



# VIETNAM

## INTELLECTUAL PROPERTY HANDBOOK

Copyright Reserved © PINTAS IP GROUP

**Disclaimer:** This IP HANDBOOK is intended to provide general guidelines only and not advice with regard to specific cases. The information given is non-exhaustive. Please also note that the relevant law and its interpretation are subject to change. You should contact us for advice specific to your own situation. Whilst every effort has been made to ensure the accuracy of the information, Pintas IP Group shall not be responsible for any inaccuracies or omissions, however caused therein. Nor can any responsibility be accepted for any loss or damage to any company or person as a result of actions taken or not taken on the basis of the content of this handbook.

## Legislation

Law No. 36/2009/QH12 of June 19, 2009, amending and supplementing a Number of Articles of the Law on Intellectual Property, Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property and a numbers of government decree, circular, decision and order.

## Definition

A mark means any sign used to distinguish goods and/or services of different organizations or individuals.

## Criteria

A mark shall be protected when it satisfies the following conditions:

- Being a visible sign in the form of letters, words, drawings or images, including holograms, or a combination thereof, represented in one or more colors;
- Being capable of distinguishing goods or services of the mark owner from those of other subjects.

The following signs shall not be protected as marks:

- Signs identical with or confusingly similar to national flags or national emblems;
- Signs identical with or confusingly similar to national heroes or famous personalities of ;
- Signs identical with or confusingly similar to certification seals of international organizations;
- Signs which cause as to the origin of goods or services.
- Signs identical with or confusingly similar to Vietnamese state agencies, political organizations unless permitted by such agencies or organizations.

## Membership

- ✓ - Paris Convention
- ✓ - Madrid Protocol

Vietnam is a member of the Paris Convention from 1949, whereby applications from convention countries will be subject to the same priority date in Vietnam. The application for priority has to be made within six months of the first application in a convention country.

## Rule of Priority

“First to File” is the rule followed by Vietnam in determining priority of trademarks.

## Duration and Renewal

A trade mark once registered is valid for a term of 10 years and can be renewed every 10 years for an unlimited period. A 6-months grace period is allocated after the expiry date for the renewal. Once the expiry date has passed, the trade mark will no longer have the benefit of any rights arising from registration.

## Procedures

### Application

Every applicant is required to submit an application to Vietnam Trademark Office.

### Examination

Formal Examinations are conducted within 1 months from the filing date. Responses for amendments to application are made within 2 months from the date of request.

### Publication

A trademark will be published after examination in the government gazette subject to the satisfaction of the registrar for 2 months.

### Substantive Examination

A substantive examination takes place 9-12 months from the date of publication.

### Registration

On completion of the formalities a certificate of registration is granted. The duration of registration takes a minimum period of 12-15 months. The registration is effective from date of application.

## Filing Requirements

**The following information and/or documents are required to file an application for a trademark application in Vietnam:-**

- Application form.
- Power of Attorney.
- Twelve (12) clear copy of the mark.
- The full name, nationality and registered address of the applicant.
- A list of goods or services (which closely follow the Nice International Classification).
- Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
- For marks that contain non-English words, a certified transliteration and translation.

## Documents To Be Furnished For Filing Trade / Service Mark Application

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	must be duly signed by the applicant	A copy on filing date with the original to be submitted within one month
Image/Representation of the mark	not larger than 8cm x 8cm	On filing date

(If Applicable) Additional Documents for Claiming a Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	Certified	A copy on filing date with the original to be submitted within one month

(If Applicable) Documents for Filing a Request of Recordal of Assignments and Changes		
Documents	Remarks	Time of Filing
Power of Attorney	Duly Signed	On filing date
The original Certificate of Trademark registration		On filing date
Originals of the Trademark Assignment Agreement signed by both Assignor and Assignee.	Duly Signed	On filing date
Declaration of Change of Name/Address or legal documents showing the change of name/address	Notarized or Certified	On filing date



Documents for Filing an Opposition of Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)		
Documents	Remarks	Time of Filing
Power of Attorney	Duly Signed	On filing date
Evidence of use of the mark in Vietnam (such as bill of lading, packages, advertising and/or promoting materials, brochures, photographs, etc.)		On filing date
Documents proving that the mark is well-known:- <ul style="list-style-type: none"> <li>• The countries where the mark is registered;</li> <li>• The countries where the mark is recognized as being well-known;</li> <li>• The value of the mark in business transactions, such as assignment, licensing, investment capital contribution, etc.</li> <li>• The estimated number of concerned consumers who may know the mark through buying, selling, or using the products or services bearing the mark, or through advertisement of the mark;</li> <li>• The countries where the products or services bearing the mark are circulated or provided;</li> <li>• The turnover from selling the products or supplying services bearing the mark, or number of products sold;</li> <li>• The duration of continuous use of the mark.</li> </ul>	If the trademark is well-known trademark	On filing date

In Vietnam, patent protection is obtainable by way of either entering the national phase of a Patent Cooperation Treaty (PCT) application or filing a direct national application. Vietnam's current patent rules make available three types of patent: Patent for inventions, patent for utility solutions; and patent for industrial designs.

## Legislation

Law No. 36/2009/QH12 of June 19, 2009, amending and supplementing a Number of Articles of the Law on Intellectual Property, Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property and a numbers of government decree, circular, decision and order.

## Patentability Criteria

- A Patent for invention has to satisfy the following criteria to claim protection:
  - Δ Novelty
  - Δ Inventive Step
  - Δ Industrial Applicability
- Non-Patentable Subject Matter:-
  - Δ plant or animal varieties;
  - Δ method for prevention, diagnosis or treatment of diseases in human being;
  - Δ animals or plants;
  - Δ topographical design of integrated circuits and computer programs.

## Utility Innovations

Utility Solution is protected on the basis of Patent for Utility Solution. For A Utility Solution it is not required to have an inventive step as in case of Invention.

## Membership

- √ - Paris Convention
- √ - PCT

Vietnam is a member of the Paris Convention from 1949, whereby applications from convention countries will be subject to the same priority date in Vietnam. The application for priority has to be made within six months of the first application in a convention country.

Vietnam is also a member of the PCT since 2006. An applicant who has made an international patent application may file and/or prosecute the patent application during its national phase entry into Vietnam within 31 months from the filing date of the international application or from the earliest priority date of the application if a priority is claimed.

### **Rule of Priority**

"First to file" is the rule followed by Vietnam in determining priority of patents.

### **Duration**

The term of protection for a patent is 20 years, petty patent is 6 years. The petty patent owner may renew the petty patent twice, 2 years each time.

## Procedures

### ▼ Application

Every applicant is required to submit an application to the registrar of patents within 12 months of priority date.

### ▼ Examination

A formality examination is conducted within one month of the date of issuance of the filing date. Responses for amendment for an application are made within 2 months from the date of request.

### ▼ Publication

Publications for national applications are made within 19 months of the priority date and 2 months of the acceptance date in case of PCT applications.

### ▼ Substantive Examination

A request for substantive examination has to be made within 42 months of the priority date. The duration of the substantive examination lasts for 12 months from the date of filing the request.

### ▼ Registration

The duration of registration takes a minimum period of 21 months. The registration is effective from date of application.

## Filing Requirements

**The following information and/or documents are required to file an application for a patent application in Vietnam:-**

### Direct National Application:-

- Request for the grant of a patent:-
  - Δ the name, address and nationality of the applicant;
  - Δ the name, address and nationality of the inventor;
  - Δ title of the invention/utility solution; and
  - Δ country, application number and filing date of the original foreign application from which priority is claimed (if priority is claimed).
- Appointment of Patent Agent.
- Filing of an assignment from inventor to applicant.

### PCT National Phase Application:-

- A copy of the PCT application in English language (i.e. request form PCT/RO/101);
- The details of the PCT application (suitably, the bibliographic page as published by WIPO);
- One copy of the PCT specification as originally filed (in or translated to English);
- One copy of any amendments filed in the international phase (in or translated to English);
- An Appointment of Agent form signed by the applicant; and
- If the applicant is not the inventor, a statement explaining how the applicant derives its right to the patent from the inventor, normally by virtue of assignment or employment.

## Documents To Be Furnished For Filing A Patent Application in Vietnam

Basic Requirements		
Documents	Remarks	Time of Filing
Patent specification, claims and abstract in English	Vietnamese translation of the specification, claims and abstract is also required at filing	On filing date
Drawings	Vietnamese translation of the drawings is also required at filing	On filing date

Additional Documents for Convention Patent Application		
Documents	Remarks	Time of Filing
Priority documents	Certified copy	Within three months from the filing date
Power of Attorney	Notarized	Within one month from the filing date
Deed of Assignment	Notarized	On filing date

Additional Documents for Convention Patent Application		
Documents	Remarks	Time of Filing
Copy of the PCT request form	Certified copy	On filing date or later
International preliminary examination report	According to the Vietnam patent law and regulations, the Vietnamese translation of the International preliminary examination report should be filed to the NOIP at the time of filing the Request for Examination	On filing date
Notification of Recording of a Change		On filing date
International Search Report		On filing date
PCT specification as originally files	Vietnamese translation of the PCT specification is also required at filing	On filing date
Amendments file in the international phase	Vietnamese translation of the amendment is also required at filing	On filing date
Power of Attorney	Notarized	Within 34 months from the priority date

## Legislation

Law No. 36/2009/QH12 of June 19, 2009, amending and supplementing a Number of Articles of the Law on Intellectual Property, Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property and a numbers of government decree, circular, decision and order.

## Definition

An industrial design means a specific appearance of a product embodied by three-dimensional configurations, lines, colors, or a combination of these elements.

## Criteria

**An industrial design shall be protected when it satisfies the following conditions:**

- Being new: An industrial design shall be considered new if it significantly differs from other industrial designs that are already publicly disclosed through use or by means of written descriptions or in any other form inside or outside the country, prior to the filing date or the priority date, as applicable, of the industrial design registration application.
- Being creative: An industrial design shall be considered creative if, based on industrial designs already publicly disclosed through use or by means of written descriptions or in any other form, inside or outside the country, before the filing date or the priority date, as applicable, of the industrial design registration application, it cannot be easily created by a person with average knowledge in the art.
- Being susceptible of industrial application: An industrial design shall be considered susceptible of industrial application if it can be used as a model for mass manufacture of products with appearance embodying such industrial design by industrial or handicraft methods.

**The following subject matters shall not be protected as industrial designs:**

- Appearance of a product, which is dictated by the technical features of the product;
- Appearance of a civil or an industrial construction work;
- Shape of a product, which is invisible during the use of the product.

## Rule of Priority

To enjoy priority right under Paris Convention, the Vietnamese industrial design application must be filed within 6 months from the earliest priority date.

## Duration and Renewal

Under Vietnamese IP law and regulations, patent for industrial design is valid for five years from filing date, renewable twice, each for five years. Payment of renewal fee should be paid within 6 months before the anniversary of the filing date.



## Procedures

### ▼ Application

Every design application has to be filed with the National Office of Intellectual Property of Vietnam (NOIP).

### ▼ Examination

A formal examination takes place within one (1) month of the filing date. Responses for amendment to the application are made within 2 months from the date of request.

### ▼ Publication

A design patent is published within 2 months of the acceptance date.

### ▼ Substantive Examination

The duration of a substantive examination is 6 months from the date of publication.

### ▼ Registration

Duration for obtaining Patent for Industrial Design from filing application to granting may vary from 18 months. The registration is effective from date of application.

## Filing Requirements

**The following information and/or documents are required to file an application for an industrial design application in Vietnam:-**

- Application form:-
  - Δ Full name, address and nationality of the applicant;
  - Δ Full name, address and nationality of the inventor;
  - Δ Specification comprises a description of industrial design and claims for protection; and
  - Δ Under Vietnam IP law and regulations, documents justifying the right to file industrial design application, such as Assignment Deed, Employment Agreement, or Inheritance document, is required. However, in practice, such document is not requested to be submitted to the NOIP if the applicant of the Vietnamese application is a company and not different from the applicant of priority application.
- Power of Attorney.
- Six sets representation of the design (drawings or photographs).
- Priority documents and certified English translation of the priority document.

## Documents To Be Furnished For Filing An Industrial Design Application in Vietnam

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	<ul style="list-style-type: none"> <li>☐ Signed</li> <li>☐ No legalization/Notarization requirement</li> <li>☐ To be translated to English (if applicable)</li> </ul>	Within one (1) month from the filing date.
Photographs/Drawings	Illustrating the front, rear, left, right, top, bottom and perspective views	Fax copies of photographs/drawings are acceptable at filing, provided that the originals are submitted within one (1) month from the filing date
Description of Design and claims for protection.	To be translated to English (if applicable)	On filing date

Additional Documents for Claiming Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	<ul style="list-style-type: none"> <li>☐ Certified.</li> <li>☐ To be translated to English language (if applicable).</li> </ul>	Priority data are acceptable at filing, provided that the certified copy of the priority document is submitted within 3 months from the filing date.

**MALAYSIA  
OFFICE**

**Kuala Lumpur / Corporate Office**

**Pintas Consulting Group Sdn Bhd (461057-W)**

Adds: Suite 2B-21-1, Level 21, Block 2B, Plaze Sentral,  
Jalan Stesen Sentral 5, KL Sentral, 50470 Kuala Lumpur,  
Malaysia.

**Selangor / Correspondence Operation Office**

Adds: No.19, Jalan SS 1/36, 47300 Petaling Jaya, Selangor.

Tel: +603-7876 5050

Fax: +603-7876 2678

H/P: +6012-797 5077

Email: [marketing@pintas-ip.com](mailto:marketing@pintas-ip.com)

**SINGAPORE  
OFFICE**

**Pintas Pte Ltd (20010467111)**

Adds: Suite 12-14, Manhattan House, 151 Chin Swee Road,  
Singapore 169876.

Tel: +65-6250 2070

Fax: +65-6737 1805

H/P: +65-9747 2579

Email: [pintas.sg@pintas-ip.com](mailto:pintas.sg@pintas-ip.com)

**CHINA  
OFFICE**

**Pintas Inc (Customer Service Office)**

Adds: Room1811, 18th Floor, Far East Tower,  
No. 1101 Pudong Road (s) Pudong, Shanghai,  
200120, China.

Tel: +86-21 32180770

Fax: +86-13 022176477

Email: [pintas.china@pintas-ip.com](mailto:pintas.china@pintas-ip.com)

**USA  
OFFICE**

**Pintas LLC (Customer Service Office)**

Adds: P.O. Box 190943, Boise, Idaho  
83719-0943, United States of  
America.

Tel / Fax: +1 208 899 8528

Email: [pintas.usa@pintas-ip.com](mailto:pintas.usa@pintas-ip.com)

**BRUNEI  
OFFICE**

**Pintas Consulting Group (Customer Service Office)**

Adds: P.O.Box 18, Anggerek Desa Complex,  
BB3780 Brunei Darussalam.

Tel: +673-873 8478

Fax: +673-245 2112

Email: [pintas.brunei@pintas-ip.com](mailto:pintas.brunei@pintas-ip.com)

E: [marketing@pintas-ip.com](mailto:marketing@pintas-ip.com)

[www.pintas-ip.com](http://www.pintas-ip.com)