

No. 23/2023/TT-BKHCN

Hanoi, November 30, 2023

CIRCULAR

**ELABORATION ON THE LAW ON INTELLECTUAL PROPERTY AND MEASURES TO
IMPLEMENT DECREE NO. 65/2023/ND-CP DATED AUGUST 23, 2023 OF THE
GOVERNMENT OF VIETNAM ON ELABORATION ON SEVERAL ARTICLES AND
MEASURES TO IMPLEMENT THE LAW ON INTELLECTUAL PROPERTY REGARDING
INDUSTRIAL PROPERTY, PROTECTION OF INDUSTRIAL PROPERTY RIGHTS,
RIGHTS TO PLANT VARIETIES, AND STATE MANAGEMENT OF INTELLECTUAL
PROPERTY CONCERNING PROCEDURES FOR ESTABLISHING INDUSTRIAL
PROPERTY RIGHTS AND ASSURANCE OF INFORMATION ON INDUSTRIAL
PROPERTY**

Pursuant to the Law on Intellectual Property dated November 29, 2005; the Law on amendments to the Law on Intellectual Property dated June 19, 2009; the Law on amendments to the Law on Insurance Business and the Law on Intellectual Property dated June 14, 2019, and the Law on amendments to the Law on Intellectual Property dated June 16, 2022;

Pursuant to Decree No. 28/2023/ND-CP dated June 2, 2023 of the Government of Vietnam on functions, tasks, entitlements, and organizational structure of the Ministry of Science and Technology of Vietnam;

Pursuant to Decree No. 65/2023/ND-CP dated August 23, 2023 of the Government of Vietnam on elaboration on several articles and measures to implement the Law on Intellectual Property regarding industrial property rights, protection of industrial property rights, rights to plant varieties, and state management of intellectual property;

At the request of the Director of Intellectual Property Office of Vietnam and the Director of the Legal Department, the Minister of Science and Technology of Vietnam hereby promulgates a Circular on elaboration on the Law on Intellectual Property and measures to implement Decree No. 65/2023/ND-CP dated August 23, 2023 of the Government of Vietnam on elaboration on several articles and measures to implement the Law on Intellectual Property regarding industrial property, protection of industrial property rights, rights to plant varieties, and state management of intellectual property concerning procedures for establishing industrial property rights and assurance of information on industrial property.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular provides for the elaboration on the Law on Intellectual Property and measures to implement Decree No. 65/2023/ND-CP dated August 23, 2023 of the Government of Vietnam on elaboration on several articles and measures to implement the Law on Intellectual Property regarding industrial property, protection of industrial property rights, rights to plant varieties, and state management of intellectual property concerning procedures for establishing industrial property rights and assurance of information on industrial property (hereinafter referred to as “Decree No. 65/2023/ND-CP”).

Article 2. Regulated entities

Organizations and individuals performing procedures for registration, complaint, and complaint settlement in activities concerning the establishment of industrial property rights and assurance of information on industrial property and other relevant organizations and individuals.

Article 3. Interpretation of terms

For the purpose of this Circular, the following terms shall be construed as follows:

1. “Applicant” means an organization or individual applying for the registration of an invention, layout design, industrial design, mark, or geographical indication. When a protection title of an invention, layout design, industrial design, or mark is granted, the applicant is recorded as the protection title holder. When a geographical indication protection title is granted, the applicant is recorded as the person registering such a geographical indication.
2. “Complainant” means an organization or individual complaining about procedures concerning industrial property according to Clause 1 Article 119a of the Law on Intellectual Property.
3. “Person with average knowledge of a certain field” means a person with common practical skills who grasps the general and common knowledge in a certain field.
4. “Paris Convention” is the Paris Convention for the Protection of Industrial Property 1883, amended in 1967 and 1979.
5. “Budapest Treaty” is the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure 1977, amended in 1980.

Article 4. Representatives of applicants and complainants

1. Legal representatives of applicants and complainants according to Article 89 and Article 119a of the Law on Intellectual Property include the following organizations and individuals:
 - a) Regarding an applicant or complainant that is the organization or individual prescribed in Clause 1 Article 89 and Clause 2 Article 119a of the Law on Intellectual Property:

(i) If the applicant or complainant is an individual: representative under laws or authorization of the applicant or complainant or industrial property representation service provider under the authorization of the applicant or complainant;

(ii) If the applicant or complainant is an organization: representative under laws of the applicant or complainant or person of the organization authorized by the legal representative of the applicant or complainant; industrial property representation service provider under the authorization of the applicant or complainant; head of a representative office or a branch of such office in Vietnam or legal representative of a 100% foreign-invested organization in Vietnam, established under investment laws (if the applicant or complainant is a foreign organization).

If the subject matter of the protection request is a result of a scientific and technological task funded by the state budget assigned before the effective date of the Law on Amendments to the Law on Intellectual Property dated June 16, 2022, or concerns national defense and security: state ownership representative; industrial property representation service provider or organization presiding over the implementation of scientific and technological tasks under the authorization of the state ownership representative.

b) Regarding an application or complainant that is a foreign individual not having permanent residence in Vietnam or a foreign organization or individual not having a production and business facility in Vietnam according to Clause 2 Article 89 and Clause 2 Article 119a of the Law on Intellectual Property: industrial property representation service provider under the authorization of the applicant or the complainant.

2. When performing relevant procedures, the Intellectual Property Office of Vietnam may only transact with the applicant, complainant, or the legal representative of the applicant or complainant according to Clause 1 of this Article. Any transaction with the mentioned subjects shall be collectively called transactions with applicants and complainants.

Article 5. Authorization of representation rights for performance of procedures for establishing industrial property rights

1. Authorization of representation rights, including re-authorization and authorization of representation rights for the performance of procedures for establishing industrial property rights (hereinafter referred to as "authorization"), shall comply with the authorization regulations of the Civil Code, Article 107 of the Law on Intellectual Property, and guidelines prescribed hereof.

The applicant or complainant may change the representative (hereinafter referred to as "authorization substitution"). Authorization substitution terminates the authorization between the applicant or complainant and the current authorized person. Authorization substitution shall be declared in writing by the applicant or complainant (in the authorization document or private document).

The authorized person may re-authorize another person under the Civil Code, providing that the re-authorized organization or individual meets the requirements prescribed in Article 4 of this

Circular. Re-authorization may only be carried out after the initial authorization has been recognized by the Intellectual Property Office of Vietnam according to Clause 2 of this Article.

2. The time when an authorization document is recognized in the transaction with the Intellectual Property Office of Vietnam is the date the Intellectual Property Office of Vietnam receives the valid authorization document. Regarding cases of authorization substitution or re-authorization or amendments to information concerning changes to authorization scope, premature termination of authorization, changes to addresses of the authorized party, the time when the authorization document is recognized in the transaction with the Intellectual Property Office of Vietnam is the date the Intellectual Property Office of Vietnam receives corresponding valid documents.

3. If the authorization document is submitted later than the prescribed submission date but before the date the application is appraised to decide its validity and acceptance, the Intellectual Property Office of Vietnam shall transact with the representative of the applicant or the complainant (prescribed in the statement or complaint) to carry out the procedures for appraising the application to conclude whether the application is valid or invalid or accepted or rejected, including conclusions on the legality of the representative status.

4. Any transaction of the authorized party within the authorization scope at any time shall be considered transactions on behalf of the applicant or complainant, which gives rise to the rights and obligations of such applicant or complainant. In case of authorization substitution or re-authorization, the authorization substitution party or the re-authorized party shall continue the representation and handle any arising issue from the previous transaction with the Intellectual Property Office of Vietnam conducted by the previously authorized party.

5. If the authorization document has a scope of many independent procedures and the original copy of the authorization document has been submitted to the Intellectual Property Office of Vietnam, when carrying out further procedures, the authorized party shall submit copies of the authorization document with precise descriptions of regarding the code of the application containing the original copy of such authorization document in the statement or documents serving further procedures.

6. In the case of authorizing an organization or individual banned from engaging in representation or simultaneously authorizing many organizations and/or individuals, among which have an organization and/or individual banned from engaging in representation, the related application shall be considered invalid.

Article 6. Responsibilities of applicants, complainants, and representatives

1. An applicant, complainant, and representative of the applicant or complainant shall ensure the honesty of information and documents provided for the Intellectual Property Office of Vietnam during the process of establishing industrial property rights according to the following regulations:

a) Any transaction document shall be signed by the applicant, complainant, or representative of such applicant or complainant and bear the seal of the related organization (if any). If documents must be notarized or certified as prescribed by laws, comply with such laws.

b) Any Vietnamese translation of documents written in languages other than Vietnamese shall have the declaration of the applicant, complainant, or representative of such applicant or complainant stating that it is translated directly from the original document, except for cases of certified Vietnamese translation;

c) If the representative of the applicant or complainant is an industrial property representation service provider, the person representing such an organization to sign transaction documents shall have a practicing certificate of industrial property representation services.

2. The applicant or complainant shall take responsibility for any consequence and obligation arising from the transaction with the Intellectual Property Office of Vietnam performed by the representative as prescribed by laws.

3. The representative of the applicant or complainant shall take legal liability before the applicant or complainant.

Article 7. Industrial property fees and charges

1. Any applicant and user of industrial property services shall pay the fees and charges prescribed by the Ministry of Finance of Vietnam and other service fees as per regulation.

2. Collection of fees and charges shall be carried out as follows:

a) When receiving or requesting the performance of procedures concerning the collection of fees and charges, the Intellectual Property Office of Vietnam shall request the applicant to pay the fees and charges as per regulation (issue receipts to the applicant);

b) When collecting fees and charges, the Intellectual Property Office of Vietnam shall issue receipts to use as documentation on payment of fees and charges, specifying the collected fees and recording such information to the related application to use for the appraisal of such application;

c) In case the fees and charges are paid through postal services or transferred to the bank account of the Intellectual Property Office of Vietnam, the collection shall be confirmed via copies of receipts in the application.

Chapter II

HANDLING OF APPLICATIONS FOR ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS

Section 1. GENERAL REGULATIONS ON HANDLING OF APPLICATION FOR ESTABLISHMENT OF INDUSTRIAL PROPERTY RIGHTS

Article 8. Receipt of applications for establishment of industrial property rights

1. The Intellectual Property Office of Vietnam shall receive applications submitted in conformity with Article 89 of the Law on Intellectual Property and Clause 1 Article 48 of Decree No. 65/2023/ND-CP.

2. If an application sufficiently contains the mandatory documents prescribed in Clause 1 Article 108 of the Law on Intellectual Property or Clause 3 Article 48 of Decree No. 65/2023/ND-CP, the Intellectual Property Office of Vietnam shall receive the application, confirm the submission date, issue the code of the application, and return the receipt to the applicant, specifying the information on the submission date, application code, and inspection results of the list of documents of the application with the full name and signature of the receiving official.

Regarding an application submitted through online methods, if the application is received, the Intellectual Property Office of Vietnam shall return the receipt to the applicant, specifying the information on the submission date, application code, and inspection results of the list of documents of the application with the full name and signature of the receiving official through the online application submission system.

3. If an application misses one of the mandatory documents prescribed in Clause 1 Article 10 of the Law on Intellectual Property or Clause 3 Article 48 of Decree No. 65/2023/ND-CP, the receiving official shall refuse to accept the application and send a refusal notification of the Intellectual Property Office of Vietnam to the applicant (if the application is submitted through postal services or the online application submission system). If the rejected application is submitted through postal services, the Intellectual Property Office of Vietnam is not required to return the documents enclosed with the application, except for original copies submitted for comparison.

Article 9. Format appraisal of applications

1. Format appraisal of applications according to Article 109 of the Law on Intellectual Property means the inspection of compliance with regulations on application formats to conclude whether applications are valid or invalid.

2. An application shall be considered invalid if it falls into one of the following cases:

- a) There are grounds to confirm that the applicant does not have registration rights according to Articles 86, 86a, 87, and 88 of the Law on Intellectual Property;
- b) The application is submitted contrary to Article 89 of the Law on Intellectual Property;

c) There are grounds to confirm that the subject matters prescribed in the application are not entitled to state protection according to Articles 8, 59, 64, 69, 73, and 80 of the Law on Intellectual Property.

d) The application is submitted contrary to regulations on security control regarding inventions before applying for registration overseas prescribed in Article 89a of the Law on Intellectual Property, including cases where international applications are submitted in person to the International Office.

dd) The applicant fails to adequately pay the fees and charges prescribed in Article 7 of this Circular (including cases of inadequate payment of application submission fees, application disclosure fees, application appraisal fees, and fees for information serving the appraisal, excluding fees for information serving the appraisal and fees for content appraisal for invention registration applications if content appraisal is not required);

e) Format requirements prescribed in Articles 14, 17, 21, 24, and 28 of this Circular are not met (there are deficiencies):

(i) The application fails to meet the requirements for the number of copies of one of the mandatory documents or requirements for the form of presentation; the mark registration application does not specify the type of mark to be registered, misses the description of the mark; the application fails to classify the inventions, industrial designs, or goods and services bearing the related marks, or has inaccurate classification and the applicant fails to pay classification fees; the application misses the translation of documents proving grounds to claim priority rights (if necessary), translation of documents proving registration rights if the applicant submits an application for receipt of registration rights from another person; information on the applicant in documents is inconsistent or is erased or not verified under regulations, statement does not have sufficient information on the author (regarding applications for registration of inventions, industrial designs, and layout designs) and the applicant and does not bear the signature or seal (if any) of the applicant or the representative; documents in the application for secret inventions do not have seals of confidentiality; etc.

(ii) The representative does not have a valid authorization document (if the application is submitted through the representative).

3. A submission date is determined as follows:

a) The submission date is the date the related application is received by the Intellectual Property Office of Vietnam according to Clause 2 Article 8 of this Circular;

b) Regarding an international application designating and/or selecting Vietnam, the submission date is the date the international application is submitted.

4. A priority date is determined as follows:

a) If the application does not request priority rights or has its request for priority rights rejected by the Intellectual Property Office of Vietnam, the application shall be considered not having a priority date;

b) If the application requests priority rights, the priority date(s) is the date prescribed in the mentioned request approved by the Intellectual Property Office of Vietnam;

c) The determination of priority dates upon requests for priority rights from first applications submitted in Vietnam shall comply with Article 91 of the Law on Intellectual Property and corresponding regulations prescribed in Points b, c, and dd Clause 1 Article 12 of Decree No. 65/2023/ND-CP.

5. The Intellectual Property Office of Vietnam shall provide notifications of the results of the format appraisal and issue decisions to accept valid applications as follows:

a) If the application is subject to one of the cases prescribed in Clause 2 of this Article, the Intellectual Property Office of Vietnam shall send a notification of the results of the format appraisal containing the intended refusal of the application due to invalidity to the applicant. The notification shall specify the name and address of the applicant; the name of the authorized person (if any); names of the subject matters in the application; reasons and deficiencies causing the application to be rejected and impose a 2-month time limit for the applicant to provide any feedback or rectify deficiencies.

Regarding documents proving grounds for priority rights, the applicant may provide additions within 3 months from the submission date prescribed in Point d Clause 1 Article 12 of Decree No. 65/2023/ND-CP.

b) If the application is valid, the Intellectual Property Office of Vietnam shall issue a decision to accept the valid application, specifying the name and address of the applicant, the name of the authorized person (if any), and information on the subject matters in the application, submission date, application code, and priority date (if any) and send it to the applicant. If the request for priority rights is rejected, the application may still be accepted as valid, except for the case of having other deficiencies affecting its validity. The decision shall specify the reason for the refusal of the request for priority rights.

6. After receiving the notification of the results of the format appraisal and the intended refusal of the application due to invalidity from the Intellectual Property Office of Vietnam, according to Point a Clause 5 of this Article, if the applicant fails to rectify deficiencies, provides inadequate rectification, does not have any objection, or provides irrelevant objections during the imposed time limit, the Intellectual Property Office of Vietnam shall issue a decision to reject the application and send it to the applicant.

7. Time limit for the format appraisal of applications:

a) The time limit for the format appraisal of an application is 1 month from the submission date prescribed in Clause 1 Article 119 of the Law on Intellectual Property;

b) If the Intellectual Property Office of Vietnam issues a notification according to Point a Clause 5 of this Article, the time for the applicant to respond to the notification shall not be included in the time limit for the format appraisal. Such a time is:

(i) The period from the notification date to the date the applicant responds to the notification; or

(ii) The imposed time limit in the notification (even if it is extended under Clause 2 Article 15 of Decree No. 65/2023/ND-CP) in case the applicant fails to respond to the notification.

c) If the applicant proactively requests amendments or additions to the application or responds to the notification of the Intellectual Property Office of Vietnam prescribed in Point a Clause 5 of this Article, the time limit for the format appraisal shall be extended by 10 days according to Clause 4 Article 119 of the Law on Intellectual Property;

d) Before the end date of the time limit prescribed in Points a, b, and c of this Clause, the Intellectual Property Office of Vietnam shall finish the format appraisal of the application and notify the applicant of the results according to Clauses 5 and 6 of this Article.

Article 10. Disclosure of valid applications

1. Information concerning the application approved as valid shall be disclosed by the Intellectual Property Office of Vietnam in the Industrial Property Official Gazette according to Article 110 of the Law on Intellectual Property. The applicant shall pay the disclosure fees as per regulation.

2. The disclosure of an application for registration of an invention, industrial design, mark, or geographical indication shall be carried out as follows:

a) Regarding an application for registration of an invention:

(i) The application shall be disclosed in the 19th month from the priority date or the submission date if the application does not have a priority date;

(ii) If the application requests early disclosure, it shall be disclosed within 2 months from the date the Intellectual Property Office of Vietnam receives such a request or from the date of valid application acceptance, whichever is later.

b) Regarding an application for registration of an industrial design:

(i) The application shall be disclosed within 2 months from the date of valid application acceptance if the applicant does not request late disclosure or the application is accepted as valid after the time limit for requesting late disclosure;

(ii) If the applicant requests late disclosure and the application is accepted as valid before the time limit for requesting late disclosure, the application shall be disclosed in the month following the end month of the time limit for requesting late disclosure.

c) Regarding an application for registration of a mark or geographical indication, it shall be disclosed within 2 months from the date of valid application acceptance.

3. Disclosed contents in the Industrial Property Official Gazette shall include information concerning valid applications regarding their format prescribed in decisions on valid application acceptance (including decision code and date) and the following information:

a) Regarding an application for registration of an invention: name and nationality of the inventor; information concerning the valid application (application conversion or split, the code of the initial application of the split/conversion application, etc.); summary of the invention; drawings enclosed with the summary (if any); date of request for content appraisal (if any); date of request for early disclosure (if any); international classification of the invention; other information (if any).

b) Regarding an application for registration of an industrial design: name and nationality of the author; information concerning the valid application (application split, the code of the initial application of the split application, etc.); set of photos or drawings of the industrial design; the number of schemes for the protection request; international classification of the industrial design; other information (if any).

c) Regarding an application for registration of a mark: mark samples and list of goods and services bearing the mark; information concerning the valid application (application conversion or split, the code of the initial application of the split application, etc.); international classification of goods and services; other information (if any); use regulations (regarding a collective or certification mark).

d) Regarding an application for registration of a geographical indication: summary of the specific characteristics of products with the geographical indication and names of such products; other information (if any).

Article 11. Handling of objections to applications for industrial property

1. If there is an objection to an application for industrial property submitted under Article 112a of the Law on Industrial Property that meets the requirements prescribed in Clause 9 of this Article, the Intellectual Property Office of Vietnam shall receive and notify such an objection to the applicant while imposing a 2-month time limit from the notification date for the applicant to provide written answers, except for cases prescribed in Clause 2 and Clause 5 of this Article.

2. If a mark and goods and services in the application subject to objection is identical to the mark and goods and services provided by the objecting party or there are grounds to conclude that the mark and goods and services subject to objection are similar and cause confusion or are not similar and do not cause confusion over the mark and goods and services provided by the objecting party, the Intellectual Property Office of Vietnam shall handle the objection during the content appraisal of the application for registration of the mark and notify the handling results and the content appraisal results of the related application to the objector.

3. After receiving the response of the applicant within the time limit prescribed in Clause 1 of this Article, if necessary, the Intellectual Property Office of Vietnam shall notify such a response to the objector and impose a 2-month time limit from the notification date for the objector to provide answers to the response.

4. Based on information, evidence, and arguments provided by the related parties (if any) according to Clauses 1 and 3 of this Article and/or results of the conversation of the related parties according to Clause 7 of this Article and documents in the application, the Intellectual Property Office of Vietnam shall handle the objection and notify the objector of the results of the handling of the objection and the content appraisal results of the related application.

5. If the objection of the objector concerns registration rights, the Intellectual Property Office of Vietnam shall notify and instruct the objector to file a lawsuit to a competent Court according to civil procedure laws, except for the following cases:

a) There are grounds to determine that the applicant is not competent to submit the application according to Clause 7 Article 87 of the Law on Intellectual Property;

b) Feedback on rights to submit mark registration applications regarding signs that are or signs that indicate place names or other signs indicating geographical origins of local specialties of Vietnam according to Clauses 3 and 4 Article 87 of the Law on Intellectual Property.

6. If the objector fails to submit copies of the notification of case acceptance of the Court to the Intellectual Property Office of Vietnam within 2 months from the date the Intellectual Property Office of Vietnam issues the notification prescribed in Clause 5 of this Article, the objector shall be considered to withdraw the objection and the Intellectual Property Office of Vietnam shall continue to process the application as per regulation. If the Intellectual Property Office of Vietnam receives copies of the notification of case acceptance of the Court from the objector in the time limit mentioned above, the Intellectual Property Office of Vietnam shall suspend the processing of the related application to wait for the dispute handling results of the Court. After receiving the handling results from the Court, the processing of the application shall be carried out in conformity with such results.

7. The Intellectual Property Office of Vietnam shall organize direct conversations between the objector and the applicant to clarify the issue subject to the objection if necessary or upon requests from both parties.

8. The time limit for the applicant to provide answers to the objection of the objector and the time limit for the objector to respond to the feedback of the applicant according to Clauses 1 and 3 of this Article shall not be included in the time limit for the Intellectual Property Office of Vietnam to carry out related procedures as per regulation.

9. Objections to industrial property applications shall be made in Vietnamese. Documents enclosed with the objections may be made in other languages but shall be translated to Vietnamese when requested by the Intellectual Property Office of Vietnam.

Article 12. Application content appraisal

1. Application content appraisal prescribed in Article 114 of the Law on Intellectual Property means the assessment of the possibility of protection of subject matters prescribed in applications according to conditions for protection and determination of the respective protection scope (volume). Content appraisal shall not apply to applications for layout design registration.

2. Content appraisal shall be carried out as follows:

a) Contents subject to appraisal include:

(i) Assessment of the compatibility of the subject prescribed in the application regarding the protection title type requested for issuance;

(ii) Assessment of the subject according to each protection condition;

(iii) Inspection of compliance with first-to-file rule.

b) The assessment according to protection conditions shall be carried out respectively for each subject (if the application includes multiple subject matters while ensuring consistency). For each subject, the assessment shall be carried out respectively by each protection condition:

(i) Regarding an invention registration application, the assessment shall be carried out respectively by each point specified in the protection scope (request);

(ii) Regarding an industrial design registration application, the assessment shall be carried out respectively with the design of each product (if the application mentions a set of products); in case multiple schemes are mentioned, the assessment shall apply to each scheme respectively, starting from the basic scheme (the first scheme mentioned in the application);

(iii) Regarding a mark registration application, the assessment shall be carried out respectively for each component of the mark regarding each good and service prescribed in the list of goods and services.

c) The content appraisal for each subject prescribed in Point b of this Clause shall be completed once such subject matters are assessed with every protection condition, and there are sufficient grounds to conclude that such subject matters fail to meet or meet the protection conditions, specifically:

(i) There are reasons to conclude that the related subject matters fail to meet one, several, or all of the protection conditions; or

(ii) There is no reason to conclude that the related subject matters fail to meet at least one of the protection conditions.

d) Before issuing notification of the content appraisal results with the intended issuance of protection titles according to Points c, d, e Clause 8 Article 16, Points c, d, e Clause 10 Article 23, and Points c, d, Paragraph (ii) Point e Clause 13 Article 26 of this Circular, the Intellectual Property Office of Vietnam shall inspect compliance with the first-to-file rule according to Clause 7 Article 16, Clause 9 Article 23, Clause 12 Article 26 of this Circular.

dd) Notification of content appraisal results with the intended issuance of protection titles prescribed in Points c, d, e Clause 8 Article 16, Points c, d, e Clause 10 Article 23, Points c, d, Paragraph (ii) Point e Clause 13 Article 26, and Point b Clause 7 Article 30 of this Circular shall be carried out for the following applications:

(i) Applications not subject to cases prescribed in Article 90 of the Law on Intellectual Property;

(ii) Applications with the earliest submission date or priority date among the invention registration applications subject to cases prescribed in Clause 1 Article 90 of the Law on Intellectual Property;

(iii) Applications with the earliest submission date or priority date among the industrial design registration applications subject to cases prescribed in Clause 1 Article 90 of the Law on Intellectual Property;

(iv) Applications with the earliest submission date or priority date among the mark registration applications subject to cases prescribed Clause 2 Article 90 of the Law on Intellectual Property;

(v) Applications under agreements prescribed in Clause 3 Article 90 of the Law on Intellectual Property.

e) Any application not subject to cases prescribed in Point dd of this Clause shall be:

(i) Rejected from the issuance of protection titles due to failure to satisfy the first-to-file rule if the application that has the earliest submission date or priority date is eligible for protection title issuance; or

(ii) Considered to be the application with the earliest submission date or priority date and be processed as cases prescribed in Point dd of this Clause if every other application with the earliest submission date or priority date is rejected from protection title issuance, withdrawn, or considered to be withdrawn.

3. During the content appraisal of an application, if the application does not specify the nature of the subject matter, the Intellectual Property Office of Vietnam may request the applicant to explain the application content, provide information subject to the scope of the nature of the subject matters mentioned in the application for an adequate description of the nature of the subject matters and impose a 3-month time limit from the date of notification for the applicant to rectify.

4. Time limit for content appraisal of an application:

a) The time limit for content appraisal of the application shall comply with Clause 2 Article 119 of the Law on Intellectual Property;

b) The period for the applicant to respond to notifications from the Intellectual Property Office of Vietnam prescribed in Clause 8 Article 16, Clause 10 Article 23, Clause 13 Article 26, and Clause 7 Article 30 of this Circular shall not be included in the time limit for content appraisal. This period is:

(i) The period from the notification date to the date the applicant responds to the notification; or

(ii) The imposed time limit in the notification (even if it is extended under Clause 2 Article 15 of Decree No. 65/2023/ND-CP) in case the applicant fails to respond to the notification.

c) In case the applicant proactively requests amendment or addition to the application or responds to the notification of the Intellectual Property Office of Vietnam according to Clause 8 Article 16, Clause 10 Article 23, Clause 13 Article 26, and Clause 7 Article 30 of this Circular, the time limit for content appraisal shall be extended corresponding to the time limit for handling such requests or explanations from the applicant according to Clause 4 Article 119 of the Law on Intellectual Property as follows:

(i) Up to 6 months regarding an invention;

(ii) Up to 3 months regarding a mark;

(iii) Up to 2 months and 10 days regarding an industrial design;

(iv) Up to 2 months regarding a geographical indication.

5. Before the end of the time limit for content appraisal according to Clause 4 of this Article, the Intellectual Property Office of Vietnam shall send one of the notifications prescribed in Clause 8 Article 16, Clause 10 Article 23, Clause 13 Article 26, and Clause 7 Article 30 of this Circular to the applicant.

Article 13. Re-appraisal

1. Re-appraisal of an industrial property application shall be carried out by the Intellectual Property Office of Vietnam in the following cases:

a) The application is subject to a re-appraisal due to arising objections after the content appraisal results have been notified according to Clause 2 Article 118 of the Law on Intellectual Property when:

(i) There is written feedback of the applicant submitted to the Intellectual Property Office of Vietnam during the period from the date of content appraisal result notification to before the date of the decision to issue or refuse to issue the related protection title, or there is written feedback of a third person objecting the intended issuance of the protection title in the content appraisal

result notification enclosed with reasonable evidence proving the force majeure or objective obstacles leading to failure to object the application in the time limit prescribed in Article 112a of the Law on Intellectual Property;

(ii) The feedback prescribed in Paragraph (i) of this Point has reasonable grounds with enclosed evidence or indication of trusted information sources;

(iii) Reasons and evidence proving the feedback specified in Paragraph (i) of this Point shall be different from the reasons and evidence (if any) mentioned in the previous stage, or the reasons and evidence may be identical to the previous stage, but the Intellectual Property Office of Vietnam must have not assessed them under Clauses 1, 2, and 3 Article 11 of this Circular.

b) The application is subject to a re-appraisal when there is a request for amendment or addition to the application after the content appraisal results have been notified, specifying the intended issuance of a protection title according to Point c Clause 3 Article 16 of Decree no. 65/2023/ND-CP;

c) The application is subject to a re-appraisal when there is a request for the recognition of changes to the applicant due to a transfer of the mark registration application submitted after the content appraisal results have been notified with the intended issuance of a protection title according to Point c Clause 2 Article 18 of Decree No. 65/2023/ND-CP.

d) The application is subject to a re-appraisal because the protection title holder requests amendments to the description or narrows the scope of industrial property right protection according to Point b Clause 1 and Clause 3 Article 97 of the Law on Intellectual Property following the procedure for amending protection titles prescribed in Point b Clause 5 Article 29 of Decree No. 65/2023/ND-CP;

dd) The application is subject to a re-appraisal due to a request for termination of the validity of the protection title according to Point a Clause 3 Article 32 of Decree No. 65/2023/ND-CP;

e) The application is subject to a re-appraisal due to a written complaint against decisions or notifications concerning the application according to Clause 4 and Point b Clause 6 Article 38 of this Circular.

2. The application re-appraisal shall be carried out as follows:

a) The time limit for application re-appraisal shall comply with Clause 3 Article 119 of the Law on Intellectual Property, specifically:

(i) Up to 12 months regarding an invention;

(ii) Up to 6 months regarding a mark;

(iii) Up to 4 months and 20 days regarding an industrial design;

(iv) Up to 4 months regarding a geographical indication.

Regarding complicated cases with details requiring verification or consultation with experts, the time limit for the re-appraisal may be extended, but it shall not exceed the first-time appraisal time limit according to Clause 2 Article 119 of the Law on Intellectual Property.

b) The content subject to re-appraisal shall comply with the corresponding regulations prescribed in Clause 2 Article 12 of this Circular;

c) Re-appraisal procedure shall comply with the corresponding regulations prescribed in Clause 8 Article 16, Clause 10 Article 23, Clause 13 Article 26, and Clause 7 Article 30 of this Circular, except for the cases mentioned in Point dd and Point e Clause 1 of this Article;

d) For each case prescribed in Clause 1 of this Article, the content re-appraisal shall only be carried out once for the applicant and the third person.

Section 2. APPLICATIONS AND PROCESSING OF INVENTION REGISTRATION APPLICATIONS

Article 14. Requirements for invention registration applications

1. An invention registration application shall be made in compliance with Article 100 and Article 102 of the Law on Intellectual Property, Article 48 and Appendix I of Decree No. 65/2023/ND-CP, and guidelines prescribed in this Article.

2. The application shall ensure consistency according to Clause 1 and Clause 2 Article 101 of the Law on Intellectual Property. One group of inventions shall have a strict technical relation for a single common creative purpose according to Clause 2 Article 101 of the Law on Intellectual Property if it falls into the following cases:

a) One object is used to create (manufacture, invent, or process) the other object;

b) One object is used to carry out the other object;

c) One object is used to utilize the other object;

d) Objects are of the same type with the same function to ensure the same result.

3. Regarding inventions or biological material-related objects that cannot be described or fully described for persons with average knowledge of biotechnology to implement according to Clause 2 Article 102 of the Law on Intellectual Property, the applicant may deposit biological material samples to serve the content appraisal of the related invention registration application. The deposit of biological materials shall meet the following requirements:

a) The biological materials shall be submitted to the biological material storage authority no later than the submission date of the invention registration application related to such biological materials;

b) The biological material storage authority is a Vietnamese or foreign authority included in the list of international storage authorities according to the Budapest Treaty or recognized by the Ministry of Science and Technology of Vietnam regarding the function of storing biological materials for procedures concerning inventions;

c) Regarding biological materials deposited in a foreign storage authority, if it is necessary to clarify the nature of the subject matters of the protection request or to meet the requirements of a third party regarding access to such subject matters, the Intellectual Property Office of Vietnam may:

(i) Request the applicant to deposit additional biological materials in a Vietnamese storage authority in case biological materials have not been deposited in an international storage authority according to the Budapest Treaty;

(ii) Request the biological material storage authority to provide samples in case the biological materials are deposited in an international storage authority according to the Budapest Treaty.

4. Regarding an application for an invention directly created from the gene source or traditional knowledge, if the applicant fails to enclose presentation documents on the origin of the gene source or the traditional knowledge that the author of such an invention or the applicant has accessed according to Point dd1 Clause 1 Article 100 of the Intellectual Property due to inability to identify the source of such gene source of traditional knowledge, the applicant shall specify the reason as such and take responsibility for the honesty of the provided information.

5. If there are grounds (information or evidence) to suspect the authenticity of the information specified in the application or determine that the information specified in the application is unclear, the Intellectual Property Office of Vietnam shall request the applicant to submit documents to verify or clarify such information within 2 months from the date of the Intellectual Property Office of Vietnam issues the notification. Documents mentioned above may be documents confirming the legitimate registration rights if the applicant inherits the submission rights from another person (documents proving inheritance rights according to civil laws, documents proving the transfer of application submission rights; assignment contracts or labor contracts, etc.); documents showing drug test results on humans, animals, or plants in their descriptions (when subject matters of the protection request are pharmaceutical products used for humans, animals, or plants); etc.

Article 15. Format appraisal and disclosure of invention registration applications

The format appraisal and disclosure of invention registration applications shall comply with the general procedures prescribed in Articles 9 and 10 of this Circular.

Article 16. Content appraisal of invention registration applications

1. An applicant may request the Intellectual Property Office of Vietnam to carry out the content appraisal of an invention registration application according to Article 113 of the Law on Intellectual Property in compliance with the following guidelines:

- a) A request for content appraisal of the invention registration application shall be made in writing following the Form in Appendix I of Decree No. 65/2023/ND-CP or specified in the declaration of the invention registration application (if the request is made upon the application submission);
- b) The time limit for submitting the request for content appraisal of the invention registration application shall comply with Article 113 of the Law on Intellectual Property;
- c) The applicant shall pay the information fees and content appraisal fees as per regulation. If the applicant fails to pay the mentioned fees fully, the request for content appraisal shall be considered invalid, and the Intellectual Property Office of Vietnam shall not carry out the application content appraisal.

The request for content appraisal of the invention registration application submitted after the application disclosure date shall be disclosed in the Industrial Property Official Gazette in the 2nd month from the receipt date of the request. The request for content appraisal of the invention registration application submitted before the application disclosure date shall be disclosed together with the related application.

2. The Intellectual Property Office of Vietnam shall carry out the content appraisal of the invention registration application in compliance with Article 12 of this Circular and Clauses 3, 4, 5, 6, 7, 8, and 9 of this Article.

3. The assessment of the compatibility between subject matters mentioned in the application and types of invention protection titles shall comply with the following regulations:

- a) Subject matters mentioned in the invention registration application shall be considered incompatible with the type of protection title the applicant requested for issuance (invention patent or utility solution patent) if the subject matters are not technical solutions, products, or procedures. The recognition of technical solutions is prescribed in Point b of this Clause;
- b) Technical solutions – subject matters protected as inventions – mean a necessary and adequate collection of information on technical methods and/or means (application of the law of nature) used for the purpose of settling one specific task (issue). Technical solutions may be subject to one of the following forms:
 - (i) Physical products, e.g., tools, machines, devices, components, circuits, etc., showed by a collection of information for determining one artificial product characterized by technical signs (characteristics) of structure with functions (uses) satisfying certain human needs; or products in the form of substances (including single substances, compounds, and mixtures of substances), e.g., materials, good, pharmaceutical products, etc., presented by a collection of information for determining one artificial product characterized by technical signs (characteristics) of the

presence, ratio, and status of elements with functions (uses) as a mean to satisfy certain human needs; or products in the form of biological materials, e.g., genes, genetically modified plants/animals, etc., presented by a collection of information on one product with information on altered genes under human influence, capable of self-regeneration;

(ii) Procedures (technological procedures; methods of diagnosis, prediction, inspection, handling, etc.) presented by a collection of information determining the method for carrying out a specific procedure or task characterized by signs (characteristics) of order, conditions, compositions, measures, and means to perform operations to achieve a certain purpose.

c) Subject matters mentioned in the application shall not be considered as technical solutions in the following cases:

(i) Subject matters mentioned in the application are ideas or intentions only stating (posing) issues but not solving them or not answering questions of “how” and/or “by what means”;

(ii) Issues (tasks) stated for settlement are not technical issues and cannot be settled by technical methods;

(iii) Natural products that are not creative products of humans.

4. Assessment of the capacity for industrial application according to Article 62 of the Law on Intellectual Property

a) Technical solutions mentioned in the application shall be considered “feasible” if:

(i) Information on the nature of the solutions, together with guidelines on necessary technical conditions, are presented clearly and adequately to the point where persons with average knowledge of the corresponding technical field can create, manufacture, use, utilize, or implement such solutions;

(ii) The creation, manufacture, use, utilization, or implementation of the mentioned solutions is repeatedly carried out, producing the same result that is similar to the one specified in the invention description.

b) Technical solutions shall be considered “unfeasible” regarding industrial application in the following cases:

(i) The nature of subject matters or guidelines for the implementation of subject matters contradict fundamental principles of science (e.g., in compliance with the principle of conservation of energy, etc.);

(ii) Subject matters include elements and components without any technical relation among each other or cannot be related (connected, bound, dependent, etc.) to each other;

(iii) Subject matters contain internal contradictions;

- (iv) Guidelines on subject matters may only be implemented for a limited number of times (cannot be repeated);
- (v) Persons implementing solutions must have special skills that cannot be imparted or presented to others;
- (vi) Implementation results are not consistent after multiple attempts;
- (vii) Implementation results are different from the ones prescribed in the application;
- (viii) Guidelines important for the implementation of solutions are unavailable or missing;
- (ix) Other cases with valid reasons.

5. Novelty assessment according to Article 60 of the Law on Intellectual Property

a) To assess the novelty of technical solutions mentioned in an application, an information lookup shall be conducted from the following mandatory sources (but not limited to such sources):

- (i) Every invention registration application received by the Intellectual Property Office of Vietnam with the same classification index with the subject matters mentioned in the application currently subject to appraisal - including the sub-classification index (third index) with priority dates or submission dates earlier than the priority date or submission date of the application currently subject to appraisal, excluding applications that have been or will not be disclosed;
- (ii) Invention registration applications or invention protection titles disclosed by other organizations or countries within 25 years by the submission or priority date of the application currently subject to appraisal (if the application is eligible for priority rights), archived in the database on inventions at the Intellectual Property Office of Vietnam and other information sources stipulated by the Intellectual Property Office of Vietnam with the lookup scope prescribed in Paragraph (i) of this Point.

In case of necessity and possibility, the lookup may be expanded to the national database on science and technology and other accessible information sources, including information sources on the internet.

b) The information lookup aims to determine technical solutions similar or identical to technical solutions mentioned in the application in terms of nature. Specifically:

- (i) Two technical solutions shall be considered identical when all fundamental signs (characteristics) are identical or equivalent (interchangeable);
- (ii) Two technical solutions shall be considered similar when most of the fundamental signs (characteristics) are identical or equivalent (interchangeable);

(iii) “Control technical solutions” mean technical solutions identical or most similar to the technical solutions mentioned in the application;

(iv) “Control documents” are documents with descriptions of control technical solutions or evidence proving that control technical documents have been disclosed.

c) Information lookup results shall be presented in the lookup report, specifying the lookup field, scope, and results within such a scope (statistics on discovered control technical solutions with specific identical signs, names of control documents, number of pages and lines, document origin, and disclosure dates of the corresponding documents), and full names of the person making the report (searcher).

d) To assess the novelty of the technical solutions mentioned in the application, it is necessary to compare the fundamental signs (characteristics) of such technical solutions with ones of control technical solutions discovered during the lookup of information, specifically:

(i) Fundamental technical signs of technical solutions may be the physical and structural characteristics (details, detail clusters, links, etc.) or the structure of substances (components (presence, ratio), status of elements, etc.) together with other fundamental technical signs forming a necessary and adequate collection of the nature (content) of the subject matters.

The fundamental technical signs mentioned above may be presented in the form of technical functions of an element in the structure of a product (functional signs), providing that the display is sufficient for a person with average knowledge in the related field may easily understand the technical mean or method to perform such a function in normal conditions without creativity. Functions and uses of subject matters requesting protection are not fundamental technical signs, but they may be the purposes or achieved results of such subject matters;

(ii) Fundamental technical signs of the technical solutions mentioned in the application and protection titles shall be specified in the protection scope (request) of the inventions, descriptions, or drawings;

(iii) Fundamental technical signs of technical solutions mentioned in other documents shall be specified and discovered in their description documents or presented by the actual forms of such technical solutions.

dd) To guarantee the novelty of disclosed inventions in exceptions prescribed in Clause 3 and Clause 4 Article 60 of the Law on Intellectual Property, the applicant shall submit documents concerning the disclosure to prove the eligibility for exception. The mentioned documents shall be submitted together with the application or as an addition according to regulations on application amendment and addition.

e) Corresponding to a specific point of the protection scope (request), technical solutions mentioned in the application shall be considered novel compared to the global technical status if:

(i) No control technical solution is found during the information lookup; or

(ii) Specific control technical solutions are found, but the technical solutions mentioned in the application have at least one fundamental technical sign not included in the control technical solutions (such a sign is called a distinctive fundamental sign).

6. Creativity assessment according to Article 61 of the Law on Intellectual Property shall be carried out as follows:

a) When assessing the creativity of technical solutions, an information lookup shall be carried out using the mandatory sources (but not limited to such sources) according to Point a Clause 5 of this Article (except for undisclosed applications by the priority date or submission date of the application currently subject to appraisal);

b) The creativity assessment of technical solutions mentioned in the application shall be carried out by assessing the distinctive fundamental sign(s) mentioned in the protection scope (request) to conclude:

(i) Whether the distinctive fundamental sign(s) is presented in the mandatory information sources; and

(ii) Whether the collection of distinctive fundamental technical signs is obvious to persons with average knowledge of the corresponding technical field.

Corresponding to a specific point of the protection scope (request), technical solutions shall be considered creative if the inclusion of distinctive fundamental technical signs to the collection of fundamental technical signs of such technical solutions is a result of creative actions and not an obvious result due to common knowledge in the corresponding technical field.

c) Corresponding to a specific point of the protection scope, technical solutions shall be considered uncreative in the following cases (but not limited to such cases):

(i) The collection of distinctive fundamental technical signs is obvious (any person with average knowledge of the corresponding technical field knows that in order to implement the determined function or achieve the determined purpose, such a collection must be used, and when using the mentioned collection the corresponding purpose is achieved or the corresponding function is carried out);

(ii) The collection of distinctive fundamental technical signs has already been presented in an identical or similar form in one or several known technical solutions in the mandatory information sources. Specifically, two signs shall be considered identical if they have the same nature; two signs shall be considered similar if they have similar nature, same purposes, and methods for achieving purposes are fundamentally identical;

(iii) Technical solutions are the results of the basic combination of known technical solutions with their functions, purposes, and efficiency also are the results the basic combination of ones of known technical solutions.

7. Regarding invention registration applications concluded to meet the protection conditions, before notifying the content appraisal results with the intended issuance of invention patents or utility solution patents according to Points c, d, and e Clause 8 of this Article, the Intellectual Property Office of Vietnam shall inspect compliance with the first-to-file rule according to Clause 3 Article 90 of the Law on Intellectual Property.

8. Before the end of the time limit for content appraisal according to Clause 4 Article 12 of this Circular, the Intellectual Property Office of Vietnam shall carry out the following tasks:

a) If the subject matters of the protection request mentioned in the application fail to meet the protection conditions or are subject to cases prescribed in Article 117 of the Law on Intellectual Property or meet the protection conditions but the application has deficiencies, the Intellectual Property Office of Vietnam shall notify the applicant of the content appraisal results, specifying the intended refusal to issue the protection title, reasons, or deficiencies of the application, provide guidelines on amendments to the protection scope (volume) and impose a 3-month time limit from the notification date for the applicant to provide any feedback;

b) After the imposed time limit prescribed in Point a of this Clause, if the applicant fails to amend deficiencies or provides inadequate amendments or does not have any objection or provides inadequate objection, within 15 days from the end date of the mentioned time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

c) If the subject matters of the protection request mentioned in the application partly meet the protection conditions according to protection request points, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title regarding the part meeting the protection conditions, providing that the applicant provides adequate amendments to the application, reasons for refusal to issue the protection title for the part not meeting the protection conditions, and impose a 3-month time limit from the notification date for the applicant to have any written feedback on agreeing and amending the application or objection to the content appraisal results.

d) If the subject matters of the protection request mentioned in the application meet the protection conditions or the applicant has provided adequate amendments or valid suggestions on the content appraisal results and/or provided adequate amendments to the application according to Point a and Point c of this Clause, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title to the whole or the part meeting the protection conditions and impose a 3-month time limit from the notification date for the applicant to pay protection title issuance fees, fees for disclosure of decisions on protection title issuance, protection title issuance decision registration fees, validity maintenance fees, and fees for the use of invention protection titles in the first year.

dd) After the imposed time limit prescribed in Point c of this Clause, if the applicant fails to provide amendments or does not have any objection, within 15 days from the end date of such time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

e) After the imposed time prescribed in Point c of this Clause, if the applicant provides inadequate amendments to the application or inadequate objection, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title to the part meeting the protection conditions, providing that the applicant provides adequate amendments to the application, and impose a 3-month time limit from the notification for the applicant to amend the application.

If the applicant has provided adequate amendments to the application, within 3 months from the date of such amendments, the Intellectual Property Office of Vietnam shall notify the applicant of the intended issuance of the protection title and the payment of protection title issuance fees, fees for disclosure of decisions on protection title issuance, protection title issuance decision registration fees, validity maintenance fees, and fees for the use of invention protection titles in the first year and impose a 3-month time limit from the notification date for the applicant to pay the mentioned fees.

g) If the applicant provides inadequate amendments to the applicant, does not amend the application, or inadequately pays protection title issuance fees, fees for disclosure of decisions on protection title issuance, and protection title issuance decision registration fees within the imposed time prescribed in Point d and Point e of this Clause, within 3 months from the end date of the corresponding time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

h) Regarding cases prescribed in Point d and Point e of this Clause, if the applicant adequately and promptly pays the prescribed fees, the Intellectual Property Office of Vietnam shall issue a decision to issue the protection title within 15 days from the end date of the corresponding time limit. If the applicant adequately pays the protection title issuance fees, fees for disclosure of decisions on protection title issuance, and protection title issuance decision registration fees but fails to pay the validity maintenance fees and fees for the use of protection titles in the first year of the invention patent or utility solution patent, such patent shall still be used, but it shall expire immediately after its issuance.

9. The use of the information lookup results and invention registration application appraisal results of a foreign invention agency shall be carried out as follows:

a) During the content appraisal of an invention registration application, the Intellectual Property Office of Vietnam may use the information lookup results and content appraisal results of the corresponding application submitted abroad for reference;

b) Lookup and appraisal results mentioned in Point a of this Clause include one of the following documents:

(i) Report on the lookup, report on the appraisal, and notification of the appraisal results;

(ii) Disclosed copy of the invention patent or protection title.

c) Before the Intellectual Property Office of Vietnam issues notification of the content appraisal results, the applicant may request the Intellectual Property Office of Vietnam to use the content appraisal results of an invention registration application submitted abroad to assess the protection capacity if the following conditions are met:

(i) Content appraisal results in documents mentioned in Paragraph (i) and Paragraph (ii) Point b of this Clause are issued by authorities included in the list approved by the Minister of Science and Technology of Vietnam based on the suggestion from the Intellectual Property Office of Vietnam;

(ii) Content appraisal results of the invention registration application submitted abroad mentioned above have at least one protection request point assessed as meeting protection conditions;

(iii) Protection request points of the application submitted in Vietnam, initially or after amendments, are identical to protection request points assessed as meeting protection conditions in the content appraisal results of the mentioned invention registration application submitted abroad;

(iv) The applicant shall submit the following documents to the Intellectual Property Office of Vietnam: request for the use of foreign appraisal results following the form specified in the Appendix of this Circular; copies of the appraisal results; translation of the appraisal results (if necessary); protection request points assessed as meeting protection conditions by the foreign invention agency and translation (if necessary); documents cited in the application processing results of the foreign invention agency (if necessary); description of amendments and detailed presentation of amended and additional content compared to the description submitted initially (in case of amendments); and fees as per regulation.

d) In case the conditions prescribed in Point c of this Clause are met, the request for the use of the foreign content appraisal results is approved, the Intellectual Property Office of Vietnam shall issue notification of application content appraisal results within 12 months from the date of receipt of the request from the applicant.

If amendments or additions to the invention registration application in the 12-month time limit mentioned above cause one of the conditions prescribed in Point c of this Clause to no longer be met, such invention registration application shall be appraised under normal procedures.

dd) If one of the conditions prescribed in Point c of this Clause is no longer met, the Intellectual Property Office of Vietnam shall notify the rejection of the request for the use of foreign content appraisal results and the decision to appraise the invention registration application under normal procedures.

Section 3. APPLICATIONS AND PROCESSING OF LAYOUT DESIGN REGISTRATION APPLICATIONS

Article 17. Requirements for layout design registration applications

1. A layout design registration application shall meet the requirements prescribed in Articles 100, 101, and 104 of the Law on Intellectual Property, Appendix I of Decree No. 65/2023/ND-CP, and the guidelines in this Article.

2. If there are grounds (information or evidence) to suspect the authenticity of the information specified in the application or determine that the information specified in the application is unclear, the Intellectual Property Office of Vietnam shall request the applicant to submit documents to verify or clarify such information within 2 months from the date of the Intellectual Property Office of Vietnam issues the notification. Documents mentioned above may be documents confirming the legitimate registration rights if the applicant inherits the submission rights from another person (documents proving inheritance rights, documents proving the transfer of application submission rights, assignment contracts, or labor contracts), etc.

Article 18. Confidentiality of information in layout design registration applications

The Intellectual Property Office of Vietnam shall ensure the confidentiality of the information in the layout design registration application upon request from the applicant, according to Appendix I of Decree No. 65/2023/ND-CP.

Article 19. Format appraisal of layout design registration applications

1. The format appraisal of a layout design registration application shall comply with Clauses 1, 2, 3, 4, and 8 Article 9 of this Circular and regulations on layout design registration application prescribed in this Article.

2. Notification of format appraisal results shall be carried out as follows:

a) If the application is subject to cases prescribed in Clause 2 Article 9 of this Circular, the Intellectual Property Office of Vietnam shall carry out the procedures prescribed in Point a Clause 5 Article 9 of this Circular.

b) If the application is valid, the Intellectual Property Office of Vietnam shall notify the applicant of the intended issuance of the certificate of layout design registration and impose a 3-month time limit from the notification date for the applicant to pay fees as per regulation.

3. After receiving the notification of format appraisal results, specifying deficiencies and the intended rejection of the application according to Point a Clause 5 Article 9 of this Circular from the Intellectual Property Office of Vietnam, if the applicant fails to amend deficiencies or provides inadequate amendments or does not have any objection or provides inadequate objection within the imposed time limit or fails to adequately pay fees for issuance of certificates of layout design registration as per regulation, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the certificate of layout design registration and send it to the applicant.

Article 20. Disclosure of layout design registration applications

1. A layout design registration application accepted as valid shall be disclosed under Clause 4 Article 110 of the Law on Intellectual Property.

2. Access to detailed information on valid layout design registration applications

a) From the disclosure date of applications, anyone can access detailed information on the nature of the layout designs mentioned in disclosed applications, except for information subject to confidentiality according to Article 18 of this Circular.

b) Only authorities competent to carry out the procedure for terminating the validity of protection titles or procedures for handling acts of infringement on rights to new layout designs are permitted to access the confidential information of layout designs.

Section 4. APPLICATIONS AND PROCESSING OF INDUSTRIAL DESIGN REGISTRATION APPLICATIONS

Article 21. Requirements for industrial design registration applications

1. An industrial design registration application shall meet the requirements prescribed in Articles 100 and 103 of the Law on Intellectual Property, Appendix I of Decree No. 65/2023/ND-CP, and the guidelines prescribed in this Article.

2. The industrial design registration application shall ensure consistency according to Clause 1 and Clause 3 Article 101 of the Law on Intellectual Property. If the application requests protection for one industrial design of one product or any part for assembly into a complex product enclosed with one or many schemes for variants of such industrial design, such schemes shall not be significantly different from the basic schemes and each other.

Specifically, products are items, tools, devices, or equipment manufactured by using industrial or handicraft methods with specific structures and functions; parts for assembly into complex products with the capacity for independent circulation that can be disassembled from the complex products; complex products are products generated from many replaceable parts that can be disassembled and reassembled. Products, parts for assembly, and complex products shall be collectively called products except for specific regulations.

3. If there are grounds (information or evidence) to suspect the authenticity of the information specified in the application or determine that the information specified in the application is unclear, the Intellectual Property Office of Vietnam shall request the applicant to submit documents to verify or clarify such information within 2 months from the date of the Intellectual Property Office of Vietnam issues the notification. Documents mentioned above may be documents confirming the legitimate registration rights if the applicant inherits the submission rights from another person (documents proving inheritance rights, documents proving the transfer of application submission rights, assignment contracts, or labor contracts, etc.).

4. Design characteristics of industrial designs are understood as follows:

a) The design characteristics of an industrial design are elements presented in the form of lines, shapes, colors, position correlation, or size correlation that, when combined with other characteristics (signs), form the industrial design;

b) Fundamental design characteristic is the design characteristic that can be easily recognized or memorized, which is necessary and sufficient to determine the nature of the industrial design and distinguish the industrial design from other ones used for products of the same type.

Products of the same type are products with identical or similar use purposes or functions.
Complex products and parts for assembly into complex products are products of different types.

c) The following elements shall not be considered fundamental design characteristics of industrial designs:

(i) Shapes and lines decided by the technical functions of the products (e.g., the flat shape of a data recording disc decided by the relative movement between the disc and the disc reader, etc.);

(ii) Elements without aesthetic impression among the collection of signs (the impression of the product's appearance remains the same with or without the mentioned elements; e.g., a change in a shape or line is not enough to be recognized, so the changed shape or line is still only recognized as the old one);

(iii) Materials used to manufacture the product;

(iv) Signs attached or labeled onto the product to provide information or guidelines on the origin, characteristic, structure, function, use, etc., of the product, e.g., information on goods labels (manufacturers, commercial instructions, origins, codes, etc.), marks, geographical indications, etc.;

(v) Size of the product, except for cases of changes to the decorative sizes of fabric samples and similar materials;

(vi) Design characteristics invisible during the utilization of the product (regarding the industrial design of the product) or complex product (regarding the industrial design of parts for assembly into a complex product);

(vii) Other elements not meeting the conditions prescribed in Point b of this Clause.

Article 22. Format appraisal and disclosure of industrial design registration applications

The format appraisal and disclosure of industrial design registration applications shall comply with the general procedures prescribed in Articles 9 and 10 of this Circular.

Article 23. Content appraisal of industrial design registration applications

1. Content appraisal of an industrial design registration application shall be carried out following the general procedure prescribed in Article 12 of this Circular and this Article.

2. Subject matters mentioned in the application shall be considered incompatible with the industrial design protection title if:

a) The subject matters are not the appearance of the product. The appearance of the product is a combination of design characteristics (shapes, lines, colors, or a combination thereof) visible during the utilization of the functions of the product (regarding the industrial design of the product) or the complex product (regarding industrial designs of parts for assembly into such complex product). Specifically, the utilization of the functions of the product or complex product means putting such product into use according to its features and functions, excluding its maintenance and repair.

b) Subject matters mentioned in the application are:

(i) The appearance of the product due to mandatory technical characteristics of the product;

(ii) The appearance of a civil or industrial construction work except for the appearance of modules or separate units that can be independently used or assembled together to form the construction work, such as stalls, kiosks, mobile homes, or similar products.

3. Information lookup shall be carried out as follows:

The information lookup aims to use the mandatory information sources to discover industrial designs identical or similar to the industrial design mentioned in the application.

b) The mandatory information sources used during the content appraisal of the application include the following documents:

(i) Industrial design registration applications received by the Intellectual Property Office of Vietnam and have disclosure dates earlier than the priority date of the application current subject to appraisal (if it is eligible for priority rights);

(ii) Industrial design registration applications and industrial design protection titles disclosed by other organizations or countries within 25 years before the submission date or priority date of the application currently subject to appraisal (if it is eligible for priority rights), archived in the existing database on industrial designs at the Intellectual Property Office of Vietnam;

(iii) Other information concerning industrial designs collected and archived by the Intellectual Property Office of Vietnam;

(iv) Industrial design registration applications received by the Intellectual Property Office of Vietnam and international industrial design registration applications designating Vietnam with submission dates or priority dates earlier than the application currently subject to appraisal (if it

is eligible for priority rights), used for inspecting compliance with the first-to-file rule prescribed in Clause 9 of this Article.

c) In case of necessity and possibility, the lookup may be expanded to more than the mandatory information sources, such as national databases on inventions and marks and other accessible information sources.

4. Information lookup results shall be presented in the lookup report, specifying the lookup field, scope, and results within such a scope (specific statistics on discovered control industrial designs, information origin, and disclosure date of corresponding information) and full names of the person making the report (searcher).

Specifically, control industrial designs mean industrial designs identical or similar to the industrial designs mentioned in the application used for comparison during the novelty and creativity assessments.

5. The assessment of the distinctiveness of industrial designs shall comply with the following regulations:

a) Two industrial designs shall be considered identical when they are used for products of the same type with the same collection of fundamental and non-fundamental design characteristics;

b) Two industrial designs shall be considered not significantly different from each other when they are used for products of the same type with the same collection of fundamental design characteristics;

c) Two industrial designs shall be considered similar when they are used for products of the same type and have at least one design characteristic that is one fundamental design characteristic that is identical or not significantly different from each other;

d) Two industrial designs among identical industrial designs shall be considered the closest analogues when they have the highest number of fundamental design characteristics similar or not significantly different from each other compared to all other similar industrial designs;

dd) Two industrial designs shall be considered significantly different from each other when they are used for products of different types or products of the same type but have at least one different fundamental design characteristic.

6. Novelty assessment of industrial designs according to Article 65 of the Law on Intellectual Property shall be carried out as follows:

a) To assess the novelty of industrial designs mentioned in the application, it is necessary to compare the collection of fundamental design characteristics of such industrial designs with the collection of fundamental design characteristics of each control industrial design discovered during the information lookup.

b) Industrial designs shall be considered novel if:

(i) No control industrial design is found in the mandatory information sources; or

(ii) Control industrial designs are found in the mandatory information sources but the industrial designs mentioned in the application shall be considered significantly different from such control industrial designs; or

(iii) Control industrial designs are industrial designs mentioned in disclosed applications subject to cases prescribed in Clause 3 and Clause 4 of Article 65 of the Law on Intellectual Property.

7. Creativity assessment of industrial designs according to Article 66 of the Law on Intellectual Property shall be carried out as follows:

a) To assess the creativity of industrial designs mentioned in the application, it is necessary to compare the collection of fundamental design characteristics of such industrial designs with collections of fundamental design characteristics of control industrial designs discovered during the information lookup.

b) Industrial designs mentioned in the application shall be considered uncreative in the following cases:

(i) Industrial designs are the simple combination of known design characteristics (disclosed design characteristics arranged or combined in a simple manner, such as replacement, position change, increase or decrease of quantities, etc.);

(ii) Industrial designs are copies or simulations of the appearance of a part or all of the known natural appearances of trees, fruits, animals, etc., the appearance of shapes (circles, ellipses, triangles, squares, rectangles, regular polygons, prisms with cross-sections are the mentioned shapes, etc.);

(iii) Industrial designs are simple copies of the appearance of products and works popular or widely known in Vietnam or worldwide;

(iv) Industrial designs simulate the appearance of industrial designs of other fields when the simulation is widely known practically (e.g., toys simulating motor vehicles, motorcycles, etc.).

If industrial designs mentioned in the application are not subject to the above cases, they shall be considered creative.

8. Industrial application capacity assessment of industrial designs according to Article 67 of the Law on Intellectual Property shall be carried out as follows:

a) Industrial designs mentioned in the applications shall be considered capable of industrial application if persons with average knowledge of the corresponding field can, based on the information on industrial designs presented in the application, use such industrial designs as the

sample for inventing products with appearance identical to such industrial designs by using industrial or handicraft methods.

b) In the following cases, subject matters mentioned in the application shall be considered incapable of industrial application:

(i) Subject matters mentioned in the application are the appearance of products with unstable existence states (products in forms of air, substances, etc.);

(ii) It is only possible to create products with an appearance identical to the subject matters mentioned in the application by using special skills, or it is impossible to repeatedly create products with an appearance identical to subject matters mentioned in the application;

(iii) Other cases with valid reasons.

9. Regarding industrial design registration applications concluded to meet the protection conditions, before notifying the intended issuance of industrial design patents according to Points c, d, and e Clause 10 of this Article, the Intellectual Property Office of Vietnam shall inspect compliance with the first-to-file rule prescribed in Clause 1 and Clause 3 Article 90 of the Law on Intellectual Property according to the following regulations:

a) To inspect compliance with the first-to-file rule, it is necessary to carry out the information lookup using the mandatory information sources prescribed in Paragraph (iv) Point b Clause 3 of this Article;

b) The information lookup aims to find industrial design registration applications of products of the same type or products that are not significantly different from each other or to find industrial design registration applications of complex products containing parts with industrial designs identical to or not significantly different from the industrial designs subject to registration and to determine the application with the earliest submission date or priority date;

c) If there are multiple applications subject to the case prescribed in Point b of this Clause, the industrial design patent may only be issued to a valid application with the earliest submission date or priority date among the applications meeting the conditions for protection title issuance.

d) Regarding applications subject to Point b of this Clause registering products of the same type, if there are multiple applications with the same earliest submission date or priority date, the industrial design patent may only be issued to one application among such applications under the agreement of all applicants; in case of discrepancies, all of the mentioned applications shall be rejected from the protection title issuance.

10. Before the end of the time limit for content appraisal according to Clause 4 Article 12 of this Circular, the Intellectual Property Office of Vietnam shall carry out the following tasks:

a) If the subject matters of the protection request mentioned in the application fail to meet the protection conditions or are subject to cases prescribed in Article 117 of the Law on Intellectual

Property or meet the protection conditions but the application has deficiencies, the Intellectual Property Office of Vietnam shall notify the applicant of the content appraisal results, specifying the intended refusal to issue the protection title, reasons, or deficiencies of the application, provide guidelines on amendments to the protection scope (volume) and impose a 3-month time limit from the notification date for the applicant to provide any feedback;

b) After the imposed time limit prescribed in Point a of this Clause, if the applicant fails to amend deficiencies or provides inadequate amendments or does not have any objection or provides inadequate objection, within 15 days from the end date of the mentioned time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

c) If the subject matters of the protection request mentioned in the application partly meet the protection conditions, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title regarding the part meeting the protection conditions, providing that the applicant provides adequate amendments to the application, reasons for refusal to issue the protection title for the part not meeting the protection conditions, and impose a 3-month time limit from the notification date for the applicant to have any written feedback on agreeing and amending the application or objection to the content appraisal results.

d) If the subject matters of the protection request mentioned in the application meet the protection conditions or the applicant has provided adequate amendments or valid suggestions on the content appraisal results and/or provided adequate amendments to the application according to Point a and Point c of this Clause, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title to the whole or the part meeting the protection conditions and impose a 3-month time limit from the notification date for the applicant to pay protection title issuance fees, fees for disclosure of decisions on protection title issuance, and protection title issuance decision registration fees.

dd) After the imposed time limit prescribed in Point c of this Clause, if the applicant fails to provide amendments or does not have any objection, within 15 days from the end date of such time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

e) After the imposed time prescribed in Point c of this Clause, if the applicant provides inadequate amendments to the application or inadequate objection, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the protection title to the part meeting the protection conditions, providing that the applicant provides adequate amendments to the application, and impose a 3-month time limit from the notification for the applicant to amend the application.

If the applicant has provided adequate amendments to the application, within 2 months from the date of such amendments, the Intellectual Property Office of Vietnam shall notify the applicant of the payment of protection title issuance fees, fees for disclosure of decisions on protection title

issuance, and protection title issuance decision registration fees and impose a 3-month time limit from the notification date for the applicant to pay the mentioned fees.

g) If the applicant provides inadequate amendments to the applicant, does not amend the application, or inadequately pays protection title issuance fees, fees for disclosure of decisions on protection title issuance, and protection title issuance decision registration fees within the imposed time prescribed in Point d and Point e of this Clause, within 2 months from the end date of the corresponding time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the protection title.

h) Regarding cases prescribed in Point d and Point e of this Clause, if the applicant adequately and promptly pays the prescribed fees, the Intellectual Property Office of Vietnam shall issue a decision to issue the protection title within 15 days from the end date of the corresponding time limit.

Section 5. APPLICATIONS AND PROCESSING OF MARK REGISTRATION APPLICATIONS

Article 24. Requirements for mark registration applications

1. A mark registration application shall meet the requirements prescribed in Articles 100 and 105 of the Law on Intellectual Property, Appendix I of Decree No. 65/2023/ND-CP, and the guidelines prescribed in this Article.

2. The application shall ensure consistency according to Clause 1 and Clause 4 Article 101 of the Law on Intellectual Property. Each application may only register one mark that is used for one or multiple goods or services.

3. If there are grounds (information or evidence) to suspect the authenticity of the information specified in the application or determine that the information specified in the application is unclear, the Intellectual Property Office of Vietnam shall request the applicant to submit documents to verify or clarify such information within 2 months from the date of the Intellectual Property Office of Vietnam issues the notification. The documents mentioned above may include:

a) Documents proving the applicant's status:

(i) Certificate of enterprise registration, contracts, or other documents confirming the manufacturing of products and provision of services of the applicant according to Clause 1 Article 87 of the Law on Intellectual Property;

(ii) Agreements and documents confirming that the manufacturer does not use the mark and does not object to the registration of the mark of the person carrying out commercial activities concerning the product of the manufacturer according to Clause 2 Article 87 of the Law on Intellectual Property;

(iii) Establishment decision or license and charter of the organization confirming the function and competence in managing collective marks, quality certification marks, and marks proving geographical indications of goods and services according to Clause 3 and Clause 4 Article 87 of the Law on Intellectual Property;

(iv) Business registration certificate, agreement, or other documents concerning mark registration of co-owners according to Clause 5 Article 87 of the Law on Intellectual Property;

(v) Documents confirming that the applicant inherits mark registration rights from another person according to Clause 6 Article 87 of the Law on Intellectual Property;

(vi) Agreement or written consent of the owner of the mark confirming the mark registration rights of the representative or agent according to Clause 7 Article 87 of the Law on Intellectual Property and Article 6^{septies} of the Paris Convention

b) Documents proving the representative status of the applicant: original authorizing document of the applicant; documents confirming that the representative of the applicant is the legal representative of the mark registration organization or the person authorized by the applicant; documents confirming that the person authorized by the applicant meets the conditions for representing the applicant according to Article 4 of this Circular;

c) Documents proving that the mark use or registration rights contain special signs according to Clause 2, Clause 4, and Clause 7 Article 73 and Point b Clause 2 Article 74 of the Law on Intellectual Property; documents proving that the use of commercial indications, origin indications, prizes, medals, or specific symbol of a type of product on the mark does not confuse or deceive consumers;

d) Documents proving priority rights;

dd) Documents proving the certification and control functions of the certification mark registration organization;

e) Information necessary for clarifying or confirming the contents mentioned in the collective mark use regulation, certification mark use regulation, or other documents;

g) Other appropriate documents for clarifying the authenticity of the information in the application.

4. Organizations entitled to collective mark registration rights according to Clause 3 Article 87 of the Law on Intellectual Property include:

a) Cooperative alliances; cooperatives according to the Law on Cooperatives if their members have independent manufacturing and business activities;

b) Associations according to association laws if their members have independent manufacturing and business activities;

c) Other collective organizations with at least 2 members established under laws if their members have independent manufacturing and business activities or private goods and services.

5. An organization entitled to certification mark registration rights according to Clause 4 Article 87 of the Law on Intellectual Property is an organization with functions of property control and certification (quality, origin, etc.) of goods and services bearing marks; the mentioned control and certification activities shall be carried out by such an organization or it shall assign, hire, authorize, etc., other organizations to carry out such activities according to the functions prescribed by laws; or control and certification activities shall be recorded in the enterprise registration certificate, charter, establishment decision, task assignment decisions etc., of the mentioned organization.

6. Collective mark use regulation and certification mark use regulation shall contain contents prescribed in Clause 4 and Clause 5 Article 105 of the Law on Intellectual Property. The applicant shall ensure that the information mentioned in the regulation is in conformity with relevant laws.

7. Documents proving the permission to register collective marks or certification marks containing place names or other signs indicating geographical origins of local specialties of Vietnam according to Clause 3 and Clause 4 Article 87 of the Law on Intellectual Property, including written permissions in conformity with Point a and maps of corresponding geographical areas in conformity with Point b of this Clause.

a) Written permissions for the use of place names or other signs indicating geographical origins of local specialties used for the registration of collective marks and marks containing the mentioned elements shall be issued by the following competent authorities:

(i) A People's Committee of a province or centrally affiliated city where there is a geographical area corresponding to the place name or other signs indicating the geographical origin of the local specialty (if the geographical area belongs to one province);

(ii) All of the People's Committees of provinces and centrally affiliated cities containing the geographical area corresponding to the place name or other signs indicating the geographical origin of the local specialty (if the geographical area belongs to multiple provinces).

b) The map of the geographical area corresponding to the place name or other signs indicating the geographical origin of the local specialty shall contain sufficient information for identifying such a geographical area and be confirmed by the competent authorities prescribed in Point a of this Clause.

8. The identification of a place name and other signs indicating the geographical origin of a product shall be carried out according to the following criteria:

a) Signs indicating the geographical origin of a product are signs used for local products indicating that such product comes from the concerned province (geographical origin).

Signs indicating the geographical origin of a product may be the place name or typical signs of a province (images of typical items of that province, such as local symbol, map, flag, badge, scenery, works, etc.) or any other signs.

A place name may be the current name, historical name, official name, or folk name of a geographical area used as a substitute for the current name or is widely known (identified according to administrative boundaries or geographical methods).

b) A place name or typical sign of a province used for a common product (not a specialty) may or may not indicate the geographical origin of such a product, depending on the product and the actual use of the place name or typical sign of the province.

c) A place name or typical sign of a province may indicate the geographical origin of a product in the following cases:

(i) It is used for the local specialty (a special or popular product due to certain characteristics that is locally manufactured);

(ii) It is used for the typical local crops and livestock and products processed from such crops and livestock;

(iii) It is used for a local product made from natural materials (coal, iron, steel, aluminum, cement, stone, salt, wood, etc.);

(iv) It is used for products of locally developed industries;

(iv) It is used for typical services (services with reputation associated with certain local characteristics);

(iv) Other cases determined by products and the actual use of the place name or typical sign of the province on products.

d) A place name or typical sign of a province does not indicate the geographical origin of a product in the following cases:

(i) It is used for the common mark function and is widely recognized, meaning it is meant to indicate commercial origins (distinguishability) and not meant to indicate geographical origins, such as: Hanoi Beer, Saigon Beer;

(ii) The corresponding province cannot be considered the place where the product is manufactured, such as: Arctic Tobacco, etc.

Place names and typical signs of provinces that are not meant to indicate the geographical origins of products may be protected as common marks without having to acquire permission from local authorities.

dd) A place name or typical sign of a province subject to common geographical knowledge widely known by many people (e.g., name of a province, city, scenery) used for common local products (including products that the province has business advantages but have yet to have the reputation or quality characteristics) and used by local business entities for their goods and services, which is meant to describe the manufacturing location (but is not subject to Point c and Point d of this Clause) cannot be protected as a mark but can be used as an additional element forming the common marks of organizations and individuals at the concerned province, providing that such a place name is excluded from the protection scope (not subject to private protection) and exempted from local permission.

Article 25. Format appraisal and disclosure of mark registration applications

1. The format appraisal and disclosure of mark registration applications shall comply with the general procedures prescribed in Articles 9 and 10 of this Circular.
2. The format appraisal of certification or collective mark registration applications does not include the assessment of certain characteristics of goods and services certified by marks, methods of assessing the characteristics of goods and services, methods of controlling the use of marks, costs of mark protection, certification payable by mark users (if any), and conditions for using marks and measures to handle administrative violations against the related regulations on the use of marks.

Article 26. Content appraisal of mark registration applications

1. Content appraisal of a mark registration application shall be carried out following the general procedure prescribed in Article 12 of this Circular and this Article.
2. Assessment of compatibility between subject matters mentioned in the mark registration application and request for issuance of a certificate of mark registration shall be carried out as follows:
 - a) According to Clause 1 Article 72 of the Law on Intellectual Property, a sign registered as a mark shall be a visible sign in the form of letters, numbers, words, drawings, images, holograms, or a combination thereof represented in one or multiple colors or sound trademark that can be graphically presented.
 - b) The following signs shall not be protected as marks:
 - (i) Signs that are colors not combined with signs in the form of letters (signs in the form of letters or numbers) or signs in the form of figures or are not presented in the form of letters or figures; or sound trademarks that cannot be graphically presented;
 - (ii) Signs ineligible for protection as marks according to Article 73 of the Law on Intellectual Property;

(iii) Signs contrary to social ethics and public order and harmful to national defense and security according to Article 8 of the Law on Intellectual Property.

3. Assessment of the distinguishability of signs in the form of letters according to Clause 2 Article 74 of the Law on Intellectual Property.

Aside from exceptions prescribed in Clause 5 of this Article, the following signs in the form of letters shall be considered indistinguishable:

- a) Characters belonging to languages that Vietnamese consumers with average knowledge cannot recognize, memorize, read, or understand, such as characters not from Latin origin: Arabic, Slavic, Sanskrit, Chinese, Japanese, Korean, Thai, etc., unless the characters of the mentioned languages are enclosed with other components forming a comprehensive whole that can be distinguishable or is presented graphically or in other special forms;
- b) Characters of Latin origin that only include one letter or only include numbers or are illegible as a word even though they have two letters, even when numbers are attached, except for when such signs are presented graphically or in other special forms;
- c) A collection of excessive letters or words that cannot be distinguished or memorized, such as a sequence of excessive characters not arranged in a determined order or rule or a document or a paragraph of a document;
- d) Characters of Latin origin subject to a word whose meaning is commonly and widely used in Vietnam in the corresponding field, leading to indistinguishability;
- dd) A word of a collection of words used in Vietnam as the common names of related goods and services;
- e) A word or a collection of words describing the goods and services bearing the mark as the sign indicating the time, location, manufacturing method, type, quantity, quality, nature, composition, use, and value of such goods and services;
- g) A word or a collection of words describing or indicating the geographical origins of related goods and services;
- h) A word or a collection of words describing the legal status and business field of the mark owner;
- i) Signs in the form of letters identical or similar to one of the subject matters included in the intellectual property protection scope according to Points e, g, h, i, k, l, m, o, and p Clause 2 Article 74 of the Law on Intellectual Property.

4. Assessment of the distinguishability of signs in the form of figures (including images, drawings, shapes, etc.) according to Clause 2 Article 74 of the Law on Intellectual Property shall be carried out as follows:

Aside from exceptions prescribed in Clause 5 of this Article, the following signs in the form of figures shall be considered indistinguishable:

- a) Signs in the form of common shapes, such as circles, ellipses, triangles, rectangles, etc., or simple drawings; drawings or images used only as the background or decorative lines for products or product packages;
- b) Signs in the form of figures that are overly complicated for consumers to recognize or memorize their characteristics, e.g., they have too many combined or overlapping images or lines;
- c) Drawings, images, symbols, typical signs, or common shapes of goods or a part of goods, common shapes of packages or goods containers commonly used and widely recognized;
- d) Signs in the form of figures containing descriptions of goods and services bearing the mark, e.g., manufacturing location, method, quantity, quality, nature, composition, use, value, or other characteristics of goods and services bearing the mark or signs that increase the value of goods significantly;
- dd) Drawings and images describing the geographical origins of goods and services;
- e) Signs in the form of figures identical to or not significantly different from industrial designs that have been or are currently being protected;
- g) Signs in the form of figures identical or similar to subject matters included in the intellectual protection scope according to Points e, g, h, i, l, m, and p Clause 2 Article 74 of the Law on Intellectual Property.

5. Exceptions during the assessment of the distinguishability of signs in the form of letters and figures:

- a) Signs subject to cases prescribed in Points a, b, c, e, and g Clause 3 of this Article and Points a, b, d, and dd Clause 4 of this Article that have been or are currently being used with mark functions and widely recognized by consumers regarding signs that have achieved distinguishability for related goods and services before the application submission date. To be able to apply exceptions prescribed in this Clause, the applicant shall provide evidence for the wide use of such signs with mark functions (number of related consumers knowing the signs, the time when the signs are started to be used, and use scope and level before the application submission date, revenues from selling goods or providing services, etc.) and the distinguishability of such signs for related goods and services of the applicant. In this case, signs shall be constantly and commonly used in legal activities of manufacturing, business, trading, advertising, and marketing in forms presented in the registration application.
- b) Signs prescribed in Point g Clause 3 and Point dd Clause 4 of this Article registered as marks certifying the geographical origins of goods or services or registered as collective marks.

6. Assessment of the distinguishability of signs combined from signs in the form of letters and figures (hereinafter referred to as "combined signs") shall be carried out as follows:

A combined sign may be considered distinguishable when the signs in the form of letters and figures that form such a sign are distinguishable, specifically:

- a) Signs in the forms of letters and figures are distinguishable, forming a distinguishable whole;
- b) Impactful components of a mark (elements that greatly impact the experience of consumers, attracting attention and making an impression on the mark upon observation) are distinguishable signs in the form of letters or figures even though the remaining components have little or no distinguishability;
- c) In case the combined sign includes signs in the form of letters and figures with little or no distinguishability but the unique combination of such signs forms a distinctive impression, such a combination shall still be considered distinguishable;
- d) The combined sign includes letters and figures with little or no distinguishability, but the whole combination has achieved distinguishability through the use process according to Clause 5 of this Article.

7. The mandatory information sources shall ensure conformity with the following regulations:

a) To assess the possibility of confusion of signs mentioned in an application, the Intellectual Property Office of Vietnam shall conduct an information lookup from the following mandatory sources:

- (i) Mark registration applications submitted to the Intellectual Property Office of Vietnam with submission dates or priority dates earlier than the submission date or priority date of the application currently subject to appraisal and international mark registration applications designating Vietnam notified to the Intellectual Property Office of Vietnam by the International Office with submission dates or priority dates earlier than the submission date or priority date of the application currently subject to appraisal regarding similar or identical goods and services;
- (ii) Marks currently under protection or are recognized for valid protection in Vietnam (including popular marks) used for identical, similar, or relevant goods and services;
- (iii) Protected marks that have expired within 3 years, except for cases of marks with their protection terminated due to being unused according to Point d Clause 1 Article 95 of the Law on Intellectual Property, used for identical or similar goods and services;
- (iv) Geographical indications currently under protection in Vietnam;
- (v) Place names, symbols, or other signs indicating geographical origins of goods and services; geographical names and types of quality marks, inspection marks, and warranty marks of international organizations; national flags, national emblems, anthems of the Socialist Republic

of Vietnam and foreign countries, and international anthems; flags, names, and symbols of state authorities, political organizations, socio-political organizations, social-political-vocational organizations, social organizations, socio-vocational organizations of Vietnam and the world; names and images of leaders and national heroes and names and images of celebrities of Vietnam and foreign countries, etc., collected and archived by the Intellectual Property Office of Vietnam.

b) In case of necessity, the Intellectual Property Office of Vietnam may use reference information sources outside of the mandatory information sources prescribed in Point a of this Clause, such as registration applications for industrial designs, commercial names, lists of plant species protected in Vietnam, etc.;

8. Assessment of similarity to the point of confusion with other marks of signs requested for registration shall be carried out as follows:

a) To assess whether signs requested for registration mentioned in the application are similar or identical to the point of confusion with another mark (hereinafter referred to as "control mark"), it is necessary to compare the pronunciation and meaning of signs (regarding signs in the form of letters) and structure and presentation of signs (regarding signs in the form of letters and figures) according to Points b and c of this Clause while comparing goods and services with such signs with goods and services bearing the control mark according to Clause 9 of this Article.

b) Signs shall be considered identical to a control mark if they are identical in terms of structure and presentation.

c) Signs shall be considered similar to the point of confusion with a control mark if:

(i) Such signs are similar to the control mark in terms of structure and/or pronunciation and/or meaning and/or presentation to the point of causing consumers to confuse that they are one or one subject matter is a variant of the other subject matter or the two subject matters are of the same origin;

(ii) Such signs are the transcription or translation of the control mark if the control mark is a popular mark.

9. Assessment of similarity of goods and services shall be carried out as follows:

a) Two goods or services shall be considered identical (of the same type) when they have the following characteristics:

(i) They have the same nature (composition, structure, etc.), function, and use; or

(ii) They have a similar nature with the same function and use;

b) Two goods or services shall be considered similar in one of the following cases:

(i) They are similar in terms of nature and are marketed through the same commercial channel (distributed under the same method, on sale together or in stores of the same type, aimed toward the same concerned public/consumers, etc.);

(ii) They are similar in terms of function and use and are marketed through the same commercial channel (distributed under the same method, on sale together or in stores of the same type, aimed toward the same concerned public/consumers, etc.).

c) Goods and services shall be considered similar to each other in one of the following cases:

(i) They are related to each other in terms of nature (e.g., goods and services, or ingredients or parts of goods and services are formed from other goods and services); or

(ii) They are related to each other in terms of function (e.g., to complete the function of certain goods and services, it is necessary to use other goods and services or use them together); or

(iii) They are closely related to each other in terms of implementation (e.g., certain goods and services are the results of the use or utilization of other goods and services, etc.).

10. Signs shall be considered identical or similar to the point of confusion with a control mark used for similar or identical goods in the following cases:

a) Signs are identical to a control mark, and goods and services with such signs are similar or identical to goods and services bearing the control mark;

b) Signs are similar to the point of confusion with a control mark, and goods and services with such signs are identical or similar to goods and services bearing the control mark capable of causing confusion for consumers;

c) Signs are identical or similar to a control mark that is a popular mark, and goods and services with such signs, even though they are not similar or identical to goods and services bearing the mentioned mark, the use of such signs as a mark may cause consumers to mistakenly believe that goods and services with such signs are related to the owner of the popular mark, possibly reducing the distinguishability or damaging the reputation of the popular mark.

11. Assessment of other possibilities of confusion of signs shall comply with Article 73 and Clause 2 Article 74 of the Law on Intellectual Property and the following regulations:

a) Signs shall be considered causing confusion over the origin of goods and services in the following cases:

(i) Signs are identical or similar to the point of confusion over the name or symbol of a nation or a territory (national flag, national emblem, national name, name of the country, local name, etc.), causing the misconception that the related goods and services originate from such a nation or territory but they are actually from another nation or territory;

(ii) Signs are identical or similar to a geographical indication currently under protection, and the use of such signs causes consumers to misunderstand the geographical origin of the related goods; signs are identical to or contain or are translated or transcribed to words concerning a geographical indication currently under protection for certain wine or spirits, and such signs are requested for registration as a mark for wine or spirits not originating from the geographical area with such a geographical indication;

(iii) Signs are words identical or similar to a commercial name of another person used legally for goods and services of the same type, capable of causing consumers to mistakenly believe that goods and services with such signs are manufactured by the person with the mentioned commercial name;

(iv) Signs are identical or similar to real names, aliases, pen names, or images of Vietnamese and foreign leaders, national heroes, and celebrities; signs are identical or similar to the names or images of characters or characteristic images of widely known works, and the use of such signs may potentially cause consumers to mistakenly believe that goods and services with such signs are manufactured by owners of the related works;

(iv) Signs are identical or not significantly different from an industrial design of another person that has been and is being protected on the basis that the registration application for such an industrial design has a submission date or priority date earlier than the submission date or priority date of the mark registration application.

b) Signs shall be considered confusing or causing misunderstanding about the nature and value of goods and services in the following cases:

(i) Signs are words, drawings, images, symbols, etc., that give a misleading impression about the function or use of certain goods and services, e.g., signs are identical or similar to a mark or another sign widely used and considered to be associated with a certain function or use of specific goods and services, causing consumers to mistakenly believe that goods and services with such signs also have the same function or use;

(ii) Signs are words or images that give a misleading impression about the composition or structure of certain goods and services, e.g., the description of certain goods and services is related to the goods and services with such signs, giving a misleading impression that goods and services with such signs are formed from or of the same nature with the described goods and services.

12. Regarding mark registration applications concluded to meet the protection conditions, before notifying the content appraisal results with the intended issuance of mark registration certificates according to Point c, Point d, Paragraph (ii) Point e Clause 13 of this Article, the Intellectual Property Office of Vietnam shall inspect compliance with the first-to-file rule according to Clause 2 and Clause 3 Article 90 of the Law on Intellectual Property under the following regulations:

a) To inspect compliance with the first-to-file rule, it is necessary to look up every mark registration application received by the Intellectual Property Office of Vietnam (by the time of the inspection) with submission dates or priority dates (in case of eligibility for priority rights) earlier than the submission date or priority date (in case of eligibility for priority rights) of the application currently subject to appraisal;

b) The lookup aims to find out cases where multiple applications (including the application currently subject to appraisal) of different applicants registering marks that are identical or similar to the point of confusion with each other used for goods and services that are identical or similar to each other, or multiple applications of one applicant with marks identical to each other used for identical goods and services and to determine the application with the earliest submission or priority date;

c) If there are multiple applications subject to the case prescribed in Point b of this Clause, the mark registration certificate may only be issued to a valid application with the earliest submission date or priority date among the applications meeting the conditions for protection title issuance.

d) Regarding applications subject to Point b of this Clause, if there are multiple applications with the same earliest submission date or priority date, the mark registration certificate may only be issued to one mark of one application among such applications under the agreement of all applicants; in case of discrepancies, all of the corresponding subject matters of the mentioned applications shall be rejected from the protection title issuance.

13. Before the end of the time limit for content appraisal according to Clause 4 Article 12 of this Circular, the Intellectual Property Office of Vietnam shall carry out the following tasks:

a) If the subject matters of the protection request mentioned in the application fail to meet the protection conditions or are subject to cases prescribed in Article 117 of the Law on Intellectual Property or meet the protection conditions but the application has deficiencies, the Intellectual Property Office of Vietnam shall notify the applicant of the content appraisal results, specifying the intended refusal to issue the mark registration certificate, reasons, or deficiencies of the application, and impose a 3-month time limit from the notification date for the applicant to provide any feedback;

b) After the imposed time limit prescribed in Point a of this Clause, if the applicant fails to amend deficiencies or provides inadequate amendments or does not have any objection or provides inadequate objection, within 15 days from the end date of the time limit prescribed in Point a of this Clause, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the mark registration certificate.

c) If the subject matters of the protection request mentioned in the application meet the protection conditions or the applicant has provided adequate amendments or adequate objection to the content appraisal results partly or wholly within the time limit prescribed in Point a of this Clause, the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the mark registration certificate to the

whole or the part meeting the protection conditions and impose a 3-month time limit from the notification date for the applicant to pay mark registration certificate issuance fees, fees for issuance decision disclosure, and mark registration certificate issuance decision registration fees.

d) If the subject matters of the protection request mentioned in the application (by goods/services) have a part that fails to meet the protection conditions (or is not subject to private protection), the Intellectual Property Office of Vietnam shall issue a notification of the content appraisal results, specifying the intended issuance of the mark registration certificate regarding the part meeting the protection conditions and the fees for mark registration certificate issuance and other fees payable by the applicant as per regulation, providing that the applicant wholly agrees with the content appraisal results, and reasons for refusal to issue the certificate for the remaining (not subject to private protection), and impose a 3-month time limit from the notification date for the applicant to have any written feedback (agreeing with or presenting any objection to the content appraisal results);

dd) After the imposed time limit prescribed in Point d of this Clause, if the applicant does not have any feedback or does not provide any written agreement and pay the prescribed fees, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the mark registration certificate within 15 days from the end date of such time limit.

e) After the imposed time limit prescribed in Point d of this Clause, if the applicant provides written feedback, the Intellectual Property Office of Vietnam shall:

(i) If the applicant provides adequate objection to the whole content appraisal results, notify the content appraisal results with the intended issuance of the mark registration certificate and impose a 3-month time limit from the notification date for the applicant to pay mark registration certificate issuance fees, disclosure fees, and registration fees for the mark registration certificate issuance decision;

(ii) If the applicant provides inadequate objection or partly adequate objection to the content appraisal results, notify the content appraisal results with the intended issuance of the mark registration certificate for the part meeting the protection conditions, specifying the reason for refusal to issue the certificate for the remaining (not subject to private protection), and impose a 3-month time limit from the notification date for the applicant to pay mark registration certificate issuance fees, disclosure fees, and registration fees for the mark registration certificate issuance decision.

g) If the applicant fails to adequately pay mark registration certificate issuance fees, disclosure fees, and registration fees for the mark registration certificate issuance decision within the time limit prescribed in Point c and Point e of this Clause, within 15 days from the end date of the corresponding time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the mark registration certificate.

h) Regarding cases prescribed in Points c, d, and e of this Clause, if the applicant adequately and promptly pays the prescribed fees, the Intellectual Property Office of Vietnam shall issue a decision to issue the mark registration certificate within 15 days from the end date of the

corresponding time limit. The decision to issue the mark registration certificate according to Paragraph (ii) Point e of this Clause shall specify the reason for refusal to issue the certificate to the corresponding rejected part.

Article 27. Recording of popular marks

1. Popular marks shall be protected under Vietnamese laws according to Article 75 of the Law on Intellectual Property and in accordance with Article 6^{bis} of the Paris Convention.
2. Rights to a popular mark shall be protected and belong to the owner of such a mark without having to carry out any registration procedure. The mark owner may use documents prescribed in Clause 3 of this Article to prove his/her ownership and that the mark meets the conditions for being considered popular.
3. Documents proving mark ownership and the popularity of the mark may include information on the scope, scale, intensity, and continuity of the use of the mark, including presentations of the origin, history, and period of continuous use of the mark; number of nations the mark has been registered in or recognized as a popular mark; list of goods and services bearing the mark; territorial scope that the mark is circulated, revenue from product sales or service provision; number of goods and services bearing the mark that have been manufactured or consumed; asset value of the mark, price for transfer or transfer of use rights, value of investment capital contribution of the mark; investments in and costs of mark advertising and marketing, including participation in national and international exhibitions; infringement or dispute cases and decisions and judgments of courts or competent authorities; survey data on consumers knowing the mark through purchase, use, advertising, and marketing; ranking and assessment of the prestige of the mark of national or international organizations or mass media; prizes, medals achieved by the mark; appraisal results of intellectual property appraisal organizations.
4. If the recognition of a popular mark leads to a decision to handle an act of infringement on rights to such a popular mark according to Point d Clause 1 Article 129 of the Law on Intellectual Property or a decision to refuse to protect another mark according to Point i Clause 2 Article 74 of the Law on Intellectual Property, the popular mark shall be recorded to the list of popular marks archived at the Intellectual Property Office of Vietnam for use as reference information for the establishment and protection of intellectual property rights.

Section 6. APPLICATIONS AND PROCESSING OF GEOGRAPHICAL INDICATION REGISTRATION APPLICATIONS

Article 28. Requirements for geographical indication registration applications

A geographical indication registration application shall meet the requirements prescribed in Articles 100, 101, and 106 of the Law on Intellectual Property and Appendix I of Decree No. 65/2023/ND-CP.

Article 29. Format appraisal and disclosure of geographical indication registration applications

The format appraisal and disclosure of geographical indication registration applications shall comply with the general procedures prescribed in Articles 9 and 10 of this Circular.

Article 30. Content appraisal of geographical indication registration applications

1. Content appraisal of a geographical indication registration application shall be carried out following the general procedure prescribed in Article 12 of this Circular and this Article.

2. Assessment of compatibility of subject matters mentioned in the application and the geographical indication registration certificate shall be carried out as follows:

Subject matters mentioned in the geographical indication registration application shall be considered incompatible with the type of geographical indication protection title if such subject matters are visible signs used to indicate the geographical origin of products from specific areas, provinces, territories, or nations according to Clause 22 Article 4 of the Law on Intellectual Property.

3. The mandatory information sources used for the content appraisal of the geographical indication registration application include:

- a) Marks protected in Vietnam used for products identical or similar to products with the geographical indication, with the starting protection date earlier than the submission date of the geographical indication registration application, including marks protected under international treaties that Vietnam is a signatory;
- b) Marks mentioned in mark registration applications with earlier submission or priority dates in Vietnam used for products identical or similar to products with the geographical indication;
- c) Marks recognized as popular marks by the Intellectual Property Office of Vietnam.
- d) Geographical indications currently under protection in Vietnam used for products identical to the products with the geographical indication.

4. Geographical indication assessment according to protection conditions shall be carried out under the following regulations:

a) Subject matters mentioned in the applications shall be in accordance with Article 79 of the Law on Intellectual Property and not subject to cases prescribed in Article 80 of the Law on Intellectual Property; specifically, there must be evidence proving the adequacy of the following conditions:

- (i) There is a geographical area corresponding to the geographical indication mentioned in the application;
- (ii) Related products originate from the above geographical area;

(iii) Related products have a nature/typical quality and/or reputation decided by geographical conditions of the above geographical area according to Article 82 of the Law on Intellectual Property;

b) If the use of the geographical indication causes consumers to be misled about the actual geographical origin of products with such a geographical indication, it shall be considered identical or similar to the point where it is indistinguishable from another sign known by Vietnamese consumers as the geographical indication of certain goods and services.

Signs that are considered to indicate geographical indications of goods and services shall comply with Clause 8 Article 27 of this Circular.

c) Geographical indication assessment according to protection conditions prescribed in Point a and Point b of this Clause shall be carried out based on the information provided by the application and the information discovered from the mandatory information sources prescribed in Clause 3 of this Article.

5. In case of discovering a mark identical or similar to the geographical indication, the Intellectual Property Office of Vietnam shall notify the mark owner of the incident for feedback according to Article 112 or Article 112a of the Law on Intellectual Property.

6. If the geographical indication mentioned in the application is determined to be homonymic to a protected geographical indication according to Clause 22a Article 4 of the Law on Intellectual Property, the Intellectual Property Office of Vietnam shall notify the application and request the applicant to submit presentation documents on use conditions and presentation of the geographical indication to ensure distinguishability between geographical indications. Presentation documents shall comply with Appendix I of Decree No. 65/2023/ND-CP.

7. Before the end of the time limit for content appraisal according to Clause 4 Article 12 of this Circular, the Intellectual Property Office of Vietnam shall send one of the following notifications to the applicant:

a) If the subject matters of the protection request mentioned in the application fail to meet the protection conditions or are subject to cases prescribed in Article 117 of the Law on Intellectual Property or meet the protection conditions but the application has deficiencies, the Intellectual Property Office of Vietnam shall notify the applicant of the content appraisal results, specifying the intended refusal to issue the geographical indication registration certificate, reasons, or deficiencies of the application, and impose a 3-month time limit from the notification date for the applicant to provide any feedback;

b) If the subject matters of the protection request mentioned in the application meet the protection conditions or the applicant has provided adequate amendments or adequate objection to the content appraisal results within the time limit prescribed in Point a of this Clause, the Intellectual Property Office of Vietnam shall issue notification of the content appraisal results, specifying the intended issuance of the geographical indication registration certificate and impose a 3-month time limit from the notification date for the applicant to pay geographical

indication registration certificate issuance fees, disclosure fees, and registration fees for the geographical indication certificate issuance decision.

c) After the imposed time limit prescribed in Point a of this Clause, if the applicant fails to amend deficiencies or provides inadequate amendments or does not have any objection or provides inadequate objection, or the applicant fails to pay the prescribed fees after the time limit prescribed in Point b of this Clause, within 15 working days from the end date of the prescribed time limit, the Intellectual Property Office of Vietnam shall issue a decision to refuse to issue the geographical indication registration certificate.

d) Regarding cases prescribed in Point b of this Clause, if the applicant adequately and promptly pays the prescribed fees, the Intellectual Property Office of Vietnam shall issue a decision to issue the geographical indication registration certificate within 15 days from the end date of the corresponding time limit.

Chapter III

PROTECTION TITLES

Article 31. Refusal of issuance and issuance of protection titles

1. The Intellectual Property Office of Vietnam shall carry out the procedure for refusing to issue protection titles according to Clause 3 Article 117 of the Law on Intellectual Property for cases prescribed in Clauses 1, 1a, and 2 Article 117 of the Law on Intellectual Property.

2. The Intellectual Property Office of Vietnam shall carry out the procedure for issuing protection titles according to Clause 1 Article 118 of the Law on Intellectual Property and Appendix II of Decree No. 65/2023/ND-CP.

Article 32. National Registers of Industrial Property and Industrial Property Representatives

1. National Registers of Industrial Property shall be established in conformity with the following regulations:

a) National Registers of Industrial Property are the official and public databases of the State, adequately presenting information on the legal statuses of established industrial property rights. National Registers of Industry Property include the following types:

(i) National Register of Inventions;

(ii) National Register of Utility Solutions;

(iii) National Register of Industrial Designs;

(iv) National Register of Semiconductor Integrated Circuit Layout Designs;

(v) National Register of Marks;

(vi) National Register of Geographical Indications.

b) Regarding subject matters of industrial property registered under national procedures, National Registers prescribed in Point a of this Clause shall include sections corresponding to each protection title, and each section shall include:

(i) Information on the protection title: code, issuance date; names of protected subject matters, protection scope/volume, validity period; names and addresses of protection title holder/person registering the geographical indication, geographical indication management organization, name and nationality of the creator of the invention or author of the layout design or industrial design;

(ii) Information on the protection title issuance application (code, submission date, priority date of the application, name of the industrial property representation service provider (if any));

(iii) Any amendment concerning information on amendments to protection title, validity of protection title (validity maintenance, renewal, termination, or abrogation); transfer of ownership, rights to use subject matters of industrial property; number of re-issuance times, re-issuance date, issuance of copies, number of copies (for any co-owner), date of issuance of copies, changes to the industrial property representation service provider (if any), etc.

c) Regarding marks and industrial designs accepted for protection under the international registration procedure, the Part of Internationally Registered Marks and Part of Internationally Registered Industrial Designs in the corresponding National Registers prescribed in Paragraphs (iii) and (v) Point a of this Clause shall include the following sections:

(i) Information on the protection status: decision code and issuance date or protection acceptance date; names of protected subject matters, protection scope/volume, validity period; name and address of the protection title holder and name and nationality of the author of the industrial design;

(ii) Information on the protection title issuance application (code, submission date, priority date of the application, name of the industrial property representation service provider (if any));

d) Regarding geographical indications accepted for protection under international treaties, the Part of International Geographical Indications in the National Register specified in Paragraph (vi) Point a of this Clause shall include the following sections:

(i) Information on the protection status: name of the international treaty, validity date of the international treaty or geographical indication protection acceptance date according to the international treaty; protected geographical indication, protection scope/volume; name and address of the geographical indication management organization;

(ii) Information on documentation concerning the geographical indication of the protection request (international treaty, international agreement on the protection, or database concerning the geographical indication in the protection request (if any));

(iii) Any amendment concerning the legal status of the protected geographical indication: validity status, protection scope/volume, transfer of management rights, etc.

2. The National Register of Industrial Property Representatives shall include sections corresponding to each industrial property representative service provider, specifically:

(i) Information on the industrial property representation service provider (full name, transaction name, address, name recording or removal, and any amendment to such an industrial property representation service provider);

(ii) Information on the list of industrial design representatives of the organization (full names, permanent addresses, practicing certificate codes of each member in the list);

(iii) Information on changes to the list of industrial property representatives (issuance, re-issuance, revocation of practicing certificates, removal, etc.).

3. National Registers prescribed in Clause 1 and Clause 2 of this Article shall be established and archived electronically or in the form of papers by the Intellectual Property Office of Vietnam. Anyone can look up electronic registers (if any) or request the Intellectual Property Office of Vietnam to provide copies or excerpts from registers, providing that they pay the fees for register excerpt or copy provision services.

Article 33. Disclosure of protection title issuance decisions

1. Any decision on protection title issuance, protection acceptance of internationally registered industrial designs, and protection acceptance of internationally registered marks shall be disclosed by the Intellectual Property Office of Vietnam in the Industrial Property Official Gazette within 60 days from the date of the decision, and applicants shall pay disclosure fees as per regulation.

2. Information disclosed under Clause 1 of this Article includes information specified in the corresponding decision (including decision code and date) and the following information:

a) Regarding an invention patent or utility solution patent: name and nationality of the inventor; summary of the invention; drawings enclosed with the summary (if any); international classification of the invention; information concerning application conversion or split, code of the initial application before the split/conversion (if any), etc.; and other information (if any);

b) Regarding an industrial design patent: name and nationality of the author; set of photos or drawings of the industrial design; the number of schemes for the protection request; international classification of the industrial design; information concerning application split, code of the initial application of the split application (if any), etc.; and other information (if any);

c) Regarding a decision on protection acceptance of an internationally registered industrial design: name and nationality of the author; set of photos or drawings of the industrial design; number of schemes for the protection request; international classification of the industrial design; information concerning application split, code of the initial application of the split application (if any), etc.; and other information (if any);

d) Regarding a mark registration certificate: mark samples and list of goods and services bearing the mark according to the international classification table of goods and services; information concerning application conversion or split, the code of the initial application of the split application (if any), etc.; use regulation on collective marks or certification marks (if any); other information (if any);

dd) Regarding a decision on protection acceptance of an internationally registered mark: mark samples; goods and services bearing the mark according to the international classification table of goods and services; and other information (if any);

e) Regarding a geographical indication registration certificate: summary of the characteristics of products with the geographical indication and names of products with the geographical indication; and other information (if any);

g) Regarding a semiconductor integrated circuit layout design registration certificate: name and nationality of the author and other information (if any), excluding confidential information as per regulation.

3. A geographical indication accepted for protection under an international treaty shall be disclosed by the Intellectual Property Office of Vietnam in the Industrial Property Official Gazette within 60 days from the date of acceptance. Necessary information concerning the mentioned geographical indication shall be disclosed under Clause 2 Article 11 of Decree No. 65/2023/ND-CP, including name, a summary of the characteristics of products and names of products with that geographical indication; protection scope/area of the geographical indication; and other information (if any).

Article 34. Grounds to terminate validity of protection titles

1. An invention protection title shall have its validity terminated when the invention with the issued protection title exceeds the presented scope in the initial description of the invention registration application according to Point dd Clause 2 Article 96 of the Law on Intellectual Property, e.g., in cases where the description of an invention has changes to its content, leading to information without direct or clear origin compared to the initial description of the application or making persons with average knowledge of the corresponding technical field fail to implement such an invention, specifically:

a) One or more technical signs to the description that cannot be determined directly or clearly from the initial description are added to the description by the applicant while amending or supplementing the application;

- b) Additional information (including information on the purpose, efficiency, etc.) cannot be determined directly or clearly from the initial description (including drawings) and/or the initial protection request to clearly present the invention or adequately present the protection request;
- c) Contents added to the description are technical signs related to the size specifications collected by measuring the size specifications of drawings;
- d) Details or components added to the description are not mentioned in the initial description of the application, leading to special effects that are not included in the initial application;
- dd) Effects and/or benefits added to the description cannot be determined by persons with average knowledge of the corresponding technical field from the initial application;
- e) Changes to technical signs of the protection requests and the changed technical signs are not directly or clearly presented or determined from the initial description;
- g) New contents are added by changing undetermined contents to determined and specific contents;
- h) Independent technical signs of the initial application are combined into one new technical sign when the relation between such technical signs is not presented in the initial application;
- i) One or more technical signs in the description are changed compared to the initial description;
- k) One technical sign necessary for the subject matters of the protection request to achieve the set goal is removed from the protection request points, and/or the removal of such a technical sign changes another or more technical signs.

2. A mark protection title shall have its validity terminated due to the mark registration application is submitted for malicious intent according to Point a Clause 1 Article 96 of the Law on Intellectual Property in the following cases:

- a) There are grounds to determine that at the time of applying, the applicant knows or has grounds to know that the mark subject to the registration is identical or similar to the point of indistinguishability from another mark used widely in Vietnam or a popular mark at another country used for identical or similar goods and services; and
- b) The registration is aimed to take advantage of the reputation and prestige of the mark mentioned above for profiteering; or to resell, license, or transfer registration rights to persons with marks prescribed in Point a of this Clause; or to prevent the market entry of persons with marks prescribed in Point a of this Clause to limit their competitiveness; or to conduct acts contrary to other fair trade practices.

3. Clauses 1 and 2 of this Article shall also be applied when processing invention and mark registration applications.

Chapter IV

COMPLAINTS AND SETTLEMENT OF COMPLAINTS ABOUT INDUSTRIAL PROPERTY PROCEDURES

Article 35. Persons with complaint rights, subjects of complaints, prescriptive period of complaints, and complaint settlement persons

1. Persons with complaint rights are organizations and individuals prescribed in Article 119a of the Law on Intellectual Property.

2. Decisions and notifications that may be complained according to Clause 1 Article 119a of the Law on Intellectual Property are official decisions and notifications of the Intellectual Property Office of Vietnam concerning industrial property procedures according to corresponding regulations prescribed in this Circular, including the following decisions and notifications:

a) Application rejection notifications;

b) Valid application acceptance decisions;

c) Application rejection decisions;

d) Notifications of acceptance or rejection of requests for amendments to applications/application conversion/changes to applicants/application withdrawal;

dd) Protection title issuance rejection decisions; protection title issuance decisions;

e) Decisions on protection rejection of internationally registered industrial designs; decisions on protection rejection of internationally registered marks; decisions on protection acceptance of internationally registered industrial designs; and decisions on protection acceptance of internationally registered marks;

g) Decisions on issuance of protection title copies, decisions on re-issuance of protection titles; decisions to reject the issuance of protection title copies, decisions to reject the re-issuance of protection titles;

h) Notifications of the maintenance of protection title validity, decisions to reject the maintenance of protection title validity;

i) Decisions on renewal of protection title validity, decisions to reject the renewal of protection title validity;

k) Decisions on amendments to protection titles, decisions to reject requests for amendments to protection titles;

l) Decisions to partly or wholly terminate protection title validity, notifications of rejection of termination of protection title validity;

m) Decisions on and notifications of the processing of applications for the termination of the validity of internationally registered marks; decisions on and notifications of the processing of applications for the termination of the validity of internationally registered industrial designs;

n) Administrative decisions concerning industrial property representatives, industrial property appraisal, and transfer of industrial property rights;

o) Decisions on settlement of first-time complaints of the Intellectual Property Office of Vietnam;

p) Decisions, notifications, and other acts meeting the requirements for being subjects of complaints according to complaint laws.

Notifications for informing and requesting completion of applications are not subjects of complaints due to not being administrative decisions, e.g., appraisal result notifications, notifications of deficiencies, amendment requests, document supplements, intended rejection, notifications of temporary rejection of the protection of internationally registered marks, notifications of rejection of the protection of internationally registered industrial designs.

3. The following contents shall not be accepted during the settlement of complaints:

a) Requests for amendments or supplements to applications for industrial property right establishment that are the subject matters of decisions or notifications subject to complaints (e.g., request for amendments to the description of an invention (including protection request); request for amendments to the set of photos or drawings and the industrial design description; request for amendments to samples of a mark and the list of goods and services bearing the mark; request for amendments to names of products with a geographical indication and the description of the characteristics of products with such a geographical indication and the map of the geographical area corresponding to the geographical indication regarding a geographical indication registration application, unless otherwise prescribed by international treaties that Vietnam is a signatory;

b) Circumstances already existed during the appraisal of industrial property registration applications, but due to objective reasons that the Intellectual Property Office of Vietnam and relevant organizations and individuals only know about such circumstances after decisions on protection title issuance or decisions on rejection of protection title issuance are issued (hereinafter referred to as "new circumstances"), except for cases where such circumstances are brought up by third parties according to Point b Clause 6 Article 38 of this Circular.

4. Complaint applications shall be submitted within the prescriptive period prescribed in Article 9 and Article 33 of the Law on Complaints.

5. The person competent to settle first-time complaints is the Director of the Intellectual Property Office of Vietnam; the person competent to settle second-time complaints is the Minister of Science and Technology of Vietnam (hereinafter referred to as “complaint settlement persons”).

Article 36. Complaint applications

1. Complaint applications shall comply with Clause 1 Article 3 of Decree No. 124/2020/ND-CP dated October 19, 2020 elaborating several Articles and measures to implement the Law on Complaints (hereinafter referred to as "Decree No. 124/2020/ND-CP"), which specifies information according to Article 119a of the Law on Intellectual Property and documents concerning complaint contents according to Clause 2 Article 8 of the Law on Complaints, specifically:

- a) Copies of decisions or notifications subjects to complaints of the Intellectual Property Office of Vietnam and copies of industrial property registration applications that are the subject matters of such decisions or notifications (in case of submitting complaint applications for the second time) or documents guiding the information on the mentioned documents;
- b) Copies of decisions on first-time complaint settlement (regarding second-time complaints);
- c) Proofs (evidence or material evidence) used to prove and clarify complaint arguments.

Proofs may be added within 1 month from the date of complaint application submission.

2. In case of submitting a complaint application through a legal representative in Vietnam according to Clause 2 Article 119a of the Law on Intellectual Property, an authorizing document shall be enclosed with the application; regarding a second-time complaint, copies of the authorizing document subject to Clause 5 Article 3 of this Circular shall be confirmed by the Intellectual Property Office of Vietnam.

Article 37. Complaint application withdrawal and complaint settlement suspension

1. An applicant may withdraw his/her complaint application according to Article 10 of the Law on Complaints. If the withdrawal of the complaint application is under the authorization of the application, the authorized withdrawal of the complaint application shall be specified in the authorizing document. A withdrawn application shall be considered not submitted. The petitioner shall not receive a refund for the complaint application and paid complaint settlement service provision fees, except for cases where the complaint application is withdrawn before the date of notification of the application acceptance or rejection.

2. The complaint settlement person shall issue a decision to suspend the complaint settlement in the following cases:

- a) The petitioner withdraws the complaint application;

b) The protection title, internationally registered mark, or internationally registered industrial design in Vietnam has its validity terminated, or the validity of the internationally registered mark has lapsed according to a relevant international treaty.

Article 38. Complaint settlement procedures

1. The acceptance of a complaint application shall comply with Article 27 of the Law on Complaints and Clause 1 Article 119a of the Law on Intellectual Property, specifically:

a) Within 10 days from the date of receipt of the application, the complaint settlement person shall:

(i) Issue a notification of rejection of the acceptance of the complaint application if it is subject to one of the cases prescribed in Point b of this Clause, specifying the reasons for the rejection; or

(ii) Issue a notification of acceptance of the complaint application if it is not subject to cases prescribed in Point b of this Clause, specifying the application acceptance date and determining the lookup fees and/or appraisal fees regarding cases where a re-appraisal is necessary to carry out the complaint settlement corresponding to the complaint contents (if any) and impose a 1-month time limit for the petitioner to pay the mentioned fees.

b) The complaint application shall not be accepted for settlement in one of the following cases:

(i) The subject of the complaint is not an official decision or notification according to Clause 2 Article 35 of this Circular;

(ii) The decision, notification, or act subject to the complaint is not directly related to legitimate rights or benefits of the petitioner;

(iii) The complaint application is not submitted in compliance with Clause 2 Article 36 of this Circular;

(iv) The complaint application is submitted outside of the prescribed prescriptive period, except for cases prescribed in Clauses 3 and 4 Article 15 of Decree No. 65/2023/ND-CP;

(v) The complaint already has a decision on second-time complaint settlement;

(vi) The complaint has already been accepted by a Court or settled by a judgment or decision of a Court, except for the case of having a decision on administrative case settlement suspension of a Court;

(vii) The petitioner continues to complain after the 30-day time limit from the date of the decision on suspension of the complaint settlement according to Article 10 and Clause 8 Article 11 of the Law on Complaints;

(viii) The complaint application does not point out elements contrary to laws of the decision, notification, or act subject to the complaint and only requests for amendments to the application that is the subject matter of the mentioned decision or notification.

(ix) The complaint application for a notification, administrative decision, or act concerns a subject matter of industrial property subject to state secret scope.

c) If the petitioner does not pay the appraisal fees for the case where a re-appraisal is necessary for the complaint settlement according to the notification of complaint settlement acceptance prescribed in Paragraph (ii) Point a of this Clause, the complaint application shall be settled based on documents provided in the application.

2. The time limit for complaint settlement shall comply with Article 119a of the Law on Intellectual Property and Articles 28 and 37 of the Law on Complaints.

3. To determine the complaint contents, the complaint settlement person shall collect suggestions from persons with rights and obligations related to the accepted complaint application according to Article 21 and Decree No. 124/2020/ND-CP (hereinafter referred to as “related party”) as follows:

a) The complaint settlement person shall issue a written notification of the complaint contents to the related party and impose a 1-month time limit from the notification date for such a party to provide any feedback (if any);

b) The related party may provide information and evidence proving its reasoning within the time limit prescribed in Point a of this Clause, and the complaint settlement person shall assess such information and evidence when settling the complaint;

c) The complaint settlement person shall issue a written notification of the feedback of the related party and impose a 2-month time limit from the notification for the petitioner to provide feedback on the feedback of the related party;

d) After the prescribed time limit, if one party does not have any feedback, the complaint application shall be settled based on the documents provided in the application, including documents presenting the feedback of the other party.

4. During the first-time complaint settlement for complicated cases, the first-time complaint settlement person may, proactively or based on the request of the petitioner, carry out the re-appraisal according to Clause 4 Article 119a of the Law on Intellectual Property and Article 13 of this Circular. During the re-appraisal, the first-time complaint settlement may consult an independent specialist or a Counseling Council in conformity with the following regulations:

a) The first-time complaint settlement person may consult an independent specialist or a Counseling Council during the re-appraisal based on the complexity of the contents subject to re-appraisal.

A Counseling Council includes a president and members. The independent counseling specialist and the Counseling Council shall consult with the complaint settlement person on technical and legal issues of the contents subject to re-appraisal and settlement schemes.

The independent counseling specialist and the president and members of the Counseling Council are persons with appropriate qualifications selected from the list of industrial property counseling specialists and other sources (in case no compatible specialists can be chosen from such a list).

The Intellectual Property Office of Vietnam shall take charge and cooperate with the Inspectorate of the Ministry of Science and Technology of Vietnam in formulating the list of industrial property counseling specialists and disclosing it in the Industrial Property Official Gazette.

b) The Counseling Council shall be organized and operated under the following principles: (i) the Counseling Council shall be established according to a decision of the first-time complaint settlement person;

(ii) The Counseling Council shall operate in the form of meetings, collective discussions, and voting by majority;

(iii) Regarding related parties in a complaint case, the party with relevant rights and obligations may be invited to participate in the meeting of the Counseling Council to clarify the related circumstances.

c) The following persons shall not participate in the Counseling Council and work as independent counseling specialists in complaint cases:

(i) Persons subject to complaints (persons issuing decisions or notifications subject to complaints);

(ii) Persons who have appraised industrial property establishment registration applications related to the decisions or notifications subject to complaints;

(iii) Persons with rights and benefits related to complaint cases;

(iv) Persons not being objective in complaint cases as determined by related grounds.

Persons mentioned in this Point shall explain and provide information concerning the job they carried out that is subject to the complaint contents.

d) Suggestions from independent counseling specialists and the president and members of the Counseling Council and operational results of the Counseling Council shall be presented in writing.

5. The first-time complaint settlement person shall organize a dialogue session according to Article 30 of the Law on Complaints. Independent counseling specialists and members of the

Counseling Council may be invited to participate in the dialogue session regarding the re-appraisal during the first-time complaint settlement (if any).

6. The person competent to settle first-time complaints shall issue a complaint settlement decision in compliance with the following regulations:

a) Based on the results of the re-assessment of the decision or notification subject to the complaint, the first-time complaint settlement person shall issue a complaint settlement decision, specifying Clause 2 Article 31 of the Law on Complaints.

b) Regarding the case where the petitioner, who is not the applicant or the person requesting the establishment of industrial property rights or registering a contract for transfer of industrial property rights that are subject matters of the decision or notification subject to the complaint, provides new circumstances that may affect the complaint settlement conclusion, the Intellectual Property Office of Vietnam shall carry out a re-appraisal of the contents concerning the new circumstances according to the procedure for re-appraisal of industrial property right establishment applications prescribed in Points b and c Clause 2 Article 13 of this Circular. The first-time complaint settlement person shall issue a complaint settlement decision according to Point a of this Clause based on the re-appraisal results.

7. Regulations on first-time complaint settlement in this Circular shall also apply to the second-time complaint settlement, except for regulations concerning consultation with specialists in application content re-appraisal prescribed in Clause 4 of this Article. Regarding complex complaint cases, if necessary, the second-time complaint settlement person shall establish a Counseling Council according to Clause 4 of this Article for consultation during the complaint settlement.

Article 39. Disclosure of complaint settlement decisions

A complaint settlement decision shall be disclosed on the web portal of the complaint settlement authority within 15 days and in the Industrial Property Official Gazette within 2 months from the decision issuance date.

Article 40. Validity of decisions and notifications subject to complaints and complaint settlement decisions

1. A decision or notification subject to a complaint shall still be valid during the complaint settlement, except for the case where its implementation is suspended under a written decision of the complaint settlement person according to Article 35 of the Law on Complaints or at the request of a Court according to procedural laws.

2. The Intellectual Property Office of Vietnam shall immediately implement a legally effective complaint settlement decision according to Article 44 of the Law on Complaints, specifically:

a) A first-time complaint settlement decision of the Director of the Intellectual Property Office of Vietnam shall take legal effect after 30 days from the date of signing, and the petitioner does not

submit a second complaint. In case of a remote area where travel is difficult, the mentioned time may be extended up to 45 days;

b) A second-time complaint settlement decision of the Minister of Science and Technology of Vietnam shall take legal effect after 30 days from the date of signing. In case of a remote area where travel is difficult, the mentioned time may be extended up to 45 days;

3. The acceptance of a second complaint shall be notified to the first-time complaint settlement person within 10 days from the acceptance date. In this case, the first-time complaint settlement decision shall not take legal effect. The decision or notification subject to the complaint shall continue to be valid until the second complaint settlement decision takes legal effect.

4. The person complaining for the second time may immediately notify the first-time complaint settlement person of the second-time complaint application submission to ensure his/her rights and benefits.

Article 41. Measures to limit arising complaints

1. The Intellectual Property Office of Vietnam shall reinspect and reassess issued notifications and decisions; if there are signs contrary to laws, promptly carry out amendments and remedial measures to prevent arising complaints, except for cases where such decisions and notifications are currently subject to complaints.

2. During the complaint settlement, the complaint settlement person shall encourage and create favorable conditions for related parties to mediate as prescribed by laws.

Chapter V

ASSURANCE OF INDUSTRIAL PROPERTY INFORMATION

Article 42. Development and management of national databases on industrial property

1. The Intellectual Property Office of Vietnam shall develop and manage industrial property information databases and develop tools to classify, look up, guide the lookup, and use the domestic and foreign industrial property information; organize the supply of information adequately, promptly, and accurately to ensure the access to information databases for any entity that wishes to use such information for the establishment and protection of industrial property rights, research, development, and business; manage and carry out the sharing, connection, utilization, international cooperation, and other operations concerning national databases on industrial property.

2. National databases on industrial property include bibliographic information and full-text information (if any), gathered selectively, systematically, and in conformity with lookup purposes related to:

a) Disclosed industrial property registration applications;

b) Issued protection titles and industrial property rights recognized for protection in Vietnam.

Article 43. Access to and utilization of information from national databases on industrial property

Any organization or individual may access and utilize information from national databases on industrial property in the two following forms:

1. Looking up and searching for information among databases publicly placed at information lookup facilities for public access or disclosed on the internet by the Intellectual Property Office of Vietnam.
2. Using services of information and documentation lookup and provision of the Intellectual Property Office of Vietnam, providing that it pays relevant fees as per regulation.

Article 44. Information lookup and documentation provision services

The Intellectual Property Office of Vietnam shall implement information lookup and documentation provision services for organizations and individuals in need according to Clause 2 Article 43 of this Circular.

Article 45. Assurance of local industrial property information

1. Local industrial property authorities may, based on their conditions and capacity, establish and manage industrial property databases to ensure industrial property information for local research, application, development of manufacturing and business, and industrial property right protection.
2. Industrial property authorities in provinces and centrally affiliated cities shall and may carry out operations to ensure industrial property information according to the regulations of this Circular.
3. The Intellectual Property Office of Vietnam shall make periodic statistical reports on information from national databases on industrial property for the industrial property state management of provinces and centrally affiliated cities (at least once every 6 months).

Article 46. Issuance of copies of documentation and first application confirmation for priority rights

1. Any relevant organization or individual has the right to request the Intellectual Property Office of Vietnam to issue copies of documentation issued by the Intellectual Property Office of Vietnam or copies of original logbooks established by the Intellectual Property Office of Vietnam or copies of documentation established by such an organization or individual, submitted to the Intellectual Property Office of Vietnam during the industrial property right establishment. The person requesting the issuance of copies shall pay the documentation copy fees.

2. The applicant has the right to request the Intellectual Property Office of Vietnam to confirm the copies of the first application used for priority rights (even when the applicant is rejected from valid application acceptance or has withdrawn the application), providing that the applicant pays the documentation copy fees.

3. The Intellectual Property Office of Vietnam shall implement services of copy provision and first application confirmation for organizations and individuals in need according to Clause 2 of this Article.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 47. Transitional provisions

1. Any objection submitted to the Intellectual Property Office of Vietnam from January 1, 2023 that is in conformity with Article 112a of the Law on Intellectual Property but has yet to be completely processed by the Intellectual Property Office of Vietnam shall be processed according to Article 11 of this Circular.

2. Any objection of a third party according to Article 112 of the Law on Intellectual Property submitted to the Intellectual Property Office of Vietnam before August 23, 2023 but has yet to be continued regarding its processing according to Circular No. 01/2007/TT-BKHCN dated February 14, 2007 of the Ministry of Science and Technology of Vietnam, amended by Circular No. 13/2010/TT-BKHCN dated July 30, 2010, Circular No. 18/2011/TT-BKHCN dated July 22, 2011, Circular No. 05/2013/TT-BKHCN dated February 20, 2013, and Circular No. 16/2016/TT-BKHCN dated June 30, 2016.

3. This Circular shall apply to industrial property right establishment applications submitted from August 23, 2023, except for cases prescribed in Clauses 4, 5, and 6 of this Article.

4. Regulations on the format of complaint applications of this Circular shall apply to applications submitted from the effective date of this Circular.

5. Clause 8 Article 16, Clause 10 Article 23, and Clause 13 Article 26 of this Circular shall apply to industrial property registration applications submitted before the effective date of this Circular but have yet to receive any notification of the content appraisal results.

6. Article 34 of this Circular shall apply to mark and invention registration applications submitted from January 1, 2023.

Article 48. Entry into force

1. This Circular comes into force as of November 30, 2023.

2. The following Circulars shall expire from the date this Circular comes into force:

a) Circular No. 01/2007/TT-BKHCN dated February 14, 2007 of the Minister of Science and Technology of Vietnam;

b) Circular No. 18/2011/TT-BKHCN dated July 22, 2011 dated July 22, 2011;

c) Circular No. 05/2013/TT-BKHCN dated February 20, 2013;

d) Circular No. 16/2016/TT-BKHCN dated June 30, 2016.

3. Regulations on industrial property prescribed in Article 2 of Circular No. 13/2010/TT-BKHCN dated July 30, 2010 shall expire as of the effective date of this Circular.

4. Difficulties that arise during the implementation of this Circular should be promptly reported to the Ministry of Science and Technology of Vietnam for guidance./.

**PP. MINISTER
DEPUTY MINISTER**

Bui The Duy

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