certificates of industrial property assessment organizations if the organizations submit requests and pay the fees and charges according to regulations:

a1) The certificate of industrial property assessment organization is lost, defective, or damaged (torn, dirty, faded, etc.) to the point of being unusable;

a2) The information in the certificate of industrial property assessment organization prescribed in Point c1 Clause 2 of this Article has been changed.

b) The industrial property assessment organization shall perform the procedure for requesting the authority that has issued the certificate of industrial property assessment organization to re-issue the certificate for the recording of changes prescribed in Point c1 Clause 2 of this Article;

c) An application for the re-issuance of a certificate of industrial property assessment organization submitted to the industrial property right authority or the local industrial property right authority shall include a set of the following documents:

c1) Statement on the request for the re-issuance of the certificate of industrial property assessment organization following Form No. 06 Appendix VI of this Decree;

c2) Copies of the amended certificate of business registration or amended certificate of operation registration of the industrial property assessment organization in the case of changing the information on the organization (the original shall be presented for comparison, excluding cases of certified copies), excluding the case where the enterprise identification number is declared in the statement on request for the re-issuance of the certificate of industrial property assessment organization;

c3) Copies of the recruitment decision, labor contract, or decision on termination of the labor contract between the organization and its industrial property assessor in case of changes to the industrial property assessor (the original shall be presented for comparison, excluding cases of certified copies);

c4) Copies of payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

d) The processing of the application for the re-issuance of the certificate of industrial property assessment organization shall be performed as follows:

d1) Within 20 days after receiving the application for the re-issuance of the certificate of industrial property assessment organization, the industrial property right authority or the local industrial property right authority shall assess the application following a procedure similar to the procedure for issuing the certificate of industrial property assessment organization prescribed in Point c Clause 2 of this Article;

d2) If the certificate industrial property assessment organization is defective due to an error of the industrial property right authority or the local industrial property right authority, the mentioned authority shall re-issue the certificate within 5 working days from the date of receipt of the request of the industrial property assessment organization without charging any fee.

4. The revocation of certificates of industrial property assessment organizations shall be performed as follows:

a) A certificate of industrial property assessment organization shall be revoked in the following cases:

a1) There is evidence confirming that the certificate of industrial property assessment organization has been issued contrary to laws;

a2) The organization no longer meets the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property;

a3) The industrial property assessment organization terminates its assessment operations;

a4) There is evidence confirming that the industrial property assessment organization violates the laws and is subject to a revocation of the certificate of industrial property assessment organization requested by the competent authority.

b) The industrial property right authority or the local industrial property right authority shall proactively or upon a request of an organization or individual revoke the certificate of industrial property assessment organization if there are grounds confirming that the concerned industrial property assessment organization falls into one of the cases prescribed in Point a of this Clause;

c) An application for the revocation of a certificate of industrial property assessment organization submitted to the authority that issued such certificate shall include a set of the following documents:

c1) Application for the revocation of the certificate of industrial property assessment organization;

c2) Evidence backing up the grounds to request for the revocation of the certificate of industrial property assessment organization;

d) The procedure for revoking the certificate of industrial property assessment organization shall be performed as follows:

d1) If an organization or individual requests the revocation of the certificate of industrial property assessment organization according to Point c of this Clause, within 1 month from the date of receipt of the request, the certificate issuance authority shall provide a written notification of such a request for the organization with the issued certificate of industrial property assessment organization and impose a 1-month time limit from the notification date for the organization to provide any suggestion. The certificate issuance authority shall, based on the suggestions of concerned parties, issue a decision to revoke the certificate of industrial property assessment organization or refuse the revocation of the certificate of industrial property assessment organization and send it to the concerned parties;

d2) If there are grounds confirming that the organization with the issued certificate of industrial property assessment organization no longer satisfies the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property, the certificate issuance authority shall issue a written notification of the intended revocation of the certificate of industrial property assessment organization to the mentioned organization and impose a 1-month time limit from the notification date for it to provide any suggestion. The certificate issuance authority shall, based on the suggestions of the organization with the issued certificate, issue a decision to revoke the certificate or a notification of not revoking the certificate to the organization;

d3) In case of a decision to revoke the certificate of industrial property assessment organization of a competent authority, within 1 month from the receipt date of the mentioned decision, the certificate issuance authority shall issue a decision to revoke the certificate;

d4) The industrial property right authority shall record the decision on the revocation of the certificate of industrial property assessment organization to the National Industrial Property Assessment Register and disclose it on the Industrial Property Official Gazette and its web portal within 2 months from the decision issuance date.

5. The preparation and disclosure of the list of industrial property assessment organizations shall be performed as follows:

a) The industrial property right authority shall prepare the list of industrial property assessment organizations, including the information recorded according to decisions on issuance, re-issuance, and revocation of certificates of industrial property assessment organizations and disclose or update it on its web portal annually;

b) The local industrial property right authority shall notify the industrial property right authority of information on the issuance, re-issuance, and revocation of certificates of industrial property assessment organizations within 1 month from the decision issuance date to serve the preparation of the list of industrial property assessment organizations prescribed in this Clause.

Section 3. CONTENT OF STATE MANAGEMENT OF ASSESSMENT OF RIGHTS TO PLANT VARIETIES

Article 111. Professional inspection of the assessment or rights to plant varieties

1. The professional inspection of the assessment of rights to plant varieties shall be performed to assess the capacity for using knowledge and specialty to assess and conclude matters concerning rights to plant varieties.

2. The organization of the professional inspection of the assessment of rights to plant varieties shall be performed as follows:

a) Plant variety right authority is the authority competent to organize the professional inspection of the assessment of rights to plant varieties;

b) The plant variety right authority shall disclose notifications on its information portal, specifying the conditions for participating in the inspection, application submission procedures, inspection content, and expected time and location of the inspection;

c) The inspection shall be organized within 3 months from the date when at least 5 participants have their applications approved according to Clause 3 of this Article;

d) The results of the inspection shall be notified to the participants by the plant variety right authority. Participants may request the plant variety right authority to re-examine the results of the inspection;

dd) The results of the inspection shall have a validity of 5 years for requesting the People's Committee of the province or centrally affiliated city to issue plant variety right assessor's cards.

3. The council for professional inspection of assessment of rights to plant varieties established by the plant variety right authority shall organize the professional inspection of assessment of rights

to plant varieties according to the regulation on professional inspection of assessment of rights to plant varieties issued by the plant variety right authority.

Registration for participation in the professional inspection of assessment of rights to plant varieties shall be performed as follows:

a) Individuals meeting the following requirements shall be eligible for registering for participation in the inspection according to this Article:

- a1) Being Vietnamese citizens with sufficient legal capacity;
- a2) Residing in Vietnam;
- a3) Having good moral qualities;
- a4) Having at least bachelor's degrees with majors suitable for the field registered for inspection;
- a5) Having professionally worked in the field registered for inspection for at least 5 years.

b) An application for participation in the professional inspection of assessment of rights to plant varieties submitted to the plant variety right authority shall include a set of the following documents:

- b1) Statement on registration for participation in the professional inspection of assessment of rights to plant varieties, following Form No. 08 Appendix VI of this Decree;
- b2) Certified copies of the bachelor's degree or any post-university degree;
- b3) Certified copies of the recruitment decision, labor contract, or other documents proving the actual professional operations;
- b4) 2 photos sized 3 x 4 (cm);
- b5) Payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

c) Within 15 days after receiving the application, the plant variety right authority shall process the application according to the following regulations:

- c1) If the application is valid, the plant variety right authority shall issue a notification of application acceptance, stating whether the inspection plan has been set or has not been set due to an insufficient number of participants according to Clause 2 of this Article;
- c2) If the application has deficiencies, the plant variety right authority shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the plant variety right authority shall issue a decision to refuse the acceptance of the application, specifying the reasons.

Article 112. Issuing, re-issuing, and revoking plant variety right assessor's cards

1. People's Committees of provinces and centrally affiliated cities are competent to issue, re-issue, and revoke plant variety right assessor's cards according to the procedures prescribed in Clauses 2, 3, and 4 of this Article.

2. The issuance of plant variety right assessor's cards shall be performed as follows:

a) People's Committees of the provinces or centrally affiliated cities shall issue plant variety right assessor's cards to persons meeting the requirements prescribed in Clause 3 Article 201 of the Law on Intellectual Property if such persons apply for the issuance and pay the prescribed fees. Requirements for eligibility for issuance of plant variety right assessor's cards prescribed in Clause 3 Article 201 of the Law on Intellectual Property shall be understood as follows:

a1) "Residing in Vietnam" shall be understood as having a permanent residence in Vietnam according to residence laws;

a2) "Having good moral qualities" shall be understood as not being subject to any administrative fine for violations of plant variety right laws, not committing acts of violating professional ethics, not being subject to criminal prosecution, or having unspent convictions;

a3) "Having at least bachelor's degrees with specialties suitable for the field requested for issuance of assessor's cards" shall be understood as having bachelor's degrees or post-university degrees in horticulture, agronomy, plant science, or any major concerning plant varieties;

a4) "Having professionally worked in the field requested for issuance of assessor's cards for at least 5 years" shall be understood as having directly engaged in the compilation of drafts and guidelines on the implementation of legislative documents on plant varieties, settlement of disputes, complaints, denunciations, and inspections of plant varieties at plant variety right authorities, plant variety study and teaching at research or training organizations established and operated legally, or counseling about plant variety protection laws on behalf of representatives of rights to plant varieties.

b) An application for the issuance of a plant variety right assessor's card shall include a set of the following documents:

b1) Statement on request for the issuance of the assessor's card, following Form No. 09 Appendix VI of this Decree;

b2) Original or certified copies of the qualification certificate of professional inspection of assessment of rights to plant varieties;

b3) Copies of the bachelor's degree or post-university degree in horticulture, agronomy, or any major concerning plant varieties;

b4) Documents proving that the applicant has directly engaged in the specialty concerning plant varieties for at least 5 years with confirmation of a competent authority;

b5) 2 photos sized 3 x 4 (cm);

b6) Payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure);

c) Within 1 month from the date of receipt of the application, the People's Committee of the province or centrally affiliated city shall assess the application according to the following regulations:

c1) If the application is valid, the People's Committee of the province or centrally affiliated city shall issue a decision to issue the assessor's card, specifying the name, permanent address, citizen ID number, and assessment specialty of the person with the issued card;

c2) If the application is invalid, the People's Committee of the province or centrally affiliated city shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit, if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the People's Committee of the province or centrally affiliated city shall issue a decision to refuse the issuance of the assessor's card, specifying the reasons.

c3) The plant variety right assessor's card shall be made following Form No. 10 Appendix VI of this Decree.

3. The re-issuance of plant variety right assessor's cards shall be performed as follows:

a) In the following cases, the People's Committee of the province or centrally affiliated city shall issue a decision to re-issue the plant variety right assessor's card if the assessor applies for the re-issuance and pays the prescribed fees:

a1) The plant variety right assessor's card is lost, defective, or damaged (torn, dirty, faded, etc.) to the point of being unusable;

a2) The information in the plant variety right assessor's card prescribed in Point c1 Clause 2 of this Article has been changed.

b) The assessor shall request the People's Committee of the province or centrally affiliated city to re-issue the plant variety right assessor's card for the recording of changes prescribed in Point a2 of this Clause.

c) An application for the re-issuance of a plant variety right assessor's card submitted to the People's Committee of the province or centrally affiliated city shall include a set of the following documents:

c1) Statement on request for the re-issuance of the assessor's card, following Form No. 09 Appendix VI of this Decree;

c2) 2 photos sized 3 x 4 (cm);

c3) Payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

d) The processing of the application for the re-issuance of the plant variety right assessor's card shall be performed as follows:

d1) Within 15 days after receiving the application for the re-issuance of the plant variety assessor's card, the People's Committee of the province or centrally affiliated city shall assess the application following the procedure similar to the procedure for issuing the plant variety right assessor's card prescribed in Point c Clause 2 of this Article;

d2) If the plant variety right assessor's card is defective due to an error of the People's Committee of the province or centrally affiliated city, the mentioned authority shall re-issue the plant variety right assessor's card within 5 working days from the date of receipt of the request of the person with the issued card without charging any fee.

4. The revocation of plant variety right assessor's cards shall be performed as follows:

- a) A plant variety right assessor's card shall be revoked in the following cases:
- a1) There is evidence confirming that the assessor's card has been issued contrary to laws;
 - a2) The person with the issued assessor's card no longer meets the requirements prescribed in Clause 3 Article 201 of the Law on Intellectual Property;
 - a3) The person with the issued assessor's card no longer engages in the assessment operations;
 - a4) The person with the issued assessor's card is subject to the disciplinary revocation of the assessor's card under a decision of the competent authority.
- b) The People's Committee of the province or centrally affiliated city proactively or upon a request of an organization or individual revokes the assessor's card if there are grounds confirming that the person with the issued card falls into one of the cases prescribed in Point a of this Clause;
- c) An application for the revocation of a plant variety right assessor's card shall include a set of the following documents:
- c1) Application for the revocation of the plant variety right assessor's card;
 - c2) Evidence backing up the grounds to request the revocation of the plant variety right assessor's card.
- d) The procedure for revoking the plant variety right assessor's card is as follows:
- d1) If an organization or individual requests the revocation of the plant variety right assessor's card according to Point c of this Clause, within 1 month from the date of receipt of the request, the People's Committee of the province or centrally affiliated city shall provide a written notification of such a request for the person with the issued assessor's card and impose a 1-month time limit from the notification date for the him/her to provide any suggestion. The People's Committee of the province or centrally affiliated city shall, based on the suggestions of the concerned parties, issue a decision to revoke the plant variety right assessor's card or refuse the revocation of the plant variety assessor's card to the concerned parties;
 - d2) If there are grounds confirming that the person with the issued plant variety right assessor's card no longer satisfies the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property, the People's Committee of the province or centrally affiliated city shall issue a written notification of the intended revocation of the plant variety right assessor's card to the person with the issued plant variety right assessor's card and impose a 1-month time limit from the notification date for him/her to provide any suggestion. The People's Committee of the province or centrally affiliated city shall, based on the suggestions of the person with the issued plant variety assessor's card, issue a decision to revoke the plant variety right assessor's card or a notification of not revoking the plant variety assessor's card to such a person;
 - d3) In case of a decision to revoke the plant variety right assessor's card of a competent authority, within 1 month from the receipt date of the mentioned decision, the People's Committee of the province or centrally affiliated city shall issue a decision to revoke the plant variety right assessor's card.

5. The preparation and disclosure of the list of plant variety right assessors and notification of changes to information concerning assessor's cards shall be performed as follows:

a) The People's Committee of the province or centrally affiliated city shall prepare a list of plant variety right assessors according to decisions on issuance, re-issuance, and revocation of plant variety right assessor's cards and disclose the list on its web portal within 2 months from the decision issuance date;

b) The People's Committee of the province or centrally affiliated city shall notify the plant variety right authority of the list of assessors and the information on changes concerning assessor's cards of assessors working for the corresponding local plant variety right assessment organizations to serve the issuance, re-issuance, or revocation of certificates of local assessment organizations.

Article 113. Issuing, re-issuing, and revoking certificates of plant variety right assessment organizations

1. People's Committees of provinces and centrally affiliated cities are competent to issue, re-issue, and revoke certificates of plant variety assessment organizations and prepare and disclose the list of plant variety right assessment organizations according to Clauses 2, 3, 4, and 5 of this Article.

2. The issuance of certificates of plant variety right assessment organizations shall be performed as follows:

a) People's Committees of the provinces or centrally affiliated cities shall issue certificates of plant variety right assessment organizations to organizations meeting the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property if such organizations apply for the issuance and pay the prescribed fees;

b) An application for the issuance of a certificate of plant variety right assessment organization shall include a set of the following documents:

b1) Statement on the request for the issuance of the certificate of plant variety right assessment organization following Form No. 11 Appendix VI of this Decree;

b2) Certified copies of the recruitment decision or labor contract between the organization and its plant variety right assessor;

b3) Payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

c) Within 1 month from the date of receipt of the application, the People's Committee of the province or centrally affiliated city shall assess the application according to the following regulations:

c1) If the application is valid, the People's Committee of the province or centrally affiliated city shall issue a decision on the issuance of the certificate of assessment organization, specifying the full name, business name, and address of the organization and the list of plant variety right assessors that are its members; record the information to the list of assessment organizations and disclose it on its web portal within 5 working days from the decision issuance date;

c2) If the application has deficiencies, the People's Committee of the province or centrally affiliated city shall issue a notification of the intended refusal of the acceptance of the application, specifying the reasons and imposing a 1-month time limit from the notification date for the applicant to amend the deficiencies or object to the refusal. After the imposed time limit,

if the applicant fails to amend deficiencies or provides inadequate amendments, does not have any objection or provides inadequate objections, the People's Committee of the province or centrally affiliated city shall issue a decision to refuse the issuance of the certificate of plant variety right assessment organization, specifying the reasons.

c3) The certificate of plant variety right assessment organization shall be made following Form No. 12 Appendix VI of this Decree.

3. The re-issuance of certificates of plant variety right assessment organizations shall be performed as follows:

a) In the following cases, the People's Committee of the province or centrally affiliated city shall issue a decision to re-issue the certificate of plant variety right assessment organization if the assessment organization applies for the re-issuance and pays the prescribed fees:

a1) The certificate of plant variety assessment organization is lost, defective, or damaged (torn, dirty, faded, etc.) to the point of being unusable;

a2) The information in the certificate of plant variety right assessment organization prescribed in Point c1 Clause 2 of this Article has been changed.

b) The plant variety right assessment organization shall perform the procedure for requesting the authority that has issued the certificate of plant variety right assessment organization to re-issue the certificate if it wishes to continue its assessment operations;

c) An application for the re-issuance of a certificate of plant variety right assessment organization shall include a set of the following documents:

c1) Statement on the request for the re-issuance of the certificate of plant variety right assessment organization, following Form No. 11 Appendix VI of this Decree;

c2) Certified copies of the amended certificate of business registration or amended certificate of operation registration of the plant variety right assessment organization in the case of changing the information on the organization, excluding the case where the enterprise identification number is declared in the statement on request for the re-issuance of the certificate of plant variety right assessment organization;

c3) Certified copies of the recruitment decision, labor contract, or decision on the termination of the labor contract between the organization and its plant variety right assessor in case of changes to the plant variety right assessor;

c4) Payment invoices of fees and charges (in cases of paying fees and charges via postal services or directly to the account of the authority competent to settle this procedure).

d) The processing of the application for the re-issuance of the certificate of plant variety right assessment organization shall be performed as follows:

d1) Within 15 days after receiving the application for the re-issuance of the certificate of plant variety right assessment organization, the People's Committee of the province or centrally affiliated city shall assess the application following the procedure similar to the procedure for issuing the certificate of plant variety right assessment organization prescribed in Point c Clause 2 of this Article;

d2) If the certificate of plant variety assessment organization is defective due to an error of the People's Committee of the province or centrally affiliated city, the mentioned authority shall re-issue the certificate within 5 working days from the date of receipt of the request of plant variety right assessment organization without charging any fee.

4. The revocation of certificates of plant variety right assessment organizations shall be performed as follows:

a) A certificate of plant variety right assessment organization shall be revoked in the following cases:

a1) There is evidence confirming that the certificate of plant variety right assessment organization has been issued contrary to laws;

a2) The organization no longer meets the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property;

a3) The plant variety right assessment organization terminates its assessment operations;

a4) There is evidence confirming that the plant variety right assessment organization violates the laws and is subject to a revocation of the certificate of plant variety right assessment organization requested by the competent authority.

b) The People's Committee of the province or centrally affiliated city proactively or upon a request of an organization or individual revokes the certificate of plant variety right assessment organization if there are grounds confirming that the plant variety right assessment organization falls into one of the cases prescribed in Point a of this Clause;

c) An application for the revocation of a certificate of plant variety right assessment organization shall include a set of the following documents:

c1) Application for the revocation of the certificate of plant variety right assessment organization;

c2) Evidence backing up the grounds to request the revocation of the certificate of plant variety right assessment organization;

d) The procedure for revoking the certificate of plant variety right assessment is as follows:

d1) If an organization or individual requests the revocation of the certificate of plant variety right assessment organization according to Point c of this Clause, within 1 month from the date of receipt of the request, the certificate issuance authority shall provide a written notification of such a request for the organization with the issued certificate plant variety right assessment organization and impose a 1-month time limit from the notification date for the organization to provide any suggestion. The certificate issuance authority shall, based on the suggestions of concerned parties, issue a decision to revoke the certificate of plant variety right assessment organization or refuse the revocation of the certificate of plant variety right assessment organization and send it to the concerned parties;

d2) If there are grounds confirming that the organization with the issued certificate of plant variety right assessment organization no longer satisfies the requirements prescribed in Clause 2 Article 201 of the Law on Intellectual Property, the certificate issuance authority shall issue a written notification of the intended revocation of the certificate of plant variety right assessment

organization to the mentioned organization and impose a 1-month time limit from the notification date for it to provide any suggestion. The certificate issuance authority shall, based on the suggestions of the organization with the issued certificate, issue a decision to revoke the certificate or a notification of not revoking the certificate to the organization;

d3) In case of a decision to revoke the certificate of plant variety right assessment organization of a competent authority, within 1 month from the receipt date of the mentioned decision, the certificate issuance authority shall issue a decision to revoke the certificate;

d4) The People's Committee of the province or centrally affiliated city shall disclose the decision to revoke the certificate of plant variety right assessment organization on its web portal within 2 months from the decision issuance date.

5. The People's Committee of the province or centrally affiliated city shall prepare a list of plant variety right assessment organizations according to this Article following the decisions on issuance, re-issuance, and revocation of certificates of plant variety right assessment organizations. The list of plant variety right assessment organizations shall be disclosed on the web portal of the People's Committee of the province or centrally affiliated city. The People's Committee of the province or centrally affiliated city shall notify the plant variety right authority of the list of plant variety right assessment organizations and changes concerning the corresponding local plant variety right assessment organizations to serve the recording of information to the National Register of List of Plant Variety Right Assessment Organization.

Section 4. OPERATIONS OF ASSESSMENT OF INDUSTRIAL PROPERTY AND RIGHTS TO PLANT VARIETIES

Article 114. Content and field of assessment of industrial property and rights to plant varieties

1. Assessment of industrial property and rights to plant varieties includes the following contents:

a) Determining the scope of protection of subjects of industrial property rights and rights to plant varieties;

b) Determining if the assessment subject satisfies the requirements to be considered elements of infringement on industrial property rights or rights to plant varieties according to Article 74 through Article 80 of this Decree;

c) Determining if there is any identicalness or similarity that causes confusion or indistinguishability or copy between the assessment subject and the subject under protection;

d) Evaluating industrial property rights and rights to plant varieties following the pricing methods prescribed in prices laws; evaluating damage according to Article 204 and Article 205 of the Law on Intellectual Property.

2. Assessment of industrial property and rights to plant varieties by the fields prescribed in the Law on Intellectual Property includes:

a) The field of industrial property assessment includes the following specialties:

a1) Assessment of inventions and layout designs;

a2) Assessment of industrial designs;

- a3) Assessment of marks and geographical indications;
- a4) Assessment of other industrial property rights.
- b) Field of assessment of rights to plant varieties.

Article 115. Rights and obligations of petitioners for assessment of industrial property and rights to plant varieties

1. A petitioner for assessment of industrial property or rights to plant varieties may:
 - a) Request the assessment organization or the assessor to provide answers for the assessment conclusion following his/her requested content and time limit;
 - b) Request the assessment organization or the assessor to explain the assessment conclusion;
 - c) Request additional assessment or re-assessment according to Article 120 of this Decree;
 - d) Negotiate the assessment service price.
2. A petitioner for assessment of industrial property or rights to plant varieties shall:
 - a) Adequately and honestly provide documents, evidence, and information concerning the assessment subject as requested by the assessment organization or the assessor;
 - b) Clearly and specifically present issues or difficulties in content requiring assessment;
 - c) Pay the agreed assessment cost or advance the assessment cost upon request from the assessment organization or assessor;
 - d) Receive the assessment subject upon request of the assessment organization or assessor.

Article 116. Requesting assessment of industrial property and rights to plant varieties

1. Organizations and individuals that may request the assessment of industrial property and rights to plant varieties include:
 - a) Holders of industrial property rights and rights to plant varieties;
 - b) Organizations and individuals that are requested for infringement handling or subject to complaints or denunciations of industrial property rights or rights to plant varieties;
 - c) Other organizations and individuals with benefits and rights concerning the dispute, infringement, complaint, or denunciation of industrial property rights or rights to plant varieties.
2. Organizations and individuals prescribed in Clause 1 of this Article may request the assessment organization or the assessor of industrial property or rights to plant varieties to perform the assessment or authorize other organizations or individuals to carry out such request.
3. Independent assessors or assessment organizations receiving applications for assessment shall estimate the assessment cost and negotiate and conclude assessment contracts with the requesting organizations or individuals, except for cases of refusing the assessment as per regulation.
4. Any assessment request shall be made into an assessment service contract between the petitioner and the assessment organization or assessor.
5. An assessment service contract may include:
 - a) Name and address of the organization or individual requesting the assessment;

- b) Name and address of the assessment organization or the assessor;
- c) Content requested for assessment;
- d) Relevant documents, evidence, and items;
- dd) Time limit for returning the assessment conclusion;
- e) Rights and tasks of parties;
- g) Location and time of assessment;
- h) Assessment cost and payment methods;
- i) Contract acceptance and liquidation;
- k) Liability to compensate for damage and dispute settlement methods.

Article 117. Delivering, receiving, and returning assessment subjects of industrial property and rights to plant varieties

If the assessment request is enclosed with the assessment subject, the delivery, receipt, and return of such a subject shall be made into minutes with the following contents:

1. Time and location of the delivery, receipt, and return of the assessment subject.
2. Names and addresses of the delivering party and the receiving party or the representative.
3. Name of the assessment subject and relevant documents and items.
4. Condition and methods of preserving the assessment subject during the delivery, receipt, and return.
5. Signatures of the delivering and receiving parties or the representative in case of authorizing a third party to request the assessment.

Article 118. Collecting assessment samples of industrial property and rights to plant varieties

1. The assessment organization or assessor may collect assessment samples (specific items that are elements of infringement and subjects of industrial property or rights to plant varieties under protection) or request the petitioner to provide assessment samples. The collection of assessment samples shall be made into minutes with the witness and signatures of concerned parties.
2. The delivery, receipt, and return of assessment samples shall be carried out according to Article 117 of this Decree.

Article 119. Implementing assessment of industrial property and rights to plant varieties

1. An assessment of industrial property or rights to plant varieties may be performed by one or several assessors of industrial property or rights to plant varieties. An individual assessment shall be performed by one assessor. A collective assessment shall be performed by at least two assessors.
2. In the case of an individual assessment, the assessor shall perform the whole assessment and take responsibility for his/her assessment conclusion. In the case of a collective assessment concerning matters subject to the same professional field, assessors shall jointly perform the assessment, sign the document on the general assessment conclusion, and take responsibility for

the conclusion. If there are different opinions, each assessor shall write his/her opinion on the conclusion to the minutes of the general assessment conclusion and take responsibility for such an opinion. In the case of a collective assessment concerning matters subject to different professional fields, each assessor shall perform his/her part of the work and take responsibility for his/her assessment conclusion.

Article 120. Additional assessment and re-assessment of industrial property and rights to plant varieties

1. An additional assessment shall be performed in case the assessment conclusion is incomplete or unclear about the content subject to assessment or in case of new details requiring clarification. Any request for additional assessment and the performance of such assessment shall comply with regulations on first-time assessment.

2. A re-assessment shall be performed in case the petitioner disagrees with the assessment result or in case of conflicts among assessment conclusions on the same matter subject to assessment. The re-assessment may be performed by the assessment organization or the assessor that performed the previous assessment or by another assessment organization or assessor following the request of the petitioner.

3. In case of differences among assessment conclusions or between the assessment conclusion with the professional suggestion of an industrial property right authority or plant variety right authority on the same matter subject to assessment, the petitioner may continue to request the assessment organization or the assessor to perform the re-assessment.

4. In case of necessity, during the assessment of industrial property rights or rights to plant varieties, the assessment organization may establish a counseling council for assessment of industrial property rights or rights to plant varieties to collect professional suggestions on matters subject to assessment. Matters related to the assessment counseling council shall be handled as follows:

a) The assessment organization shall select council members related to the assessment specialty and issue a decision to establish the counseling council for assessment of industrial property and rights to plant varieties. The council for assessment of industrial property and rights to plant varieties shall include the president and members. The number of its members shall be an odd number consisting of at least 3 members.

b) The counseling council for assessment of industrial property and rights to plant varieties shall operate under democratic principles and organize public voting on professional suggestions. Members shall jointly conduct professional discussions, and their suggestions shall be recorded in the minutes of meetings of the council.

c) The whole process of assessment counseling of the counseling council for assessment of industrial property and rights to plant varieties shall be adequately specified under the form of working minutes. The minutes shall bear the signatures of the president and the members of the council and be stored in the assessment application.

Article 121. Documents on conclusions of assessment of industrial property and rights to plant varieties

1. Conclusions of assessment of industrial property and rights to plant varieties prescribed in Clause 5 Article 201 of the Law on Intellectual Property shall be made in writing.

2. A document on a conclusion of assessment of industrial property or rights to plant varieties prescribed in Clause 1 of this Article shall include:

- a) Name and address of the assessment organization or the assessor;
- b) Name and address of the organization or individual requesting the assessment;
- c) Subject, content, and scope of assessment;
- d) Assessment method;
- dd) Assessment conclusion;
- e) Assessment time, location, and completion.

3. The independent assessor or assessment organization shall send a document on the assessment conclusion to the organization or individual requesting the assessment according to the agreed time limit prescribed in the assessment contract. In the case of an independent assessment, the assessor performing the assessment shall sign the document on the assessment conclusion and take responsibility for his/her assessment conclusion. In case the assessment is performed by an organization, the assessor in charge of the assessment and the legal representative of the assessment organization shall jointly sign and stamp the document on the assessment conclusion and take responsibility for such a conclusion.

4. In case the assessment needs more time, the independent assessor or the assessment organization shall promptly notify the organization or individual requesting the assessment of such matter in writing.

Article 122. Price for service of assessment of industrial property and rights to plant varieties

The price for the service of assessment of industrial property or rights to plant varieties shall be agreed on by the concerned parties.

Part five

IMPLEMENTATION PROVISIONS

Article 123. Transitional provision

- 1. The processing of invention registration applications submitted before the effective date of this Decree that have yet to have any decision to issue or refuse the issuance of protection titles shall comply with Article 48 through Article 52 of this Decree.
- 2. The processing of Hague applications designating Vietnam disclosed by the International Office before the effective date of this Decree that have yet to have any decision to accept or refuse the protection shall comply with this Decree and the Hague Agreement.
- 3. The processing of Hague applications originating from Vietnam, submitted to industrial property right authorities before the effective date of this Decree, that have yet to be sent to the International Office shall comply with this Decree and the Hague Agreement.

Article 124. Entry into force

- 1. This Decree comes into force as of August 23, 2023.

2. This Decree replaces Decree No. 103/2006/ND-CP dated September 22, 2006 dated September 22, 2006, regulations on the protection of rights concerning industrial property rights, rights to plant varieties, and state management of intellectual property prescribed in Decree No. 105/2006/ND-CP dated September 22, 2006, Decree No. 119/2010/ND-CP dated October 30, 2010, Decree No. 122/2010/ND-CP dated October 31, 2010, and Article 1 of Decree No. 154/2018/ND-CP dated November 9, 2018 and annuls several regulations on conditions for investment and trading in the field of state management of the Ministry of Science and Technology of Vietnam and several regulations on specialized inspection.

Article 125. Implementation responsibilities

Ministers, Directors of ministerial agencies, Directors of governmental agencies, and Chairpersons of the People’s Committees of provinces, and centrally affiliated cities shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT
PP. PRIME MINISTER
DEPUTY PRIME MINISTER**

Tran Luu Quang

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