

Viet Nam: A Brief on the New Law on Trade Names

The Vietnamese Government has issued Decree no. 43/2010/ND-CP on company registration procedure, which took effect as of June 01, 2010 in replacement of existing Decree no. 88/2006/ND-CP.

The Decree reflects the governmental ambition in building a National Information System of Company Registration to facilitate company registration and management. To this end, the Decree provides provisions on requirements for company name, procedure for company registration, and conditions for revoking company registration. All information on company registration are published online and any person has the right to request Company Registration Office to provide interested information. The Decree prohibits registration of similar company names from January 1, 2011 and encourages amendment of or existing similar company names by December 31, 2010, on national-wide scale. The Decree, though requires companies registered in accordance with the Vietnamese business classification, does not clarify whether the same or similar name can be registered for deferent companies engaging in deferent business activities.

The Decree also prohibits a company from registering a name, which would infringe a protected trade name, trademark or geographic indication of others when it is used, and provides, for the first time, procedures for settlement of the possible infringement. According to the Decree, an IPR holder has the right to file a request for change of a company name infringing its IPR with a Company Registration Office and the latter has to forward the request to the Company and to request relevant authorities to settle the possible infringement in accordance with provisions in the Vietnamese IP Law in the case the Company does not amend its name after two months from receiving the request. For information, under the Vietnamese IP Law, an IPR infringement can be settled administratively or by means of court proceedings.

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