

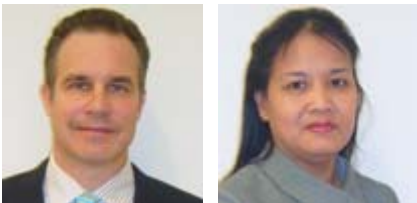
## APRIL 2009 Vietnam: IP law amendments planned

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In 2009, Vietnam will make some key amendments to its IP Law. Some of the amendments are aimed at correcting inconsistencies in the law, while others are designed to bring articles into compliance with Vietnam's international commitments on IP protection. Highlights include:

- The drafting committee is considering increasing the copyright term of protection for cinematographic, theatrical, applied art, and anonymous works, as well as rights of performers, audio and video recording producers and broadcasters from 50 years to 75 years.
- The drafting committee is considering eliminating the provision in which an infringement may result in an administrative fine of one to five times the value of the product, because in some cases this general provision could result in a fine that is higher than the maximum fine under Vietnamese law which is VND500 million (approximately \$31,000).
- The requirement that a cease and desist letter be sent for administrative actions for infringement may be modified to only require deliberate infringement, but not necessarily require a cease-and-desist letter. It is unclear if the cease and desist letter requirement will, however, remain in effect in practice to show deliberate infringement or might be a requirement in future implementing regulations or guidelines.
- The drafting committee is considering extending the statutory time for the National Office of Intellectual Property (NOIP) to complete substantive examination of trade mark applications from six months to 12 months and extending the examination period for patents from 12 months up to 24 months, due to a backlog of work at the NOIP.
- The drafting committee is considering providing that Vietnamese citizens/entities should apply for patent protection of their inventions first in Vietnam before filing for patent protection abroad.
- The drafts of the law have recommended providing more explicitly that border measures can be applied to export goods that are trade mark counterfeit goods.
- The drafts of the law have recommended providing that assessment of infringement (akin to an expert witness opinion used by adjudicatory bodies) should be provided by a state authority. However, many lawmakers have voiced opposition to this point and have proposed that this function should be conducted by private entities.



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