

PROCESS OF TAKING A RAID ACTION AGAINST COUNTERFEIT GOODS OR INFRINGING GOODS UNDER ADMINISTRATIVE MEASURES IN VIETNAM

I. LEGAL ACTION STEPS:

1. Step 1: Conducting investigation of the infringer

Conducting an investigation to find out and collect information, evidence about companies/organizations and individuals that commit violations and counterfeit/infringing goods sold on the market, including information such as: name, address, phone numbers of organizations or individuals committing violations; the (estimated) quantity of counterfeit/infringing goods sold or distributed at each store/company and the selling price of that product; photo of the signboard of each company/store (if any). We will write an Investigation Report together with our advice on next steps of the case for the Client's approval before taking further actions.

We note that purpose of this step is to obtain required information of the suspicious infringing acts and the suspicious infringer for taking the optional step 3, sending a Cease and Desist Letter (C&D Letter) or a Warning Letter, and/or taking step 4, taking a raid against the infringer.

The time limit of this Step: depending on a case-by-case basis, normally, from **02 to 08 weeks** from the date of receiving the order letter from the Client.

2. Step 2: Obtaining an assessment conclusion confirming the IP infringement of the infringer

Purpose of this step is to obtain an assessment conclusion from Vietnam Intellectual Property Research Institute ("VIPRI") confirming the IP infringement of the infringer over the Client's IP rights (trademark/design/patent) before sending a C&D Letter to the infringer and/or taking a raid against the infringer under administrative procedure.

The time limit of this Step: depending on a case-by-case basis, normally, from about **03 to 08 weeks**.

3. Step 3 (Optional step): Sending a C&D Letter to infringer

Based on the VIPRI's conclusion confirming the trademark infringement of the infringer, the Client can prepare and **send a C&D Letter/Warning Letter** to the infringer requesting the infringer to (i) immediately stop using the infringing trademark in their goods (Effective Micro-organisms products) and (ii) sign an Undertaking Letter with commitment of cease infringement of the Client's trademarks and IP rights in future. If instructed, we will draft and send a draft of the C&D Letter in English for the Client's approval before we send it in Vietnamese to the infringer.

The time limit of this Step: It takes about **02-03 weeks** for preparing and sending a C&D Letter and about **30-45 days** for following up and reporting any feedback from the infringer.

We note that in principle, based on scope of infringement and/or seriousness of the infringement, your company can skip this step and take a raid against the infringer (Step 4 below).

4. Step 4: Taking a raid against the infringer under administrative procedure

Based on results of the Investigation Step and Assessment Step (Step 1 & 2 above), after sending a C&D Letter (if any), if the infringer does not stop the trademark infringement, we will coordinate with the IP Enforcement Authority (Inspectorate of Science and Technology or Market Management authority) to take a raid against the infringer to force the infringer to stop using the infringing trademark and sign an Undertaking Letter and to give monetary fine to the infringer for their IP infringement.

The time limit of this Step: normally, it takes about **1 to 3 months** to complete this step.

II. ESTIMATED COST:

We note that in principle, we will charge the service fee for the above-mentioned actions on the time cost basis, at the hourly rates applicable to the lawyers to be involved in the works, which vary from US\$100-200/1 lawyer hour. Accordingly, please give us your detailed information and requirements so that we can give you our specific advice and accurate estimation costs involved for each case. In practice, our normal cost for taking a raid against **a trademark infringer/counterfeit goods in one location/one address** (from investigation step to taking a raid) is about **US\$6,000 to 10,000 per case**. This cost does not include communication costs, cost of translation certification by a notary public (as actual expense), VAT tax (10%) and bank fees.

III. REQUIRED DOCUMENTS:

For taking a raid against the infringer as mentioned under administrative procedure, the following documents and information are required:

- (i) An original notarized or legalized Power of Attorney (“POA”) executed by the Client. We note that in accordance with laws and regulations on IP enforcement of Vietnam, for taking raids/legal actions against the trademark infringer(s), the PoA must be signed by your Company and notarized by a Notary Public or legalized by Vietnamese Embassy for carrying out customs control measures;
- (ii) 02 certified copies of Trademark/Design/Patent Registration Certificate from the Client or issued by the Vietnam IPO. If instructed, we can assist your Client to obtain these certified copies from the Vietnam IPO (with a cost of about US\$100).
- (iii) 02 sample of Client’s genuine product and 02 sample of the infringing product. If instructed, we can assist your company in buying such samples in the market;
- (iv) Information to identify the Client’s genuine products and the counterfeit products if any;
- (v) Other related information or evidence of the trademark/design/patent infringement of the infringer if the Client has;
- (vi) Other support we might need from the Client or the Client’s distributors in Vietnam time to time (if necessary).