

VACIP

Intellectual Property's Rights Enforcement Handbook



2010

Preamble

Knowledge is one of basic discrepancies between the human beings and the animals, thanks of which the people constantly grow up.

IP Rights are legitimate rights obtained based on the protection of the State against the achievements of IP activities. However, due to the “intangible format” of such type of rights, right holder is unable to protect its materially. Anybody may use them at any time. Therefore, the Government has established the protection system through the grant to the IP right holders exclusive right to use and explore IP objects. In line with this, any person, who wishes to use IP objects must get permission of the IPR holders, except for the purposes of security, national defense, and interests of each country.

However, not any time the enforcing official is able to identify all IP objects, approach sufficient information about IP objects, the IP right holders, therefore the effect of enforcing activities in the recent years still not high. This Handbook is born to improve this situation and to serve the enforcement activities.

6/2010- Phan Minh Nhut

Index

1. What are Intellectual Properties Rights ?
2. Counterfeiting Goods and IP infringement
3. Risk Management in IPR enforcement
4. Build up and Establish Relationship
5. Trade mark recognition



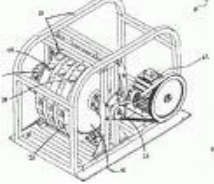



What are IP Rights ?

IP Rights are kind of assets rights. According to Article 163 of the Civil Code, the assets are determined in following kinds:

<p>Material</p>	
<p>Money</p>	
<p>Pricing documents</p>	
<p>Assets rights</p>	

Classification of IP Rights

According to article 4 of IP Laws: The IP rights are consist of:

<p>Copyrights and related rights</p>	 
<p>Industrial Properties Rights: trade marks, trade secrets, trade names and geographical origin names</p>	  
<p>Rights upon plants' seeds</p>	


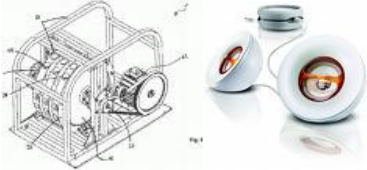



TRADEMARK COUNTERFEITS

(As per article 213 – IP Laws)

Counterfeits in terms of Trade marks	Illicit sticking registered trade marks on products, labels. Ie: Fake Nike shoes, fake Unilever, P&G, Nivea, L’Oreal cosmetics, fake Nestle milk, fake Honda motorbikes, Fake Johnnie Walker, etc...
Counterfeits in terms of geographical indication	Illicit sticking geographical indication on products and labels: Ie. Fake Phu Quoc fish sauce
Copyright piracy	Duplicates of softwares, songs, etc. without permission of the copyright owners or owner of related rights. Ie: Microsoft software piracy

IP RIGHT INFRINGEMENT ACTS

(According to article 28, IP laws):

Copyright infringement	
Infringement against patents, industrial designs, patterns.	
Infringement against trade secrets	
Infringement against trade marks, trade names, and geographical indicators.	
Infringement against plants’ seeds.	

RISK MANAGEMENT IN ENFORCEMENT OF IP RIGHTS




Risk Management in enforcement of IP rights is way of collection, IP intelligence management for the purpose of enforcement activities. In Viet Nam, counterfeits in term of trade marks are most to be focused in, in which the risk management is similar to green lines and red lines in Customs clearance practices. The enforcing officials is able to establish himself/herself a simple risk management system for use, which could include the following criterias:

1. Intellectual Properties database. For instance: whether any trade mark has been registered and class of goods that they belong to.
2. System and methodology to indentify trade mark counterfeits (Manual for Identification of Counterfeits versus Genuine goods)
3. Process and business system of the trade mark owners:
 - Manufacturing and distribution systems
 - Import-export system
4. Intelligences of counterfeits: including information collected from daily operation and provided by the IP right holders.

These intelligences are used as a set of filter to help determine possibilities of counterfeits. For instance: an IP right holder informed that genuine products are only imported at Ho Chi Minh city Port while the Market Management Bureau of Hai Duong province found that such goods are circulating within their territory and imported from China. Or the IP right holder may advise that product's information is sticked on the labels of goods but print is applied directly on the counterfeits. In this case, the MMB of Hai Duong could liaise with concerned IP right holders for co-operation and settlement.

RELATIONSHIPS BUILDING

The IP right holder is the unique person, who could provide evidence to prove which are counterfeits and IP infringement acts. Due to technology secrets, trade secrets there are some important characters of genuine products that are not published. Therefore, if the enforcement agents wish to carry out effective enforcement activities, enforcement officials certainly have to establish a relationship with the IP right holders to build up for themselves an utmost database. Please refer to following examples:

1. IP right holder: Representatives in Viet Nam: {address}.....
2. Contact:,  ;  Fax:.....;  {email} Web: {address of web}
3. IP items – (trade mark, industrial designs, copyright ...)


Vice versa, the IP right holders also wish to have a contact information with the enforcing authorities. Therefore, the enforcing officers are encouraged to have business cards for convenient contact. The current practice shows that majority of enforcement programs gained significant achievement thanks to agreement between the IP right holders and the enforcement agencies with enforcement plan in middle and long term.



Attention! : Nowadays, the development of information technology has allowed for verification of counterfeits from far away. Therefore, with camera-cell phone the officer can deliver to the IP right holder important information about the products for further verification quickly. In addition, you can search information on internet via Yahoo, Google or call the duty VACIP at tel No. 0908 464 378/0988026896 OR through VACIP's website: www.vacip.org.vn

TRADE MARK IDENTIFICATION

In most of the cases, the enforcement officers during investigation, is entitle to inspect and track some suspected counterfeits, or copycats but without knowing to whom such trade marks belong to and how to contact for coordination. Followings are IPR holders being members of VACIP association, which have been actively participating in fighting against counterfeits and good co-operation with the enforcing agents. Thus, when finding any suspected IP infringing products, enforcing officials can contact with the IP right holders for request for co-operation.




1. **Right holder:** *Nike, Inc.* **Representative:** *Nike, Inc. Rep Officice, 12th Floor, 235 Đông Khoi, Dist.1, HCM City*
2. **Contact:** *Phan Minh Nhựt*, 📞 0908 464378 ; 📠 (083) 8298172, Fax: (083) 8222600; 📧 Nhut.phan@nike.com Web: www.nike.com
3. **IP objects :** NIKE, , Converse, Umbro, Jordan, CoHaan.




1. **Right holder:** *Unilever N.V.* **Representative in VN:** *Unilever Vietnam*
2. **Contact :** Mai Hòa Việt; Nguyễn Lan Hương, 📞 0903416417; 0903338220 ; 📠 (04) 35580652/(08) 54135686, Fax: (08) 5413 3656; 📧 Mai-Hoa.Viet@Unilever.com; Nguyen-Lan.Huong@Unilever.com Web: www.Unilever.com.vn
3. **IP objects:** trademark: Unilever, Comfort, Omo, Sunlight, Vim, Surf, Viso, Cif, Close-up, Dove, Lifebouy, Lux, Pond's, P/S, Rexona, Sunsilk, Clear, Hazeline, Vaseline, Creamsilk, Knorr, Lipton, Hellmann's, Lady Choice, Cornetto, Walls, Solero, Paddle Pop, Magnum...; industrial design; copyrights...




1. **Right holder:** *Procter&Gamble.* **Representative:** *6th floor, Diamon Plaza, 29 Lê Duẩn, Q. 1, HCMC*
2. **Contact:** *Trịnh Kim Ngọc.*, 📞 0903139301 ; 📠, Fax:; 📧 ngoc.tk@pg.com Web: www.pg.com
3. **IP objects :** Pantene, Rejoyce, Safeguard, Gillette, Hugo Boss, Wella, Olay

1. **Right holder:** *Nestlé.* **Representative:** *Nestle Việt Nam Ltd., Co., 9th Floor, Etown 3, 364 Cộng Hòa, Tân Bình, HCMC*
2. **Contact:** *Phan Thị Hồng Diễm.*, 📞 0903313887 ; 📠, Fax:; 📧 phanthihong.diem@vn.nestle.com
3. **IP objects :** Nestle

1. **Right holder:** *GSK* **Representatives:** *Glaxosmithkline pte. Ltd, 49 Hai Ba Trung, Ha Noi, Hanoi Towers, 7th Floor, Room 704; Rep Office of Glaxosmithkline Pte. Ltd, 235 Đông Khởi, Q.1, Tp.HCM, Metropolitan, 7th floor, 701.*
2. **Contact:** *BS Nguyễn Ngân Quyên*, 📞 090 326 3745; 📠 04 3936 2607, Fax: 04 3936 2608; 📧 quyen.n.nguyen@gsk.com
3. **IP objects :** GlaxoSmithKline, Oranline, and other trade names protected in Vietnam.

1. Right holder: *Beiersdorf AG* Representative: *19th Floor, Alpha Bldg, 151 Nguyễn Đình Chiểu, Q.3, HCMC*
2. Contact: *Thai Nguyen Xuan Hong.*,  *0903362585* ;  *(083) 9308324*, Fax: *(083) 9308325* ;
 *Hong.ThaiNguyenXuan@beiersdorf.com* Web: *.....*
3. IP objects: Nivea

1. Right holder: *Diageo Indochina Ltd,* Representative: *7th Floor, Star building- 33 Mạc Đình Chi, Dist.1, HCMC*
2. Contact: *Vũ Duy Quy.*,  *0937018448* ;  *.....*, Fax: *.....*;  *vu.duy.quy@diageo.vn* Web: <http://www.diageo.com>
3. IP objects : *Johnnie Walker*

1. Right holder: *Honda Vietnam.* Representative: *Honda Vietnam.*
2. Contact: *Đỗ Việt Dũng.*,  *09798-36684* ;  *(4)62-567-567*, Fax: *(4)3836-0001*;  *law_dv_dung@honda.com.vn*
 Web: *honda.com.vn*
3. IP objects : *Honda, Dream, Air Blade, Wave, SH, Civic.*

1. Right holder: *Loreal.* Representative: *L'Oreal Vietnam, P. 603, Zen Plaza Bldg, 54- 56 Nguyễn Trãi, Dist. 1, HCMC*
2. Contact: *Nguyen Ngoc Tuyet Trinh.*,  *0908036949*  *(08)392 55834*, Fax: *(08)39255838*; 
tnghuyen11@vn.loreal.com. Web: *www.lorealvietnam.com*
3. IP objects : *Nhãn hiệu*       

1. Right holder: *SaraLee.* Representative: *Hong Thai & Associates.*
2. Contact: *Thái Nguyễn Xuân Hồng.*,  *0903362585* ;  *(083) 9308324*, Fax: *(083) 9308325*; 
hongthailawoffice@gmail.com Web:
3. IP objects : Sara Lee