

Vietnam IP Law Amendments 2022

 by Herman, Henry & Dominic

The Vietnamese National Assembly ratified significant amendments to the Intellectual Property (IP) Law on June 16, 2022, which came into effect on January 1, 2023. These changes are the most extensive since the law's initial promulgation in 2005, revising over 100 articles. The amendments aim to align Vietnam's IP framework with international standards and enhance the protection and enforcement of IP rights in the country.

Overview of Key Amendments

1. Copyright and Related Rights

Detailed Specifications

The amendments introduce detailed specifications on the rights of various contributors in cinematographic and theatrical works. Screenwriters, directors, and composers are explicitly recognized for their contributions. The definition and protection of computer programs have been updated, recognizing them as literary works whether expressed in source or machine code.

Exceptions and Limitations

The law revises exceptions and limitations to copyright and related rights to balance the interests of copyright holders with those of third parties and the public. For instance, temporary reproductions of works during technological processes are now permitted under certain conditions.

2. Industrial Property Rights

Sound Marks

One of the significant updates is the recognition of sound marks as a protectable form of trademark. This change aligns with Vietnam's commitments under international treaties like the CPTPP and the EVFTA.

Well-known Trademarks

The definition of "well-known trademarks" has been revised to make it easier for owners to prove their trademarks' status, enhancing protection for such marks.

Industrial Designs

The amendments streamline the registration process for industrial designs. Applicants must provide detailed photos and drawings that clearly depict the design features, making the process more transparent and efficient.

3. Trademark Registration and Enforcement

New Grounds for Termination

The amendments introduce new grounds for terminating trademark registrations, such as if the use of the trademark misleads consumers about the nature or quality of the goods or services.

Bad Faith Recognition

Acts of "bad faith" are now recognized as a legal basis to oppose and invalidate trademark applications or registrations.

Strengthened Enforcement

The law strengthens IP enforcement mechanisms, introducing administrative sanctions for IP infringements and expanding criminal liability to include legal entities, not just individuals. Customs authorities are empowered to proactively suspend the clearance of goods suspected of IP infringement.

Implications for Businesses

1

Compliance Requirements

Businesses operating in Vietnam need to ensure compliance with the new IP regulations. This involves updating internal policies and procedures to reflect the changes, particularly in areas like trademark registration and copyright management.

2

Enhanced Protection

The amendments provide businesses with enhanced mechanisms to protect their IP assets. The recognition of sound marks and the revised criteria for well-known trademarks offer broader protection for brands.

3

Enforcement and Dispute Resolution

The strengthened enforcement measures mean businesses can expect more robust protection against IP infringements. Companies should be prepared to leverage administrative and criminal sanctions against infringers and work with customs authorities.

Expert Opinions and Legal Perspectives

1

Modernization of IP Framework

Legal experts view these amendments as a significant step towards modernizing Vietnam's IP framework.

2

Investor Confidence

The changes are expected to boost investor confidence by providing a more predictable and secure environment for IP protection.

3

Business Vigilance

Businesses must remain vigilant and proactive in adapting to the new regulations to fully benefit from the enhanced protections.

ABOUT US



Herman, Henry & Dominic is an experienced team of lawyers and legal experts, based in Saigon and Hanoi. The firm is a member of the INTERNATIONAL TRADEMARK ASSOCIATION (INTA).

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