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New decree to make it easier to enforce administrative remedies against infringers **Enforcement**
Vietnam - IPMAX Law Firm

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On August 29 2013 the government issued Decree No 99/2013/ND-CP, which replaces Decree No 97/2010/ND-CP of September 21 2010 on Sanctioning Administrative Violations in the Field of Industrial Property. The new decree aims to address a number of deficiencies in the 2010 decree that have made it difficult for IP rights owners and the authorities to take actions and apply remedies against infringers.

Under the 2010 decree, if a sanction decision included an obligation to change the name of the company that infringed a trademark, trade name or geographical indication, the enforcement authority had to notify the Business Registration Agency that the infringer had been requested to change its company name by amending its business registration. However, if the infringer did not comply, the Business Registration Agency could not revoke the infringer's business registration. The new decree now explicitly gives the agency the power to do so, upon request by the enforcement authority, in cases where the infringer does not voluntarily change its company name within 60 days of the date of issuance of the decision.

With regard to domain names, under the provisions of the 2010 decree and its guiding regulation, a sanction decision could include the revocation of a registration for an infringing domain name. If the registrant did not voluntarily withdraw the domain name within one year of the date of issuance of the decision, the enforcement authority had to request **VNNIC** - the '.vn' registry - to revoke the domain name registration. More often than not, by that time, the domain name registration had already expired because the registrant had not paid the renewal fee.

Decree No 99/2013/ND-CP now specifies that, if the sanction decision includes the revocation of a domain name registration, the registrant will have to return it to the registry within 30 days of the effective date of the decision. If the registrant does not comply within the given time limit, the enforcement authority will request that the registry revoke the registration, and the registry will proceed without making any further request to the registrant.

The new decree also introduces a more detailed penalty system based on detailed levels of value of the infringing goods, and depending on whether the infringer is an individual or an organisational entity. This should make it easier for enforcement authorities to impose the appropriate penalties on infringements.

In light of the new provisions introduced by Decree No 99/2013/ND-CP, it is hoped that effective remedies will now be enforced against infringing activities that have long been a problem for trademark owners, such as the use of trade names or the registration of domain names that infringe their trademarks.

Decree No 99/2013/ND-CP shall take effect on October 15 2013.

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