UPDATE ON VIETNAMESE LAW ON ANTI-COUNTERFEITING AND INTELLECTUAL PROPERTY ENFORCEMENT

Viet Nam Country Report – Anti-Counterfeiting Standing Committee (APAA)

Law stated as of October 2026

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FIVE KEY MESSAGES

1. **Viet Nam has just completed its most significant intellectual property (IP) law reform since 2022**: the Law Amending the IP Law No. 131/2025/QH15 (effective 1 April 2026), Decree No. 100/2026/ND-CP, Decree No. 186/2026/ND-CP (effective 15 July 2026), Decree No. 341/2025/ND-CP on copyright, and the Law on E-commerce No. 122/2025/QH15 (effective 1 July 2026).
2. **Industrial design registration is the primary tool for protecting product shape**, but the novelty grace period is only six months: from 1 April 2026 the grace period covers disclosures made by the right holder itself (including sales of the product), yet a design disclosed more than six months before filing loses novelty. Also from 1 April 2026, designs of a *part* of a product and designs of products in non-physical form are protectable.
3. **3D (shape) marks are not excluded by law (except shapes inherent to the goods or necessitated by their technical characteristics), but in practice are almost never accepted.** In our experience, virtually all national applications have been refused on the grounds that the shape is common or has not acquired distinctiveness through use; international applications designating Viet Nam are frequently refused for defective representation of the mark or lack of distinctiveness; and 3D mark applications routinely receive an office action requiring additional views and drawings showing the three-dimensional shape.
4. **Copying a product's shape is not, in itself, infringement of IP rights.** Infringement exists only where a right has been validly established in Viet Nam and the conduct falls within the scope of, and satisfies the infringement criteria for, that right.
5. **In the field of industrial property, criminal sanctions apply only to trademarks and geographical indications (Article 226 of the Penal Code), not to industrial designs; customs measures require a registered right.** Right holders should build multiple layers of protection before commercial launch.

PART I. UPDATE ON VIETNAMESE LAW

I.1. New legislation

Instrument	Effective date	Key contents
Law No. 131/2025/QH15 amending the IP Law (adopted 10 December 2025)	1 April 2026	Amends 68 articles, adds 3 and repeals 8; broadens the definition of industrial design; shortens examination time limits; digital platform liability (Article 198b); broadens the novelty grace period for industrial designs (Article 65); raises court-determined damages to a maximum of VND 1 billion (Article 205)
Decree No. 100/2026/ND-CP (31 March 2026) amending Decree No. 65/2023/ND-CP	1 April 2026	Automation of IP protection processes, including infringement detection (new Article 9đ of Decree No. 65/2023/ND-CP); management and exploitation of IP rights (new Article 9a of Decree No. 65/2023/ND-CP); expedited examination (Article 14a of Decree No. 65/2023/ND-CP). Consolidated with Decree No. 65/2023/ND-CP in Consolidated Text No. 06/VBHN-BKHCN (24 June 2026)
Decree No. 186/2026/ND-CP amending Decree No. 99/2013/ND-CP	15 July 2026	Sanctioning powers of the Director General of the IP Office of Viet Nam; measures to block access to infringing domain names
Decree No. 341/2025/ND-CP (26 December 2025)	15 February 2026	Administrative sanctions for infringement of copyright and related rights, replacing Decree No. 131/2013/ND-CP
Decree No. 102/2026/ND-CP (31 March 2026) amending Decree No. 75/2019/ND-CP	20 May 2026	Amends administrative sanctions in the field of competition under the Competition Law 2018
Law on E-commerce No. 122/2025/QH15	1 July 2026	Obligations of platform operators; foreign platforms
Circular No. 23/2023/TT-BKHCN, Circular No. 10/2026/TT-BKHCN (31 March 2026, effective 1 April 2026)	As specified in each instrument	Guidance on examination of applications, trademark specimens and evidence of use

I.2. Changes directly relevant to the Special Topic

Broadened definition of industrial design (Article 4(13)). An industrial design is now the external appearance of *all or part* of a product *in physical or non-physical form*, visible during use of the product. Two consequences: partial designs (a bag handle, a bottle neck, a chair armrest) are protectable in their own right; and graphical user interfaces, digital patterns and virtual objects are brought within the scope of protection.

Limitations of rights (Article 7). The Law confirms that right holders may exercise their rights only within the scope and term of protection. This underpins the principle that "copying a shape is not the same as infringement" (Section II.4). The 2025 Law adds

Article 7(4): where multiple IP rights arise or are established under Article 6 in respect of the same subject matter and a later right conflicts with an earlier one, the exercise of the later right may be terminated by a court decision (details to be provided by the Government). This is relevant where a shape is covered by rights held by different persons (for example, a third party's copyright and the applicant's industrial design or 3D mark).

Digital platforms (Article 198b). Article 198b was introduced by the 2022 amendment and provides a conditional safe harbour for intermediary service providers, originally limited to copyright and related rights. The 2025 Law extends it to IP rights generally, broadens the concept of intermediary services to cover digital platforms, and adds clause 5a on the obligations of digital platform operators to protect IP rights online. Liability remains tied to the "knew or should have known" standard and to notice handling under prescribed procedures, so platforms are not automatically liable in place of sellers.

New enforcement tools. Decree No. 100/2026/ND-CP provides the legal basis for automating IP protection processes, including infringement detection (new Article 9đ of Decree No. 65/2023/ND-CP); Decree No. 186/2026/ND-CP allows blocking of access to domain names infringing industrial property rights and confers sanctioning powers on the Director General of the IP Office of Viet Nam. The 2025 Law also adds the remedy of compelled removal, hiding or disabling of access to infringing information, content, accounts and websites (Article 202(7)). Online handling of violations may proceed only where the infrastructure conditions under Article 18a of the Law on Handling of Administrative Violations (added by Law No. 88/2025/QH15) are met.

Comment. The 2025 Law does not change the trademark protection standards relevant to shapes (Articles 72, 73 and 75 are unchanged; Article 74 is amended only in respect of signs indicating geographical origin). The distinctiveness threshold for 3D marks consisting of product shapes therefore remains the same, while the definition of industrial design has been broadened in the right holder's favour.

I.3. Anti-counterfeiting: the boundaries between administrative, civil and criminal measures

Counterfeit IP goods are defined in Article 213 of the IP Law: goods bearing counterfeit trademarks, goods bearing counterfeit geographical indications, and pirated goods. Administrative sanctions for trading in goods bearing counterfeit trademarks or geographical indications are governed by Decree No. 99/2013/ND-CP (as amended), and those for pirated goods by Decree No. 341/2025/ND-CP; Decree No. 98/2020/ND-CP (as

amended by Decrees No. 17/2022/ND-CP and 24/2025/ND-CP) governs counterfeit goods in trade generally (e.g. goods counterfeit as to content, use value or labelling).

Criminal (Penal Code 2015, as amended in 2017): Article 192 (manufacturing and trading in counterfeit goods; Articles 193–195 for specific categories of counterfeit goods), Article 225 (infringement of copyright and related rights), Article 226 (infringement of industrial property rights).

Key point for the Special Topic: Article 226 applies only to infringement of a protected **trademark or geographical indication**, and only where thresholds of commercial scale, value of goods or illicit gains are met. **Infringement of an industrial design alone is not a criminal offence under Article 226.** Enforcement authorities are therefore often reluctant to act against shape knock-offs.

Customs (Article 216 of the IP Law; Customs Law 2014): the right holder may file a request for inspection and supervision or for suspension of customs procedures (a suspension request must be accompanied by financial security, Article 217), or Customs may itself detect goods suspected of infringement and notify the right holder so that it can request suspension. Both routes require an established right that can be verified on the spot at the border (see Section II.5, Question 4).