

LEGAL ALERT

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Upcoming amendments regarding industrial property in the Law on Intellectual Property

Under the Vietnamese legal system, the law on intellectual property is a newly developed law. Although the first law on intellectual property in 2005 covers most of the impactful matters, it still requires further amendments because of constant changes in the field of intellectual property.

Recently, the National Assembly promulgated Law No.42/2019/QH14 amending the law on intellectual property. Three of the most salient provisions regarding industrial property would be discussed hereunder.

Firstly, there is a significant change concerning the novelty of invention. Under the new law, an invention is not deemed to have lost its novelty if it is disclosed by the person entitled to registration specified in the law on intellectual property or by the person who has information of invention, provided that the patent application is submitted in Vietnam within 12 months from the date of disclosure.

It should be noted that under the old law, the entitled person to submit the patent application within six months from the date of disclosure – such amount of time might not be enough, especially for international applications.

Secondly, transfer agreements concerning trademark use right shall be valid against third parties even without prior registration with the National Office of Intellectual Property. Under the old law, transfer agreements concerning trademark use right shall only be valid against third parties after registration with the National Office of Intellectual Property.

Thirdly, under both the old law and the new law, a trademark registration certificate will no longer be effective if a trademark is not used continuously for five years or more. However, the new law clarifies that in case a trademark is used by a transferee who has received the right to use such trademark under a contract, then such trademark shall still be deemed as being used by the owner of the trademark.

If you have any questions or require any additional information, you may contact [Hoang Tran](#) of ZICO Law Vietnam (a member of ZICO Law).

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