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IP KNOWLEDGE EXTRACT



VIETNAM TIGHTENS POWER OF ATTORNEY RULES IN IP PRACTICE

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What's New

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Overview

Vietnam's intellectual property framework is entering a new phase of refinement. Recent amendments to the governing legislation signal a shift toward greater procedural clarity and alignment with general civil law principles. Among the various updates, one of the more practical changes concerns the treatment of authorization documents used in IP proceedings, particularly powers of attorney.

Reframing the Duration of Authority

For many years, it has been common practice in Vietnam for powers of attorney used in intellectual property matters to be issued without a fixed term. In the absence of an explicit duration, such documents were generally accepted as remaining valid indefinitely. This approach offered convenience, especially for foreign applicants and their representatives, as it avoided the need for repeated execution of documents across the lifecycle of an application or portfolio.

The new legislative amendment introduces a different approach. Where a power of attorney does not specify its validity period, its duration will now be determined by reference to the Civil Code. As a result, the default validity is limited to one year from the date of execution. This change reflects a broader intention to harmonize sector-specific regulations with general legal principles, while also encouraging clearer documentation practices.

From a legal standpoint, the shift is not merely technical. It alters how authorization is interpreted and enforced. A document that was once assumed to remain in force indefinitely will now be subject to a defined and relatively short lifespan unless otherwise stated. This creates a need for more deliberate drafting and closer monitoring of timelines

Practical Implications for Rights Holders

The impact of this change will be felt most directly by businesses and practitioners managing intellectual property portfolios. In practice, many filings rely on a single power of attorney to cover multiple actions over an extended period. Under the new framework, reliance on a document without a stated duration may result in unintended lapses of authority.

This is particularly relevant in long-running matters such as trademark prosecution, oppositions, or enforcement actions. If the underlying authorization expires after one year, any subsequent action taken by an agent could be challenged on procedural grounds. Even if such challenges are rare, the risk itself introduces uncertainty and potential delays.

For companies with large portfolios, the administrative burden could increase significantly if powers of attorney need to be re-executed frequently. This is especially true for foreign entities, where execution may involve notarization, legalization, or internal approval processes. What was previously a one-time formality may become a recurring task unless preventive measures are adopted.

Drafting as a Preventive Measure

The most effective way to address this issue lies in careful drafting. By including a clear duration clause in the power of attorney, parties can preserve flexibility and avoid the default one-year limitation. A broadly worded clause that ties validity to revocation rather than a fixed term is likely to be the most practical solution.

This approach aligns with established practices in many jurisdictions, where powers of attorney are drafted to remain in force until expressly revoked. It provides continuity while still allowing the principal to terminate the authorization when necessary. More importantly, it reduces the risk of inadvertent expiry and the need for repeated documentation.

Updating standard templates should therefore be treated as a priority. Firms and in-house teams should review their existing forms and ensure that future documents include appropriate language on duration. At the same time, it may be prudent to audit current portfolios to identify any authorizations that could be affected once the new rules take effect.





A Broader Shift in Compliance Culture

Beyond the specific issue of powers of attorney, the amendment reflects a broader trend toward increased formalization in Vietnam's legal environment. There is a growing emphasis on precision, documentation, and alignment with general legal standards. For businesses operating in this space, adapting to these expectations is not optional.

The change also underscores the importance of integrating legal and operational considerations. What may appear to be a minor drafting detail can have significant practical consequences if overlooked. By taking a proactive approach, companies can not only ensure compliance but also streamline their internal processes.

In the long term, the adjustment may lead to more consistent and transparent practices across the system. While it introduces some short-term challenges, particularly in terms of administration, it also provides an opportunity to strengthen documentation standards and reduce ambiguity.

Conclusion

The introduction of a default one-year validity for powers of attorney marks a notable development in Vietnam's intellectual property regime. It shifts responsibility onto rights holders and their representatives to define the scope and duration of authority with greater clarity.

By revising templates, reviewing existing practices, and preparing for the transition, businesses can mitigate potential disruptions and maintain continuity in their IP activities. As with many regulatory changes, the key lies not only in understanding the new rule but in adapting processes to ensure it is applied effectively in practice.

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