



# Key IP considerations when starting a business in Vietnam

**MARTA**

**BETTINAZZI**

*IP Business Advisor at the South-East Asia*

*IPR SME Helpdesk*

*14 March 2019*

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# Why is intellectual property important?

## Protects rights of owners from competitors

- Brand positioning and product quality = reputation
- Allows recoup of research and development costs
- Protects revenues gained from product sales

## Encourages innovation

- Monopoly right provides revenue stream in exchange for full disclosure
- IP rights can be licensed or sold and used as revenue generator

## Adds value

- Protects investments in domestic and international markets

# Is there a problem...?

**IP is  
borne  
national**

granted by  
national law  
applies within  
national borders  
to the national  
companies

**Trade  
goes  
intern  
ational**

worldwide  
marketing  
transfer of  
technology  
worldwide  
risks

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# Intellectual property a strange unknown thing



**Copyright** : Literary artistic and scientific works. Software and data collection



**Trade marks**: Distinctive sign that allows consumers to distinguish good of service



**Patent**: Invention or Utility solution (novel –inventive step- industrial application)



**Industrial design**: appearance of a product (new – creative – industrial application)



**Geographical indication**: name or a sign that connect to a specific place



**Trade secret**: information which has not been disclosed and is applicable in business

# IPR protection in Vietnam

## Copyright

- Registration takes 15 days
- 100.000 VND (4 €) to 400.000 VND (15 €)

## Invention Patent

- Registration takes 20 m.
- 2.730.000 VND (102 €)

## Utility Solution Patent

- Registration takes 18 m.
- 2.730.000 VND (102 €)

## Industrial design

- Registration takes 15 m.
- 3.010.000 VND (113 €)

## Trade marks

- Registration takes 12-15 m
- 1.000.000 VND (35 €)



# IPR protection in Vietnam

Paris  
Convention  
(1883)

**National treatment** (same protection to nationals of other Contracting States)

**Right of priority** the applications filed within a certain period of time will be regarded as if they had been filed on the same day as the first application

Berne  
Convention  
(1886)

**National treatment**

**Automatic protection** no formality

**Independence of protection** independent of the existence of protection in the country of origin of the work

Madrid  
protocol (1989)

System to protect a **mark** in a large number of countries by obtaining an international registration that has effect in each of the designated Contracting Parties

Patent  
Cooperation  
Treaty (1970)

Unified procedure for filing **patent applications** to **protect inventions** in each of its contracting states

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# Enforcement

## ADMINISTRATIVE ACTIONS

- Penalty for the infringer
- Seizure of the infringing goods

## CRIMINAL PROSECUTION

- Investigation and police raid actions based on request
- Penalty and imprisonment prescribed in the IP laws

## CIVIL ACTION

- Long and expensive, damages questionable, delayed results, uncertainty

## ALTERNATIVE DISPUTE RESOLUTION

- From a cease and desist letter to mediation and arbitration

## CUSTOM REGISTRATION



# Is it worth to register? Risks?

Backdoor sales

Infringement **by third party**

Infringement **by potential partners**

Import and sales counterfeits

**Online** infringements

**Bad-faith registrations**

# Is it worth to register? Yes!

**Without registration** no enforcement is possible

**Enforcement** exists!

Companies have to learn how to **play smart**

# Play smart!

**Identify your IP assets to protect**

**Prioritize protection needs**

**Assess vulnerability of your business asset**

**Collect information on local IP protection and practice and adapt to them**

**Set aside a reasonable budget**

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# Play smart!

## Register as soon as possible

- Best before entering the market
- Take advantage of international treaty (Madrid and PCT)

## Sign NA and NNN agreement with partners and employee

- Agreements can be enforced independently from the IP violations
- Trade secrets are a powerful tool

## Monitor the Market for possible infringements

- Time is a key factor!

## Choose the right form of enforcement

- Custom registration
- Cease and desist letter

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# Case Study on Custom enforcement

Consignment infringing trade mark was being shipped to Vietnam. **The owner of Trade Mark** request the Custom to postpone customs clearance

Customs issued a decision to **postpone clearance** for the shipment in question

The postponement last **10/20 days**. SME has the time to unload the consignment to **compare both marks**

Then or **SME starts a Civil action** or the Custom acts **ex officio** or Custom has to **continue customs clearance**; or Custom ask the SME **to compensate the owner of the whole shipment**



# Final Tips and Watch out

## Know your rights:

- The different kind IPR enjoy different types of protection

## Know the law:

- The legal framework in Vietnam is sound
- Enforcement cumbersome

## Know how to protect your rights:

- Get in contact with a local lawyer (already for registration)
- Choose the best enforcement





Thank you for  
your attention!  
Questions?

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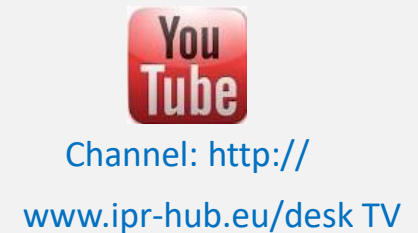
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