

Vietnam: IP Developments

Published by Tilleke & Gibbins Consultants Limited (Vietnam)

September 2009

TECHNOLOGY IN FOCUS: PATENT FILING TRENDS

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Left: Nguyen Duc Thang, Patent Executive
Right: Thomas J. Treutler, Registered Foreign Lawyer

According to a recent study on Vietnamese patent trends by Tilleke & Gibbins, since the formation and development of the Vietnamese patent system as well as the development of a free market in Vietnam, the number of domestic patent applications has been increasing exponentially. From 1989 to 2007 (the most recent years for which complete data is available), the number of domestic patent applications increased by 435%. In 1989, only 78 domestic patent applications were filed, in contrast to the 339 applications that were filed in 2007.

The gap between the quantity of filings by foreign and domestic applicants is relatively high, according to the study. For example, in 2007, for every domestic application there were eight foreign applications (339 to 2741). The difference in fees between domestic and foreign applications was eliminated in 2005 when Vietnam joined the WTO (previously, fees for domestic applicants were lower). To create a dataset of domestic patent applications for its study, Tilleke & Gibbins conducted an in-depth analysis of 178 domestic patent applications published in the *Industrial Property Gazette* from January to December 2008. Of these applications, one-third were patent applications for utility solutions (petty patents) and two-thirds were applications for inventions.

Among these domestic applications, 51% were filed by individual inventors, 40% were filed by Vietnamese enterprises, and 9% were filed by Vietnamese research institutes or universities. Accordingly, individual inventors represent the largest proportion of applicants, which shows that most Vietnamese corporations still have not developed strong in-house research and development units and intellectual property programs. Based on patent application filings, one might also conclude that research institutes and universities in Vietnam do not seem to be playing a major

role in Vietnam's technological innovations. This conclusion is consistent with the fact that relationships between the research institutes or universities and business enterprises has traditionally not been strong in Vietnam, although some recent conferences have discussed the establishment of "technology incubators" in universities that would collaborate with industry.

Fields requiring large investment, such as the pharmaceutical and biotech sectors, occupy only 4% and 1% respectively of the 178 domestic patent applications studied by Tilleke & Gibbins. Mechanical devices represent a far greater proportion of the applications. Although Vietnam is largely an agricultural country, the proportion of applicants in the agriculture field was only 2.3%. The percentages of patent applications in waste treatment, microbiology, fuel, and electronic fields stand at 4.5%, 3.4%, 1.7%, and 5% of all applications, respectively. These figures indicate that Vietnam is still not filing a significant number of patent applications in cutting-edge technological sectors, despite increased investment in these fields.

The regional distribution of these applications is also noteworthy. Although southern Vietnam is regarded as the economic center of the country, more patent applications originate from the northern regions of Vietnam. The northern, southern, and central regions filed 49%, 46%, and 5% of the total applications respectively.

As Vietnam's technological sector develops—especially in the area of software and computer arts where Vietnam has seen considerable investment by domestic computer and software giants such as FPT Corporation, as well as major multinationals such as Intel—it is likely that more domestic patent applications will be filed in Vietnam in those fields in the next few years. ❖

ASIAN LEGAL BUSINESS NAMES TILLEKE & GIBBINS AS A LEADING IP FIRM IN VIETNAM

In its July 2009 issue, featuring a report on intellectual property law firms in Asia based on a survey of in-house counsel throughout the Asia-Pacific Region, the major legal industry publication *Asian Legal Business* named Tilleke & Gibbins as one of the Leading IP Law Firms in Vietnam. The magazine also cited Tilleke & Gibbins' USPTO-qualified patent lawyer Thomas J. Treutler as a "highly recommended" attorney in Vietnam. ❖

NEW DECISION RELATING TO TOBACCO LABELING IN VIETNAM

Decision Will Affect Trademarks; Calls for Further Action to Fight Counterfeits and Contraband

On August 21, 2009, the Prime Minister of Vietnam issued Decision No. 1315/QD-TTg on the Approval of the Plan for Implementing the Framework Convention on Tobacco Control. Decision No. 1315 contains a number of provisions related to the labeling of tobacco products that may affect the presentation of trademarks on tobacco products. For example, in regard to warnings, Decision No. 1315 provides for "printing health warnings with pictures on the damaging effects of tobacco to health" on packaging. Prohibitions against certain wordings on labels that may cause consumers to believe that cigarettes have a lesser effect on health are also set forth (examples of prohibited wordings include "low tar," "light," "mild," etc.). Decision No. 1315 also calls for strengthening measures to combat counterfeit cigarettes and knock-off brands, as well as contraband products. ❖