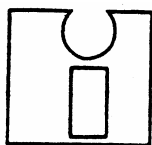


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IN THE GLOBAL MARKET**

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COMMERCIALIZATION OF TECHNOLOGICAL INVENTIONS IN MANUFACTURE
AND LIFE IN VIETNAM – THE NATIONAL EXPERIENCE OF VIETNAM

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I. INTRODUCTION

1. On behalf of the Vietnamese scientists and the Vietnamese Delegation, I should like to express my sincere thanks to the organizers of this Symposium, which is a very important one for developing countries like Viet Nam. Especially, I should like to express thanks to WIPO, KIPA and KIPO, who have created the most favorable conditions for me to attend the Seoul International Invention Fair and deliver a speech at this Symposium.

II. COMMERCIALIZATION OF SCIENTIFIC AND TECHNOLOGICAL CREATIONS IN MANUFACTURE AND LIFE

2. Since 1986, when Viet Nam made the transition to a market economy, industrial property activity in general and commercialization of inventions in manufacture and life in particular have undergone a remarkable change. The economy has been developing quickly and steadily (average GDP has increased by 7 percent every year).

A. System of Legal Instruments

3. With a view to the commercialization of scientific and technological creations in manufacture and life, the Vietnamese State has issued a number of relevant legal instruments:

- Civil Code (Chapter I, II/Section 6);
- Decree No. 63/CP;
- Law of Science and Technology (2000);
- Decree No. 31/CP on Encouragement of Creation.

4. According to these legal instruments, the State protects industrial property subject matter and copyright for the Vietnamese citizens and the citizens of other countries. The protected subject includes: Inventions, Utility Solutions, Industrial Designs, Trademarks, and Appellation of Origin on Goods, Geographical Indications, Trade Secrets, Unfair Competition, Repression and Copyright. The owners of inventions, utility solutions, industrial designs and trademarks have the right to use and transfer ownership or the right to use others.

B. Status of Commercialization of Creations in Viet Nam

5. As of 2001, Viet Nam has 2,517 inventions, 265 utility solutions, 6,628 industrial designs and nearly 100,000 trademarks granted and currently valid.

6. In fact, however, the number of creations in Viet Nam is much higher; patented inventions represent only 10 percent of inventions created in enterprises and universities. Creators have not had their creations registered for the following reasons:

- (a) fear of great expense;
- (b) fear of disclosing secrets and know-how;
- (c) in some cases, ignorance of the procedure for registration;
- (d) failure by some to accept that the State can protect their rights when infringements occur.

7. Vietnamese Law does not however recognize the industrial property rights in inventions, utility solutions, industrial designs, trademarks unless they are recorded in the National Gazette or registered under the Madrid Agreement. So, in order to commercialize industrial property subject matters in Viet Nam, the owner must proceed to establish his right to it. In recent years Vietnamese scientists and enterprises have been paying more attention to this matter, and the number of registrations with the National Office of Industrial Property has increased rapidly.
8. In the period between 1990 and 1997, 513 IP items were transferred including four inventions (0.77 percent), ten utility solutions (1.94 percent), 12 industrial designs (1.94 per cent) and 487 trademarks. These figures show that almost all transfer contracts related to trademarks.
9. Of the 487 trademark transfer contracts, 34 contracts were between Vietnamese nationals, 96 between foreign nationals and 357 between Vietnamese and foreigners. Apart from that the number of registration certificates granted to foreigners between 1982 and 2001 was 22,600 (55 percent) compared with 16,800 (45 percent) granted to Vietnamese nationals.
10. Some enterprises are already aware of the value of industrial property rights, so they have devised appropriate solutions for the commercialization of protected subject matters of their own or of others.
11. In some fields of manufacture, we have obtained remarkable results through cooperation in research and development action and investment in manufacture. Some utility solutions have been widely disseminated by licensing and have resulted in considerable economic returns from the manufacture of certain products.
12. There are some trademarks of Vietnamese enterprises that have been very lucratively assigned, value has been attached, and some trademarks have been regarded as valuable corporate assets. For example, the HASQ, VISO, Dalan and P/S trademarks were assigned to foreign parties at prices ranging from hundred to millions of US dollars; P/S was sold for 8.3 million US dollars.
13. IP licensing and assignment activity is now well developed in many fields of manufacture. The assignment of IP subject matter, the purchase of the right to use it and its ownership for business purposes will result in the establishment of an IP market with the three factors: product, buyer and seller. At the moment, the IP market is developing its own accord.
14. Analysis of the statistical data for recent years (1994 - 2001) reveals that the number of subject matter by transfers of IP legal contract progresses at a very slow rate in comparison with the number of granted certificates. Only 0.71 percent of registered industrial designs and 3.7 percent of registered trademarks were transferred by legal contract. It is noteworthy that the number of IP rights obtained by manufacturing products for foreign companies under license has increased considerably in recent times. In 1996, 1997 and 1998 nearly 2,000 trademarks were involved in such contracts.
15. Cases of infringement and illegal use of IP rights have been concentrated mainly in Ho Chi Minh City, where the country's economy is well developed. According to the statistics, 697 appeals were filed with the National Office of Industrial Property in 2001.

C. Definition of the Value and Cost of Copyright in Viet Nam

16. The marketing of IP subject matter has grown recently in Viet Nam. Indeed it is possible to ascertain several methods being used to value IP subject matter, which point to the definite objectives necessary for investment and for the marketing of the goods.

17. According to the criteria of the National Organization of Intellectual Property (NOIP), which is the body competent to manage transfers of IP rights, the methods most likely to be applied in Viet Nam are based on economic interest or on income. The technology transfer and foreign investment in Viet Nam, especially in the form of joint ventures, have been increasing rapidly in recent years, resulting in a growth in transfers of IP rights, and most commonly trademark licensing. The value of the IP rights is generally determined by the income from the transaction and considered a contribution to turnover. In most cases, however, the value of the IP rights as a factor of turnover is not clearly defined.

18. The method that relies on actual expenditure has also been applied in some cases to define IP subject matter. Concretely, certain utility solutions have been the result of the implementation and development of the project, and the main purpose of defining value has been the transfer of the right to exploit the commercialization.

19. The method based on the market price has been applied by some enterprises that aim to transfer the trademark or industrial design. This method has achieved some initial success, and Vietnamese enterprises have obtained the considerable returns from investment and the development of IP subject matter.

D. Promotion Methods for Commercializing Creative Technological Action in Viet Nam

20. In the past years, along with the country's renovation process, the promotion of creative action has grown in both width and depth. Concretely, Viet Nam has established a Center for Promotion of Inventions and Innovations (CEPIN). CEPIN's operation is targeted at searching, mobilizing potential sources of sponsorship for innovation and inventive activities and simultaneously exploiting these resources to sponsor creators. This is the first organization in Viet Nam to work toward such targets.

(a) Organizing the technology creation examination at the national level. The examination is organized every two years. Since 1990, six examinations have been organized, each comprising of 300 - 400 projects created by scientists and non-scientists.

(b) Organizing the Viet Nam Technology Creation Awards. Seven Awards have been organized since 1995. Each examination comprises 140 - 200 scientific projects to be screened. The World Intellectual Property Organization (WIPO) awarded gold medals for typical projects.

(c) Organizing the VIFOTEC Technology Creation Awards for Students. Ten of these Awards have been organized since 1993. There are 150 - 200 projects from more than 100 universities to be screened in each examination. Students who win Awards are either granted scholarships by the State or sent abroad to study.

(d) For 2002 - 2003. Creative Awards will be organized for school ages 6 to 18. The Examination will be completed in October 2003.

(e) Organizing seminars: The Seminar entitled "Technological and scientific projects speedily applied in production and life" is a yearly event organized with the participation of scientists and businessmen, the purpose being to seek out the best solution for rapid application in practice.

(f) Providing information on inventions: At present, the NOIP has around 20 million inventions and utility solutions exploited for use. The information on inventions recorded on 6,000 CD-ROMs, covering six million inventions, has been an extremely useful research source for scientists.

(g) Guidance on creative methodology: Every year we hold dozens of training classes on methodology for the benefit of training students, school children and businessmen. Attendance at each class is in the order of 300-400.

(h) Establishing the development bank: The State has established a bank to service subjects to be given priority under its policies, including the policy of encouraging students to borrow money at 3 percent interest a year to study.

(i) Organizing exhibitions, fairs and displays in connection with technology awards: There have been more than ten international green exhibitions on technology in Viet Nam. Enterprises have brought their creative products to display, and some individual creations in specific fields have also been shown.

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