

Report on the latest developments in the intellectual property protection system of Vietnam in the year 2006*

1. The improvement of the intellectual property legal system

The year 2006 marked an important milestone in the development of the Vietnamese legal system of protection of intellectual property rights. Together with the entry into force of the Intellectual Property Law on 1 July 2006, the promulgation of a series of new legal documents guiding the implementation of the Law in 2006 has made the legal system of the protection of intellectual property rights fully comply with BTA and TRIPS/WTO. This was one of decisive factors for Vietnam in concluding negotiation process and becoming the 150th official member of the WTO. The result of reviewing and clarifying all aspects of the Vietnamese policy on protection of intellectual property in accordance with standards of WTO (TRIPS Agreement) presented in the Report of the Working Party on the accession of Vietnam to WTO has proved that.

Particularly, in 2006, Vietnam has drafted and promulgated the following legal documents on industrial property to guide the implementation of the Intellectual Property Law:

- Decree No. 103/2006/ND-CP of 22 September 2006 of the Government providing detailed provisions and guidelines for implementing certain articles of the 2005 Intellectual Property Law concerning industrial property;

- Decree No. 105/2006/ND-CP of 22 September 2006 the Government providing detailed provisions and guidelines for implementing certain articles of the 2005 Intellectual Property Law regarding the protection of intellectual property rights and State management of intellectual property;

- Decree No. 106/2006/ND-CP of 22 September 2006 the Government on handling administrative violations in the field of industrial property;

- Circular No. 28/2006/TT-BKHHCN of 29 December 2006 of the Ministry of Science and Technology guiding the implementation of Decree No. 103/2006/ND-CP of 22 September 2006 of the Government providing detailed provisions and guidelines for implementing certain articles of the 2005 Intellectual Property Law concerning industrial property;

- Decision No. 69/2006/QĐ-BNN of 13 September 2006 of the Minister of Agriculture and Rural Development promulgating regulations on confidentiality protection of testing data of agro-chemical products;

- Decision No. 30/2006/QĐ-BYT of 30 September 2006 of the Minister of Health promulgating regulations on data protection applied to Drug Registration Dossiers.

2. Participation in international treaties

The year 2006 constituted an intensive integration of Vietnam into the world in the field of intellectual property. Parallel with concluding negotiations and becoming an official member of WTO, Vietnam also completed procedures for joining in a series of international treaties on intellectual property rights, namely: (i) the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (entered into force on 12 January 2006); (ii) the Protocol relating to the Madrid Agreement concerning the international registration of marks (entered into force on 11 July 2006); (ii) the International Union for the Protection of New Varieties of Plants – the UPOV Convention (entered into force on 24 December 2006); (iv) the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (entered into force on 1 March 2007).

3. Intellectual property rights establishment activities

In 2006, the National Office of Intellectual Property of Vietnam (NOIP) received 27,107 applications for establishment of industrial property right of all types (increase by 6.1% over 2005), including 2,411 applications for registration of inventions/utility solutions (increase by 11% over 2005), 1,604 applications for registration of industrial designs (increase by 12% over 2005), 23,086 applications for registration of trademarks filed through national route (increase by 12.8% over 2005), 5 applications for registration of geographical indications and one application for registration of layout designs of integrated circuit. In addition, the NOIP also received and handled 17,678 other applications concerning establishment and protection of industrial property rights.

11,054 Protection Titles were granted in 2006, including 669 Protection Titles for Inventions/Utility Solutions, 1,475 Protection Tiles for Industrial Designs and 8,840 Trademark Registration Certificates.

In general, despite the increasing number of applications for registration of industrial property right in 2006 in Vietnam, the speed of handling applications was still kept in accordance with the shortened time limit as provided for in the Intellectual Property Law.

4. Intellectual Property Enforcement activities

The year 2006 saw positive changes in enforcement of intellectual property rights in Vietnam.

The Action Program No. 168/CTHD/VHTT-KHCN-NN&PTNT-TC-TM-CA of 19 January 2006 of the Ministry of Culture and Information, the Ministry of Science and Technology, the Ministry of Agriculture and Rural Development, the Ministry of Finance and the Ministry of Public Security on cooperation in order to prevent and fight against infringements of intellectual property in the period of 2006-2010 was concluded and put into implementation. The Inspectorate of Science and Technology nation-wide received and handled 88 cases of industrial property infringement, 3 cases of unfair competition, under which 449,866 infringing products were handled and the total sum of monetary fine was VND170.2 million. The Customs Agencies nation-wide discovered and handled 7 cases of industrial property infringement. In relation to intellectual property rights, the courts nation-wide received 14 civil cases and handled 11 civil cases; received 51 criminal cases with 110 defendants and handled 44 criminal cases with 91 defendants, of those 47 were punished with imprisonment. In addition, the Economic Police and Market Control agencies handled many cases of industrial property infringement. The NOIP also provided legal assessment and advice for handling 601 cases of industrial property right infringement and 31 cases of unfair competition concerning industrial property.

Especially, in the field of copyright, many competent authorities and organizations actively bought licences to use the copyrighted works. The Ministry of Finance, General Department of Statistics, FPT Company, Vietnam Commercial Bank (VCB), Bank for Investment and Development of Vietnam (BIDV), Bao Viet Finance - Insurance Corporation, Vietnam Mobile Telecom Services Company (MobiFone) have signed contracts with Microsoft Corporation to get licences to use legal Windows software for tens of thousands computers; Vietnam Television (VTV), FPT Company, Vietnam Posts and Telecommunications Group (VNPT) signed contracts with Vietnam Center for Protection of Music Copyright (VCPMC) on using songs on TV and Internet. In addition, many publishing houses of Vietnam such as Nha Nam Culture – Communication Company, Education Publishing House, People’s Police Publishing House, Ho Chi Minh City Book Distribution Corporation (FAHASA), etc. also signed contracts to get licences to publish literary, artistic works in Vietnam market. Fake and counterfeit goods has been noticeably retrained and pushed backed, the trading of counterfeit trademarks goods in respect of certain goods such as motorbike, electronic and electric products has been basically eradicated.

5. Dissemination and training activities on intellectual property rights

In 2006, with the event of Vietnam’s official membership of the WTO, intellectual property was paid with special attention by the public and business circles. In order to meet

such actual demand, the concerned authorities of Vietnam have actively organized many dissemination and training activities on intellectual property with a view to enhancing awareness of society. Taking account of the training and dissemination activities organized by or in coordination with the NOIP, there were 3 intensive courses on IPR with 185 participants, 55 seminars/training courses with the 5329 participants. These activities were also assisted by many international organizations and foreign countries, typically the US, EU, Switzerland, Japan and WIPO, hundreds of Vietnamese officials participated in workshops, training courses and study tours on intellectual property rights abroad. In addition, in the year 2006, mass media frequently disseminated articles on intellectual property rights. Special topics on intellectual property rights were continuously placed on newspapers, broadcasting stations, televisions nation-wide.

With the outstanding results mentioned above, it can be affirmed that intellectual property activities of Vietnam in 2006 saw quantitative and qualitative progresses. These have shown strong determinations of the Vietnamese Government in establishing a sufficient and efficient intellectual property protection system in order to strictly implement its commitments in the process of international economic integration.

* This report does not cover all details related to copyright issues which are to be provided by the Copyright Office.