



WINCO

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COMPARISON BETWEEN CIRCULAR NO. 01/2007/TT-BKHCN AND FORMER REGULATIONS

GENERAL	No.	Contents	Circular No. 01/2007 and Law on Intellectual Property	Former regulations
	1	Narrowing the protection scope of the design and patent applications	<ul style="list-style-type: none">- The applicant can make a request of narrowing the protection scope of the application. In case a request of narrowing the protection scope of the application is made, re-examination will be given to the application and the fee therefor is incurred.	<ul style="list-style-type: none">- No such a regulation.
	2	Extension	<ul style="list-style-type: none">- It is possible to extend the duration for PCT applications to enter the Vietnam national phase by 06 months computed from the due date on the condition that the applicant pays the prescribed fee for the extension;- The applicant can make a request of extending the time for paying the granting fee by 01 month computed from the due date.	<ul style="list-style-type: none">- No such regulations.
	3	Response	<ul style="list-style-type: none">- Duration for preparing and responding to Notification on Shortcoming of Application is 01 month computed from the date of signing Notification.	<ul style="list-style-type: none">- Duration for preparing and responding to Notification on Shortcoming of Application is 02 months computed from the date of signing Notification.

	4	Paying the granting fee	<ul style="list-style-type: none"> - Duration for paying the granting fee is 01 month computed from the date of signing the notification on grant of Protection Title; - As to the patent application alone, in case within the prescribed time the applicant pays the fees for granting, recording on the National Patent Register and publishing Patent, but not the 1st annuity fee, Patent is still granted but become invalid right after the granting date. 	<ul style="list-style-type: none"> - Duration for paying the granting fee is 02 months computed from the date of signing the notification on grant of Protection Title; - No such a regulation
	5	Submitting formal documents later	<ul style="list-style-type: none"> - 01 month from the Vietnamese filing date. 	<ul style="list-style-type: none"> - 03 months from the Vietnamese filing date.
	6	Power of Attorney	<ul style="list-style-type: none"> - As to design and non-PCT patent applications, it is acceptable that no Power of Attorney (original or copy) is available at the filing time. However, the original one must be submitted later and the fee for late submitting the document will be incurred; - As to the trademark application, the Power of Attorney (POA) is not required to lodge at the time of filing the application and it is not required to be notarized any more. 	<ul style="list-style-type: none"> - As to design and non-PCT patent applications, at least the copy of the executed Power of Attorney is required at the filing time. The original one can be submitted later with no fee being charged; - As to the trademark application, the POA must be available at the time of filing the application and it must be notarized.

	7	Re-empowerment	- In case of empowerment on one's behalf or re-empowerment, Power of Attorney is considered valid only if the undertaking party commits taking responsibility for any potential matters resulting from the earlier transaction between the empowering party with the National Office of Intellectual Property of Vietnam (NOIP).	- No such a regulation.
	8	Early implementation of procedures	- The applicant can request the NOIP to implement procedures earlier than the prescribed time limit. In case the NOIP does not accept that request, a notification clearly specifying reasons therefor shall be issued to the applicant	- No such a regulation.

	9	<p>Opposition to the grant of Protection Title.</p>	<ul style="list-style-type: none"> - A third party can file an opposition to the grant of Patent during the time from the publication date of the application before the date of a Decision on Granting Protection Title. - In case the third party has opinion on the registration right, if it is impossible to verify whether such opinion is grounded or groundless, the NOIP will notify the third party thereof so that he could submit the opposition to the Court. - The NOIP shall host a direct conversation between the third party and the applicant to clarify the matter if it is necessary and requested by the two parties. - Time for the NOIP to notify the applicant of the opposition is 01 month computed from the date of receiving the opposition of the third party. - Time for a response to the NOIP's notification is 01 month from the date of the notification. 	<ul style="list-style-type: none"> - A third party can file an opposition to the grant of Protection Title during the substantive examination of the application. - No such a regulation. - No such a regulation. - No such a regulation. - Time for a response to the NOIP's notification is 02 months from the date of the notification.
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	10	Substantive examination of the application	<ul style="list-style-type: none"> - In some cases, the substantive examination can be terminated earlier than the prescribed time and at that time, the NOIP will issue a notification for the first time. If the applicant has no opinion or has opinions that are not justifiable, the NOIP will officially terminate the substantive examination and issue a notification refusing to grant Protection Title. 	<ul style="list-style-type: none"> - No such a regulation.
	11	Termination of validity of a Protection Title	<ul style="list-style-type: none"> - The validity of a Protection Title can be terminated if the trademark has not been used for 05 consecutive years prior to a request for termination of validity, except where use is commenced or resumed at least three 03 months before the request for termination - The NOIP can host a meeting for opinion exchange between the third party and the proprietor. - One document can be used to terminate or cancel the validity of one or many protection titles if the same arguments are used, but the fees must be paid to each protection title. 	<ul style="list-style-type: none"> - The mark has not been used without justifiable reason for five (5) consecutive years prior to a request for termination of validity - No similar regulation. - Each request to terminate or cancel the validity must be in one document.

	12	Time to deal with the application for duplication/re-grant, amendment, renewal of protection title	- 01 month.	- 02 months.
PATENT	1	Patent specification	<ul style="list-style-type: none"> - As to all patent applications to be filed in Vietnam, the Vietnamese version of the specification is required right at the filing time; - 02 Vietnamese versions of the specification are required for a filing. 	<ul style="list-style-type: none"> - As to only PCT applications entering the Vietnam national phase, the Vietnamese version of the specification is required right at the filing time. As to non-PCT applications, the Vietnamese version of the specification can be submitted later within 03 months computed from the Vietnamese filing date; - 01 Vietnamese version of the specification is required for the filing.
	2	Publication of the patent application	- Patent applications are published in the 19th month computed from priority date or Vietnamese filing date (if no priority is claimed), or within 02 months computed from the date of official acceptance of applications, depending on which date comes later.	- Patent applications are published within 02 months computed from the date of official acceptance of applications.
	3	Patentable subject matters of the invention	- The patentable subject matters of the invention only consist of “ product and process/method ” and so, the subject matter “ use ” is no longer patentable.	- The patentable subject matters of the invention consist of “ product, process/method and use ”.
	4	Amendment of Patent	- In case any shortcomings in connection with the name and address of the Patent proprietor and the inventor are found out in Patent, the NOIP itself or at the request of the shortcoming finder, proceeds with revoking the defective Patent and granting a new Patent.	- No such a regulation.

DESIGN	1	Photos/drawings of the design	<ul style="list-style-type: none"> - The design in photos/drawings must be represented in solid lines; - The background of photos/drawings must be in an identical color which contrasts with that of the design; - The size of the design cannot be smaller than 90mm x 120mm and larger than 190mm x 277mm. 	<ul style="list-style-type: none"> - No such a regulation; - No such a regulation; - The size of the design cannot be smaller than 90mm x 120mm and larger than 210mm x 297mm.
TRADEMARK	1	Distinguishability of trademark	<ul style="list-style-type: none"> - Although the letter is Latin one, the Latin sign only comprises of one letter or only numbers, or two letters which can not be read as a word (even when they are combined with numbers), such sign is undistinguishable; - The letters other than Latin ones must accompany other elements (for example, the transliteration) which create the distinguishability for the trademark in the whole form or those characters must be stylized, they can be protected as a trademark. 	<ul style="list-style-type: none"> - Letters which are unpronounceable as a word can not be protected as a trademark (apart from widely and popularly-used signs); - Some words other than Latin ones such as Chinese and Russian words, they can be protected as a trademark.

	2	Trademark specimens	<ul style="list-style-type: none"> - 09 trademark specimens must be filed together with the trademark application; - The size of the specimen is not more than 80mm and not less than 8mm. 	<ul style="list-style-type: none"> - 15 trademark specimens must be filed together with the trademark application; - The size of the specimen is not more than 80mm and not less than 15mm.
	3	Well-known mark	<ul style="list-style-type: none"> - It is not required to file application for recognizing a trademark as a well-known one at the NOIP. When utilizing the rights and dealing with a dispute over a well-known mark, the owner of such mark must prove his rights by the evidences in accordance with the Article 75, Law on Intellectual Property. 	<ul style="list-style-type: none"> - The application for recognizing a trademark as a well-known one must be filed at the NOIP.
	4	Collective mark and certification mark	<ul style="list-style-type: none"> - There are specific required contents in the Regulation on use of the Collective mark and the Certification mark. 	<ul style="list-style-type: none"> - There were no specific required contents in the Regulation on use of the Collective mark and the Certification mark.
	5	Integrated mark	<ul style="list-style-type: none"> - There are more specific stipulation about integrated mark such as: it is required that among the integrated marks, the applicant must indicate which mark is deemed to be a basic one, which goods/services are basic ones. Otherwise, the examination and evaluation of the distinguishability of the mark in the application will be considered independently. 	<ul style="list-style-type: none"> - No such a specific regulation.

		<p>International trademark application</p>	<p>1. International trademark application of the Vietnamese applicant. The NOIP will send the application to the International Bureau within 30 days from the date of receiving sufficient documents.</p> <p>2. International trademark application designating Vietnam. Within 12 months from the date when the International Bureau issue a Notification about the application designating Vietnam, the NOIP will render its conclusion whether the trademark is protected or not;</p> <p>As for the trademark which is possible to be protected in accordance with Vietnamese law, the NOIP will issue a Decision on protection of the international trademark;</p> <p>The NOIP will publish the trademark to be protected on the Official Gazette and include it on the National Register within 01 month;</p> <p>At the request of the owner's trademark, the NOIP grants Registration Certificate for international trademark and the owner must pay fees for his request.</p>	<ul style="list-style-type: none"> - No specific regulation on the time-limit for the NOIP to send the international trademark application to International Bureau. - Within 12 months from the date when the trademark is included in the International Register, the NOIP renders its conclusion about the possibility that the mark may not be protected. If the NOIP issues no Provisional Refusal Notification, the trademark will be protected in Vietnam; - The NOIP will publish the trademark to be protected on the Official Gazette; - No such a regulation.
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	7	Examination of the trademark application	<ul style="list-style-type: none"> - 01 month for formality examination, 06 months for substantive examination. - If the application is requested to examine earlier than legal regulation, but such request is declined, the NOIP will issue a notification detailing reasons. 	<ul style="list-style-type: none"> - 03 months for formality examination, 09 months for substantive examination; - No specific regulations for examining the application earlier than legal regulation.
	8	Priority documents	<ul style="list-style-type: none"> - The copy of the first application is not required to be translated into Vietnamese (except the NOIP requires); - The certification on the copy of the first application of the Receiving Office and the list of goods/services of the first application are required to be translated into Vietnamese. 	<ul style="list-style-type: none"> - The copy of the first application is required to be translated into Vietnamese; - No such a regulation.