Decree No. 12/1999/ND-CP (06/03/1999)

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**Decree No. 12/1999/ND-CP of 06 March 1999 OF THE GOVERNMENT on the Handling of Administrative Violations in the Field of Industrial Property**

# The Government

*- Pursuant to the Civil Code of October 28,1995;*
*- Pursuant to the Law on the organisation of the Government of September 30, 1992;*
*- Pursuant to the Ordinance on the Handling of Administrative Violations;*
*- In order to enhance the effectiveness of organisations' and individuals' industrial property protection, to protect the legitimate rights and interests of consumers, and to contribute to preventing commercial fraud and the production of and trade in counterfeit goods;*
*- At the proposal of the Minister of Science, Technology and Environment,*

**Decrees**

# Chapter 1
# GENERAL PROVISIONS

## Article 1. Terminologies

The Terms used in this Decree shall have the respective meanings ascribed to them hereunder:

1. "Industrial property subject matters" refers to inventions, utility solutions, industrial designs, trademarks (including service marks), and appellations of origin;
2. "Industrial property owners " refers to the owners of the Protection Titles, the owners of international registration trademarks, and the transferees of industrial property rights to protected industrial property subjects;
3. "The Protection Title" refers to Patents for invention, Patents for Utility Solutions, Patents for Industrial Designs, Certificates of Trademark Registration, and Certificates of the Right to Use an Appellation.
4. "Infringing elements" refer to:
    - A sign which is identical or confusingly similar to a protected trademark or an appellation of origin of goods;
    - A sign or an indication that violates regulations on industrial property protection or related obligations;
    - A part of a product or a product or a production process which is identical to a protected invention or utility solution;
    - A part of a product or a product whose shape is being protected as an industrial design, or which contains one or more components that determine the shape of a protected industrial design.

# Article 2. The Regulating Scope

1. This Decree stipulates the acts of violation, the penalty forms and the levels of penalty, the procedures and the responsibility for handling administrative violations of the State_s protection and management of Industrial Property;
2. Any organisation and individual who unintentionally or intentionally commits a violation of the State regulations on the protection and management of industrial property though not a violation so serious as to merit criminal liability shall be handled in accordance with the Ordinance on the Handling of Administrative Violations and this Decree.
3. A foreign organisation and/or an individual, that commits a violation of the State_s administrative regulations on the protection and management of industrial property within the territory of the Socialist Republic of Vietnam, shall also be handled in accordance with this Decree, unless otherwise stated in related international treaties to which Vietnam is a party.

# Article 3. The Principles of Imposing Forms and Penalty levels

1. For each act of that violates administrative regulations on industrial property, the individuals or organisations that commit the act or acts shall be subject to either a warning or a fine.
   Warnings shall apply to unintentional violations, minor violations, first time violations and violations with extenuating elements.
   The imposition of a fine shall depend on the essence and degree of the violation. Where there are extenuating elements, a lower fine shall be imposed but will not fall below the minimum fine. As for a violation with aggravating elements, a higher fine shall be imposed but will not exceed the maximum fine.
2. Depending on the essence and extent of the violation, the individuals or organisations that conducting the acts of administrative violations may be subject to the following additional forms of penalties:
    1. The temporary or permanent revocation of their business license or their certificate for industrial property representing services (patent & trademark attorneys);
    2. The confiscation of evidence and implements used to conduct the act of administrative violation.
3. Apart from the forms of penalties provided for in paragraphs 1 and 2 of this Article, the offending organisations or individuals, in specific cases, may also be compelled to carry out one or more of the following:
    1. The elimination of the infringing elements from goods and implements used for the production of the infringing goods, the rectification of the false information caused by the violating act, the fulfillment of the obligations relating to industrial property rights, and the submitting of additional evidence on industrial property;
    2. The destruction of the goods that bear infringing elements and of infringing goods of bad quality that are harmful to human health;
    3. The compensation for the damages caused by the administrative violation.
       The compensation for damages caused by an act of administrative violation in the field of industrial property should be conducted according to the principle of negotiation between the party that caused the damages and the party that suffered from the damages. In the event that the parties concerned cannot negotiate a level of compensation for the damages caused by the act of administrative violation in the field of industrial property, the amount of compensation for such damages shall be determined by the competent person in charge of handling the case if the damage is below 1.000.000 VND or by civil procedures if the damages exceed 1.000.000 VND .
       The additional forms of penalties and measures provided for in paragraphs 2 and 3 of this Article shall apply when necessary in order to exhaustively handle the violation, and to eliminate the causes of the violation and the conditions for further violations and to overcome the consequences caused by the act of administrative violation in the field of industrial property.

## Article 4. The Time limits for Imposing Penalties

1. The time limit for handling acts of administrative violation in the field of industrial property is one year from the date the act of violation was committed. As for the acts infringing trademarks or appellations of origin or industrial designs, the time limit shall be two years from the date the infringing act was committed. If the said time limit expires, the organisation or individual that has committed the act of violation shall not be subject to penalties but may be compelled to destroy the infringing goods that are harmful to human health.
2. In cases where an individual has committed an act of violation of regulations on industrial property protection, has been prosecuted under the criminal procedures that relate to the production or trading of counterfeit goods, and whose violation has been suspended from further investigation or trial, the time limits for imposing administrative penalties shall be 3 months from the date of issue of the said decision.
3. If, within the time limits provided for in paragraphs 1and 2 of this Article, an individual or organisation commits a new act of violation in the field of industrial property, that individual or organisation shall be subject to penalties in accordance with the prescribed time limit as counted from the date of the commitment of the new act of violation.
   If within the time limits provided for in paragraphs 1 and 2 of this Article, the infringing individual or organisation intentionally evades or hampers the imposition of penalties, the time limit for imposing penalties shall be counted from the date the acts of evasion or hampering were stopped.

# Chapter 2
# ACTS OF VIOLATION AND THE FORMS AND LEVELS OF PENALTIES

## Article 5.

The acts of violation of regulations on procedures for the establishment and exercising of industrial property rights and the procedures for obtaining the permission for industrial property representative services

1. A warning or a fine from 200.000 VND to 1.000.000 VND shall be imposed on individuals or organisations that commit one of the following acts:
    1. Conducting the procedure for establishing and exercising industrial property rights with the aim of avoiding prohibited or restricted acts or carrying out an act in other fields that are prohibited or restricted by relevant laws and regulations;
    2. Conducting procedures for establishing and exercising industrial property rights for the purpose of establishing unfair competition, or a monopoly, or unlawful control of a market, or the annulment of the industrial property subject-matters of others, or limiting or narrowing the protection scope of the industrial property subject-matters of others, or abusing or reducing the commercial reputation/goodwill of other business establishments;
    3. Providing distorted information and evidence during the procedures for settling an industrial property appeal;
2. A fine of between 2,000,000 and 10,000,000 VND shall be imposed on an organisation or individual that commits one of the following acts:
    1. Amending, erasing, or falsifying protection titles or other certificates on the protection of industrial property rights, provided that those acts are not so serious as to be subject to criminal liability;
    2. Falsifying the papers giving untruthful information while filing an application for a protection title for the renewal or amendment of the protection title for the approval or registration of an industrial property right transfer or for a compulsory license, provided that these acts are not so serious as to be subject to criminal liability;

3. Falsifying papers or giving untruthful information while filing an application for the Certificate of an Industrial Property Agent who provides representative services and Patent-Attorney Cards and who provides for the renewal of such cards and services, so long as that these acts are not so serious as to be subject to criminal liability;

3. Complementary Sanctions:
    1. The revocation of the right to use a business license from between 1 month and 3 months in the cases of acts provided for in item 1; and from between 3 and 6 months for the acts stipulated in item 2 of this Article;
    2. The confiscation of unlawfully amended or falsified documents, or protection titles and other related certificates for the acts stipulated in item 2 of this Article;
    3. The confiscation of the protection title and other certificates belonging to organisations and individuals that commit the acts stipulated in points a, b item 1 of this Article.

# Article 6. The Acts That Violate the Regulations on Providing Information About Industrial Property Protection

1. A warning, or a fine of between 500,000 VND and 2,000,000 VND shall be imposed on any organisation or individual that has committed one of the following acts:
    1. Giving false information (including that in the form of signs) about the industrial property owner;
    2. Giving false information (including that in the form of signs) stating that products and services contain protected industrial property subject-matters;
    3. Using a trademark, or an appellation of origin of goods, or an industrial design that is different from the registered one, but that indicates that the trademark, the appellation of origin of goods, or the industrial design has been registered;
    4. Giving false information stating that goods or services have been provided for under a licensing agreement;
    5. Giving false information about the inventor of a protected invention and/or a utility solution and/or industrial design.
2. A warning, or a fine of between 1.000.000 and 5.000.000 VND shall be imposed on any organisation or individual that has committed one of the following acts:
    1. Failing to indicate that goods or services have been manufactured or provided under a license;
    2. Failing to indicate, or not properly indicating, the phrase "made in Vietnam" on goods or services that are manufactured or provided in Vietnam under a license granted by a foreigner, or on goods that are manufactured in Vietnam but that bear trademarks that may create confusion or mislead people into thinking that the products and goods are made abroad or originate abroad;
3. Complementary Sanctions:
    1. The revocation of the right to use a business license from between 1 and 3 months for the acts stipulated in items 1 and 2 of this Article;
    2. The confiscation of material evidence and implements used to commit the acts of violation stipulated in items 1, 2 of this Article.
4. Apart from the sanctions provided for in items 1, 2, 3 of this Article, the violating organisations or individuals may also be subject to one or more of the following measures:
    1. The forced removal of the offending elements from the products and business means for the acts stipulated in item 1 of this Article;
    2. The forced indication of required information for the acts stipulated in item 2 of this Article.

# Article 7. Acts That Violate the Regulations on Industrial Property Representatives and Consulting Services (Patent Attorneys)

1. A warning, or a fine of between 500.000 VND and 2.000.000 VND, shall be applied to a Patent-Attorney Service Organisation or a Patent-Attorney Person that has committed one of the following acts:
    1. Intentionally providing false information on regulations or activities in the field of industrial property and thereby causing damages to the legitimate industrial property rights owner;
    2. Hampering the procedure for establishing and exercising industrial property rights and thereby causing damages to the legitimate industrial property rights owner;
    3. Providing false consultation or information and thereby causing confusion or misunderstandings as to the functions, scope of rights or responsibilities of the industrial property agent or the patent attorney;
    4. Charging the client either official fees or service charges for the establishment and protection of industrial property rights at a rate that is inconsistent with prevailing provisions;
    5. Deceiving or forcing clients into signing contracts on industrial property representative services, where those acts are not serious enough to be subject to criminal liability;
    6. Concurrently acting as representatives for the parties involved in a dispute and thereby causing damages to the legitimate industrial property rights owner;
    7. Lending or using an industrial property representative certificate or a patent-attorney certificate with functions inconsistent with those provided for by law, or using an industrial property representative certificate or a patent-attorney certificate that is no longer valid.
    8. Failing to provide necessary information at the request of competent authorities or providing false information on issues related to industrial property representative services.
2. A warning, or a fine of between 1.000.000 VND and 5.000.000 VND, shall be imposed on representative services related to the establishment and exercising of industrial property rights without having a legitimate certificate for providing such services.
3. A fine of between 2.000.000 VND and 10.000.000 VND shall be imposed on any organization or individual that commits acts of amending, erasing or falsifying the Certificate of an industrial property representative agent and patent attorney, provided that these acts are not serious enough to be subject to criminal liability.
4. A fine of between 5.000.000 VND and 20.000.000 VND shall be imposed on an industrial property representative agent or a patent attorney that commits one of the following acts:
    1. Conducting acts that are beyond the scope of their functions, responsibilities or rights as per the law;
    2. Using a false state agency name or a false name of an official of a state agency in charge of the state management of industrial property for the purpose of providing industrial property representative services, provided the act is not serious enough to be subject to criminal liability.
5. Complementary Sanctions:
    1. The revocation of the right to use a business license from 1 to 3 months for the acts stipulated in item 2 of this Article;
    2. The revocation of the right to use the certificate on the provision of industrial property representative services from 1 to 3 months for the acts provided for in item 1, and from 3 to 6 months for the acts in item 3 of this Article;
    3. Revocation of the right to use the certificate on the provision of industrial property representative services for a period from 6 months to 1 year or forever as to the acts provided for in item 4 of this Article;
    4. Confiscation of false papers as to the acts provided for in item 3 of this Article.

6. Apart from the sanctions provided for in items 1, 2, 3, 4 and 5 of this Article, the following measures may be imposed on the organisation, individual:
    1. Forcible rectification of the false information for the acts stipulated in points a, c of item 1 of this Article;
    2. The forced compensation for damages caused by the administrative violation, with applicability to the acts stipulated in points 1, 2 and 3 of this Article.

# Article 8: Acts That Violate the Regulations on Industrial Property and Related Obligations

1. A warning, or a fine of between 1.000.000 VND to 5.000.000 VND, shall be imposed on any organization or individual that commits one of the following acts:
    1. Failing to fulfill the obligation to draft and register a contract to transfer industrial property rights according to the form, content and procedure provided for in the industrial property law;
    2. Failing to fulfill the obligation to register trademarks for products and services whose registration is required by law;
2. A fine of between 2.000.000 VND to 10.000.000 VND shall be imposed on any organisation or individual found to be using signs as a trademark where those signs create confusion or misunderstandings or deceive consumers as to the origin, function, utility, quality or value of certain goods and services.
3. A warning, or a fine of between 500.000 VND and 2.000.000 VND, shall be imposed on any organisation or individual that fails to pay the owner of an invention, utility solution or industrial design the royalty determined by the competent state authority in charge of granting compulsory licenses.
4. Complementary Sanctions:
    1. The revocation of the right to use business licenses for 1 to 3 months for the acts stipulated in item 1, or from 3 months to 1 year or forever for the acts stipulated in item 2 of this Article;
    2. The confiscation of material evidence and implements used to commit the administrative violation, for the acts stipulated in item 1.b and item 2 of this Article.
5. Apart from the sanctions provided for in items 1, 2, 3 and 4 of this Article, the violating organisation or individual may also be subject to one or more of following measures:
    1. The forced fulfillment of required industrial property obligations for the acts stipulated in points 1 (a), and (b) and 3, and the forced removal of infringing elements from products and business means for the acts stipulated in item 2.c of this Article;
    2. The forced compensation for damages caused by the administrative violation for the acts stipulated in items 1,2 and 3 of this Article.

# Article 9: Acts That Violate the Regulations on the Protection of Industrial Property Rights

1. A warning, or a fine of between 5.000.000 VND to 20.000.000 VND, shall be imposed on any organisation or individual, other than the industrial property owner or the person entitled to the prior use rights (in respect of the invention, utility solution and industrial design), who commits, without the authorisation of the industrial property owner or the Ministry of Science, Technology and Environment, one of the following acts for commercial purposes:
    1. Producing (manufacturing, prefabricating, assembling, processing and packaging) a product or parts of a product that is protected by a patent for an invention, a utility solution or an industrial design;
    2. Applying a process that is protected by a patent for an invention or a utility solution;
    3. Exploiting a product or parts of product that is protected by a patent for an invention or a utility solution;
    4. Putting into commercial distribution channels (selling, transporting), or advertising (via the mass media, sign-boards, posters, or by business means, by other goods and service

means, or by offering for sale, or by putting on sales promotion or by other business communication forms) with a view to selling, offering for sale or storing for sale, a product or parts of a product that is protected by a patent for an invention or a utility solution;

5. Importing or exporting a product or parts of a product that is protected by a patent for an invention, a utility solution or a product manufactured by a process that is protected by a patent for an invention or a utility solution;
6. Putting into commercial distribution channels (selling, transporting), or advertising (via the mass media, sign-boards, posters, or by business means or other goods and service means, or by offering for sale, or putting on sale promotion or by other manuals used in business) for the purpose of selling, offering for sale or storing for sale the following products:
    - A product or parts of a product whose shape is being protected as an industrial design or whose shape contains one or several elements which are essential features of a protected industrial design;
    - A product, or parts of a product or its packaging, that bears signs identical or confusingly similar to a trademark, or an appellation of origin being protected with respect to identical and similar products, including the use of an appellation of origin translated into other language or accompanying words like "type", "style", "adapted to" and the like;
7. Importing or exporting the products described in point (g) of this item;
8. Affixing (printing, sticking, attaching, casting, moulding, etc.) on products, or their packaging a sign identical or confusingly similar to a trademark or an appellation of origin that is protected with respect to identical or similar products;
9. Providing services under a name or a symbol or affixing on service means a sign identical or confusingly similar to a service mark that is protected with respect to identical or similar services;

2. A fine of between 20,000,000 VND to 50,000,000 VND shall be imposed on any organisation or individual that commits one of the acts described in item 1 of this Article in the case of recidivism and from 50,000,000 VND to 100,000, 000 VND in the case of organised large scale infringement provided that the infringing acts are not serious enough to impose a criminal liability.
3. A fine from 2,000,000 VND to 10,000,000 VND shall be imposed on any organisation or individual that commits one of the following acts: making, selling, transporting, storing for sale, importing, or exporting the labels, etiquettes, trademark patterns, or packaging of products bearing signs identical or confusingly similar to a trademark or an appellation of origin or an industrial design that is protected.
4. Complementary Sanctions:
    1. The revocation of the right to use a business permit from 1 to 6 months for the acts stipulated in items 1 and 3, and from 6 months to 1 year or forever for the acts stipulated in items 2 of this Article;
    2. The confiscation of materials and business instruments used to commit the acts provided for in items 1, 2 and 3 of this Article.
5. Apart from the provisions provided for in items 1, 2, 3 and 4 of this Article, the offending organisations and individuals may also be subject to one or more of the following measures:
    1. The forced removal of offending elements from products and goods and business instruments for the acts stipulated in items 1 and 2 of this Article;
    2. The forced compensation for damages caused by the acts of violation for the acts stipulated in items 1 and 2 of this Article;
    3. The forced destruction of products bearing offending elements for the acts stipulated in item 3 of this Article, or the forced destruction of offending goods that are of bad quality that may be harmful to human heath, for the acts stipulated in items 1 and 2 of this Article.

# Chapter 3
# The Authority and Procedures for Handling Violations

## Article 10: The Authority of the People Committees

The People Committees at the various levels have the authority to handle the acts of violation of administrative regulations on industrial property incurred in the respective localities within their jurisdiction in accordance with Articles 6, 7, 8 and 9 of this Decree and provided for as follows:

1. The President of the People Committee of a district or a town or a city or a province has the authority to order:
    1. Warnings;
    2. Fines of up to 10.000.000 VND;
    3. The confiscation of offending goods, materials and instruments used in committing acts of violation which are estimated to have caused up to 100.000.000 VND worth of damage;
    4. The revocation of the right to use a business permits granted by the competent authorities of the relevant district for a certain period or forever;
    5. The Forced removal of offending elements from products and goods and business instruments, and the forced rectification of false information or indications that caused the act of violation;
    6. The forced compensation for damages caused by the act of violation;
    7. The forced destruction of products bearing offending elements or of offending goods that are of bad quality and that may be harmful to human heath.
2. The President of the People Committee of a province or a city under the Central province has the authority to order:
    1. Warnings;
    2. Fines of up to 100.000.000 VND;
    3. The confiscation of offending goods, materials or instruments used in committing the acts of violation;
    4. The revocation of the right to use the business permits granted by the competent authorities of the relevant districts and the relevant province for a certain period or forever;
    5. The forced removal of offending elements from products and goods and business instruments, or the forced rectification of false information or indications that caused the acts of violation;
    6. The forced compensation for damages caused by the acts of violation;
    7. The forced destruction of products bearing offending elements or offending goods that are of bad quality and that may be harmful to human heath.

## Article 11. The authority of the Specialised Inspection Organisations With Industrial Property

The Specialised Inspection Organisation under the Ministry of Science, Technology and Environment has the authority to handle acts of violation of administrative regulations on industrial property throughout the country. The Specialised Inspection Organisations under Provincial Departments of Science, Technology and Environment have the authority to handle acts of violation of administrative regulations on industrial property in the localities within designated jurisdictions. The authority of the Specialised Inspection Organisations with respect to Industrial Property is stipulated as follows:

1. A Specialised Inspector of industrial property who is being on a mission has the authority to order:
    1. Warnings;
    2. Fines of up to 200.000 VND;
    3. The confiscation of offending goods, materials and instruments used in committing acts of violation estimated to have caused up to 500.000 VND worth of damage;
2. The Chief of the Specialised Inspection Organisation on industrial property under the Provincial Department of Science, Technology and Environment has the authority to order:
    1. Warnings;
    2. Fines of up to 10.000.000 VND;
    3. The confiscation of offending goods, materials and instruments used in committing acts of violation estimated to have caused up to 100.000.000 VND of damage;
    4. The forced removal of offending elements from products and goods and business instruments, or the forced rectification of false information or indications that caused the acts of violation;
    5. The forced compensation for damages caused by the acts of violation;
    6. The forced destruction of products bearing offending elements or of offending goods that are of bad quality and that may be harmful to human heath.
    7. The demand that the General Director of the National Office of Industrial Property revoke the patent attorney service permit;
3. The Chief of the Specialised Inspection Organisation on Industrial Property under the Ministry of Science, Technology and Environment has the authority to order:
    1. Warnings;
    2. Fines of up to 20.000.000 VND;
    3. The revocation of the right to use the patent attorney service permit for a certain period or forever;
    4. The confiscation of the offending goods, materials and instruments used to commit the acts of violation;
    5. The forced removal of offending elements from products and goods and business instruments, or the forced rectification of false information or indications that caused the acts of violation;
    6. The forced compensation for damages caused by the acts of violation;
    7. The forced destruction of products bearing offending elements or of offending goods that are of bad quality and that may be harmful to human health.

# Article 12. The Authority of the Police Services, and the Customs and Market Management Forces

The Chief of the District Police, the Chief of the Economic Police Department, the Chief of the Provincial Police, the Chief of the Economic Police Bureau, the Chief of the Port Customs Unit, the Chief of the Provincial Customs, the Chief of the Market Management Bureau, and the Chief of the Provincial Market Management Department have the authority to impose administrative sanctions and other measures on organisations and/or individuals which have committed the acts of violation of administrative regulations on industrial property within their respective jurisdictions in accordance with items 1, 3, 4 and 5 of Article 9 of this Decree and articles 29, 30 and 33 of the Ordinance on the Handling of Violations of Administrative Regulations.

# Article 13: The Responsibility of the State Management Agencies for the Handling of Violations of Administrative Regulations on Industrial Property

The National Office of Industrial Property is responsible for ensuring the State_s management of Industrial Property complies with the laws and regulations, and for co-operating with other Central and local competent authorities which have the authority to handle violations of administrative regulations on industrial property protection.

# Article 14: The Procedures for the Handling of Violations

1. When detecting an act of violation or a sign of an act of violation of administrative regulations on industrial property, the authorised person shall immediately issue an order to halt it. He shall then state clearly the provisions on the handling of violations of administrative regulations on industrial property and related provisions on industrial property protection to the offending organisation or individual, and shall require the offending organisation or individual to implement properly the related industrial property provisions.
2. In cases where the act of violation is obviously deserving of a warning, the authorised person may decide the warning on the spot and determine whether or not it will be in writing.
   In cases where the act of violation may merit a fine, the authorised person shall make a prompt record of this in accordance with Article 47 of the Ordinance on Handling of Violations of Administrative Regulations.
3. If, after making a record of the act of violation, it is considered that an expert of examination from a specialised agency on industrial property is necessary, the authorised person shall deliver the evidence and dossier relating to the violation and a notice of examination request to the State management agency in the relevant locality or in the Centre according to Article 13 of this Decree in order to get an expert examination made by such agencies on the verification and conclusion of the act of violation, and in order to have appropriate sanctions and measures applied thereto.
   Within a period of 10 days from the receiving date of the notice of the examination request and the evidence and dossier that relates to the violation, the State management agencies on industrial property shall provide an official expert examination in writing to the authorised person.
4. Within a period of 15 days from the date of making a record of the act of violation, the authorised person shall render a decision as to the sanctions to be made against the act of violation. In the case of a serious violation or a violation with complicated details, this period may be extended to but can not exceed 30 days. The procedure and the content of the sanction decision should be in accordance with Article 48 of the Ordinance on the Handling of Violations of Administrative Regulations.
   The effective date of a sanction decision can be the signing date or another date determined in the decision, but cannot be a date that is more 15 days after the signing day.
   The sanction decision shall be delivered to the offending organisation and/or individual within 3 days from the signing date. At the same time the sanction decision shall be delivered to the National Office of Industrial Property so that the National Office of Industrial Property may control the violations and conduct procedures relating to the establishment, amendment, suspension or cancellation of the validation of the Protection Title and other related certificates and permits on industrial property.

# Article 15. The Fine Procedures

A fine must be subjected to the following procedures:

1. The fine, the period of time, and the place of the fine payment should be determined clearly in the sanction decision;
2. The fined organisations and/or individuals shall pay their fines in the period of time and at the place indicated in the sanction decision and shall be entitled to receive an invoice for the fine payment. With the collection of fines, it is compulsory to use the invoice of the fine payment issued by the Ministry of Finance;
3. It is prohibited from collecting the fine on the spot;
4. Collected fines shall be rendered to the State Budget through its account at the State Treasury;
5. One copy of the sanction decision of any fine from 2.000.000 VND and above shall be sent to the respective People_s Prosecution Institute.

# Article 16. The Revocation Procedures

1. The procedure for the revocation of the right to use a business permit and a patent attorney service permit should be in accordance with Article 50 of the Ordinance on Handling of Violations of Administrative Regulations.
   The authorised person may revoke the right to use a permit in cases where offending organisations or individuals intentionally do not cease their violations or where it appears there is a likelihood of further violations. When deciding to apply the revocation, the authorised person shall indicate clearly in the decision the name, category and serial number of the revoked permit and the period of the revocation and, shall immediately notify the competent agency that granted the permit of the revocation, with the reason and the period of time of the revocation to be clearly indicated in the notice.
   In cases where it is considered that the category of the permit or the period of the revocation is failing in their jurisdiction, the authorised person shall request a person with higher authority or the competent offices that granted the permit to revoke or seize the permit.
2. The authorised person may decide to revoke the right to use a permit for a period in cases where it is considered that the offending organisation or individual is able to carry out the appropriate measures to recover and limit the consequences caused by their violation, cease their acts of violation and eliminate the causes of the violation and the conditions for further violation during an appropriate time after halting their operation of the production, business and service.
   The period of revocation shall be limited according to the particular act of violation and the time that is needed for the offending organisation or individual enable to recover and limit the consequence of the violation and eliminate the causes of the violations and the conditions for further violation. When the period of revocation indicated in the decision is terminated, the authorised person that ordered the revocation of the permit shall return that permit to the organisation or individual permitted to use it.
3. The authorised person may decide to revoke the right to use a permit forever or, may request the competent office that granted the permit to revoke the permit as in the case of acts of organized, large scale or repeated violations.
   When a permit is found to have been granted with improper authority or unlawful content, the authorised person shall immediately seize it and at the same time shall notify the seizure to the competent office that granted the permit and to the related State Inspection Organisation.

# Article 17. The Procedures for the Temporary Seizures of Material Evidence

1. The authority and procedure for the application of the temporary seizure of material evidence shall be in accordance with Article 41 of the Ordinance on Handling of Violation of Administrative Regulations;
2. The temporary seizure of material evidence shall be applied in cases where it is necessary to prevent acts of violation or to collect evidence needed to verifying the details of a violation so that the decision on the handling of the violation may be relied upon.
3. If, at the end of the period of the temporary seizure of material evidence, it appears that the confiscation of material evidence should be applied, the authorised person that has decided on the application of the temporary seizure may request the competent office to render a decision on the confiscation of the material evidence in accordance with Article 51 of the Ordinance on the Handling of Violations of Administrative Regulations and with Article 18 of this Decree.

# Article 18. The Procedure for the Confiscation of Material Evidence Related to the Violation of Administrative Regulations

1. The procedure for the confiscation of material evidence related to the violation of administrative regulations on industrial property shall be in accordance with Article 51 of the Ordinance on the Handling of violations of administrative regulations.
2. The confiscation of material evidence related to the violation of administrative regulations on industrial property shall be applied in the following cases:
    1. When the confiscation and sealing of goods and material evidence is necessary to collect the evidence and/or protect the evidence from being destroyed or removed or changed;
    2. When goods, papers and other material evidence are likely to be further violated;
    3. When the offending organisations or individuals cannot remove the offending elements from the goods or intentionally do not carry out the requirement of the authorised person to remove the offending elements or amend or supplement the required indications with respect to the goods and business instruments;
    4. When adequate evidence is available to determine that the floating goods in the market and the exported and imported goods that bear the offending elements have not originated from the legitimate industrial property owner, even though it is impossible to verify the origin of goods, the owner, the producer or their distributor.
    5. The instruments used in committing the act of violation are instruments that mainly have the function of producing offending goods or providing offending services;

# Article 19. The Procedure for Handling the Material Evidence Related to the Violation of Administrative Regulations

The handling of material evidence related to the violation of administrative regulations on industrial property shall be in accordance with Article 52 of the Ordinance on the Handling of Violations of Administrative Regulations, and the provisions below.

1. Material evidence may be destroyed in cases where it meets the following descriptions:
    1. The offending goods are of bad quality and are harmful to human health and/or the environment;
    2. The offending goods and other material have no value;
    3. The offending and materials are labels, emblems, trademark patterns, packages, and goods;
    4. The offending goods and offending instruments cannot be handled by the methods defined under item 2 of this Article, despite being of value;
2. Material evidence that takes the form of goods, or instruments for production, or a business or a service that does have value in use, should be handled as follows:
    1. Offending elements should be removed from the goods and from the instruments for production and business and the provision of services, and put on auction, provided that the buyers have the appropriate measures to exploit reasonably those instruments and guarantee that they will not commit any further acts of violation and shall not affect the legitimate rights and interests of the related industrial property owners. As for an offending instrument whose main function is to produce offending goods or provide offending services, it is not permissible to put them on auction unless the buyers of those instruments have the appropriate tools to change their function and guarantee to use them for other functions or to re-use them as materials;
    2. Goods should be put on auction, provided that the buyers have been lawfully licensed by the legitimate owner of industrial property and that the goods meet the quality requirements and that the buyers have the appropriate measures to supplement the indications as prescribed;

3. In cases where it is impossible to remove the offending elements, or where the requirements for putting goods on auction are not met according to provisions provided for in points a, b of this item, the goods should be distributed for non commercial uses ( for example humanitarian, public welfare, study or educational purposes) provided that the exploitation and use of the goods does not affect the legitimate rights or interests of the related industrial property owners;

## Article 20. The Execution of Sanction Decisions

1. Within a period of 5 days from the date of receiving a sanction decision, if sanctioned organisations or individuals are failing to execute the sanction decision, the authorised person may render a decision to force him to execute the sanction decision.
2. The execution of a sanction decision and the forced execution of a sanction decision shall be in accordance with the provisions of Articles 54, 55 and 56 of the Ordinance on the Handling of Violations of Administrative Regulations.

# Chapter 4
# The Settlement of Appeals and Denunciations of the Handling of Violations

## Article 21. Appeals and Denunciations of the Handling of Violations

1. If the authorised person that has the authority to handle the violation of administrative regulations on industrial property violates the regulation on the handling of violations of administrative regulations, or tolerates or covers up a violation of the administrative regulations, or does not handle or handles improperly a violation of the administrative regulations, that person shall be either sanctioned administratively, or examined for a penal liability depending on the characteristics and extent of his violation. If his violation incurred material losses of property for the State, organisations or individuals, he shall have to compensate for such losses in accordance with the relevant provisions of law.
2. The procedure for appealing and settling an appeal on the handling of violations of administrative regulations, or for denunciating and settling a denunciation of a violation of the authorised person who has the authority to handle the violation of administrative regulations on industrial property, shall be implemented according to Chapter VIII of the Ordinance on the Handling of Violations of Administrative Regulations and on the Ordinance on the Procedures for the Settlement of Administrative Cases. Violation by the person in charge of handling administrative violations and the person subject to administrative sanctions the field of industrial property shall be settled in accordance to Chapter IX of the Ordinance on the Handling of Violations of Administrative Regulations.

# Chapter 5
# The Implementing Provisions

## Article 22.

This Decree takes effect 15 days from the signing date and replaces the relevant provisions for the handling of the acts of violation in the production and trading of goods bearing trademarks that are identical or similar to a trademark of another enterprise provided for in point (a) of item 1 and point (a) of item 3 of Article 15 of Decree 57/CP of May31 1997.

## Article 23.

The Minister of Science, Technology and Environment, the Minister of Commerce, the Minister of Police, the Minister of Finance and General Director of General Department of Customs, within their respective jurisdictions are in charge of instructing and inspecting the implementation of this Decree .

## Article 24.

The Ministers, the Chiefs of ministerial-level agencies, the Chief of agencies under the Government, the Presidents of the People Committees of provinces and the cities directly under the Central Government shall are responsible for implementing this Decree.

On behalf of the Government
**The Prime Minister**
**Phan Van Khai**
*(Signed)*