

LEGAL UPDATES (December 10th, 2020)

In these legal updates, we would like to send clients the legal updates on some following issues:

- On November 23rd, 2020, the Intellectual Property Office of Vietnam issued Notice No. 13822/TB-SHTT regarding the application of regulations concerning persons with legal status to sign documents on behalf of the applicant in the registration procedure for establishment of industrial property rights and the related procedures.
- Minister of Industry and Trade issued Circular 30/2020/TT/BTC instruction implementing Free Trade Agreement between Viet Nam and EU on trade remedies.

1. On November 23rd, 2020, the Intellectual Property Office of Vietnam issued Notice No. 13822/TB-SHTT regarding the application of regulations concerning persons with legal status to sign documents on behalf of the applicant in the registration procedure for establishment of industrial property rights and the related procedures

1.1. For individual applicant: The representative for the applicant is the legal representative or one who is authorized by the applicant through a power of attorney. The signing of the power of attorney is done by that individual himself/herself and the authorized party.

1.2. For institutional applicant:

- a) The representative for the applicant is the legal representative of the applicant.
 - (i) With the titles as Chairman of the Members' Council, Chairman of the Board of Directors, President, General Director, Director, the signer shall certify that he/she is the legal representative of the applicant through his/her signature and seal.
 - (ii) With other titles, the applicant must provide a document which proves that the signer is authorized by the legal representative of applicant.
- b) The representative for the applicant is a person belonging to an organization authorized by the legal representative: in addition to complying with the provisions in Point (a), the applicant must also provide a document to prove such authorization.
- c) The representative for the applicant is an industrial property agent: The authorized party must be the legal representative of the applicant or the person of the industrial property agent who is authorized by the legal representative.

2. Minister of Industry and Trade issued Circular 30/2020/TT/BTC instructing on the implementation of the Free Trade Agreement between Viet Nam and EU on trade remedies

On November 26th, 2020, Minister of Industry and Trade issued Circular 30/2020/TT/BTC instructing the implementation of the Free Trade Agreement between Viet Nam and European Union on trade remedies.

The Circular guide application bilateral trade remedies, anti dumping measures and countervailing measure to implement EVFTA.

The anti dumping measures and anti countervailing measure are guided as following:

- a. Considering economic - social benefits:
 - (i) Minister of Industry and Trade makes decision not to enforce anti dumping measure, anti subsidy measure if, based on available information in investigation process, investigation agency concludes that applied measures are not suitable for economic - social benefits.
 - (ii) When evaluating economic - social benefits, relying on relevant information provided, investigation agency will take into account the status of domestic production, importers, relevant associations, organizations, individuals using, consuming investigated products.
- b. Lower tax rate principle:
 - (i) Anti dumping duties or countervailing duties are not higher than dumping margin or subsidized level;
 - (ii) Relying on the conclusion of investigation agencies, Minister of Industry and Trade will consider to apply anti dumping duties or countervailing duties which are lower than dumping margin or subsidized level if this lower tax is enough to remove damages affected domestic production.

The Circular 30/2020/TT-BCT will come in to effect from January 11th, 2021.

We hope this short Letter of legal updates would bring you useful information.

Best regards.

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