

CIRCULAR

ON AMENDING AND SUPPLEMENTING A NUMBER OF PROVISIONS OF THE
CIRCULAR NO.17/2009/TT-BKHCHN OF JUNE 18, 2009 AND THE CIRCULAR
NO.01/2007/TT-BKHCHN OF FEBRUARY 14, 2007

Pursuant to the Government’s Decree No.28/2008/ND-CP of March 14, 2008 on regulating functions, tasks, powers and organizational structure of the Ministry of Science and Technology;

Pursuant to the Government’s Resolution No.25/NQ-CP of June 02,2010 on simplifying 258 administrative procedures under the management authorities of Ministries and branches;

Pursuant to the Law on product and goods quality of November21, 2007 and the Government’s Decree No. 132/2008/ND-CP of December 31, 2008, detailing the implementation of a number of articles of the Law on product and goods quality;

Pursuant to the Law on Intellectual Property of November 29,2005, the Law on amending and supplementing a number of articles of the Law on Intellectual Property of June 19, 2009 (hereinafter referred to as the Law on Intellectual Property) and the Government’s Decree No. 103/2006/ND-CP of September 22, 2006 detailing and guiding the implementation of a number of articles of the Law on IntellectualProperty regarding industrial property;

The Minister of Science and Technology amends, supplements a number of provisions of the Circular No. 17/2009/TT-BKHCHN of June 18, 2009 guiding the state quality inspection of imported goods under the management responsibility of the Ministry of Science and Technology and the Circular no.01/2007/TT-BKHCHN of February 14, 2007 guiding the implementation of the Government’s Decree No. 103/2006/ND-CP of September 22, 2006 detailing and guiding the implementation of a number of articles of the Law on Intellectual Property regarding industrial property as follows:

Article 1. To amend, supplement Clause 3, Article 6 of Circular No.17/2009/TT-BKHCHN as follows:

“3. Copies of quality certificates (present originals forcomparison, unless the copies have been authenticated)

Article 2. To amend, supplement a number of points of Circular No. 01/2007/TT-BKHCHN as follows

1. To amend, supplement point 56, 57 and 58 of Circular No.01/2007/TT-BKHCHN as follows:

“56. Recording of industrial property representatives

56.1. To be officially granted to implement business, practice rights of industrial property representation service, organizations, individuals who are eligible for business, practice shall carry outprocedures for being recorded in the national register of industrial property

representation specified in compliance with provisions in Clause 1 Article 156 of the Law on Intellectual Property, as stipulated in this point and shall pay fee as prescribed.

56.2. A dossier of request for recording of an industrial property representation service organization in the national register of industrial property representation by an organization that meets the conditions stipulated in Article 154 of the Law on Intellectual Property undersigns, comprises 01 dossier of documents as follows:

- a) 02 copies of the written declaration of requesting recording of an industrial property representation service organization, made in accordance with form 03-YCGN stipulated in the Annex E of this Circular, in which filling fully information of the organization and information of the representative of that organization possessing practice certificate:
- b) Copies of the organizations business registration certificate or operation registration certificate (present originals for comparison, unless the copies have been authenticated)
- c) Copies of the recruitment decision or labor contracts of the organization with the individual possessing practice certificate who is the authorized representative of the organization and a copy of written authorized representation of the organization's head (present the originals for comparison, unless the copies have been authenticated)
- d) Copies of fee receipt (case of paying fee via post services or directly paying into the account of the National Office of Intellectual Property)

56.3. A dossier of request for recording of an industrial property representative in the National Register of industrial property representation by an individual that meets the conditions stipulated in Article 155 of the Law on Intellectual Property undersign, comprises 01 dossier of documents as follows:

- a) 02 copies of the written declaration of requesting recording of the industrial property representative, made in accordance with form 03-YCGN stipulated in the Annex E of this Circular, in which filling fully information of the individual and the industrial property representation organization where the individual practices;
- b) Copies of the recruitment decision or labor contract of the industrial property representation service organization with the individual (present originals for comparison, unless the copies have been authenticated);
- c) Copies of fee receipt (case of paying fee via post services or directly paying into the account of the National Office of Intellectual Property)

56.4. Within 15 days from the day of receiving dossier of request for recording of an industrial property representation service organization, dossier of request for recording of an industrial property representative, the National Office of Intellectual Property shall consider the dossier according to procedure similar to the procedures for grant of industrial property representation service practice certificates stipulated in point 53.3 of this Circular

57. Recording of modification of the industrial property representation

57.1. Industrial property representation service organizations, industrial property representatives may request the National Office of Intellectual Property to record changes related to information recorded in the National Register of industrial property representation as stipulated in this point and shall pay fee as prescribed.

57.2. A dossier of request for recording of modification of industrial property representation comprises 01 dossier of documents as follows:

- a) 02 copies of the written declaration of requesting recording of modification of the industrial property representation service organization, industrial property representative made in accordance with form 04-YCSD stipulated in the Annex E of this Circular.
- b) Copies of modified business registration certificate or modified operation registration certificate of the industrial property representation service organization in case of modification of name, address or the legal representative of the organization (present originals for comparison, unless the copies have been authenticated)
- c) Documents stipulated in point 56.2.c of this Circular in case of modification of the person possessing practice certificate who is the authorized representative of the industrial property representation organization.
- d) Copies of fee receipt (case of paying fee via post services or directly paying into the account of the National Office of Intellectual Property)

57.3. The procedures for processing dossier of request for recording of modification on industrial property representation service organizations, industrial property representatives is conducted similarly to the procedures stipulated in point 56.4 of this Circular.

58. Deletion of names of industrial property representative

58.1. In cases stipulated in Clause 2 Article 156 of Law on Intellectual Property, the National Office of Intellectual Property shall issue the decision on deletion of names of the industrial property representation service organization, the industrial property representative from the National Register of industrial property representation; and publish the deletion of names in the Industrial Property Official Gazette within 02 months from the day of decision signing.

58.2. All organizations, individuals may request the National Office of Intellectual Property to delete names of the industrial property representation organization, industrial property representative if there is a ground to confirm that the organization, individual is no longer eligible for business, practicing on industrial property representation services.

58.3. The industrial property representative must conduct procedures for deletion of the name in the National Register of industrial property representation when terminating activities in the industrial property representation organization and must conduct procedures for recording in the National Register of industrial property when conducting in another industrial property representation organization.

2. To replace the declaration form 03-YCGN and 04-YCSD in the Annex E of the Circular No. 01/2007/TT-BKHCHN with the declaration forms stipulated in the Annex of this Circular.

3. To amend point 21.3.b of the Circular No.01/2007/TT-BKHCHN as follows:

“b) After considering opinions of the parties, the National Office of Intellectual Property shall issue a decision on termination/invalidation of part of or entire the validity of the protection title or notify refusal to terminate/invalidate the validity of the protection title stipulated in clause 4 article 95 and clause 4 Article 96 of the Law on Intellectual property.

The duration of issuing decisions and notify specified in this point is 03 months, starting from the date of expiry of 02-month period specified in point 21.3.a that the title owner has no opinion

or from the date of receiving the title owner's opinion. This duration may be extended to more 03months at the maximum in case the title owner has different opinions from that of the applicant that requests the termination, invalidation of validity of the title.

In case the title owner himself/herself requests the termination/invalidation of validity of the title, the aforementioned duration is 10 working days from the date of receiving the request.

Time of conducting the relevant procedures necessary for solving the request for termination, invalidation of validity of a title is not calculated in the aforementioned duration.

4. To amend point 8.5 of the Circular No. 01/2007/TT-BKHCHN as follows:

“8.2. Collection of charges and fees:

a) When receiving an application or a request for proceeding any other procedures, the National Office of Intellectual Property shall ask the applicant to pay fees and charges as prescribed (issue a fee and charge collection notice)

The National Office of Intellectual Property shall issue 02 originals of fee, charge receipt clearly indicating the collecting fee or charge amount, of which 01 shall be issued to the payer and 01 shall be saved in the application dossier to serve the formality evaluation of applications.

b) For payments via post services or direct payments to the account of the National Office of Intellectual Property, the applicant must submit the copies of fee and charge receipts together with the petition file.

c) In case fees and charges are not fully paid as prescribed, the National Office of Intellectual Property shall notice to the applicant.”

5. To replace provisions in points 7.1.a(iii), 18.3.c(iv), 20.1.c(viii), 20.3.c(iv), 21.2.b(v), 22.2.b(vi), 47.1.g, 47.2.e, 49.2.a(vi), 50.2.d, 52.2.d, 53.2.d, 59.2.b(v), 64.2.c of the Circular No. 01/2007/TT-BKHCHN with this following provision:

“Copies of fee and charge receipts (for paying fee via post services or directly paying into the account of the National Office of Intellectual Property).”

Article 3. Effect

This Circular takes effect after 45 days from the signing date./.

**FOR MINISTER
DEPUTY MINISTER**

Nguyen Quan