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DECREE

Making detailed provisions and providing guidelines for implementing the provisions of the Intellectual Property Law concerning industrial property

THE GOVERNMENT

Pursuant to the Law on the Organization of the Government dated 25 December 2001;

Pursuant to the Civil Code No.33/2005/QH11 dated 14 June 2005;

Pursuant to the Law on Intellectual Property No.50/2005/QH11 dated 29 November 2005;

At the request of the Minister of Science and Technology;

DECREES

Chapter I

GENERAL PROVISIONS

Article 1. The Scope of regulation

1. This Decree makes detailed provisions and provides guidelines for implementing the provisions of the Law on Intellectual Property No.50/2005/QH11 dated 29 November 2005 (to be referred to as the Intellectual Property Law) concerning the establishment, subject matters and contents of, and limitations to, industrial property rights as well as concerning various policies and measures to develop industrial property activities.
2. This Decree neither provides for the protection of industrial property rights nor for the handling of administrative offences in the field of industrial property.

Article 2. Applicable subjects of the industrial property provisions

1. The provisions concerning industrial property of the Intellectual Property Law and of this Decree apply to individuals, legal entities and other civil right holders of Vietnam (to be jointly referred to as Vietnamese organizations and individuals).
2. The provisions concerning industrial property of the Intellectual Property Law and of this Decree also apply to foreign organizations and individuals that satisfy all the conditions to enjoy industrial property protection in Vietnam under international treaties on or concerning industrial property to which Vietnam is a party, including:

- a) The Paris Convention for the Protection of Industrial Property entered into in 1883 and amended in 1967 (to be referred to as the Paris Convention).
- b) The Vietnam-US Bilateral Trade Agreement, entered into in 2000.
- c) The Agreement on Protection of Intellectual Property Rights and Cooperation in the field of industrial property entered into in 1999 between Vietnam and Switzerland.
- d) The Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIP Agreement) to be applied as soon as Vietnam joins the World Trade Organization (WTO).
- (d) Other international treaties on or concerning the protection of industrial property rights of which Vietnam is a member as announced by the Ministry of Science and Technology to be applied when such international treaties become enforceable against Vietnam.

Article 3. Application of international treaties

- 1. Where any international treaty referred to in Article 2.2 of this Decree contains any provisions on industrial property rights which are different from those of the Intellectual Property Law and this Decree, the provisions of that international treaty shall be applied.
- 2. A foreign organization or individual that meets all the conditions for industrial property protection in Vietnam as referred to in Article 2.2 of this Decree may prepare and file application for registration of industrial property rights in Vietnam under the treaties on the filing of international applications, specifically:
 - a) The Patent Cooperation Treaty entered into in Washington in 1970 as amended in 1984 (to be referred to as the PCT Treaty).
 - b) The Madrid Agreement on the International Registration of Marks entered into in Madrid in 1891 and amended in 1979 (to be referred to as the Madrid Agreement) and the Protocol of that Agreement (to be referred to as the Madrid Protocol).
 - c) Other international treaties relating to the filing of international applications to which Vietnam is a party as announced by the Ministry of Science and Technology.

Article 4. Announcement of international treaties on industrial property

- 1. The Ministry of Science and Technology shall be responsible to announce in the Official Gazette for Industrial Property all the international treaties on or concerning industrial property of which Vietnam is party.

2. An announcement of an international treaty referred to in paragraph 1 of this Article shall contain the following details:
 - a) Full text of the treaty and its implementing documents in the original language and its (their) Vietnamese translation(s).
 - b) The effective date of the treaty in Vietnam.
 - c) Details of reservation (if any).
 - d) A list of member countries of the treaty.

Article 5. The State administrative authority of industrial property rights

1. The National Office of Intellectual Property under the Ministry of Science and Technology shall be the State administrative authority authorized to issue, renew, extend, cancel, terminate, or amend the validity of protection titles for inventions, industrial designs, lay out designs, marks or geographical indications or shall recognize an international registration in accordance with Article 6.3 of Chapter VIII of the Intellectual Property Law.
2. The Ministry of Science and Technology shall provide for in detail the functions and duties of the National Office of Intellectual Property upon exercising the powers referred to in paragraph 1 of this Article.

Article 6. Competence and responsibility for State administration of industrial property

1. The Ministry of Science and Technology shall have the following competences and responsibilities during State administration of industrial property:
 - (a) Formulation and organization of the implementation of strategies and policies on the protection of industrial property rights;
 - (b) Promulgation, submission to the competent agency for promulgation, of and organization of the implementation of legal documents on industrial property;
 - (c) Organization of the administration mechanism; providing operational instructions and organizing professional and operational training courses for industrial property management agencies of various ministries, sectors and localities;
 - (d) Direction of the implementation and implementation of industrial property procedures;
 - (d) Implementation of various measures to protect legitimate rights and interest of the State, organizations and individuals in the industrial property field; coordinating with State agencies and social organizations in taking various measures to protect industrial property rights;

- (e) Organization activities of the information and statistics about industrial property;
 - (g) Inspection and control of the observance of industrial property legislation; resolution of industrial property appeals and denunciations;
 - (h) Coordination with various agencies to educate, disseminate and popularize legal knowledge on industrial property;
 - (i) Examination of qualifications and operational skills; issue of practising certificates and management of operations of business organizations and individuals practising industrial property agency practice;
 - (k) International cooperation on industrial property.
2. The National Office of Intellectual Property under the Ministry of Science and Technology shall be the agency in charge of assisting the Minister of Ministry of Science and Technology in carrying out the function of State administration of industrial property as set out in Part Three of the Intellectual Property Law and Paragraph 1 of this Article.
3. People's committees of provinces and cities under central authority, within the scope of their respective functions, shall have the following responsibilities and competences for State management of industrial property in their localities:
- a) Organization of the implementation of policies and laws on industrial property;
 - b) Formulation of plans of development of industrial property activities, and organization of the implementation of those plans;
 - c) Organization of the administration mechanism of industrial property activities and implementation of various measures to improve the efficiency of that mechanism;
 - d) Organization of the dissemination and popularization of legal knowledge and policies concerning industrial property; coordinating with social organizations in taking measures to organize emulation programs for creative activities and industrial property activities.
 - (đ) Assisting various subjects that fall under local control to complete necessary procedures to establish their industrial property rights in Vietnam and overseas.
 - (e) Coordinating with various agencies in charge of protection of laws to protect industrial property rights and deal with breaches of industrial property legislation.
 - (g) Management of the State industrial property objects in their localities.

4. Departments of science and technology shall have the function to assist the chairmen of people's committees of provinces and cities under central authority in managing industrial property activities in their localities and directly carrying out those activities.

Article 7. Method of calculation of term

The method of calculation of the terms set out in the Intellectual Property Law and this Decree shall be in accordance with the provisions of Chapter VIII of the Civil Code No.33/2005/QH11 dated 14 June 2005.

Article 8. Industrial property fees and charges

The collection, payment, management and use of various industrial property fees and charges shall be carried out in accordance with the provisions of the Ministry of Finance.

Chapter II ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS

Article 9. Bases for establishment of industrial property rights

1. Industrial property rights to inventions, industrial designs, marks and geographical indications shall be established on the basis of a decision from the National Office of Intellectual Property to grant the Protection Title to the applicant for registration of those objects as set out in Chapters VII, VIII and IX of the Intellectual Property Law. Industrial property rights in the marks internationally registered under the Madrid Agreement and the Madrid Protocol shall be established on the basis of recognition of such international registration by the National Office of Intellectual Property.
2. Industrial property rights to well-known marks shall be established on the basis of the widespread use practice of those marks in accordance with Article 75 of the Intellectual Property Law without completing any registration procedures.
3. Industrial property rights to trade names shall be established on the basis of lawful use of the trade names pursuant to the relevant area (territory) and the business field without completing registration procedures.
4. Industrial property rights to business secrets shall be established on the basis of financial and intellectual investments to acquire and own information and to keep confidentiality of the information which forms the business secrets without completing registration procedures.

Article 10. Right to registration of industrial property objects

1. Only those organizations and individuals provided for in Articles 86, 87 and 88 of the Intellectual Property Law shall have the right to registration of inventions, industrial designs, marks, layout designs and geographical indications.

2. If an organization or individuals fails to meet the conditions set out in Articles 86, 87 and 88 of the Intellectual Property Law but still files an application for registration of an invention, industrial design, mark, layout design or geographical indication, its application shall be dealt with as follows:
 - a) If the failure to meet those conditions by such organization or individual is discovered before a protection title is granted, the application shall be regarded as invalid under Article 109.2(c) of the Intellectual Property Law;
 - b) If the failure to meet those conditions by such organization or individual is discovered after a protection title is granted, the validity of such protection title shall be annulled in accordance with Article 96.1(a) of the Intellectual Property Law.

Article 11. Right to registration of inventions, industrial designs and layout designs of the State

1. If an invention, industrial design or a layout design is created on the basis of full financial, material and technical investments by the State, the right to registration of such invention, industrial design or layout design shall belong to the State; the agency or organization assigned by the State to act as the investment owner shall exercise the above right to registration for and on behalf of the State.
2. If an invention, industrial design or a layout design is created on the basis of a capital contribution by the State (either by way of funds or material and technical facilities), a part of the right to registration of such invention, industrial design or layout design shall belong to the State pursuant to the percentage of its capital contribution; the agency or organization which acts as the owner of the State capital contribution shall be responsible to exercise the State share in the above right to registration for and on behalf of the State.
3. If an invention, industrial design or a layout design is created on the basis of the research and development cooperation between a State agency/organization and another organization/individual, unless it is otherwise agreed in the research and development cooperation agreement, a part of the right to registration of such invention, industrial design or layout design shall belong to the State pursuant to the percentage of the contribution by such State agency/organization. The State agency or organization which takes part in the research and development cooperation shall be responsible to exercise the above right to registration for and on behalf of the State.
4. The State agency/organization exercising the right to registration of an invention, industrial design or a layout design as set out in paragraphs 1, 2, 3 and 4 of this Article shall have the right to transfer part of such registration right to another organization or individual provided that the transferee organization/individual must pay a certain amount of money to the State or must satisfy other reasonable commercial conditions determined as compared to the commercial potential of such invention, industrial design or layout design.

Article 12. Detailed provisions on the form, contents, order and procedures for

processing applications for registration of industrial property rights

1. The Ministry of Science and Technology shall be responsible to make detailed provisions for the form and contents of various types of applications for registration of industrial property rights as set out from Articles 100 to 107 [of the Intellectual Property Law] and shall provide guidelines for the order and procedures to process such applications in accordance with Articles 108 to 119 of the Intellectual Property Law.
2. The Ministry of Science and Technology shall also be responsible for issuing forms of Protection titles and National Registers of Industrial Property, and for making detailed provisions for the form and contents of the Official Gazette for Industrial Property.

Article 13. Priority right of applications for registration of inventions, industrial designs and marks

The priority right of applications for registration of inventions, industrial designs and marks provided for in Article 91 of the Intellectual Property Law shall be applied as follows:

1. If the applicant for registration of an invention, industrial design or a mark wants to enjoy the priority right under the Paris Convention, his/her claim for such priority right shall be accepted if the following conditions are satisfied:
 - a) Such applicant is a national of Vietnam or of a member country of the Paris Convention or is a resident of or has a business/production establishment in Vietnam or in that member country of the Paris Convention.
 - b) The first application has been filed in Vietnam or in a member country of the Paris Convention and has the same contents as part or the whole of the application for registration of invention, industrial design or mark.
 - c) The registration application is filed within the following time limits: six (6) months for the industrial design or mark registration application; twelve (12) months for the invention registration application.
 - d) In the application for registration of inventions, industrial designs and marks, the applicant claims the priority right and provides a copy of the first application as referred to in point (b) of this paragraph with certification of the agency that received the first application.
2. If the applicant for registration of an invention, industrial design or a mark wants to enjoy the priority right under another international treaty, his/her claim for such priority right shall be accepted if all the conditions for the priority right set out in that international treaty are satisfied.

Article 14. Invention international applications

1. In this Article, “the PCT application” shall be construed as an application for

registration of an invention which is filed under the PCT Treaty, including:

- a) Applications originating from other member countries of the PCT Treaty under which Vietnam is the designated or selected country.
 - b) Applications originating from Vietnam under which another member country of the PCT Treaty is the designated or selected country.
2. For a PCT application designating or selecting Vietnam, the National Office of Intellectual Property shall be the designated or selected agency.

A PCT application designating or selecting Vietnam shall only be considered by the National Office of Intellectual Property if, within 31 months from the filing date of the international application, or from the priority date if the priority right is claimed, the applicant completes the procedures in the National Phase in accordance with the PCT Treaty and the MoST guidelines and pays national fees and charges in accordance with the provisions of the Ministry of Finance.

A PCT application that enters the National Phase shall be processed in the same manner as a directly filed invention registration application.

3. With regard to a PCT application originating from Vietnam, the applicant may file it with the National Office of Intellectual Property or with the International Office of the World Intellectual Property Organization (WIPO).

A PCT application originating from Vietnam must be made either in English or Russian and must satisfy all the requirements of the PCT Treaty as to the form and contents.

Article 15. Mark international applications

1. In this Article, “the Madrid Application” shall be construed as an international application for registration of a mark filed under the Madrid Agreement or the Madrid Protocol, including:
- a) Applications that claim for protection of marks in Vietnam and originate from other member countries of the Madrid Agreement or the Madrid Protocol, to be referred to as Madrid Applications designating Vietnam.
 - b) Applications that claim for protection of marks in member countries of the Madrid Agreement or the Madrid Protocol and are filed in Vietnam, to be referred to as Madrid Applications originating from Vietnam.
2. After being announced by the International Office of the World Intellectual Property Organization (WIPO), a Madrid Application designating Vietnam shall go through the formal examination like a directly filed application for mark registration.

A mark accepted for protection shall be made public by the National Office of Intellectual Property in the Official Gazette for Industrial Property. At the request

- of an application, the National Office of Intellectual Property shall issue a certificate of internationally registered mark being protected in Vietnam.
3. For a Madrid Application originating from Vietnam, the National Office of Intellectual Property shall be the agency that receives the application.
 4. Vietnamese organizations and individuals may exercise the right to international registration of their marks under the Madrid Agreement or the Madrid Protocol subject to the following conditions:
 - a) To file the application under the Madrid Agreement, if the protection is claimed in a member country of the Madrid Agreement, provided that the mark has been granted Protection title in Vietnam;
 - b) To file the application under the Madrid Protocol, if the protection is claimed in a country which is a member of the Madrid Protocol but is not a member of the Madrid Agreement, provided that an application for mark registration in Vietnam has been filed.

Article 16. Establishment of industrial property rights on the basis of international treaties on mutual recognition of protection

1. In case an international treaty on or concerning industrial property of which Vietnam is a member provides for the recognition and protection of industrial property rights of organizations and individuals of treaty members, industrial property rights of other member countries of such treaty shall be recognized and protected in Vietnam with the scope and term of protection pursuant to the provisions of the treaty without having to complete registration procedures as provided for by the Intellectual Property Law.
2. In addition to the announcement of the international treaties referred to in paragraph 1 of this Article, the Ministry of Science and Technology shall be responsible for making public all the necessary information relevant to the industrial property rights being recognized and protected in Vietnam thereunder.

Article 17. Appeals and settlement of appeals against registration of industrial property rights

1. The person who files an industrial property application has the right to appeal to the Director General of the National Office of Intellectual Property against any the National Office of Intellectual Property decision concerning the processing of his/her application (first instance appeal).

Any organization or individual with rights and interest directly related to a decision on processing of an industrial property application shall have the right to appeal against that decision.

2. Upon the expiration of the time limit for settlement of the first instance appeal referred to in paragraph 5 of this Article, if an appeal is not dealt with or in case of disagreement with the settlement decision of the Director General of the National

Office of Intellectual Property, the appellant shall have the right to appeal to the Minister of the Ministry of Science and Technology (second appeal) or to proceed with litigation in accordance with administrative procedures.

Upon the expiration of the time limit for settlement of the second appeal referred to in paragraph 5 of this Article, [if an appeal is not dealt with] or in case of disagreement with the settlement decision of the Minister of Ministry of Science and Technology, the appellant shall have the right to proceed with litigation in accordance with administrative procedures.

3. The appeal must be presented in writing and must specify the full name and address of the appellant; serial number, signing date and contents of the notice or decision subject to the appeal; the contents, arguments and evidence the appeal are based on; specific claims for amendment or annulment of the relevant notice or decision.
4. The right to appeal shall only exercised within the following time limit that does not include the period of any objective obstacles due to which the appellant cannot exercise his/her right to appeal:
 - a) The time limit for making the first instance appeal shall be 90 days from the date the appellant receives or knows about the decision or notice on the processing of his/her industrial property application.
 - b) The time limit for making the second appeal shall be 30 days from the expiry date of the term for settling the first instance appeal as referred to in paragraph 5 of this Article if by that date the first instance appeal is not dealt with or from the date of the appellant receives or knows about the first appeal settlement decision.
5. Within 10 days from the date of receipt of the petition, the person authorized to deal with appeals must serve a notice of acceptance or refusal of such petition.

The time limits for settlement of the first instance appeals and the second appeals shall be 30 days and 45 days respectively, as from the date of acceptance of the petition. For the cases of complexity, the time limits for settlement of the first instance appeals and the second appeals may be extended up to 45 days or 60 days, respectively, as from the date of acceptance of the petition.

The period of time for amending or supplementing documents to the dossier of the petition shall not be included in the time limit for settlement of appeals.

6. Order and procedures for settlement of appeals shall be in accordance with the provisions of the Law on Complaints and Denunciations.

Chapter III

OWNERS, SCOPE AND LIMITATIONS OF INDUSTRIAL PROPERTY RIGHTS

Article 18. Owners of industrial property rights

1. Owners of intellectual property rights include organizations and individuals owning industrial property objects as provided for in Article 121 of the Intellectual Property Law and authors of inventions, industrial designs and layout design as provided for in Article 122 of the Intellectual Property Law.
2. Where a protection title for an invention, industrial design, a layout design or a mark has been jointly granted for several organizations and individuals, the industrial property right shall belong to the common ownership of such organizations and individuals in the form of consolidated ownership.
3. Each of co-owners of an invention, industrial design, a layout design or a mark is entitled to independently use such invention, industrial design, layout design or mark without having to obtain approval from other co-owners, except where otherwise agreed between the co-owners.
4. Each of co-owners of an invention, industrial design, a layout design or a mark is only entitled to transfer his/her ownership right or to assign the right to use such invention, industrial design, layout design or mark to another person when it is approved by other co-owners, except where otherwise agreed between the co-owners. Any transfer of the ownership right or assignment of the right to use an invention, industrial design, layout design or a mark without approval from other co-owners shall be regarded invalid and the transfer and assignment contract in this case shall be regarded null and void.
5. Each of the co-owners shall be responsible to perform all the obligations arising from the use of his/her industrial property rights and the common obligations of other owners of industrial property rights.

Article 19. Provisions on the scope and limitations of industrial property rights

1. Authors of inventions, industrial designs and layout designs (to be jointly referred to as the “author”) shall have personal rights and property rights as set out in Articles 122.2, 122.3 and 135 of the Intellectual Property Law and as provided for in detail in Articles 21.2 and 21.3 of this Decree.

Owners of industrial property objects (to be jointly referred to as “owner”) shall have property rights as set out in Articles 123, 125 and 131 of the Intellectual Property Law.

2. The rights of authors and owners of inventions, industrial designs, layout designs, marks and geographical indications shall only exist for the term and within the scope of protection as provided for in Article 20 and Article 21 of this Decree.

Article 20. Scope of industrial property rights

The scope of protection of an invention, industrial design, a layout design, mark or a geographical indication which is determined in accordance with the scope of protection as stated in relevant protection title shall be used as the legal basis for determining the scope of industrial property rights. A holder of industrial property rights shall only be entitled to those rights within the scope of protection and subject to the limitations provided for

from Article 132 to Article 137 of the Intellectual Property Law.

Article 21. Scope of protection of author's rights

1. Personal rights of an author as set out in Article 122.2 of the Intellectual Property Law shall be valid for infinite period of time.
2. The right to receive remuneration of an author as set out in Article 122.3 of the Intellectual Property Law shall be valid throughout the term of protection of the invention, industrial design and layout design.
3. Unless otherwise agreed between the owner and author, the payment of remuneration must be made no later than 30 days as from the date of receipt by the owner of the licensing fee or from the date of receipt by the owner of the proceeds from each period of use of his/her invention, industrial design or layout design, if such invention, industrial design or layout design is used continuously, each payment period must not exceed 6 months from the end of the preceding payment period.
4. The Ministry of Finance shall coordinate with the Ministry of Science and Technology in making detailed provisions and providing guidelines for the determination of the proceeds of use of inventions, industrial designs or layout designs.

Article 22. Exercise of the State ownership to geographical indications

1. The organization that exercises the right to manage geographical indications of the State as stated in Article 121.4 of the Intellectual Property Law shall include:
 - a) The people's committee of the province or city under central authority where the geographical area corresponding to the geographical indication is located, if the geographical indication concerns one locality; or
 - b) The people's committee of the province or city under central authority which is authorized by other people's committees of the provinces or cities under central authority where the geographical area corresponding to the geographical indication is located, if the geographical indication concerns more than one locality.
2. The people's committee of the province or city under central authority may assign one of its subsidiary units or another organization the right to carry out the function of a geographical indication management organization.

Article 23. Use of inventions on behalf of the State

1. Any use of an invention for the public interest, for non-commercial purpose or for the purpose of national defence, security, medical prevention and treatment, nutrition for the people and in order to meet other essential needs of the society shall be implemented by ministries, ministerial-level agencies or Government

- agencies or by another organization or individual as so assigned by them under a decision on compulsory licensing of the invention for and on behalf of the State.
2. Procedures for issuing a decision on compulsory licensing of an invention for and on behalf of the State shall be in accordance with the guidelines of the Ministry of Science and Technology and the sectoral management ministries.

Article 24. The remuneration price of the right to use inventions which is licensed under a decision on compulsory licensing

1. The remuneration price for the right to use an invention subject to compulsory licensing as set out in Article 146.1(d) of the Intellectual Property Law shall be determined in accordance with the economic value of the right to use subject to that licensing taking into account the following factors:
 - a) The price of transfer of the right to use such invention on a contractual basis.
 - b) The funds invested to create such invention where the portion of State budget funds (if any) must also be considered.
 - c) Profits from the use of such invention.
 - d) The remaining period of validity of the protection title.
 - d) The necessity of the transfer of the right to use such invention.
2. The remuneration price referred to in paragraph 1 of this Article shall not exceed 5% of the net sales price of the products manufactured under that invention.
3. The agency authorized to issue a decision on compulsory licensing of the right to use an invention may set up a council of evaluation or call for expert opinions in order to determine the remuneration price referred to in paragraph 1 of this Article.

**Chapter IV
POLICIES AND MEASURES TO DEVELOP
INDUSTRIAL PROPERTY ACTIVITIES**

Article 25. Training and fostering personnel for industrial property activities

1. Training and fostering of personnel for industrial property activities are aimed at the following:
 - a) Improving capability of management, administration and assurance of enforceability of laws by State industrial property management agencies and other functional agencies in charge of dealing with acts of infringement upon industrial property rights as set out in Articles 11 and 200 of the Intellectual Property Law and Article 6 of this Decree.
 - b) Improving professionalism of organizations and individuals providing

industrial property consultancy, agency and protection services.

- c) Improving awareness and skills of individuals, organizations and businesses in administration, exploitation and protection of intellectual properties.
 - d) Ensuring qualified personnel to meet increasing requirements of the development process of national intellectual properties.
2. The following persons must go through training and fostering courses on industrial property:
- a) Specialists in charge of industrial property management at central level and in cities and provinces under central authority; industrial property examination (testing) officers; officers of the administrative agencies provided for in Articles 200.1 and 200.4 of the Intellectual Property Law who are directly assigned to deal with industrial property breaches and infringements; judges assigned to directly hear industrial property cases in accordance with Article 200.2 of the Intellectual Property Law;
 - b) Lawyers and industrial property agents as set out in Article 151.2 of the Intellectual Property Law.
3. Responsibility for industrial property training and fostering:
- a) The Ministry of Science and Technology shall be responsible for coordinating with the Ministry of Justice, the Ministry of Education and Training and the Ministry of the Interior to make detailed provisions for the contents of industrial property training and fostering programs provided for in paragraph 2 of this Article and framework programs for other subjects.
 - b) The Ministry of Justice shall be responsible for coordinating with the Ministry of Science and Technology in organizing training courses for judges and lawyers in accordance with the programs referred to in point (a) above.
 - c) The Ministry of Science and Technology shall be responsible for coordinating with relevant ministries and sectors in organizing industrial property training courses for officers in charge of State management, examination, evaluation and settlement of industrial property breaches and infringements.
 - d) The Ministry of Education and Training shall be responsible for coordinating with the Ministry of Science and Technology in developing training programs and organizing the industrial property training in universities and providing for conditions to conduct business in industrial property services.
4. Industrial property training and fostering services shall be regarded as a type of intellectual property services which are entitled to tax incentives in accordance with the implementing guidelines of the Law on Science and Technology.

Article 26. Assurance of industrial property information

1. The system of industrial property information consists of all relevant information about industrial property objects being protected in Vietnam, selective information either in accordance with the objectives or topics relating to foreign industrial property objects which is classified and arranged in a suitable and convenient order to facilitate the searching (reference), distribution and using activities.
2. The National Office of Intellectual Property shall be responsible for setting up and managing industrial property information storage, developing classification and searching instruments, providing guidelines for how to research and use domestic and foreign industrial property information; organizing the supply of information in a timely and accurate manner, and opening the information storage to meet the information using demand to service research, development and business activities.
3. The Ministry of Science and Technology shall be responsible for making provisions to compel references to information about invention as part of the preparation of a research or a project using State budget funds and consequently State budget funds shall not be allocated to any research or project that fails to make references to information about inventions or that is the same as any existing invention information.
4. Industrial property information services shall be regarded as a type of intellectual property services and shall be entitled to tax incentives in accordance with the implementing guidelines of the Law on Science and Technology.

Article 27. Accounting for the costs and values relating to industrial property

1. The costs incurred for the following purposes shall be regarded as reasonable expenses of an enterprise:
 - a) Cost of creating an invention, industrial design or a layout design; cost of designing the sample of a mark or the logo of the enterprise.
 - b) Cost of completion of procedures for registration, maintenance and renewal of the right to inventions, industrial designs, layout designs, marks or geographical indications, including completion of those procedures overseas.
 - c) Cost of taking appropriate measures to protect the secrecy of business secrets or to protect the rights to an invention, industrial design, layout design, mark or geographical indication.
 - d) Cost of making payment of remuneration to the author.
 - d) Cost of purchasing the ownership right or the right to use an invention, industrial design, a layout design, a mark or business secret.

2. Any invention, industrial design, layout design, mark, trade name, business secret and other relevant industrial property rights which are currently effective shall be intellectual properties of an enterprise which shall be included in the total assets of the enterprise upon completion of procedures for its equitization, assignment, separation, splitting-up, merger or bankruptcy.
3. The Ministry of Finance shall be responsible for coordinating with the Ministry of Planning and Investment in providing guidelines for how to account for those industrial property related costs and how to determine the value of intellectual properties in accordance with clauses 1 and 2 of this Article.

Article 28. Extension of the scope of using inventions, industrial designs and layout designs of the State

1. For a State owned invention, industrial design or layout design and in case the holder of the protection title thereto is not capable of meeting the demand, other State organizations may request the holder of the protection title to transfer the right to use such invention, industrial design or layout design under the following conditions:
 - a) The right to use such invention, industrial design or layout design shall be transferred on a non-exclusive basis and shall not be re-transferred.
 - b) The scope of using such invention, industrial design or layout design by the transferee shall not have any impact on the use of such invention, industrial design or layout design to the most extent of the holder of the protection title.
 - c) The price of transfer of such invention, industrial design or layout design payable by the transferee to the holder of the protection title shall be equal to 50% of the rate payable by an organization other than a State organization in order to use such invention, industrial design or layout design under the same conditions.
2. The transfer of the right to use a State owned invention, industrial design or layout design to a State organization as referred to in paragraph 1 of this Article shall not influence the right of the holder of the protection title to further transfer the right to use such invention, industrial design or layout design to other non-State organizations.

Article 29. Support for social and socio-professional organizations

A social or socio-professional organization operating in the industrial property sector, upon being established, shall receive professional, operation and technical support from State resources to plan for and stabilize its operations in order to develop its functions as an assistant to State agencies and to other industrial property rights holders.

Article 30. Other measures to encourage creative activities

The State encourages and sponsors any emulation activities to create technologies by way of the following measures:

1. Sponsor various technical creative emulation events nationwide or in various sectors or localities.
2. Encourage individuals and collectives to do creative jobs by way of a competitive mechanism with adequate awards and remunerations; make public examples of creative labor.
3. Acknowledge and protect the rights of various organizations and individuals to their own creative labor and creative achievements in the form of industrial property rights and initiatives. Support for activities of establishment and protection of industrial property rights to those labor achievements.

Chapter V

IMPLEMENTATION PROVISIONS

Article 31. Transitional provisions

1. The industrial property applications filed with the National Office of Intellectual Property before 1 January 2006 shall be further processed in accordance with the 1995 Civil Code and its implementing documents.
2. The industrial property applications filed with the National Office of Intellectual Property after 1 January 2006 and before 1 July 2006 shall also be processed in accordance with the 1995 Civil Code and its implementing documents, specifically:
 - a) Applications for registration of inventions which claim for the grant of a utility solution patent shall be processed like an application for registration of utility solutions.
 - b) Applications for registration of geographical indications shall be processed in the same manner as application for registration of appellations of origin.
3. From 1 January 2006 to 30 June 2006, the rights and obligations under a protection title issued under the 1995 Civil Code and the 2005 Civil Code shall be further valid under the 2005 Civil Code and those provisions of the implementing documents of the 1995 Civil Code which are not contrary to the 2005 Civil Code.
4. An industrial property agency card issued under the 1995 Civil Code and its implementing documents shall be valid as an industrial property agency practising certificate until end of 31 December 2006. From 1 July 2006 to end of 31 December 2006, grantees of industrial property agency cards shall be entitled to request for replace it with an industrial property agency practising certificate provided that they have passed an examination on intellectual property.

Article 32. Responsibilities of sectors and localities

In addition to those duties set out in other provisions of this Decree, ministries and sectors shall have the following responsibilities:

1. The Ministry of Science and Technology shall be responsible to make detailed provisions for the form of industrial property applications; the procedures for receiving and processing various types of industrial property applications; the forms of protection titles, national registry and the Official Gazette for Industrial Property; the publication of international treaties on industrial property of which Vietnam is a member and for the management of initiative activities.
2. The Ministry of Finance shall be responsible to coordinate with the Ministry of Science and Technology to make provisions and provide guidelines for the collection, payment, management and use of various types of industrial property fees and charges and taxes on transfer of industrial property rights.
3. The Ministry of Health, the Ministry of Agriculture and Rural Development shall take lead and coordinate with the Ministry of Science and Technology in providing guidelines for the implementation of regulations on keeping confidentiality of testing data as part of procedures for registration and circulation of medicines, vaccinations and agricultural chemicals; providing guidelines for the registration and use of marks for drugs, importation of drugs with legal industrial property rights; organizing the completion of procedures for compulsory licensing of the right to use inventions; and using inventions for and on behalf of the State in order to meet the health care and nutrition requirements of the people.
4. The Ministry of Agriculture and Rural Development, the Ministry of Fisheries and the Ministry of Industry shall review and examine all types of special foods bearing geographical indications under their respective control; determine the production area and the nature of those food; issue criteria applicable to products and their production processes and request relevant people's committees of provinces and cities under central authority where the production area is located to register and carry out the management of geographical indications used for those products.
5. The Ministry of Education and Training shall take lead and coordinate with the Ministry of Science and Technology in setting up and implementing a training program on industrial property legislation.
6. Ministries, ministerial-level agencies, Government agencies and people's committees of provinces and cities under central authority shall organize and monitor the implementation of industrial property legislation and shall manage the State-owned industrial property subject matters in their respective sectors.
7. People's committees of provinces and cities under central authority shall review and examine various special products bearing geographical indications which are manufactured in their localities and request sectoral management ministries to determine the production area and the nature of those products and to issue criteria applicable to those products and production processes, and shall register and carry out the management of geographical indications used for those products.

Article 33. Implementation

1. The Minister of Ministry of Science and Technology shall provide guidelines for implementing this Decree
2. Ministers, heads of Ministries, ministerial-level agencies, Government agencies and chairmen of people's committees of provinces and cities under central authority shall be responsible for implementing this Decree.
3. This Decree comes into effect fifteen (15) days after the date it is published in the Official Gazette.

FOR AND ON BEHALF OF THE GOVERNMENT

THE PRIME MINISTER