

# Intellectual Property Rights Primer for Vietnam

A Guide for UK Companies

Hunter Rodwell Consulting  
in partnership with Rouse & Co. International

*Fast track to the world* <sup>UK</sup>

## ABOUT THE AUTHORS AND SPONSORS

*Hunter Rodwell  
Consulting*

**Hunter Rodwell Consulting** provides a service to exporters and investors operating overseas. Simon Rodwell, the author of the guides in this series, is a businessman whose 30 years' experience in the Far East has exposed him to the challenges of doing business abroad – and intellectual property rights protection in particular. He has also been responsible for articles, handbooks and broadcasts on IPR and other subjects in Britain, the Far East and the EU.



**Rouse & Co. International**, which has contributed legal and technical advice for the guides in this series, is a global intellectual property consultancy, providing the full range of IP services to many of the world's major IP owners. It operates from 17 offices in 11 countries worldwide and is regularly ranked among the leading IP practices in the jurisdictions in which it operates. Its wide range of IP professionals includes commercial and dispute resolution lawyers, mediators, patent and trade mark attorneys, researchers and specialist IP investigators. [www.iprights.com](http://www.iprights.com)



**UK Trade & Investment** is the government organisation that helps UK-based companies succeed in an increasingly global economy. Our range of expert services is tailored to the needs of individual businesses, enabling them to maximise their international success by providing them with knowledge, advice and practical support.

UK Trade & Investment also helps overseas companies bring high quality investment to the UK's vibrant economy: the UK is acknowledged as Europe's best place from which to succeed in global business. We provide support and advice to investors at all stages of their business decision-making. UK Trade & Investment offers expertise and contacts through a network of international specialists throughout the UK and in British Embassies and other diplomatic offices around the world.

For further information please visit [www.uktradeinvest.gov.uk](http://www.uktradeinvest.gov.uk) or telephone +44 (0)20 7215 8000.



The **UK Intellectual Property Office** is an Executive Agency of the Department of Innovation, Universities and Skills (DIUS). It was previously known as the Patent Office and has been in existence since 1852. UK-IPO is the official government body responsible for establishing and maintaining the national framework of intellectual property rights. These include Patents, Trade Marks, Designs and Copyright.

The UK Intellectual Property Office is also responsible for raising awareness of IP across the UK, helping businesses make the most of their IP and be better prepared to compete in national and international markets. UK-IPO offers chargeable search and advisory services to help business and publicly-funded bodies take decisions about intellectual property – because we know that IP can offer both an opportunity and a threat.

For further information please visit [www.ipo.gov.uk](http://www.ipo.gov.uk) or telephone +44 (0)1633 813930.

Also in this series  
Intellectual Property Rights Primers for:

Brazil  
China  
India  
Korea

# WELCOME TO THE INTELLECTUAL PROPERTY RIGHTS PRIMER FOR VIETNAM

THIS IS ONE OF A SERIES OF GUIDES BEING PUBLISHED BY THE UK INTELLECTUAL PROPERTY OFFICE AND UK TRADE & INVESTMENT TO HELP BRITISH COMPANIES IN THE MAJOR MARKETS AROUND THE WORLD WHERE THEY ARE LIKELY TO MEET PROBLEMS IN OBTAINING, PROTECTING AND ENFORCING THEIR INTELLECTUAL PROPERTY RIGHTS.

## Why Vietnam?

Vietnam is a priority market for the UK. This is evidenced by the fact that Britain is one of the largest European investors in Vietnam, responsible to date for FDI of almost £800 million. Bilateral trade exceeded £800 million in 2007 and commercial contracts that have been agreed recently or are in the pipeline are valued at more than £2.5 billion. Doing effective business in a priority market such as Vietnam means it is essential to appreciate how to use, guard and enforce the rights you have over the various types of intellectual property that you or your company own. The IPR Primer for Vietnam provides the basic information you will need about IPR in general, as well as guidance on how to apply these principles in this market. It aims to make you better informed about the issues and the relevant legal framework in Vietnam.

## Is this Guide for You?

The content of this guide is pitched mainly at the managers of the business, rather than its lawyers, because we recognise that most smaller businesses do not have an in-house legal team, while the use of an external law firm tends to be limited by cost. However this guide is deliberately referred to as a 'primer' and we are not suggesting that it can, or should, replace the services of IP lawyers or other professionals such as patent attorneys: there will be times when it is essential to seek the advice of experts.

A company's intellectual property portfolio may be its most valuable asset. We believe it is sensible for the managers of the business to make themselves familiar with the concepts of IP and understand how the IP rights owned by their business will be affected in overseas markets. This knowledge can save the company a great deal of money through knowing what to look out for, taking timely self-help avoidance measures, appreciating when the experts should be consulted – and being able to communicate knowledgeably with them.

## Not Just for Exporters

The guides in this series all deal with overseas markets but they are not aimed exclusively at exporters. Being involved in other types of business activity abroad also requires a good working knowledge of the local IPR environment. A company may conduct manufacturing or sourcing overseas without exporting at all; but its intellectual property rights may be just as vulnerable as a counterpart that is exporting its products or services from its UK base.

Even companies that are not involved in overseas markets can still become the victims of IPR abuse abroad. Any product may be copied or otherwise infringed by perpetrators far away. This may not be of immediate concern to the UK-based business – until the counterfeiters start exporting their illicit goods to the UK or

Europe. Such companies need to understand their position in relation to the law in the countries where the abuse originates if they are to take action successfully.

This guide should therefore be useful for managers of companies of all types, whatever their geographical span. And we hope that interested people generally, familiar or not with IPR in the UK or Vietnam, may find it a valuable addition to the existing body of information on the subject.

### **How this Guide is Organised**

We start by examining the basic principles of intellectual property and rights, based on the laws that apply in the UK. We go on to deal with the European and global dimensions, discussing the ways that international treaties and arrangements affect UK rights owners. The next section deals with Vietnam: its international IPR memberships, its laws and how practices compare with those of the UK. Finally we look at the operation of IPR in Vietnam, with information and advice on preparation, protection, enforcement and the law. The appendices contain aides-mémoire covering the registration of IP in the UK, EU and worldwide, enforcement options and a comparison of the main IP rights conditions in the UK and Vietnam.

Hyperlinks are used to direct readers to more comprehensive information in the Reference section and from there to the Internet. From the Index, click on a heading to go straight to a chosen subject, while clicking on '[index]' moves you to the Index and '[return]' takes you back to your previous place in the text.

Currency: a conversion rate of £1 to VND32,140 (Vietnamese Dong) is used in this guide.

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# 1. INTELLECTUAL PROPERTY RIGHTS BASICS

## 1.1 OVERVIEW

### Q. How exactly are intellectual property and IP rights defined? [index]

Someone who is responsible for a 'creation of the intellect' such as an inventor, author or originator creates intellectual property (IP). Like tangible property, their creation has a value and, as with all property, it needs to be protected. Intellectual property rights (IPR) give them this protection, as well as helping them exploit and control their IP. Such a person is known as a 'rights owner' or 'rights holder'.

*intellectual property definitions*

### Q. How do I know whether I have IP? [index]

The main criterion, for all forms of IP, is whether you have been responsible for creating something novel or innovative, representing progress over what went before. The definitions vary depending on whether it is a creation in the artistic or literary fields (protected by a copyright), a new technology (patent), a product's shape or appearance (design right) or a sign to distinguish your product or service from others (trade mark) – but the principle is the same: rights cannot be granted over anything mundane or generic, or which currently exists, is already in the public domain or is owned by someone else.

*do you possess IP?*

*novelty is the crucial test...*

However, if what you created was made in company time then the chances are that your employer will be entitled to own the rights to it. Whether it is owned by you or your company, intellectual property needs protection. Apart from copyright and certain other rights that are already protected by law and do not have to be registered – 'unregistered rights' – this means you will need to apply to register the creation and, if successful, obtain 'registered rights'; otherwise there will be no protection and others will be free to exploit your ideas and efforts.

*forms of intellectual property*

Registered rights have to be applied for and granted by the government. In Britain the UK-IPO is responsible for granting all registrations. There is an extensive UK-IPO website to help you.

→ *the UK Intellectual Property Office*

### Q. Which are the registered and unregistered IP rights? [index]

Registered IP rights consist of patents, registered trade marks and registered design rights. In the unregistered category are copyright, (unregistered) design rights, common law trade marks, database rights and protection for know-how under laws dealing with confidential information and trade secrets.

*registered and unregistered rights*

There are also rights covering plant varieties, geographical indications and the design of integrated circuits, as well as protection against 'passing off' under fair trade legislation.

## Q. How do the main types of IPR differ? [index]

*the definitions below are based on UK law*

### Copyright [index]

As we have seen, this is an inherent right (which means it is not applied for) protecting creative works such as books, music, plays, films and broadcasts. Copyright protection occurs automatically once the work has first been recorded in some way, such as by printing.

*copyright: protects creative works such as books, music and films*

Its relevance to works in the artistic, literary and media sectors is well known but copyright also covers industrial items such as a product's instruction manual as well as its technical drawings.

The period of validity of a copyright varies depending on the type of work. For dramatic, artistic or literary works the protection period in the UK is 70 years following the author's death, while for broadcasts and sound recordings protection lasts 50 years after first broadcast.

→ *UK-IPO: on copyright*

### Patents [index]

Patents, a form of registered IPR, are used to protect technological inventions including processes. Although a patent doesn't automatically allow a rights owner to make or sell the item (since a product's manufacture and distribution must conform to prevailing regulations) it does protect the rights owner by preventing others from exploiting or copying the IP, so it is sometimes called a 'negative right'.

*patents: protection for rights associated with technology and processes*

A patent gives the inventor a monopoly right over the product and also allows him or her to license it for others to make and sell, in return for the payment of royalties. It is essential to apply for a patent early on in the process of the development of a new product or process since – in addition to the possibility of someone else copying it – a technology that is already in the public domain will not be registrable.

→ *UK-IPO: on patents*

Obtaining a patent normally involves retaining a patent attorney to draft and file a patent application. To be eligible for patent protection your invention must be new and inventive and must not be of an excluded type. A search of worldwide patent databases will be made by the national Patent Office to find out if anyone has already filed a patent or disclosed a scientific article for the same technology. If not, and if the new product is deemed to be 'novel and inventive' (that is, not just a re-working of an existing idea), then the patent may be granted and the invention is protected from unauthorised use. In the UK this can take up to four and a half years; however the process can be significantly accelerated if examination work has already been conducted at another intellectual property office.

*essential to apply early*

*how to go about applying for a patent*

As in most countries, a UK patent is valid for up to 20 years. To maintain it, fees must be paid annually after the fifth year.

→ *renewal of patents and other IP rights*

### Design Rights [index]

Design rights, as we have seen, consist of both registered and unregistered forms. The distinctions between what exactly may be protected by each, and the relative levels of protection, are complex. Expert advice is needed to choose which is appropriate.

*design rights: for the appearance of an object; rights may be registered or unregistered*

The more common type is the registered design, covering the appearance (that is, the shape or pattern) of a product or its packaging, as well as typefaces and graphics. To be registered in the UK a design must be distinctive and novel – it should not ‘remind an informed person of an existing design’ – as well as meeting other detailed criteria.

*designs must be novel to qualify*

Whilst there are costs involved in obtaining registered design rights (compared with relying on unregistered design rights, which are free) this form of IPR can be treated in the same way as patents – for example, by rights owners exploiting their IP through licensing – and it provides a good level of protection. A registered design right lasts for up to 25 years in the UK and must be renewed every five years.

→ UK-IPO: on design rights

## Trade Marks [index]

Registered trade mark rights protect the signs used to identify a company’s products or services, distinguishing them from those owned by other businesses. Brand names and logos are perhaps the most familiar form of trade marks, but elements like a product’s colour or shape, or even a piece of music or (at least, in theory) a smell associated with it, can be registered as trade marks. You can also register a slogan, logo or domain name.

*trade marks: signs to identify products or services*

Various criteria are used to decide whether a distinctive sign is registrable. The use of a generic term, for example, would not be allowed as everyone should be free to use it, while those which merely ‘designate the kind, quality, quantity, intended purpose, value, geographical origin . . .’ of the goods or service are disallowed as insufficiently distinctive. However if it can be shown that an otherwise mundane feature associated with a product (for example its colour) has become distinctively connected with the product, it may be allowed.

→ UK-IPO: on trade marks

*distinctiveness is an important criterion*

Registration, normally using the services of a trade mark attorney, consists of filing an application with UK-IPO’s Trade Mark Registry, followed by a search and examination. Before a trade mark is granted it is advertised in the UK Trade Marks Journal and can be opposed. A renewal fee is payable every ten years. A registered trade mark will remain valid indefinitely if the rights owner continues to use and renew it. Goods are classified for registration purposes under the 45 class headings of the ‘International (Nice) Classification of Goods and Services for the Purposes of the Registration of Marks’.

→ *new rules for notifying trade mark owners about applications for similar marks*

→ *Nice classification system*

Another type is the unregistered or common law trade mark. As with unregistered design rights, this form of protection is not frequently used as it has less force and relies on the common law offence of ‘passing off’ for protection. The ‘™’ device indicates that a trade mark is subject to this type of rights, whereas a registered trade mark can use the ‘®’ symbol.

*unregistered trade marks: free but less effective*

The term ‘word mark’ is applied to a form of trade mark based solely on a typographic treatment of a piece of text that provides a recognised identity and branding.

*word marks*

## Other Rights [index]

The IP rights set out above are the major ones that most companies require. There are also specific provisions for the following:

- **Domain Names.** Ownership rights for domain names may be defended as a reflection of the content involved, for example under trade mark, copyright and passing-off laws. → [domain names](#)
- **Geographical Indications (GI).** This form of rights, part of the UK Trade Mark Act, protects the identity of goods whose characteristics are attributable to their geographical origin. → [geographical indications](#)
- **Plant Varieties.** Rights covering all plant genera and species are available under the Plant Varieties Act 1997. → [plant varieties](#)
- **Semiconductor Topographies.** Rights over the designs of the layouts of semiconductors are protected as unregistered design rights in the UK. → [semiconductors](#)
- **Software.** The patenting of computer software is a problem area, depending on interpretation of the much-discussed ruling by the European Patent Office (EPO) that 'computer programs as such' are not patentable. → [European rules for software IP](#)

## Q. The term 'industrial property' is sometimes used. How does this differ from 'intellectual property'? [index]

The following quotation from the World Intellectual Property Organization (WIPO), a Geneva-based United Nations agency with 184 member nations, explains this distinction and summarises the paragraphs above:

*'Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.'*

*'Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trade marks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs.'*

A summary of registration procedures in the UK is provided in Appendix A.

→ [WIPO](#)

['industrial property' defined](#)

→ [UK registration procedures](#)

## 1.2 INTERNATIONAL CONSIDERATIONS

### Q. Do these rights apply internationally? [index]

Member nations of the World Trade Organisation (WTO) are committed to include an agreed scope of IPR protection in their national laws. These requirements, akin to 'minimum standards', are set out in the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which was negotiated in 1994. TRIPS also specifies procedures for associated matters such as IPR enforcement and dispute resolution.

→ *WTO*

→ *TRIPS*

This means that if you are doing business in countries that are members of the WTO you will find a degree of similarity between local IPR laws and those in force in the UK. In theory at least, the same can be said of the local enforcement and dispute resolution procedures and practices. (Few major trading nations are not included: there are now more than 150 WTO members. An important exception is the Russian Federation, which currently has observer status).

→ *WTO membership*

Whilst this enhances international IPR protection and makes it simpler for rights owners to understand what to expect in other countries, the existence of universal minimum standards does not mean IP rights held in one country will be valid in others. It is a common and potentially dangerous misconception amongst some rights owners that their domestic IP rights automatically extend worldwide. In fact – with certain exceptions and beneficial reciprocal arrangements arising from international treaties – many IP rights must be registered for specific, designated countries. This limitation is known as territoriality.

*territoriality: essential to know which rights apply internationally*

### Q. What are the exceptions and reciprocal arrangements? [index]

These include copyright and other IP rights that are recognised under supranational laws, treaties and extensions. There are also international agreements making it easier for rights owners to achieve recognition for their rights abroad by allowing a single registration to apply more widely within a group of contracting states, or by streamlining search and application procedures.

### Copyright [index]

Copyright regulations are governed by the Berne Convention, established in 1886, and (now less important) the Universal Copyright Convention (UCC), set up as an alternative to the Berne Convention. As we have seen, WTO members are bound by TRIPS; this, in turn, means they accept the Berne Convention, which covers most trading nations: there are 163 Berne Convention signatories. However in certain countries it is advisable – and in some cases, standard practice – to make a 'recordal' even of copyright to enhance protection by ensuring its prompt and trouble-free recognition.

→ *Berne Convention*

There are several systems to harmonise intellectual property rights in the EU, just as there are in Benelux and other trading blocks such as NAFTA. It is important to know whether a particular form of IP rights applies automatically to a number of territories – 'unitary' rights – or only in those territories for which it has been specifically registered. Unitary rights enjoy the same protection across a group of states without the need to apply for the rights individually in each.

*definition of 'unitary' rights*

## Community Trade Mark [index]

The Community Trade Mark (CTM) system, which operates alongside the national trade mark systems of EU countries, is unitary – so a single registration in one of the EU member states confers trade mark protection rights throughout the EU. CTM applications are administered by the EU's Office for Harmonisation in the Internal Market (OHIM) in Alicante.

→ [the Community Trade Mark: a unitary right within the EU](#)

## Madrid Protocol [index]

The Madrid System for the International Registration of Marks ('the Madrid Protocol'), operated by WIPO, is another unitary system for trade marks. An application filed in the UK means it will be recognised as an application in other countries that have also signed up to the Madrid Protocol, as designated in the application. ('The Madrid Union' currently consists of more than 70 individual nations plus the EU and the Russian Federation).

→ [the Madrid Protocol and Madrid Union membership](#)

Local trade mark authorities are allowed to challenge the filing but if they do not do so within 18 months the trade mark receives the same protection as if locally registered. In 2004 the European Community joined the Madrid Protocol, which allows a Community Trade Mark to be used as the basis of an application for trade mark registrations under the Madrid Protocol.

[18 months to challenge a filing](#)

## European Patent Convention [index]

There has long been pressure within the EU for a system for patents along similar lines to the Community Trade Mark but so far negotiations have failed to achieve this. The European Patent Convention (EPC), with more than 30 contracting EU and other European nations, does not confer unitary protection and falls well short of being a 'community patent'; but it does provide useful assistance for European companies registering patents. Harmonised procedures allow you to make a single application, via the European Patent Office (EPO), for as many of the EPC countries as you need to cover. However the patents granted can then only be enforced individually, on a national basis.

→ [EPC explanation and text](#)

## Patent Cooperation Treaty [index]

Similarly, an application under the 1970 Patent Cooperation Treaty (PCT), operated by WIPO, does not lead to an 'international patent' but is a streamlined procedure allowing an application for a patent in a single language to apply simultaneously in any of the more than 130 PCT contracting countries ('The PCT Union'). The process involves an 'international phase' application followed by a search to assess whether an invention is capable of being patented in the designated territories. Once this has been decided, applications may be made in the individual countries, in the 'national phase', according to local rules and procedures.

→ [further information on the PCT and its membership](#)

The main advantages of making a PCT application are that it buys extra time (about 18 months) and cuts costs by reducing duplication, helping you avoid territories where the chances of obtaining a patent are low. For the UK, the European Patent Office performs the international searches under the PCT system.

## Registered Community Design [index]

A Registered Community Design (RCD) offers unitary protection throughout all the EU member states, based on a single application to OHIM, the administering authority. It lasts for up to 25 years, in a series of five-year periods.

Unregistered community designs are weaker and offer less protection than RCDs. However they may be useful in certain industries where it is not feasible to apply to register an RCD, for example in textiles.

→ *the RCD: unitary protection in the EU*

→ *unregistered community designs*

## Hague Agreement [index]

Further protection for design rights is available to signatories of the Hague Agreement, administered by WIPO, which allows the protection of designs in multiple countries through a single filing in one language. As with the Madrid System, there is the possibility of refusal by national design rights authorities. There are 48 contracting states, including the European Community.

In 2007 the European Commission passed legislation linking the RCD and Hague Agreement systems. This enables companies in EU countries that have not individually signed up to the Geneva Act of the Hague Agreement to extend the coverage of an RCD into the 23 Hague Agreement states. The EC acceded to the Geneva Act on 1 January 2008.

→ *Hague Agreement and linking of the RCD*

## Paris Convention [index]

The most important provision of this long-standing intellectual property treaty, dating from 1883 and now administered by WIPO, is the establishment of 'priority rights' for patent, design and trade mark applicants in respective signatory states.

This system allows applicants in one country to gain protection for their IP in another. The date of filing in the first country is counted as the effective date of filing in a second country, as long as the second filing occurs within a set period: six months for trade marks and designs; a year for patents and utility models.

→ *Paris Convention*

*international 'priority rights' for patents, designs and trade marks*

## Rights Extensions [index]

In addition to the arrangements set out above, British companies can benefit from extensions of their IP rights in more than 40 current and former Commonwealth nations and territories.

A summary of international treaties and registration procedures is provided in Appendix B.

→ *extensions of IP rights for UK firms*

→ *international treaties and procedures*

## 2. VIETNAM

### 2.1 IPR OVERVIEW

#### Q. Which principal international IPR organisations and agreements does Vietnam belong to? [index]

Berne Convention (copyright) – since 2004

Hague Agreement/Geneva Act (designs) – non-member

Madrid Protocol (trade marks) – since 2006

(Madrid Agreement – since 1949)

Paris Convention (priority rights) – since 1949

Patent Cooperation Treaty (patents) – since 1993

WTO/TRIPS (IPR in general) – since 2007

*Vietnam's membership of international IPR-related organisations*

#### Q. How does Vietnam compare with Europe in terms of the protection of IPR? [index]

In general Vietnam's IPR legislation is comprehensive, covering every aspect of the protection of intellectual property in accordance with the international standards required by TRIPS (see 1.2 above). The regulations have been thoroughly rewritten in recent years to conform with TRIPS, resulting in the new IP law that came into force in 2006. This brought together and tidied up the various codes, decrees, circulars and internal regulations from the National Office of Intellectual Property (NOIP) and the National Copyright Office (NCO), which were sometimes conflicting and hard for rights owners to understand. A series of implementing decrees and circulars has subsequently been promulgated to clarify the principles of the IP Law.

*comparing IPR protection in Vietnam and the EU*

→ *NOIP and NCO*

However the enforcement agencies have found it difficult to keep up with these rapid changes: administrative enforcement is complicated by the large number of bodies involved, while the training of court officials handling IP cases remains deficient. Apart from implementing its WTO commitments, Vietnam must now bring its IP system fully into line with the TRIPS and other international conventions. Infringement is widespread and becoming more and more complex. The mechanisms and organs for enforcement are still under development and there remain some problems with the law which have yet to be ironed out. For example, the IP-related aspects of the Competition Law (see below) are largely untested.

*IP problems in a developing economy*

#### Q. Is there an awareness amongst local people in Vietnam that IPR infringement is a crime? [index]

Most Vietnamese people consider counterfeiting, particularly of foodstuff and medicines, to be a crime. However few people understand that other types of IPR infringement are a crime – unless they involve a consumable that could cause injury or a product capable of doing damage.

*local attitudes towards IPR*

**Q. Is the Vietnamese government in earnest in fighting IPR infringement? [index]**

The government gives every indication that it takes infringement seriously. Evidence for this includes the surprisingly short timescale of the drafting of the new IP law, which was completed in less than two years.

*is the government in earnest?*

**Q. What are the main difficulties rights owners face in enforcing their rights? [index]**

Infringers are becoming more sophisticated in Vietnam's main cities, while in the more remote areas it is difficult to detect them and take effective action because of the less experienced authorities and courts. Throughout the country, the court system is largely untried and there is a lack of IP-experienced judges, making the outcome of cases uncertain.

*inexperience of the authorities*

Despite the improvements to the law there has been some degradation of the services offered by the authorities. For example, the Trademark Office used to provide confirmation of infringement but no longer offers this service; and the enforcement authorities are reluctant to take action in the absence of such confirmation. There is also hesitancy by the competent authorities to deal with complicated infringement cases because of their lack of knowledge.

Administrative action is the usual route for dealing with infringements, offering low-cost, quick results. However its deterrent effect is limited because of the low level of penalties and lack of compensation.

*pros and cons of administrative action*

## **2.2 VIETNAM'S IPR LAWS AND PROCEDURES**

**Q. What are Vietnam's IPR laws and procedures and how do they compare with the UK's? [index]**

As discussed above, Vietnam's membership of WTO/TRIPS means it is required to establish and maintain laws whose effect is in line with certain minimum international standards. However, as in most developing countries, there is a difference between the 'theory' – or the law – and the 'practice', or the protection which the laws offer. The legal framework of the main forms of IPR in Vietnam is summarised below.

*Vietnam's membership of TRIPS*

**Copyright [index]**

The new IP laws of 2006 made few changes to Vietnam's copyright legislation. Literary and all other rights are protected for 50 years after (for example) the death of the author. This is the Berne Convention minimum; there has been US lobbying to extend the period to 70 years, as in the UK.

*→ copyright law – protection for 50 years*

Vietnam has been a member the Berne Convention since 2004, so – as discussed in Chapter 1 – there is no requirement for rights owners to register their copyright as it receives international protection. However it is advisable to do so in order to prove ownership in any dispute or court case. Registration is made with the National Copyright Office (NCO), which is a subsidiary organisation of the Ministry of Culture, Sport and Tourism. This authority is responsible for a wide range of copyright-related tasks including registering copyright protection for Vietnamese and foreign individuals and organisations.

*no need to register copyright, but advisable to do so*

Computer programs are included within copyright legislation in Vietnam where, as in the EU, ‘computer programs as such’ are excluded from patentability (see the explanation of UK/European practice in 1.1 above).

*computer programs*

According to the Business Software Alliance’s Global Software Piracy Study for 2006 (published in May 2007) Vietnam’s software piracy rate was 88 per cent, compared with the Asia Pacific average of 55 per cent.

*software piracy*

### Patents, Utility Solutions and Industrial Designs [index]

Vietnam’s upgraded IPR laws brought a number of improvements for these three types of rights, including a better definition of patentability. The item or process must show ‘novelty, industrial applicability and inventive step’ – concepts common to most countries’ patentability requirements.

→ *IP Law*

*inventive and utility solution patents...*

Unlike in the UK, Vietnam distinguishes between patents (sometimes called ‘invention patents’) and utility solution patents (known elsewhere as ‘utility models’ or ‘minor patents’). Utility models are available in many countries including France, Italy, Korea and China. Rules for utility solution patents are similar to those for invention patents but the item is not required to demonstrate an ‘inventive step’.

*and their patentability tests*

A further difference is that invention patents give protection for a maximum of twenty years, while utility solution patents are valid for ten years.

*maximum effective periods*

In Vietnam an applicant for an invention patent may change the application and apply for a utility solution patent if the examiner disqualifies an invention patent application on the grounds that the product lacks the ‘inventive step’ criterion.

*possible to downgrade to a utility solution patent*

Vietnam’s patent law operates under the ‘first to file’ principle: if two or more applicants file for patents for identical items, the one whose application was filed first prevails. This is similar to UK law but different from practice in the US, where ‘first to invent’ is the critical test.

*‘first to file’ criterion*

In accordance with the Paris Convention (see 1.2 above), and as in other countries, the law allows for applicants for invention and utility model patents filing in Vietnam to ‘enjoy a right of priority’ if they have already applied for a patent for the same item overseas within the previous 12 months.

*‘right of priority’*

Similar regulations apply to industrial designs in Vietnam. As in other countries, this form of rights deals with the shape or other visible attributes of a product, object or packaging and applications must be ‘of a creative nature’ as well as possessing novelty and industrial applicability.

*industrial designs*

The law gives protection for industrial designs for a maximum of five years, renewable for two consecutive periods of five years. The ‘right of priority’ for previous filings of designs overseas requires filing in Vietnam within six months of an overseas filing.

*designs: five-year protection*

Vietnam is a member of the Patent Cooperation Treaty (PCT). This means that foreign owners of patents can assess the possibility of obtaining a patent before embarking on the ‘national phase’ of the application within Vietnam – at the end of which, if the patent is granted, they will have the same protection as any other patentee.

*Vietnam is a PCT member*

## Trade Marks [index]

The recently improved IP legislation introduced a number of clarifications in the field of trade mark law – although the new regulations are actually more restrictive than before by excluding non-visual attributes such as sound and smell. In other respects the trade mark system operates in a similar way to that found in European countries, protecting symbols, colours and other visual devices used to identify a company’s products or services, now including three-dimensional objects. However single-colour marks are not protected in Vietnam.

Trade names also constitute a form of industrial property in Vietnam, with rights established through their use rather than under a formal registration system. Domain names are allocated on a ‘first come, first served’ basis so must be registered to avoid ‘cybersquatting’ by abusers.

Trade mark protection is available for geographical indications, which may now be registered. As in the UK, tests of registrability cover issues such as generic terms, geographical names and distinctive features. Protection for ‘well-known marks’ in Vietnam is similar to that available in most countries: registration of such a mark by someone other than the original trade mark owner is disallowed under the terms of the Paris Convention. Marks other than well-known marks must be registered to receive protection as Vietnam operates a ‘first to file’ system.

Registration takes up to 15 months and a trade mark is valid for ten years, after which it may be renewed indefinitely for further ten-year periods. If there are two or more applicants for identical or similar trade marks for the same or similar goods then the one that was registered first prevails, as in the UK. Regulations about the ‘right of priority’ affecting those applying in Vietnam for trade marks for which applications have already been made overseas are similar to those for patents, and accord with international practice.

Vietnam has been a member of the Madrid Protocol since 2006. As described in Chapter 1, this provides a unitary method of reciprocal trade mark registration for UK companies, with registration based on either a national UK trade mark or a Community Trade Mark.

Under the Paris Convention, as for patents, a filing in a foreign country is valid as a filing in Vietnam. In the case of trade marks this must be done within six months. Trade marks that remain unused for five or more years, or which lapse for that period, may be cancelled by another company if non-use can be proved.

*trade names*

*domain names*

*geographical indications*

*well-known marks*

*ten-year validity*

*‘right of priority’*

*unitary registration under the Madrid Protocol*

*Paris Convention*

## Customs [index]

The upgraded IP laws give Vietnamese Customs greater powers to monitor counterfeit or pirated goods, whereas they previously had a mainly reactive role, relying on information about illegal shipments. Customs may act against both imports and exports.

There is now a formal customs recordal system, allowing trade mark owners to register their marks with Customs.

*powers of Customs*

## Unfair Competition [index]

Unfair competition relating to IP is governed mainly by Vietnam's Competition Law of 2005, although the IP law does include some general provisions on unfair competition. The procedures for handling unfair competition relating to IP are quite complicated and largely untried. This is at present an unsatisfactory aspect of Vietnam's laws as there is little confidence in the effective use of the Competition Law against some forms of abuse that are not specifically covered by IP legislation. See, however, Case Study A, which actually pre-dates the 2005 law.

→ [case study](#)

## How IP Rights Parameters in the UK and Vietnam Compare

A comparison between the main features of IP rights in the UK and Vietnam, relating to timescales and the basic costs for the official processes of registering the rights, is provided in Appendix D.

→ [UK & Vietnamese IP rights compared](#)

## 2.3 PREPARATION

### Q. What steps should a company take to avoid problems? [index]

The most important step is adequate preparation. This means taking advice from those who are knowledgeable about IPR in Vietnam, consulting publications and websites and referring to the many sources of assistance that are aimed specifically at companies doing business there. Many of these are listed in this document and referenced websites. (See also *'Where to get help in Vietnam'* below).

[preparation is the key](#)

It is also sensible to make a special assessment of the risks in Vietnam to the intellectual property owned by the business. This is particularly important if you feel your IP is potentially at risk from infringers, if other companies in similar areas of business have had problems, or if your products or services have previously been exposed to IP infringement in other territories. Such a risk assessment might include:

[make an IP risk assessment](#)

- Performing due diligence checks on the various organisations and individuals with which you intend to have dealings in Vietnam.
- Seeking professional advice from lawyers and other firms that are experienced in advising on IPR in Vietnam, as well as local diplomatic posts and business organisations such as the British Business Group in Vietnam, the European Chamber of Commerce and the American Chamber of Commerce in Vietnam.
- Talking to other companies which are already doing business of the same type in Vietnam or operating in the same location.
- Consulting your agents, distributors, suppliers and others who are knowledgeable about local conditions for the goods or services in question.
- Checking with a trade mark or patent attorney to see whether there have been previous registrations of your own marks, or other IP, in Vietnam. Any prior registrations are bound to cause difficulties and putting matters straight might be expensive or, at worst, unachievable.

While this is by no means a comprehensive list of the types of people and organisations you might consult, it offers some ideas on how to go about assessing the vulnerability of your IP. Such actions are a part of the overall risk assessment you will need to make when embarking on a new project overseas.

*stick to your instincts*

Above all, it is important to develop within your company an attitude of being true to normal instincts and sticking to familiar business methods. IPR infringement goes hand in hand with other corrupt practices, so it is essential that those new to the market are not beguiled by entreaties to 'do things differently' when overseas. Good local representation will be a key element in protecting your interests and avoiding problems of this kind.

### Q. Who should take responsibility for a company's IPR protection? [index]

The simple answer is: everyone. Many companies depend on the integrity of their IP, often one of their most valuable assets, for their livelihood. So this subject should be given proper attention by the management and staff, as well as those with whom the company has relationships in other companies.

*IP protection depends on everyone in the business...*

It may be sensible for a manager to be nominated who will have particular responsibilities for aspects such as understanding what constitutes the IP owned by the business, which sources of assistance and information are available and how to set up measures to protect IP rights. In companies with legal departments a legally-trained manager would be the obvious choice; but in an SME without the benefit of an in-house legal team this role could still be adequately performed by a manager with sufficient interest, commitment and training.

*...but consider appointing a manager with specific responsibility for IP*

## 2.4 OPERATING IPR IN VIETNAM

### Q. How does one go about registering IP rights? [index]

*registering your rights*

As we have seen, there are a number of possible situations:

- For copyright, no registration is required but registering copyrights with the authorities is advisable. Registration is made with the National Copyright Office.
- For patents (including inventions, utility solutions and industrial designs) individual registrations must ultimately be made in Vietnam, but for rights other than industrial designs the search process is eased, and extra time gained, by applying under the terms of the Patent Cooperation Treaty. These types of rights are registered with NOIP.
- For trade marks, the options are registration within Vietnam or use of the Madrid Protocol to gain unitary rights under national or Community Trade Mark registration systems; in the case of well-known brands, there is protection under the Paris Convention – even if unregistered – but this is an area of law that is still evolving in Vietnam.
- 'Priority rights' under the Paris Convention assist in the local registration of trade marks, designs and patents by allowing rights previously registered elsewhere to become effective in Vietnam, if filed within a time limit.

Registration is essential in Vietnam (and advisable for copyright). As in the UK, if you do not register your rights you may not be able to enforce them.

*registration is essential*

## Q. What are the steps in IP rights enforcement? [index]

There are three levels at which rights may be enforced: administrative action, civil action (or litigation) and criminal prosecution.

- **Administrative action.** In Vietnam by far the majority of IPR disputes are settled through this method, which is generally fast and comparatively straightforward. There are various authorities with special responsibilities and functions:
  - organised, serious and large-scale IPR cases – and those with a health and safety dimension – are the responsibility of the Economic Police;
  - copyright infringements are handled by the Inspectorate of Culture and Information, within the Ministry of Culture and Information;
  - the Inspectorate of Science and Technology, within the Ministry of Science and Technology, deals with complex industrial property cases including trade marks, patents, industrial designs and geographical indications;
  - market-level infringement may be handled by the Market Management Bureau (MMB) of the Ministry of Industry & Trade and the Department of Industry & Trade;
  - cases that come within the Unfair Competition Law are the responsibility of the Department of Competition Administration, which is part of the Ministry of Industry & Trade;
  - People’s Committees at various levels play a part in deciding on sanctions for offenders.

*administrative action deals with most IPR cases*

Depending on the characteristics of the offence, for example whether it is deemed to be ‘large’, ‘small’ or ‘organised’, various sanctions may be imposed by these authorities. These may include warnings, fines, the seizure or destruction of the counterfeit goods and business licence suspension. Where actions are brought under the Unfair Competition Law, fines, the confiscation of goods and/or profits, and public apologies may be awarded.

*there is a range of penalties, depending on the seriousness of the case*

From the foregoing it can be seen that the system of enforcement through administrative action relies on a large number of disparate authorities which – given the matrix involving national, city, provincial and even commune level involvement – adds considerable complexity and uncertainty to the process of seeking redress for IPR abuse.

*responsibilities are complex*

- **Civil court action.** Very few cases are litigated in Vietnam. This is because of the poor standard of training of the judiciary in IP matters, the lack of specialist IP courts and the Vietnamese tradition which does not favour court action. As a first stage, an attempt at out-of-court mediation is compulsory. In the event of illegal goods intercepted by Customs, the Customs authorities may themselves initiate proceedings in the civil courts.

*civil courts handle few IPR cases and insist on conciliation as a precursor*

Preliminary injunctions and compensation for damages are available through the civil courts. A rights owner can claim actual damages but if it is not possible to determine the amount that should be awarded the judge will decide and the maximum is limited to VND500 million (about £16,000). A plaintiff can also claim for ‘psychological’ damages – normally relating to the moral rights of an individual such as an author. In this case the maximum damages are VND50 million (£1,600).

*preliminary injunctions and damages are available*

- **Criminal prosecution.** Government authorities, including Customs, may bring prosecutions or rights owners may apply for prosecutions to be brought in the criminal courts. Penalties for IPR-related crimes can involve fines, imprisonment and even the death penalty in serious, organised or business-related cases. See Case Study B.

*criminal cases are brought against more serious infringers*

→ *case study*

A summary of enforcement options (not specific to Vietnam) and their pros and cons is provided in Appendix C.

→ *enforcement options*

## Self-Help Measures

### Q. Should I be reconciled to taking formal action to protect my IP? [index]

The best method of protection is avoidance, rather than expecting to initiate cases against infringers. Avoidance means taking measures that lessen the likelihood of infringement. We have covered many of these under Preparation above: getting good advice, doing risk assessment, checking IP rights registrations, performing due diligence checks, filing your applications as soon as possible, giving your intellectual property the management attention it deserves as a key element of the business and – most important – remaining true to normal business instincts, wherever you are operating.

*prevention is better than cure...*

There are also some particular self-help considerations for companies operating in risky territories:

- **Design:** make it harder for infringers to reverse-engineer your product.
- **Staff:** hire honest people, have effective IPR-related clauses in employment contracts, educate employees about IPR protection and require them to safeguard the IP assets of the business.
- **Documents and equipment:** institute sound physical protection and destruction methods for drawings, tooling, samples, machinery and so on.
- **Packaging:** make sure there are no 'leakages' of packaging that might be used by counterfeiters to pass off fake product in real packages.
- **Production over-runs:** police them to ensure that genuine product is not being sold under a different name.

*self-help measures that can help you avoid IPR infringement problems – and the need to take enforcement action*

## Top Tips for IPR Protection in Vietnam [index]

*tips for success*

- Stick to your normal business instincts
- Prevention is better than cure – and cheaper
- Assess the risks of the market and make preparations
- Seek advice but take self-help measures to protect your IPR
- Make sure everyone in your business values its IP
- Register your IPR – even copyright
- Forge good relationships with organisations that can help you
- If action is necessary, be resolute but consider mediation first
- If you don't show that you value your IP, who else will?

## Where to get help in Vietnam [index]

→ *where to get help*

Many of the links in this guide give details of organisations that can assist in various situations. In addition, the following organisations can provide advice on IPR in Vietnam:

- British Embassy, Hanoi and Consulate-General, HCMC. A message from the Ambassador:

→ *British Embassy and Consulate-General*

*'The British Embassy in Hanoi and the British Consulate-General in Ho Chi Minh City are here to work for British interests in this country and to promote greater understanding between Britain and Vietnam. Our two missions also help British citizens visiting, doing business in or living in Vietnam, and Vietnamese citizens interested in the UK.'*

- British Business Group, Vietnam:

→ *British Business Group*

*'The BBGV now boasts more than 250 members and their partners and aims to promote the interests of those members in particular and British business in Vietnam in general. Along with the British Embassy and British Consulate General in Ho Chi Minh City, the BBGV fulfils its objectives through close liaison with Vietnamese Government officials, provision of a comprehensive discount scheme within Vietnam for its members, and the organisation of business, social and charitable events to introduce members to life in Vietnam.'*

- European Chamber of Commerce in Vietnam:

→ *Eurocham*

*'As a combined entity and as the voice of the European business community in Vietnam, today EuroCham serves as the catalyst and moderator of the joint National Business Group's efforts and represents its corporate members on pan-European issues of common interest. EuroCham's mission is to lobby the Vietnamese and EU authorities on industry issues raised by both EuroCham and European National Business Groups and to facilitate trade between Vietnam and Europe.'*

- The American Chamber of Commerce in Vietnam:

→ [AmCham](#)

*'AmCham Vietnam in Ho Chi Minh City is an independent association of American and international businesses. With about 400 member and associate companies, and nearly 800 representatives, our membership of manufacturing, transportation and logistics, professional services, and travel and tourism firms is unified by a common objective to promote trade and investment between Vietnam and the United States.'*

- Vietnam Chamber of Commerce and Industry

→ [VCCI](#)

- Vietnam Trade Promotion Agency (VietTrade):

→ [VietTrade](#)

*'The Vietnam Trade Promotion Agency is a governmental organization responsible for state management, co-ordination and implementation of trade and trade related investment promotion activities in Vietnam.'*

*'VIETRADE works together with various provincial trade promotion centers and trade support institutions as well as international and foreign trade promotion organisations to assist Vietnamese and foreign enterprises in their business development and expansion.'*

- See a website listing local law firms in Vietnam in the Reference section.

→ [law firms](#)

### 3. FEEDBACK

If you have any comments about what you have read in this guide we would welcome your feedback.

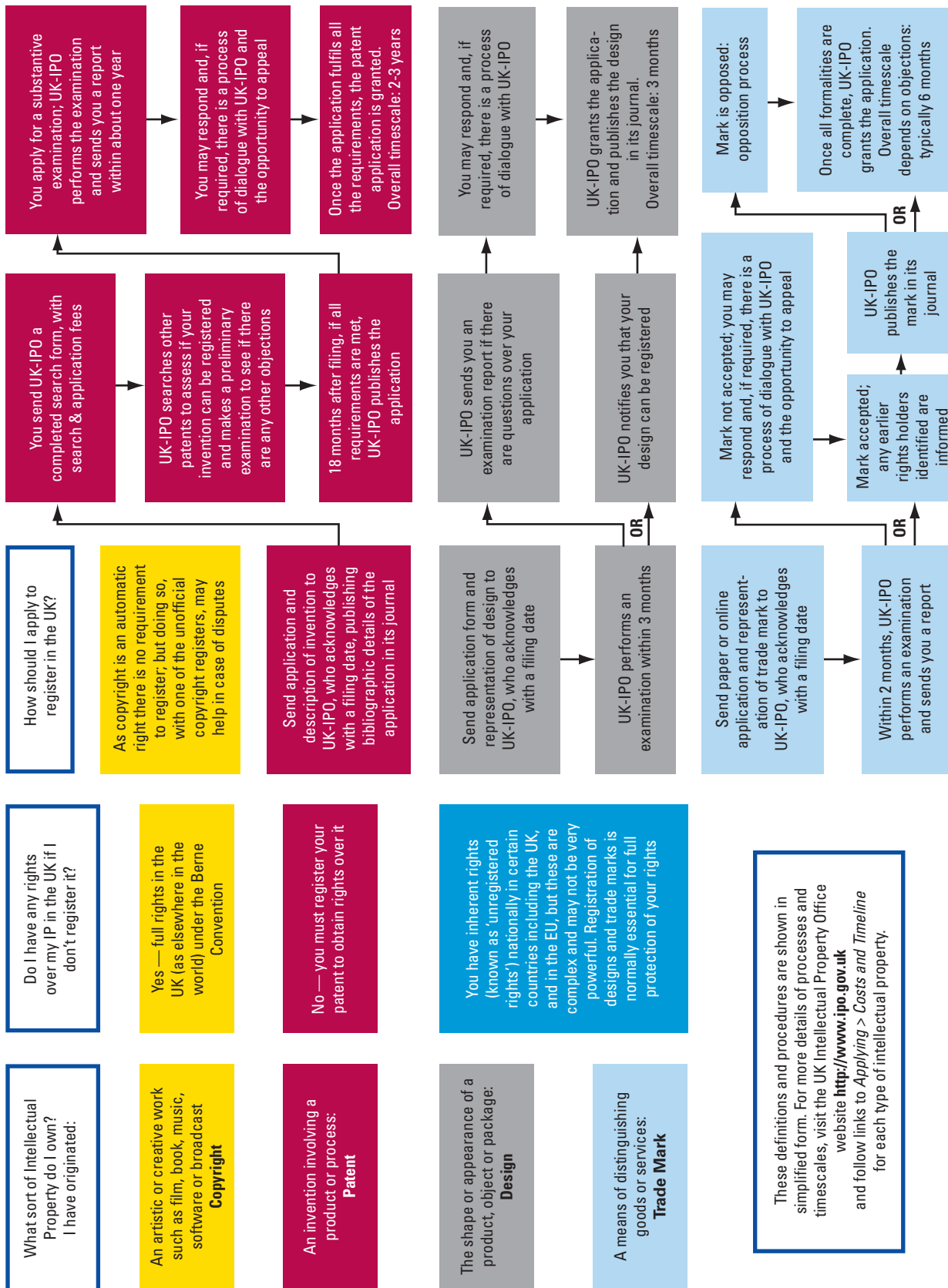
[feedback](#)

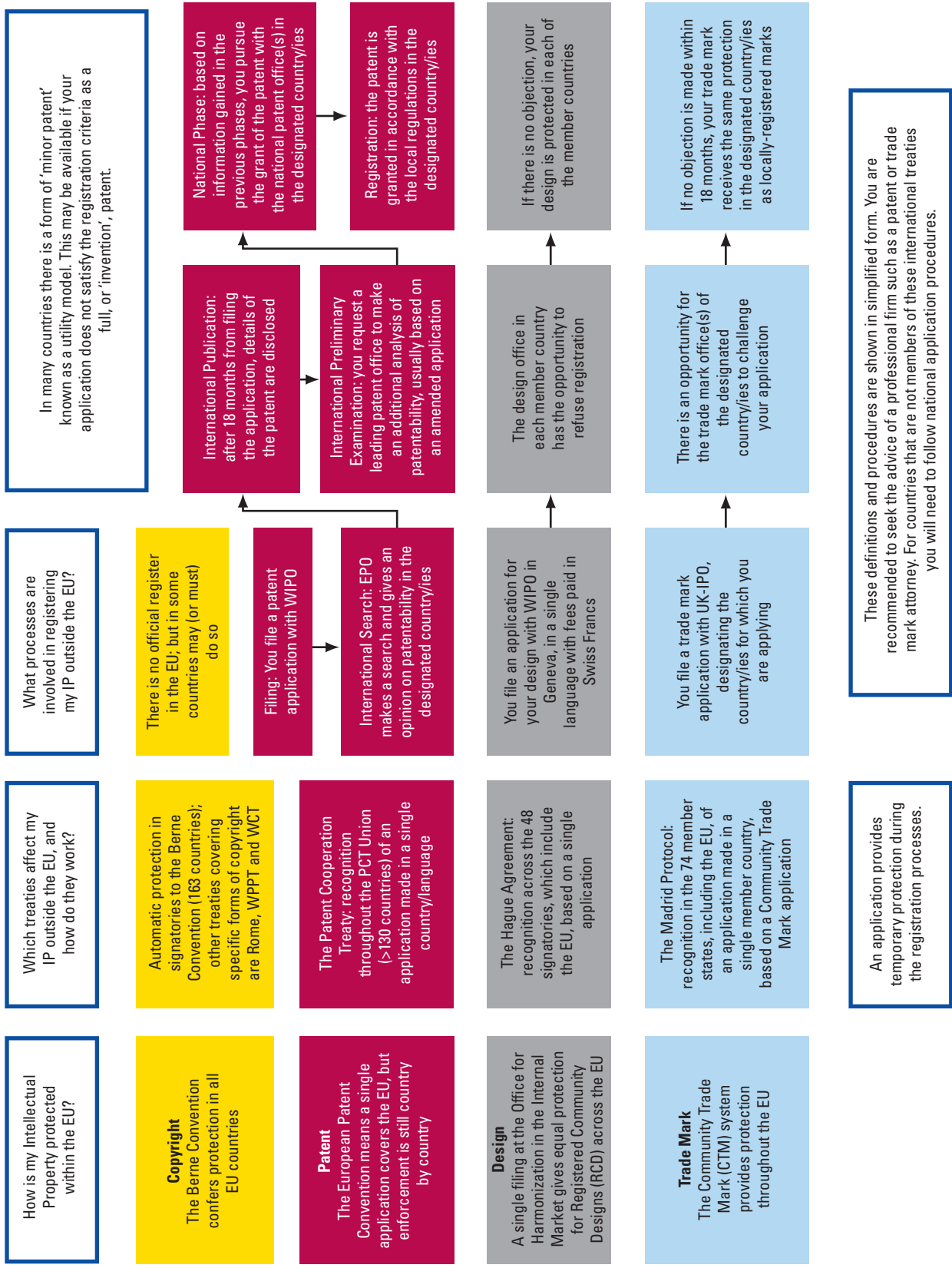
Please take a few minutes to complete our survey by clicking here. [Start survey](#)  
Your opinions and suggestions will help us ensure that the IPR Primers are relevant to your needs.

### Disclaimer

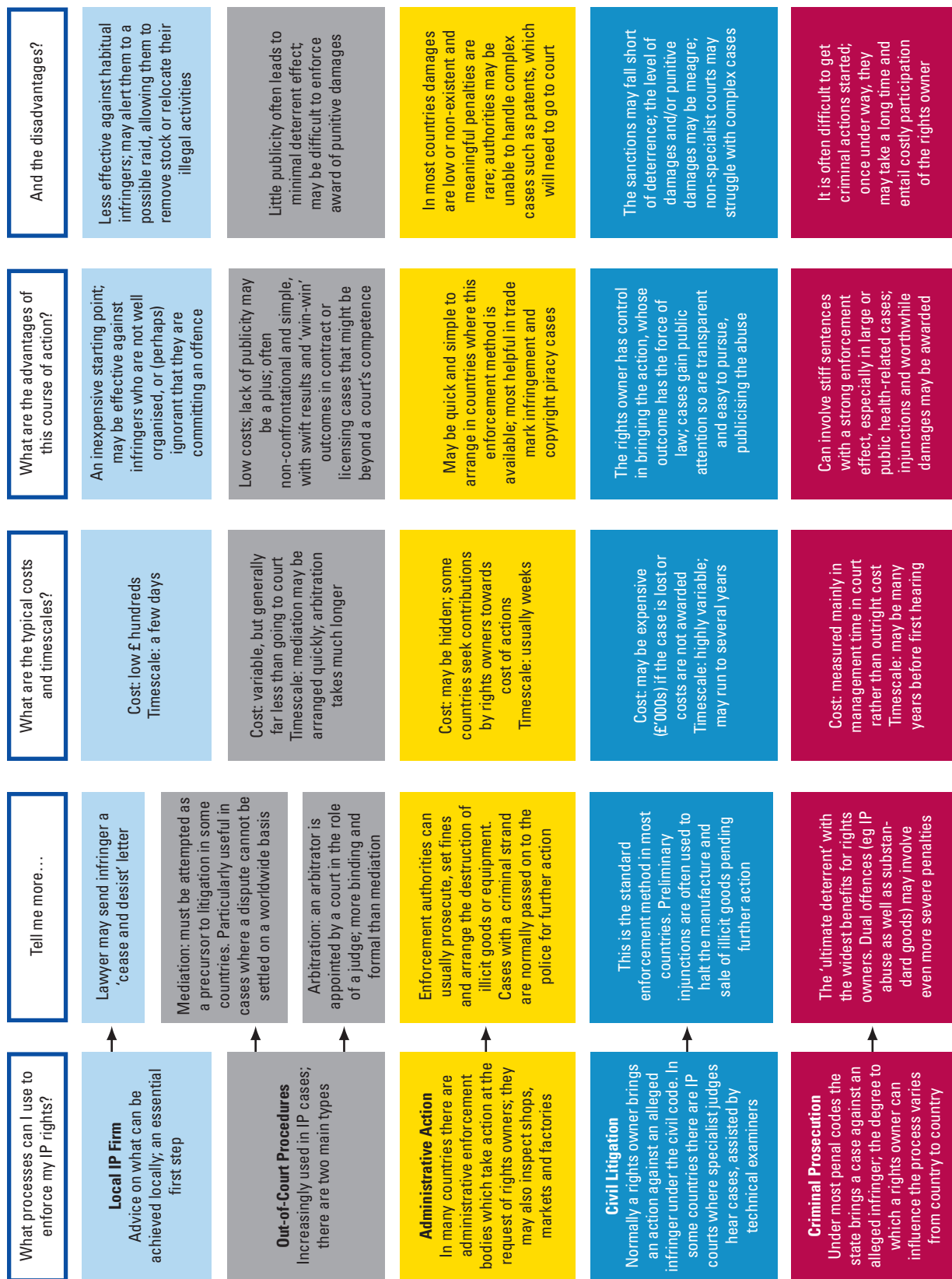
This guide contains only a summary of IPR issues. It is not intended as a substitute for the advice of professionals such as lawyers and attorneys. You should always seek expert guidance before taking decisions that may affect your IP rights, in Vietnam or elsewhere.

[the small print](#)





# APPENDIX C : RIGHTS ENFORCEMENT AIDE-MEMOIRE [RETURN] [INDEX]



**APPENDIX D : VIETNAM/UK IP RIGHTS COMPARISON [RETURN] [INDEX]**

Country/Form of IP Right	Maximum Initial Term from filing date; for copyright, from author's death (eg literary work)	Cost typical official fees, excluding legal representation	Time to Register typical period, from filing date	Extension Periods total = max extension term + initial term	Notes	
<b>UK</b>						
Copyright	70/50 yrs	–	–	none	term depends on type of work	
Patent	4 yrs	£200	2 – 3 yrs	16 x 1 yr (total 20 yrs)	renewal on an escalating scale	
Design	5 yrs	£60	3 months	4 x 5 yrs (total 25 yrs)	cost for first design	
Trade Mark	10 yrs	£200	6 months	10 yrs (unlimited)		
<b>Vietnam</b>						
Copyright	50 yrs	–	–	none	for all types of work	
Patent	Invention	20 yrs	£65	20 months	none	cost for one claim
	Utility Model	10 yrs	£65	17 months	none	cost for one claim
Industrial Design	5 yrs	£27	12 – 15 months	2 x 5 yrs (total 15 yrs)	cost for one claim	
Trade Mark	10 yrs	£27	12 – 15 months	10 yrs (unlimited)	costs for up to 6 goods in one class	

### **A: POSTINOR2 v. POSINIGHT2 (use of Competition Law) [return] [index]**

Gedeon Richter Ltd ('GR') is the owner of various forms of trade mark IP relating to emergency contraceptives (or 'morning-after pills') which the company markets in Vietnam. These marks consist of word marks and devices registered locally, including: 'POSTINOR' and 'POSTINOR2 and Rose device'. The POSTINOR2 packaging includes the word 'POSTINOR2' in grey, capital italic lettering on the upper left of the surface, with the rose device, in pink, to the right.

The Vietnamese Trung Nam Company owns the word mark 'POSINIGHT', which is registered for the same class of urgent contraceptive. These are manufactured for Trung Nam by another Vietnamese company, BIPHARCO, and sold in packaging resembling that used for POSTINOR2 – employing the same colour, style and location of the word mark and the rose device, and other similar details including the number 2.

In 2004 GR sued BIPHARCO/Trung Nam over the use of these commercial indications, claiming they were likely to mislead consumers and cause confusion. The civil court held that this amounted to 'unfair competition' and awarded damages of US\$47,000 to GR. The court ordered the defendants to: withdraw and destroy all packaging containing the pink rose and the number 2; announce the withdrawal in mass media; and stop using commercial indications similar to the GR's POSTINOR2 packaging.

The case went to appeal, where the court upheld the unfair competition finding but found that GR had failed to prove actual damages suffered as a consequence of BIPHARCO/Trung Nam's infringement. It therefore withdrew the award of damages.

Comment: This was the first court case in Ho Chi Minh City based on unfair competition relating to intellectual property covering pharmaceuticals. It demonstrates that – although the competition regulations are not often used in fighting IPR infringement cases in Vietnam – such actions may succeed.

## **B: TC Pharmaceutical Company Ltd (criminal prosecution of trade mark infringer) [return] [index]**

Nam Binh Company Ltd ('Nabico') produced 34,000 cans of an energy drink in 2004 bearing a device of two bulls drawn in red. This was similar to TC's registered 'Red Bull' mark. In 2006 TC requested the investigation agency to take criminal proceedings against Bui Trung Hoa, a director of Nabico. At the hearing Hoa claimed he was not guilty as he had no intention to 'mislead consumers' and, in any case, he had the approval of Ho Chi Minh City's Department of Health to use the device.

The court ruled that the Department of Health was not the competent authority for trade mark registration and the use of the device was an infringement of TC's industrial property rights. In 2008 Hoa was sentenced to a three-year non-custodial penalty for 'infringing upon industrial property rights and tax evasion'. Hoa, in turn, has initiated a court case against the vice director of the Department of Health of Ho Chi Minh City, claiming VND10 billion (about £311,000) for damages he had suffered as a result of their false approval to use the device. This case is still under way.

Comment: This case caught the public's attention as it was the first criminal prosecution for trade mark infringement, as well as the first court case against the Department of Health of Ho Chi Minh City for false approval of using the mark. It demonstrates that IP infringement is indeed seen as a crime in Vietnam and the sanctions can be significant.

## APPENDIX F : REFERENCES

### 1 VIETNAMESE IPR REFERENCES

#### Organisations

National Office of Intellectual Property (NOIP) [return] [index]  
<http://www.noip.gov.vn>

National Copyright Office of Viet Nam (NCO) [return] [index]  
<http://www.cov.org.vn/>

#### Laws and Procedures

Brief Guide to Intellectual Property in Vietnam [index]  
[http://www.iprights.com/assets/pdf/VIET\\_guidetoip.pdf](http://www.iprights.com/assets/pdf/VIET_guidetoip.pdf)

Copyright Law [return] [index]  
<http://www.gintasset.com.vn/index.php?option=content&task=view&id=270>

Industrial Property Law [return] [index]  
This law covers *'inventions, utility solutions, industrial designs, trade marks, and of the right to the use of appellations of origin...'*  
<http://www.gintasset.com.vn/index.php?option=content&task=view&id=271>

Intellectual Property Law [index]  
<http://www.gintasset.com.vn/images/stories/intellectual.pdf>

Star Vietnam Project [index]  
*'STAR II focuses on supporting the development of institutional and administrative systems needed to implement the massive legal and regulatory changes that have been promulgated over the last five years in the areas of trade in goods and services, commercial dispute settlement, intellectual property rights protection, development of foreign direct investment, and transparency and the right to appeal. These reforms are partnered with extensive educational programs that include training for officials, lawyers, judges, and business leaders; revision of university curriculums and capacity development; and media-based public education campaigns'*  
[http://www.dai.com/work/project\\_detail.php?pid=55](http://www.dai.com/work/project_detail.php?pid=55)

### 2 GENERAL AND INTERNATIONAL REFERENCES

#### Collection of Laws for Electronic Access (CLEA) [index]

This useful site, operated by the World Intellectual Property Organization (WIPO) is *'a unique electronic database providing easy access to intellectual property legislation from a wide range of countries and regions as well as to treaties on intellectual property. It is an invaluable information resource made available by WIPO free of charge to all interested parties, including researchers, legal professionals, policy-makers, students and administrators.'* However at present few Vietnamese laws are posted.  
<http://www.wipo.int/clea/en/index.jsp>

#### Copyright [index]

Berne Convention [return] [index]  
UK Copyright Service's article *'International copyright law – The Berne Convention'*:  
[http://www.copyrightservice.co.uk/copyright/p08\\_berne\\_convention](http://www.copyrightservice.co.uk/copyright/p08_berne_convention)

Copyright in the UK [return] [index]  
UK-IPO:  
<http://www.ipo.gov.uk/copy.htm>

Copyright Licensing Agency (CLA) [index]

Based in the UK, CLA licenses the copying of published extracts. Its website provides practical information on many aspects of copyright:

<http://www.cla.co.uk/>

## Designs

Designs in the UK [return] [index]

UK-IPO:

<http://www.ipo.gov.uk/design.htm>

Unregistered Community Designs [return] [index]

Patent and trade mark attorney Hindle Lowther's explanation:

<http://www.hindlelowther.com/design11.htm>

## International IPR Organisations, Systems and Treaties [index]

Community Trade Marks (CTM) [return] [index]

CTM resource site of the Office for the Harmonization of the Internal Market (OHIM):

<http://oami.europa.eu/en/mark/default.htm>

Overview by ipr.co.uk:

[http://www.ipr.co.uk/IP\\_conventions/community\\_trade\\_marks.html](http://www.ipr.co.uk/IP_conventions/community_trade_marks.html)

UK-IPO:

<http://www.ipo.gov.uk/abroad/abroad-tmeurope.htm>

## European Patent Convention (EPC) [return] [index]

European Patent Office site for EPC:

<http://www.epo.org/patents/law/legal-texts/epc.html>

Text of the Convention:

<http://www.european-patent-office.org/legal/epc/e/contents.html>

## Hague Agreement [return] [index]

WIPO datasheet '*Hague System for the International Registration of Industrial Designs*' with link to list of parties to the agreement:

<http://www.wipo.int/hague/en/>

UK-IPO site on linking of Hague Agreement and Registered Community Design:

<http://www.ipo.gov.uk/policy/policy-issues/policy-issues-designs/policy-issues-designs-protection.htm>

and European Commission press release on the same subject:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/05/1691&format=HTML&aged=0&language=EN&guiLanguage=en>

## International Anti-Counterfeiting Coalition (IACC) [index]

<http://www.iacc.org/contact.php>

## International Intellectual Property Institute (IIPI) [index]

<http://www.iipi.org/>

### **Madrid Protocol [return] [index]**

WIPO's introduction '*Madrid System for the International Registration of Marks*':  
<http://www.wipo.int/madrid/en/>

UK-IPO:

<http://www.ipo.gov.uk/abroad/abroad-tmworld.htm>

List of Madrid Protocol registrations on Institute of Trade Mark Attorneys site:

<http://www.itma.org.uk/trade-marks/6b-protocol.htm>

Outlaw-Com's guide to '*Registering a Trade Mark through the Madrid Protocol (international application)*':

<http://www.out-law.com/page-376>

### **Paris Convention [return] [index]**

WIPO's '*Summary of the Paris Convention for the Protection of Industrial Property*':

[http://www.wipo.int/treaties/en/ip/paris/summary\\_paris.html](http://www.wipo.int/treaties/en/ip/paris/summary_paris.html)

### **Patent Cooperation Treaty (PCT) [return] [index]**

WIPO's PCT Resources site:

<http://www.wipo.int/pct/en/>

UK-IPO:

<http://www.ipo.gov.uk/abroad/abroad-patentworld/abroad-pct.htm>

Mewburn Ellis LLP's succinct explanation and list of members:

[http://www.mewburn.com/downloads/PCT\\_Members\\_States\\_as\\_at\\_01Jun07\\_-\\_June\\_2007.pdf](http://www.mewburn.com/downloads/PCT_Members_States_as_at_01Jun07_-_June_2007.pdf)

### **Registered Community Design (RCD) [return] [index] See also Hague Agreement**

UK-IPO:

<http://www.ipo.gov.uk/design/d-applying/d-should/d-should-abroad/d-should-abroad-eu.htm>

### **Rights Extensions [return] [index]**

These are listed on the UK-IPO website, with descriptions of the rules and conditions for the extension of protection for the various UK and EU IP rights:

<http://www.ipo.gov.uk/abroad/abroad-extend.htm>

### **TRIPS [return] [index]**

Trade-Related Aspects of Intellectual Property Rights:

[http://www.wto.org/english/tratop\\_e/trips\\_e/trips\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/trips_e.htm)

UK-IPO:

<http://www.ipo.gov.uk/policy/policy-issues/policy-issues-trips.htm>

### **World Intellectual Property Organization (WIPO) [return] [index]**

Website gateway to a copious source of IPR information:

<http://www.wipo.int/portal/index.html.en>

### **World Trade Organization (WTO) [return] [index]**

WTO's home page:

<http://www.wto.org/>

List of WTO members: [return]

[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)

## Miscellaneous

### Books [index]

The Handbook of European Intellectual Property Management  
'Developing, Managing and Protecting Your Company's Intellectual Property' by Adam Jolly  
ISBN 9780749449889 published July 2007

<http://www.kogan-page.co.uk/bookdetails.aspx?ISBN=9780749449889>

Knockoff: the Deadly Trade in Counterfeit Goods  
'The True Story of the World's Fastest Growing Crime Wave' by Tim Phillips  
ISBN: 9780749443795 published December 2005

<http://www.koganpage.com/bookdetails.aspx?ISBN=0749443790>

### Enforcement of Intellectual Property Rights in the UK [index]

Kirkland & Ellis International LLP on the system in England and Wales:

[http://www.buildingipvalue.com/n\\_eu/279\\_283.htm](http://www.buildingipvalue.com/n_eu/279_283.htm)

### Intellectual Property Explained ('My IP'), UK-IPO 2007 [index]

A guide covering IPR for UK companies, together with advice on protection and the steps that would-be rights owners should take:

<http://www.ipo.gov.uk/myip.pdf>

### Renewal of IP Rights [return] [index]

UK-IPO:

<http://www.ipo.gov.uk/manage/manage-renew.htm>

### Reports [index]

HM Treasury, 2006: 'Gowers Review of Intellectual Property'  
[http://www.hm-treasury.gov.uk/media/6/E/pbr06\\_gowers\\_report\\_755.pdf](http://www.hm-treasury.gov.uk/media/6/E/pbr06_gowers_report_755.pdf)

OECD, 2007: 'The Economic Impact of Counterfeiting and Piracy (Executive Summary)'  
<http://www.oecd.org/dataoecd/11/38/38704571.pdf>

### UK-IPO website [return] [index]

Guidance on all aspects of IPR in the UK, Europe and worldwide:

<http://www.ipo.gov.uk/home.htm>

## Patents

### [Chartered Institute of Patent Attorneys \(CIPA\) \[index\]](#)

The CIPA site offers a wide range of advice on patents, international news and articles, together with a search facility for UK-based and international patent attorneys, searchable by region:

<http://www.cipa.org.uk/pages/home>

### [Patents in the UK \[return\] \[index\]](#)

UK-IPO:

<http://www.ipo.gov.uk/patent.htm>

### [Software Patents \[return\] \[index\]](#)

The European Patent Office does not *'grant patents for computer programs or computer-implemented business methods that make no technical contribution. Programs for computers as such are excluded from patentability [unless they have] the potential to cause a 'further technical effect' which must go beyond the inherent technical interactions between hardware and software.'*

See EPO regulations on this subject:

<http://www.epo.org/focus/issues/computer-implemented-inventions.html>

and Ius Mentis's article *'Software Patents under the European Patent Convention'*:

<http://www.iusmentis.com/patents/software/epc/>

### [UK Patent Rules \[index\]](#)

UK-IPO's 'unofficial consolidation' of the Patent Rules 1995:

<http://www.ipo.gov.uk/patentrules1995.pdf>

## Trade Marks [index]

### [Changes in UK Trade Mark Registration Procedures \[return\] \[index\]](#)

Reddy & Grose's description of how existing owners of trade marks are to be consulted when UK-IPO receives applications for similar marks:

<http://www.reddie.co.uk/content/view/119/49/>

### [Domain Names \[return\] \[index\]](#)

The following links provide guidance on:

- domain names in the context of IP law:  
[http://www.waterfrontpartnership.com/ip/d\\_domain\\_names.htm](http://www.waterfrontpartnership.com/ip/d_domain_names.htm)
- choosing and registering a domain name:  
<http://www.nominet.org.uk/registrants/register/choose/>
- legal rights relating to domain names:  
<http://www.nominet.org.uk/disputes/drs/rights/>
- domain name disputes:  
<http://www.out-law.com/page-5700>

### **Geographical Indications [return] [index]**

UK-IPO's notes on GI and links to further information:

<http://www.ipo.gov.uk/patent/p-applying/p-should/p-should-otherprotect/p-should-otherprotect-geographic.htm>

### **Institute of Trade Mark Attorneys (ITMA) [index]**

This site provides a compendium of information on trade marks, including definitions, costs, tips on registration, FAQs and listings of ITMA members, sorted by UK region:

<http://www.itma.org.uk/intro/index.htm>

### **Nice Classification System [return] [index]**

*'The countries party to the Nice Agreement constitute a Special Union within the framework of the Paris Union for the Protection of Industrial Property. They have adopted and apply the Nice Classification for the purposes of the registration of marks.'*

Class definitions:

<http://www.wipo.int/classifications/fulltext/nice8/enmain.htm>

### **Plant Varieties [return] [index]**

DEFRA's 'Guide to the Plant Varieties Act 1997':

<http://www.defra.gov.uk/planth/pvs/guides/pvsact-20050317.pdf>

### **Semiconductor Topographies [return] [index]**

The Design Right (Semiconductor Topographies) Regulations 1989:

[http://www.opsi.gov.uk/SI/si1989/Uksi\\_19891100\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1989/Uksi_19891100_en_1.htm)

### **Trade Marks in the UK [return] [index]**

UK-IPO:

<http://www.ipo.gov.uk/tm.htm>

### **Where to get help in Vietnam [return] [index]**

#### **British Embassy, Hanoi [return] [index]**

and

#### **British Consulate-General, Ho Chi Minh City**

<http://www.britishembassy.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&tc=Page&cid=1064573121132>

#### **British Business Group Vietnam [return] [index]**

<http://www.bbgv.org/>

#### **European Chamber of Commerce [return] [index]**

<http://www.eurochamvn.org>

#### **American Chamber of Commerce in Vietnam [return] [index]**

<http://www.amchamvietnam.com>

**Vietnam Chamber of Commerce and Industry [return] [index]**  
<http://vibforum.vcci.com.vn/>

**Vietnam Trade Promotion Agency (VietTrade) [return] [index]**  
<http://www.vietrade.gov.vn/old/index.asp?lang=en>

**Local Law Firms [return] [index]**  
<http://www.chambersandpartners.com/Asia/search.aspx>





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