



# LEGAL UPDATE

## Decree No. 65/2023/ND-CP regarding intellectual property

*Our monthly Legal Update is to provide the summary of key regulatory news that potentially impact your investment and business activities in Vietnam.*

*This Legal Update covers some key points of Decree No. 65/2023/ND-CP guiding the implementation of the Intellectual Property Law, specifically focusing on industrial property, protection of industrial property rights, rights to plant varieties and State management of intellectual property.*

On 23 August 2023, the Government issued Decree No. 65/2023/ND-CP ("*Decree 65*") detailing a number of articles and measures to implement the Law on Intellectual Property concerning the rights of industrial property ("*IP*"), protection of IP rights, rights to plant varieties and State management of intellectual property.

Within this article, we would like to highlight 04 notable novelties.

## **1. New Application Forms and Protection Title Forms**

Decree 65 has introduced new application forms and protection title forms (replacing the previous application forms and protection certificate forms in Circular No. 01/2007/TT-BKHHCN).

Previously, trademark applicants were only granted protection title in paper form by the Intellectual Property Office of Vietnam ("*IPVN*"), now, according to Article 29.1 of Decree 65, protection titles can be issued in electronic and paper forms in case the applicants request the paper versions.

## **2. Simplification of Procedures for Amending and Supplementing Applications for the Establishment of IP Rights**

Article 16 of Decree 65 introduces several changes in the procedures for amending and supplementing applications for the establishment of IP rights, specifically:

- (a) Decree 65 allows applicants to request certain amendment before IPVN issues the official decision on formality acceptance or grant/refusal of protection tile, including the applicant's country code, address of author of inventor, layout design, industrial design, and modifying industrial property representatives.
- (b) Applicants are required to submit supporting documents in cases where they amend the name and nationality of authors, name and address of organization. In case the applicant wishes to change the representatives, they must submit a declaration of change of representative.
- (c) If applicants proactively amend their applications before IPVN issues the notice of formality results, they only need to submit a written request specifying the amendment instead of filing a amendment application as previous.
- (d) Applicants are not required to submit detailed explanations of amendments in cases of amend trademark sample, list of goods or services of trademark, geographical indication product descriptions, corresponding geographical region maps.

Decree 65 provides detailed guidelines on documentation and simplifies administrative procedures to expedite the process of amending industrial property rights registrations.

### **3. Supplementing regulations related to Madrid applications originating from Vietnam that have been issued an international registration number**

According to Decree 65, requests related to Madrid applications originating from Vietnam that have been granted an international registration number can now be directly processed with the International Bureau of WIPO or through IPVN.

In case the applicant chooses to submit through the IPVN, the applicant needs to prepare complete set of documents as stipulated in Article 26.3 of Decree 65.

### **4. Conditions for restricting the trademark right transfer**

Article 60 of Decree 65 provides detailed instructions on restrictions of the trademark right transfer.

A trademark right transfer is considered to cause confusion about the characteristics and origin of goods and services bearing the trademark in the following cases:

- (a) The transferred trademark is identical or confusingly similar to the protected trademark owned by the transferor.
- (b) Part of the goods or services bearing the transferred trademark is similar to the remaining goods or services owned by the transferor and the use of that transferred trademark is likely to cause confusion about the commercial origin of goods and services.
- (c) The transferred trademark contains signs that make consumers confused or misunderstand the origin, quality, value... of the goods and services within the scope of transfer.

Decree 65 took effect from the signing date namely 23 August 2023.

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Head office:  
P7-43.OT08, Park 7, Vinhomes Central Park, 720A Dien Bien Phu, Ward 22, Binh Thanh District, Ho Chi Minh City.



[info@bizlegalgroup.com](mailto:info@bizlegalgroup.com)



[www.bizlegalgroup.com](http://www.bizlegalgroup.com)

