

Industrial Design Law in Vietnam: A Comprehensive Overview

Vietnam does not have a separate industrial design law. Vietnam's legal framework for industrial design protection is integrated within its broader **Law on Intellectual Property (IP Law)**, first enacted in 2005. Rather than having a standalone industrial design law, this comprehensive legislation governs various forms of IP, including patents, trademarks, copyrights, and industrial designs. The IP Law has been amended 03 times to adapt to Vietnam's evolving economic landscape and to align with international IP standards.

KENFOX IP & Law Office provide below a comprehensive overview of legal instruments governing industrial design related matters and historical development of industrial design provisions in Vietnam for your review.

Key Legal Instruments for Industrial Designs

The primary legal provisions governing industrial designs in Vietnam can be found within the following:

1. **IP Law:** This overarching law establishes the foundational principles for industrial design protection and enforcement. This law, along with its implementing decrees and circulars, forms the cornerstone of [industrial design](#) protection in Vietnam.
2. **Decrees:** These legal instruments provide specific details and regulations related to various aspects of industrial design rights.
3. **Circulars:** Issued by the Ministry of Science and Technology, these provide practical guidance and instructions on how to implement the IP Law and its corresponding decrees.
4. **Decisions:** The IP Office of Vietnam issues these decisions to address specific technical and administrative matters related to industrial designs.
5. **Other relevant laws:** While the IP Law is central, other legal instruments, such as the Civil Code and Civil Procedure Code along with laws related to customs, e-commerce, advertising, and consumer protection, can also influence industrial design disputes and enforcement.

Historical Development of Industrial Design Law in Vietnam

Early Stage (1980s):

The 1980s witnessed the enactment of several legal documents focused on industrial property rights, including decrees related to trademarks, industrial designs, and utility solutions, including:

- Decree No. 197/HDBT of December 14, 1982, on trademarks.
- Decree No. 85/HDBT of May 13, 1985, on industrial designs.
- Decree No. 200/HDBT of December 28, 1988, on utility solutions.
- Decree No. 201/HDBT of December 28, 1988, on purchase of patents for innovation, utility solution, industrial designs, trademarks and technical know-how.

Modern Era (2005 Onward):

- **2005:** The comprehensive IP Law was enacted, marking a significant milestone in establishing a robust legal framework for all IP rights, including industrial designs.
- **2009 & 2019:** Amendments to the IP Law further strengthened IP protection and enforcement, aligning Vietnam's legal framework with international agreements like the TRIPS Agreement.
- **2022:** Extensive updates addressed legal loopholes and enhanced industrial design protection. These changes streamlined [registration](#) processes and improved enforcement mechanisms.

International Agreements and Treaties

Vietnam's active participation in key international agreements and treaties underscores its dedication to upholding international standards in IP protection. These include:

- **[Paris Convention for the Protection of Industrial Property \(1883\)](#)**: Vietnam became a member in 1949. This treaty provides a priority right for industrial design applications. Applicants who file an industrial design in one member country can file in other member countries within six months, while claiming the first filing date as the priority date.
- **[Hague Agreement Concerning the International Registration of Industrial Designs \(1925\)](#)**: Vietnam acceded to the Hague Agreement in 2019. This treaty simplifies the process of registering industrial designs in multiple countries through a single application, known as an international application, filed with the International Bureau of the World IP Organization (WIPO). This significantly streamlines the registration process for design protection in multiple jurisdictions.
- **[Agreement on Trade-Related Aspects of Intellectual Property Rights \(TRIPS\) \(1995\)](#)**: Vietnam is bound by the TRIPS Agreement, which sets minimum standards for the protection and enforcement of industrial designs. TRIPS requires that industrial designs be protected for at least 10 years, and it includes provisions for enforcing these rights through legal mechanisms.
- **[ASEAN Framework Agreement on Intellectual Property Cooperation \(1995\)](#)**: As a member of ASEAN, Vietnam is part of regional cooperation on IP matters, including industrial designs. This framework promotes the harmonization of IP laws and procedures across ASEAN countries and fosters collaboration in protecting design rights.
- **[Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)** (*Signed: 08 March 2018. Effective date: 30 December 2018*): Vietnam is a signatory to the CPTPP, which includes advanced provisions on industrial design protection. The CPTPP requires signatory countries to provide for the protection of industrial designs for at least 15 years and encourages enhanced enforcement measures.
- **[Regional Comprehensive Economic Partnership \(RCEP\)](#)** (*Signed: 15 November 2020. Effective date: 01 January 2022*): RCEP, which Vietnam joined in 2020, promotes regional cooperation on IP matters, including industrial designs. It sets out provisions for harmonizing IP protection across member countries and strengthening enforcement to protect industrial designs from infringement.

Current Legal Industrial Design Framework

The following acts and legal documents serve as the foundation of industrial design provisions in Vietnam:

- **[IP Law](#)** (2005, amended in 2009, 2019, and 2022): This serves as the fundamental legal framework for all aspects of IP rights in Vietnam, including industrial design.
- **[Civil Code](#)** (2015): This provides general principles on civil liability and remedies, which can be applicable in industrial design disputes, particularly concerning damages and compensation.
- **[Civil Procedure Code](#)** (2015): This sets out the procedural rules for initiating and conducting civil lawsuits, including those related to industrial design infringement.
- **Relevant Decrees, Circulars and Joint Circulars**: These provide detailed guidance and implementation regulations for the above laws. Notable examples include:
 - (i) [Decree No. 65/2023/ND-CP](#) detailing and guiding the implementation of several articles of the IP Law.
 - (ii) [Decree No. 99/2013/ND-CP](#) on the sanctioning of administrative violations in the field of industrial property, revised under Decree No. 46/2024/NĐ-CP.
 - (iii) [Circular No. 23/2023/TT-BKHHCN](#) providing detailed guidance on the IP Law and implements measures from Decree 65/2023/ND-CP, particularly focusing on procedures for establishing and protecting industrial property rights.

- (iv) [Circular No. 11/2015/TT-BKHCN](#) providing detailed instructions on how to handle administrative violations related to IP rights in Vietnam, specifying the procedures for imposing sanctions and addressing various violations outlined in Decree No. 99/2013/ND-CP.
- (v) [Joint Circular No. 01/2008/TTLT-TANDTC-VKSNDTC-BCA-BTP](#) guiding the examination of penal liability for acts of infringing upon IP rights
- (vi) [Joint Circular No. 02-2008-TTLT-TANDTC-VKSNDTC-BVHTTDL-BKHCN-BTP](#) guiding the application of a number of legal provisions to the settlement of disputes over IP rights at people's courts.
- (vii) [Joint Circular no. 05/2016/TTLT-BKHCN-BKHDT](#) BKHDT on detailing and guiding measures against corporate names that infringe industrial property rights.
- (viii) [Joint Circular 14/2016/TTLT-BTTTT-BKHCN](#) guiding the order and procedures for changing and revoking domain names infringing upon the IP rights.
- (ix) (Resolution No. 02/2020/NQ-HDTP of September 24, 2020, of the Judicial Council of the Supreme People's Court guiding the application of some provisions stipulating provisional measures in the Civil Procedure Code ("Resolution No. 02/2020").

QUAN, Nguyen Vu | Partner, IP Attorney

Contact

KENFOX IP & Law Office

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

Tel: +84 24 3724 5656

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