

Patent Law in Vietnam: A Comprehensive Overview

Vietnam does not have a separate patent law. Vietnam's legal framework for patent protection is integrated within its broader **Law on Intellectual Property (IP Law)**, first enacted in 2005. Rather than having a standalone patent 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 patent related matters and historical development of patent provisions in Vietnam for your review.

Key Legal Instruments for Patents

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

1. **IP Law:** This overarching law establishes the foundational principles for [patent protection](#) and enforcement. This law, along with its implementing decrees and circulars, forms the cornerstone of patent protection in Vietnam.
2. **Decrees:** These legal instruments provide specific details and regulations related to various aspects of patent 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 patents
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 [patent disputes](#) and enforcement.

Historical Development of Patent 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 patents.
- **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 patent protection. These changes streamlined registration processes and improved enforcement mechanisms.

International Patent 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 has been a member since 1949. The Paris Convention ensures that patent protection is recognized across all member countries and provides the right of priority, allowing applicants to file a patent in multiple countries within 12 months while maintaining the original filing date.
- **Patent Cooperation Treaty (PCT) (1970)**: Vietnam became a contracting state of the PCT in 1993. The PCT simplifies the international patent application process by allowing applicants to file a single patent application, known as an international application, which is recognized by all PCT member

countries (in over 150 member countries). This treaty helps Vietnamese businesses or foreign applicants seeking patent protection in Vietnam to extend their patents internationally through a more efficient process.

- **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1995):** As part of its accession to the World Trade Organization (WTO) in 2007, Vietnam became bound by the TRIPS Agreement. TRIPS sets minimum standards for the protection and enforcement of patents in all WTO member states, including provisions on patentable subject matter, exceptions, and protection for at least 20 years from the filing date.
- **Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977):** Vietnam became a member of this treaty in 2021. The Budapest Treaty simplifies the process of patenting inventions involving microorganisms, allowing a single deposit of microorganisms to be recognized for patent purposes in all contracting states, thus aiding biotech patents.
- **ASEAN Framework Agreement on Intellectual Property Cooperation (1995):** Vietnam, as a member of the Association of Southeast Asian Nations (ASEAN), has committed to regional cooperation in intellectual property matters, including patents. This agreement promotes collaboration between ASEAN countries in terms of IP protection, including harmonization of patent laws and procedures across the region.
- **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 patent protection. The CPTPP enhances patent protection standards, particularly in pharmaceutical patents, by introducing provisions on compensating for regulatory delays in granting patents or marketing approval.
- **Regional Comprehensive Economic Partnership (RCEP) (Signed: 15 November 2020. Effective date: 01 January 2022):** As a member of RCEP, Vietnam is part of a broader Asia-Pacific agreement that includes commitments to harmonize and strengthen patent protection among member countries, particularly by improving enforcement measures and cooperation on intellectual property issues.

Current Legal Patent Framework

The following acts and legal documents serve as the foundation of patent 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 patents.
- **Civil Code (2015):** This provides general principles on civil liability and remedies, which can be applicable in patent 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 patent 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/ND-CP.
 - (iii) [Circular No. 23/2023/TT-BKHCHN](#) 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-BKHCHN](#) 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-BKHCHN-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-BKHCHN-BKHDT](#) on detailing and guiding measures against corporate names that infringe industrial property rights.
 - (viii) [Joint circular 14/2016/TTLT-BTTTT-BKHCHN](#) 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")

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

Contact

KENFOX IP & Law Office

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

Tel: +84 24 3724 5656

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