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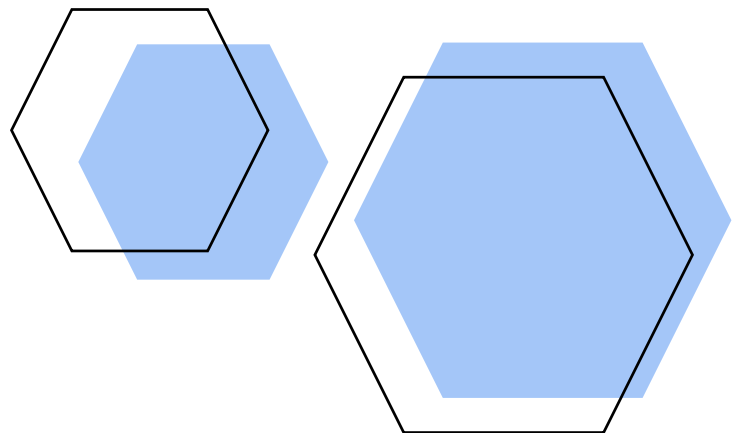
**DECREE 147 OVERHAULS DOMAIN NAME  
DISPUTE RESOLUTION FRAMEWORK IN  
VIETNAM**



## OVERVIEW

Vietnam has introduced Decree No. 147/2024/ND-CP, which will take effect on December 25, 2024, replacing the previous Decree No. 72/2013/ND-CP. This new decree focuses on managing, providing, and using internet services and online information, with a significant emphasis on the domain name dispute resolution framework.

Decree 147 aims to clarify the legal landscape and address existing inconsistencies between Vietnam's laws on intellectual property and information technology. Below is a summary of the key changes regarding domain name dispute resolution introduced by this new decree.





## IN DETAILS

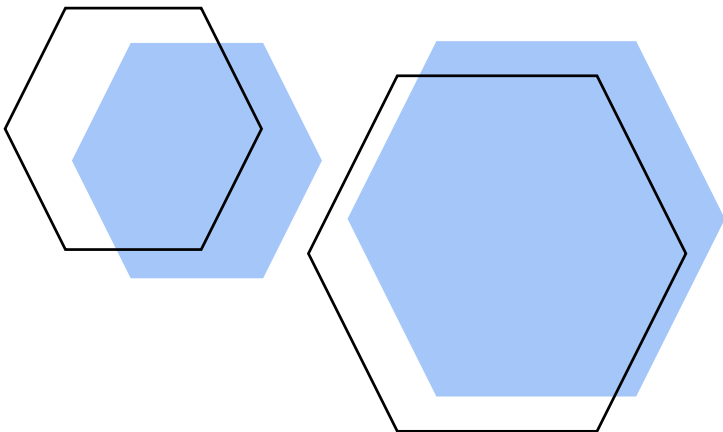
Firstly, the Decree 147 has revised the approach to resolving domain name disputes by no longer specifying particular methods for dispute resolution. Previously, Decree 72 outlined three methods: negotiation/mediation, arbitration, and court intervention. However, Intellectual Property (IP) practitioners have criticized this framework for being inconsistent with the IP Law, which allows for administrative actions.

By removing the specified methods, Decree 147 appears to endorse the use of administrative action as outlined in the IP Law. Nevertheless, the decree does not address the establishment of a dispute resolution forum that aligns with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) requirement for a model similar to the Uniform Domain-Name Dispute-Resolution Policy (UDRP). As it stands, Vietnam's existing dispute resolution forums do not fully comply with the UDRP framework. An upcoming circular is expected to provide additional guidance on this matter.

Secondly, Decree 72 does not include any provisions regarding the deactivation of domain names. In contrast, Decree 147 outlines specific circumstances under which a domain name may be deactivated. These circumstances include requests from relevant authorities or the discovery that incorrect information was provided during the registration process.

Thirdly, Article 16 of Decree 147 establishes three specific criteria necessary for the resolution of domain name disputes. First, there must be a confusing similarity to the plaintiff's trademark, trade name, or personal name. Second, the defendant must lack legitimate rights or interests in the disputed domain name. Lastly, there must be evidence of bad faith on the part of the defendant.

In contrast to Decree 72, which presented a broader list of criteria that could lead to misinterpretation, the more focused criteria in Decree 147 eliminate uncertainties by making it clear that all three elements must be satisfied for a domain name cancellation to proceed. This refinement enhances legal clarity and improves the procedural framework surrounding domain name disputes.





Fourthly, Decree 147 establishes a formal framework for freezing disputed domain names during legal proceedings, a practice that was previously outlined in Decree 72 and managed through ministerial circulars. Under this new decree, the Vietnam Internet Network Information Center (VNNIC) is mandated to lock domain names at the request of relevant authorities. As a government-issued decree, Decree 147 holds more regulatory authority than previous ministerial circulars. However, practical challenges may remain, particularly in civil lawsuits, as the freezing of domain names typically requires a preliminary injunction. It is noteworthy that such injunctions are infrequently granted in intellectual property cases in Vietnam; there has only been one instance of a preliminary injunction being issued since the enforcement of the IP Law in 2005.

Fifthly, Decree 147 outlines the procedures for transferring or canceling a domain name following a successful dispute resolution. According to this new directive, plaintiffs have a 45-day grace period from the date the judgment becomes effective to register the disputed domain name. If they do not register within this timeframe, the domain name will be made available for public registration. However, this provision appears to conflict with the Law on Enforcement of Civil Judgments, which allows plaintiffs a five-year period to enforce such judgments. Enforcement timelines can be particularly lengthy in cases with foreign respondents, potentially extending delays beyond one year. As a result, the 45-day registration window may prove to be impractical in certain situations.

Additionally, this timeline contrasts with the process established by the Uniform Domain-Name Dispute-Resolution Policy (UDRP), which requires that domain names be transferred to the complainant within 10 days of a decision without any further steps needed.

At last, Decree 147 provides a framework primarily focused on domain name disputes, allowing for cancellation and re-registration of domain names within a 45-day period. However, when a complainant requests a domain name transfer, the Vietnam Network Information Center (VNNIC) may mandate additional documentation such as agreements, VAT invoices, and details of the transfer price. These requirements can complicate the dispute resolution process.

While Decree 147 marks a step forward, it does not fully address the core issues stemming from the interactions between the Intellectual Property (IP) Law and the Information Technology (IT) Law. For instance, courts that resolve disputes under the IP Law have the authority to grant legal fees, which is not allowed under the IT Law. Furthermore, the decree's reference to "unfair competition" as evidence of bad faith overlaps with existing provisions in the IP Law, specifically Article 130.1(d), which also addresses domain name disputes.



## CONCLUSION

Vietnam is looking to potentially unify its domain name dispute resolution framework by adopting a UDRP-based model. This approach aims to streamline the dispute resolution process and enhance the protection of brand owners' rights within the country's digital economy. In the near future, the Ministry of Information and Communications is expected to release a circular that will provide additional guidance on domain name dispute resolution. This forthcoming circular is anticipated to address existing gaps and offer more detailed instructions for managing domain disputes according to both legal frameworks.

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