



S & I International Bangkok Office

<https://www.siasia.co.th>

253, 23rd Fl., Sukhumvit Soi 21 Rd., Klongtoey Nua, Wattana, Bangkok 10110 , Thailand
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VIA E-MAIL ONLY

December 18, 2020

Attn: Colleagues and Applicants of Patent, Trademark and Industrial Design Applications in Vietnam

Subject: Notice regarding signed documents of the Patent, Trademark and Industrial Design applications in Vietnam

Dear Sir/Madam,

On November 23, 2020, the Intellectual Property Office of Vietnam (IP Viet Nam) issued Notification No. 13822/TB-SHTT changing the requirements for signatories of all documents submitted to the IP Office, including powers of attorney (POAs).

In the past, the IP Office has accepted POAs signed by any representatives internally authorized by the IP holders. However, under the new notification, the IP Office requires all documents to be signed by a legal representative of the applicant or owner, such as the chairman of the board, president, , general director. If the documents are signed by other signatories such as Chief of office, CEO, Head of Department or Deputy of these title, then additional evidence proving that the signatories is authorized to represent the IP owners or applicants is also required. If such evidence is not available then the document must be legalized.

Although the notification does not indicate when this new practice will be applied, our local agent discussed with the IP Office and found that it is effective immediately for all cases, including cases that use new POAs/documents and new cases that refer to old POAs which were previously submitted and accepted by the IP Office. This practice will apply to both Vietnamese and foreign applicants and owners who pursue registration and protection of their IP rights in Vietnam.

It is unclear how this will affect pending cases at the IP Office, and this appears to still be under consideration. In some recent cases, the IP Office has asked the IP agents to confirm in writing that the signatories are eligible to represent the applicants or owners. The IP Office may continue this practice for pending cases in the near future. If so, we shall inform you. If there is any change, we will let you know in a timely manner.

Based on the above circumstances, for new cases, we recommend the following:

To facilitate your applications , all documents that will be submitted to the IP Office, including POAs and other documents, shall be simply signed by a legal representative of the company who is the Chairman of the Board, President, General Director.

If the documents are signed by other signatories, such as a deputy of a senior executive, department head, attorney-in-fact, authorized signatory, proxy, officer, etc., then signature in **Letter of Authorization** to prove that the capacity of the signatories to represent the applicants or owners are also required. Please find enclosed the blank form of the Letter of Authorization which was draft by our local agent.



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For cases which letters of Authorization are required, the client may prepare a new fresh POA signing by legal representative of the company, who is the Chairman of the Board, President, General Director or prepare a new fresh POA signed by other signatories along with Letter of Authorization. Please note that the signing date of the Letter of Authorization must be before the signing date of the Power of Attorney. The signed POA and/or Letter of Authorization must be submitted in original, otherwise the copy must be notarized by our local agent. We suggest the applicants or owner to submit the POA and/or Letter of Authorization as soon as possible to avoid any possible delay such as office action.

We will be checking with our record and will contact the client who need to submit Letter of Authorization directly under a separate cover.

If you have any questions, please contact us.

Masafumi IGUCHI (Mr.)
President

Enclosures:

1. Unofficial Translation of Notice No. 13822/TB-SHTT (2 Pages)
2. Form of Letter of Authorization (2 Pages)

MINISTRY OF SCIENCE & TECHNOLOGY
INTELLECTUAL PROPERTY OFFICE
No.: 13822/TB-SHTT

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness

Hanoi, 23 November 2020

NOTICE

Regarding the application of regulations concerning persons with legal status to sign documents on behalf of the applicant in the registration procedure for establishment of industrial property rights and the related procedures

In the procedure for establishing industrial property rights and the related procedures, the Intellectual Property Office of Vietnam (the “IP Vietnam”) has decided to apply a number of provisions related to persons with legal status to sign documents on behalf of the applicant under sections 3 and 4 of Circular No. 01/2007/TT-BKHHCN of 14 February 2007, as amended and supplemented under Circular No. 16/2016/TT-BKHHCN dated 30 June 2016 (hereinafter referred to as Circular No. 01/2007/TT-BKHHCN) as follows:

1. For individual applicant

The representative for the applicant is the legal representative as provided for in Article 136 of the Civil Code or the one who is authorized by the applicant through a power of attorney (authorizing individuals, organizations or authorizing industrial property agents). The signing of the power of attorney is done by that individual himself and the authorized party and the authorization must comply with the provisions under sections 3 and 4 of Circular No. 01/2007/TT-BKHHCN.

2. For organization applicant

2.1 In case of the representative for the applicant as "the legal representative of the applicant"

a) In case the person who signs the Application and the transaction papers has such the titles as Chairman of the Members' Council, Chairman of the Board of Directors, President, General Director, Director, the signer only needs to certify that he/she is the legal representative of the applicant through his/her signature and seal (as prescribed, if any);

b) In case the person who signs the Application and the transaction documents has such other titles as the deputy of the titles mentioned in item a) above, the titles of Chief of Office, Head of Department or Deputy of these titles, etc., or titles of foreign organizations such as attorney in fact, authorized signatory, proxy, officer, etc., the applicant must provide a document which proves that the signer is authorized by the legal representative of applicant and which is sealed (as prescribed by law, if any).

2.2 In case of the representative for the applicant as "A person belonging to an organization authorized by the legal representative"

In case the person who signs the Application and the transaction papers is a person belonging to an organization authorized by the legal representative, in addition to complying with the provisions on legal representative specified in Section 2.1 above, the applicant must also provide a document to prove such authorization.

2.3 In case of the representative for the applicant as an industrial property agent

Industrial property agents shall represent the applicant through a power of attorney. Accordingly, the person signing the power of attorney on behalf of the applicant (the authorizing party) must meet the requirements specified in Section 2.1 or 2.2 above and must comply with the provisions of sections 3 and 4 of Circular No. 01/2007/TT-BKHCN.

3. Other contents

3.1 The contents mentioned in Sections 1, 2.1 and 2.2 above are applicable to both the Vietnamese applicants and the applicants who are foreign organizations and individuals.

3.2 In the case that an individual representing an organization who is a foreign applicant cannot prove his/her legal representative or authorized status under the provisions of sections 3 and 4 of Circular No. 01/2007/TT-BKHCN, transaction documents submitted to the IP Vietnam must be consularly certified, consularly legalized with respect to the individual's signature./

Recipient:

- Units of the IP Vietnam (for implementation);
- General Director;
- Deputy General Directors;
- TTTT (for posting on Web portal of the IP Vietnam)
- Archives: VT, PCCS.

General Director
(signed and sealed)

Dinh Huu Phi

LETTER OF AUTHORIZATION

GIẤY ỦY QUYỀN

I,..... (full name) the undersigned, Chairman/General Director/Director of the following company :

Tôi, ký tên d ới đây là Chủ tịch/Tổng Giám đốc/ Giám đốc của Công ty:

[company name and address]

(Hereinafter referred as the Company)

is a corporation duly organized under the laws of (name of country)

là một công ty đ ợc tổ chức theo luật của

do hereby authorize and appoint the following person / bằng văn bản này ủy quyền và chỉ định ng ời có tên d ới đây

[the Authorized Person]

to act on our behalf of the Company as the legal representative to perform of the following tasks/ đ ợc toàn quyền thay mặt Công ty chúng tôi với t cách của ng ời đại diện theo pháp luật của Công ty tiến hành những công việc sau:

1. Making decision and signing documents relating to all matters of the **Company** concerning Intellectual Property (IP) / Ra các Quyết định và ký các văn bản liên quan đến các vấn đề về Sở Hữu Trí Tuệ (SHTT) của Công ty.

2. Under this authorization, the Authorized Person has the right to sign all Decisions and legal documents including but not limited to: Statement or Declaration of Amendment to the name / address of the Company, Declaration of change of ownership of IP rights due to merge, division or transfer of the Company, Deed of Assignment, Transfer Agreement of IP rights, Power of Attorney to carry out procedures for establishment of IP rights and all related procedures such as recording of any Amendment, Assignment, License Contract and Enforcement of IP rights, ... and all IP matters that are not listed herein/ Với sự ủy quyền này, Ng ời đ ợc ủy quyền có toàn quyền ký các Quyết định, các tài liệu pháp lý bao gồm nh ững không giới hạn bởi: các Tuyên bố sửa đổi Tên/địa chỉ của Công ty, Tuyên bố thay đổi sở hữu quyền SHTT do sáp nhập, chia tách hay chuyển nh ợng Công ty, các Văn bản chuyển nh ợng, chuyển giao quyền SHTT, các loại Giấy ủy quyền cho các đại diện để thực hiện các thủ tục đăng ký xác lập quyền quyền SHTT và các thủ tục liên quan nh việc ghi nhận sửa đổi, chuyển nh ợng, hợp đồng li xãng, thực thi quyền SHTT... và tất cả các vấn đề về quyền SHTT ch a đ ợc liệt kê ở đây.

This authorization shall take effect from the signing date until revoked./Giấy ủy quyền này có hiệu lực kể từ ngày ký cho đến ngày tuyên bố hết hiệu lực.

Signed at

Ngày(*Day*) tháng(*month*) năm(*year*)

Signed by

By (full name)

Title *President/General Director/Director of the Company*