

STUDY ON INTELLECTUAL PROPERTY TEACHING IN VIETNAM

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Abstract: Intellectual Property (IP) is not a new notion in Vietnam. IP has played an important role for the development of Vietnam and people's awareness about IP is partly increasing. So IP is a course not only for law students but also for other students such as engineering and business students in Vietnam. Although the demand for IP teaching is high in the context of Vietnam's fast international economic integration, the available courses are very limited and the syllabus is poor. The courses are primarily introductory courses in nature, although issues in IP from an academic and practical perspective are vast. It is submitted that policy-makers, business people and students should have their own specialized courses. To improve the situation, it is the author's view that Vietnamese higher education institutions, together with the assistance of the relevant authorities, liaise and more with foreign partners to increase the quality of IP courses and syllabi. This paper considers the current status of IP teaching in Vietnam and also analyses the demand thereof. The paper also recommends potential solutions to promote IP education in Vietnam, improve the content of available courses and syllabi, and concludes that IP education in Vietnam requires significant development.

Keywords: Intellectual property teaching, courses, syllabi, book, Vietnam

1. INTRODUCTION

Vietnam is an underdeveloped economy. Since its shift to an open economy in the year 1986, it has seen more progress. The Vietnamese economy has been in double transition: it is moving from a centrally planned state economy to a market economy; and it is also moving from an agricultural economy to an industrial economy¹. To reach this objective, Vietnam requires advanced technologies. The best ways to secure such technologies is to promote foreign technology transfers and to build a solid domestic technology market with strong R&D institutions. Acquiring local advanced technologies with strong R&D institutions takes time, however in the interim, the most suitable way to secure advanced technology is through foreign technology transfers, in particular the transfer of technology via foreign direct investment into Vietnam.

Vietnam's open door policy has contributed to development of Vietnam due to foreign investment. Between 1988 and 2016, Vietnam has received 336.757 billion USD in foreign investment. The upward direction

of economic development and foreign direct investment is similar. Technology levels, particularly in the fields of precise mechanics, electronics, software industry, telecommunication, biotechnology, etc. have improved².

However, Vietnam still lacks the technologies for national development to accelerate its industrialization and modernization process, and needs more advanced technologies transferred from developed countries. To attract more foreign investors and to also ensure the protection of the rights of such foreign investors, Vietnam needs to promote stricter protection of intellectual property rights (IPRs) for foreign technologies. However, Vietnam faces various challenges in this regard, in particularly after its accession to World Trade Organization (WTO) in 2007, and after joining the ASEAN Economy Community (AEC) in December 2015 and participating in the Trans-Pacific Partnership (TPP) Agreement trade negotiations up until 2016.

The objective of IP as stated in the Preamble of TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) is, "[d]esiring to reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade". Article 7 of TRIPS also stipulates "[t]he protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations"³.

The objective of IP protection and enforcement is also stated in the Article 18.2 of the TPP which provides that the "protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations"⁴.

On the basis of the aforementioned texts, it is apparent to the author that in the context of international integration and free trade development, IP plays a very important role not only for different stakeholders, including business persons, governmental officials, inventors and creators, but also the general public. The effective protection of inventions is one of the factors

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¹ Strategy of Socio-Economic Development of Vietnam toward 2020.

² Synthetization from Nguyen Tan Vine, *Nhìn lại giá trị của FDI ở Việt Nam sau gần 30 năm (Look backward the value of FDI in Vietnam after nearly 30 years)*, Economy and Forecast Review, No. 01/2017, updated on 31/01/2017.

³ <https://www.google.com.vn/webhp?ie=UTF-8&rct=j#q=trips+agreement+word>

⁴ <https://thuvienphapluat.vn/tintuc/vn/hiiep-dinh-TPP/11782/hiiep-dinh-tpp-chuong-18-so-huu-tri-tue>

that encourage foreign companies to invest in Vietnam, which leads to the promotion of foreign technology transfer in Vietnam and also helps to pave the way for domestic technology development.

Universities and research institutes are the main source of new inventions to be patented and commercialized. Thanks to patent commercialization development, Vietnam aims to have an innovation-driven economy based on IP. This means that people should know about IP, more particularly researchers and technologists, who need to be trained effectively and efficiently in the universities.

Therefore, IP teaching is very important in raising awareness about IP at different levels. Awareness leads to a nurturing of the IP culture, better protection of IPRs, and the promotion of IP commercialization. This is an important step in the setting up of technology markets and for the socio-economic development of the country.

The following sections will examine the current status of IP teaching in Vietnam, illustrate the gaps therein and also suggest possibilities and opportunities for further development in IP education in Vietnam.

2. CURRENT STATUS OF IP TEACHING IN VIETNAM

While there were IP regulations in Vietnam before 1981, which aimed at promoting creativity, there were very few and did not have as its objective, the effective protection of IP. IP law was developed between the period between 1981 and 1995 with the introduction of the Ordinance on Industrial Property and other decrees relating specifically to patent protection (i.e. Decree No. 31/CP dated on 23/01/1981 regulating patent protection; Decree No. 200/HDBT dated on 28/12/1988 regulating utility solution protection; Decree No. 201/HDBT dated on 28/12/1988 regulating the purchase of patent and utility solutions use rights). However, it can be noted that the IP protection was effective. The period between 1995 and 2005 was marked by two important events: the issuance of the Civil Code of 1995 when IPRs were recognized as civil rights for the first time; and a new IP Law in 2005 when Vietnam could be said to have integrated into the global economy. Since 2005 there has been further development of IP law in Vietnam, with modifications in 2009 and the negotiations of IPRs laws within TPP framework. IP law also began being taught in Vietnam as a separate subject in 2005.⁵

With the socio-economic and technological development of Vietnam, IP subjects have been taught more and more at the universities, using the WIPO Handbook.⁶ Further,

⁵Extract and translation from https://vi.wikipedia.org/wiki/L%E1%BB%8Bch_s%E1%BB%AD_lu%E1%BA%ADt_s%C3%A1ng_ch%E1%BA%BF_c%E1%BB%A7a_Vi%E1%BB%87t_Nam (accessible on 28 May, 2017).

⁶WIPO, *WIPO Intellectual Property Handbook: Policy, Law and Use*, WIPO publication, (2005).

many theses, dissertations and books about IP have been published locally as IP protection and exploitation became increasingly important for building national policy.⁷

With the author's personal teaching experience of IP subjects, IP teaching in Vietnam can be classified by the author into two main categories:

- IP teaching for university students;
- IP teaching for government officials, business persons and the general public.

Regarding IP teaching for university students, in general, IP and some IP-related courses are taught mainly for law students (specializing in civil law, economic law and international law) with two credits per subject as compulsory subjects. The following higher educational institutions provide compulsory IP courses for two credits: Hanoi University of Law; School of Law under Vietnam National University, Hanoi; Hochiminh City University of Law; School of Law under Hue University; School of Law under Danang University; School of Law under Can Tho University; School of Law under Thai Nguyen University; and Open University; Banking Institute. In fact, the law students learn about both national and international IP law.

The content of IP law courses is made up of the following subjects:

Chapter I – Introduction to IP Law

- Introduction to IP: notion, demand for protection of IPRs
- Introduction to Vietnam's IP law: establishment history, sources, contents
- Introduction to international IP law: establishment history, system of conventions on IP

Chapter II – Copyrights and related Rights

- Introduction to copyrights and related rights: definition, characteristics, demand for protection, principles for protection'
- Content of Vietnamese laws on copyright and related rights protection: conditions for protection, subject matter and rights, rights transfer
- Contents of some conventions on copyrights and related rights

Chapter III – Industrial Property Rights

- Introduction to industrial property rights: definition, characteristics, principles, subject matter
- Contents of Vietnamese laws on industrial property protection: conditions for protection, subject matter and rights, rights transfer
- Contents of some conventions on industrial property rights

⁷ Kamil Idris, *Intellectual Property: A Power Tool for Economic Growth*, WIPO publication, (2005).

Chapter IV – Plant variety rights

- Introduction to plant variety rights: definition, characteristics, principles for protection, demand for protection
- Contents of Vietnamese laws on plant variety rights: conditions for protection, subject matter and rights, rights transfer
- Contents of some conventions on plant variety rights

Chapter V – IPR protection

- Notion, definition, characteristics
- Enforcement - Infringing behaviour
- Methods for protection of IPRs pursuant to Vietnamese and international laws⁸

Notwithstanding the small differences unique to each institution, each Chapter is usually taught in five or six sessions.⁹ The textbooks often used for law students are the Textbook of IP Law from Hanoi University of Law and Materials of IP Law from Ho Chi Minh University of Law.¹⁰

With regard to non-law students (i.e. students from the disciplines of Business, Social Sciences and Arts/Culture schools), an introductory course on IP is taught, but this is normally an elective subject.¹¹ For example, the Foreign Trade University teaches an introductory IP course to students in Faculty for International Economy and Business which is made up of the following basic contents:¹²

Chapter I – Introduction to IP

- What is IP
- Importance of IPRs to business
- Vietnam's IP history
- Vietnam's current IP laws
- Some International Conventions on IP

⁸ Summary and extracts from the following sources (accessed on 24 May, 2017): http://www.hcmulaw.edu.vn/hcmulaw/index.php?option=com_content&view=article&id=5613:luat-dan-su&Itemid=150; http://v1.ou.edu.vn/kti/Documents/decuongmonhoc2014_luat_KT/LUAT%20SO%20HUU%20TRI%20TUE%202014.pdf and <http://law.hvnh.edu.vn/phap-luat-so-huu-tri-tue-6945newsList1417199.html>

⁹ <http://law.hvnh.edu.vn/phap-luat-so-huu-tri-tue-6945newsList1417199.html>

¹⁰ <http://text.123doc.org/document/2506723-de-cuong-mon-hoc-luat-so-huu-tri-tue.htm> and http://www.hcmulaw.edu.vn/hcmulaw/index.php?option=com_content&view=article&id=5613:luat-dan-su&Itemid=150 (all accessed on 27 May, 2017)

¹¹ National University of Economics and Foreign Trade University teach IP introduction and basic management.

¹² http://www.academia.edu/8689661/TR%C6%AF%E1%BB%9CN_G_%C4%90%E1%BA%AOI_H%E1%BB%8CC_NGO%E1%BA%AOI_TH%C6%AF%C6%A0NG_Khoa_Kinh_t%E1%BA%BF_v%C3%A0_Kinh_doanh_qu%E1%BB%91c_t%E1%BA%BF (accessed on 28 May, 2017).

Chapter II – Industrial Property Rights

- Definition
- Characteristics
- Principles
- Subject matter: patent, trademarks, trade secrets, geographical indications, trade names
- Conditions for protection, subject matter and rights, rights transfer
- Contents of some conventions on industrial property rights

Chapter III – Copyrights and related Rights

- Definition
- Characteristics
- Demand for protection
- Principles for protection
- Contents of Vietnamese laws and of some conventions on copyrights and related rights

Chapter IV – Plant variety rights

- Definition
- Characteristics
- Principles for protection
- Demand for protection
- Contents of Vietnamese laws and of some conventions on plant variety rights

Chapter V – IPR protection

- Definition
- Characteristics
- Infringing behaviours
- Methods for protection of IPRs pursuant to Vietnamese and international laws.

Each chapter is also taught in four to five sessions depending on the need and with a focus on business aspects of IP. The material is prepared by the lecturer of the university or by the visiting professor.¹³ In some instances, the University also invites experts to teach some specialized or advanced IP related courses such as trademarks and copyrights

IP is currently taught as an elective subject in only a few technical universities and schools although textbooks and other academic materials on IP, technology transfer and patent information exploitation have been available

¹³ As above.

since 2008.¹⁴ The teaching of IP is primarily focused on patents and technology transfer.

IP courses available in Vietnam are still general introductory courses and lack specialization in areas such as patent, trademark, design, layout topography, trade secret, copyright, or domain name. There is often insufficient time to teach these specialised areas and also insufficient human resources. Despite the importance of training and developing IP lecturers at higher education institutions in Vietnam, no such training currently exists.

IP education for governmental officials, businessmen and the general public is taught in various ways such as via seminars, short training courses, or online courses by National Office of IP (NOIP), Vietnam in collaboration with foreign institutions and other relevant ministries (for example, Ministry of Industry and Trade, Ministry of Culture, Sport and Tourism).¹⁵

In light of the above, it can be noted that IP teaching is established in Vietnam but the content of the available courses are limited and not broad enough to address the interests of different kinds of students.¹⁶ Moreover, in the context of the rapid socio-economic and technological development of Vietnam, the teaching of IP protection and dissemination is necessary and should be further developed for many reasons.

Firstly, the Vietnamese government has launched many policies and laws to promote science and technology (S&T) markets, in particular to promote the transfer and commercialization of technologies. This is illustrated in the following documents:

- S&T Strategy to 2020;
- Reforms of S&T Management mechanisms;
- Strategy of technology market development;
- Strategy of International integration in S&T;
- Law on Science and Technology (2000, amended in 2013);
- Law on Intellectual Property (2005, amended in 2009);
- Law on Standards and Technical Regulations (2006);
- Law on Technology Transfer (2006);
- Law on High Technology (2008) and

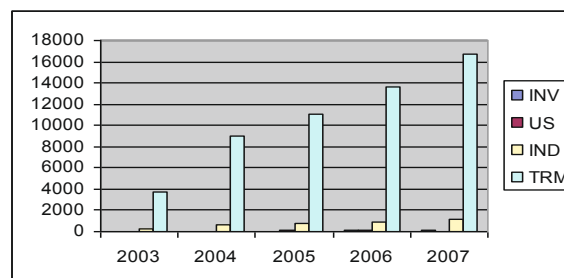
- 52 related decisions, decrees to guide law implementation¹⁷.

Secondly, there are some programs and projects which are funded and supported by the government and foreign agencies to promote the technology commercialization with 14 programs at the state-level (ten in S&T and four in social sciences and humanities), with the cooperation of 70 countries (more than 80 signed Agreements). Following these cooperation agreements, good projects are being implemented such as the IPP (Innovation Partnership Program, 2nd term); FIRST (Fostering Innovation through Research, Science and Technology), V-KIST and BIPP (Support to the Innovation and Development of Business Incubators Policy Project).¹⁸

Thirdly, according to the Ministry of Science and Technology, there are 505 R&D organizations; more than 400 universities and colleges, and 400000 enterprises including 2,800 S&T enterprises.¹⁹ There is a huge demand in these institutions for IP education and other IP-related subjects such as IP management, TT, innovation and technology management.

Fourthly, there has been a rapid increase of industrial property certificate numbers in Vietnam. This is illustrated in the following tables and figures below.²⁰

Figure 1: Number of IP Certificates from 2003 to 2007 (Before its accession to the WTO)



¹⁴ Phan Quoc Nguyen et al., *Textbook of intellectual property, technology transfer and patent information exploitation*, Bach Khoa Publishing House, (2008).

¹⁵ See more on the website of NOIP and of MOIT, www.noip.gov.vn and www.moit.gov.vn

¹⁶ In comparison with the contents of IP teaching in WIPO, *WIPO Intellectual Property Handbook*, op.cit.

¹⁷ See more details on the website of Ministry of Science and Technology, www.most.gov.vn

¹⁸ As above.

¹⁹ Till 11/2015. See details at www.most.gov.vn.

²⁰ See more at www.noip.gov.vn

Table 1: Number of IP Certificates from 2008 to 2014
(After its accession to WTO)

Year	Patents	Utility Solutions	Industrial Designs	Trade marks
2008	666	75	1337	23290
2009	706	64	1236	22730
2010	822	58	1152	16520
2011	985	69	1145	21440
2012	1025	87	1121	20042
2013	1262	107	1362	19659
2014	1368	86	1634	20579
2015	1388	117	1386	18340

Fifthly, thanks to the efforts of Vietnam, the Global Innovation Index (GII) of Vietnam has improved with a higher ranking as illustrated in Table 2 below :²¹

²¹ Figure extracts from GII scores. See details on the website: <https://www.globalinnovationindex.org/> (accessed on 27 May, 2017)

Table 2: Rank of Global Innovation Index of Vietnam and some countries

Year	No of countries	Highest score	Vietnam		Malaysia		Singapore		Thailand	
			Score	Rank	Score	Rank	Score	Rank	Score	Rank
2011	125	74.1	36.71	51	44.05	31	74.11	1	43.33	48
2012	141	68.2	33.9	76	45.9	32	64.80	3	36.90	57
2013	142	66.59	34.82	76	46.92	32	59.41	8	37.63	57
2014	143	64.78	34.89	71	45.60	33	59.24	7	39.28	48
2015	141	68.3	38.35	52	45.98	32	59.36	7	38.10	55

3. RECOMMENDATIONS AND CONCLUSIONS

Although the awareness of policy-makers, business persons and the general public in Vietnam is increasing and the number of IPR registrations has also increased in recent years, more needs to be done in relation to IP education.

Moreover, there is a high demand for IP teaching in Vietnam that could in turn promote IP activity. In the short term, Ministries and higher education institutions need to design a more detailed curriculum for IP and IP-related courses, and they also should update the types of IP subjects available for students to reflect current issues in IP law. Introducing IP as a compulsory course for technical and business students should also be considered. In addition, there should also be more specific courses, projects, programs and online courses for government officials, businessmen and other stakeholders regarding IP, for example in respect to TT, Innovation Management, IP Licensing, and IP enforcement.

In the medium to long term future, Vietnam invests in increasing the number of professional IP teachers. It is necessary to train IP teachers in Vietnam through learning experiences and in line with international standards.

It is submitted that higher education institutions cooperate with local enterprises and competent agencies to revise and update the existing IP courses and thereafter classify IP teaching courses into the following levels:

Level 1- Basic IP:

This introductory program should be aimed at first-time learners (law and non-law), businesspeople, policy-makers, creators, innovators and inventors and should aim to provide the students with the most basic knowledge of IP including the role of IP, importance of IP, perspectives and development tendency of IP, basic principles of IP law, basic IP rights of owners and authors, basic skills and methods to protect IPRs, etc. The duration of the course should be about 10 lessons for two credits.

Level 2 -Advanced IP:

- This intermediate program should be aimed at students or persons seeking a deeper understanding and knowledge of IP law and IP management. This course would consider IP law and management, economic and legal aspects of IP, patent, trademark, design, and copyright, as well as the domestic and international IP system. The duration of the course should be about 15 lessons for 3 credits, including exercises and a small dissertation.

Level 3 - Expertise in IP / Master's in IP:

- This program should be aimed at persons who want to become IP lawyers or IP practitioners. This programme will be made up of general IP law as well as specialized subjects such as: patent, trademark, design, copyright, technology transfer, innovation management, IP commercialization, IP valuation, IP assessment and IP expertise, IP and e-commerce, IP with biotechnology, and IP with Internet. The duration of this programme should be about 8 months of in-class lessons, 2 months of training and an additional 6 months to prepare a thesis.

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<http://www.academia.edu/8689661/TR%C6%AF%E1%B%9CNG%C4%90%E1%BA%AOI%20H%E1%BB%8CC%20NGO%E1%BA%AOI%20TH%C6%AF%C6%AONG%20Khoa%20Kinh%20t%E1%BA%BF%20v%C3%A0%20Kinh%20doanh%20qu%E1%BB%91c%20t%E1%BA%BF> (accessed on 28 May, 2017).

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