

Managing Intellectual Property

The Global IP Resource

01 November 2010

Landmark court ruling and new regulations

This year has seen a number of important steps for IP rights in Vietnam, beginning with amendments to the Law on Intellectual Property, which became effective on January 1 2010, and ending with substantial developments in IP enforcement. Two of the most notable developments were the first-ever court ruling on patent infringement in Vietnam and the issuance of a new decree that revises and clarifies the sanctions for IP violations.

In June 2010, the People's Court of Dak Lak province, a remote province in Vietnam's Central Highlands, rendered the first-ever court decision on patent infringement in Vietnam. For eight years, the patent owner in this case had been seeking to enforce his right in his patent for an improved brick extruder with an axial rake and knife. In a landmark decision, the Court ruled in favour of the patent owner, ordering that he receive D351 million (\$20,000) in damages and D61 million in legal fees.

Then on September 21 2010, Vietnam's Government issued the long-awaited Decree 97/2010/ND-CP on Sanctions against IP Administrative Violations, which replaced earlier regulations issued in 2006 and will become effective on November 9 2010. The Decree includes the following significant changes:

- It confirms the maximum monetary fine of D500 million for infringement of IP rights. This change puts an end to earlier inconsistencies in the laws and regulations for enforcement of IP rights.
- It expands the scope of IP violations that are subject to administrative sanctions to include IP-related unfair competition violations, which had not been provided for in the 2006 regulations.
- For the first time, the new Decree specifies that the enforcement authorities are entitled to order the removal of infringing information and indications from business facilities, including advertisement and internet matters, as well as the withdrawal of domain names and trade names that contain elements of IP infringement.
- It provides for more detailed infringing acts and sanctions that will ease the implementation of these regulations in practice.

Based on conversations with various enforcement officials, it seems that the new Decree has been warmly welcomed by IP owners, practitioners and authorities alike. The Decree gives powerful instruments to enforce IP and IP-related rights provided under the Law on Intellectual Property, the Law on Competition and the Law on Information Technology.

The new Decree is a big step forward in IP enforcement in Vietnam. It helps to remove tremendous uncertainties and difficulties IP owners, practitioners and enforcement authorities had traditionally experienced in handling IP and IP-related violations.



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