



## VIETNAM



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## An obvious advance in resolving “.vn” domain name disputes

In a previous article regarding the challenges of resolving “.vn” domain name disputes in Vietnam, we mentioned the recent increase in the number of .vn domain names and the increase in the number of .vn domain name disputes. Although there are four solutions to resolve such disputes, none of them seems good enough to meet plaintiffs’ demands.

Among these solutions, administrative remedies may be better than amicable settlements, arbitration remedies or civil actions because most domain name disputes relate to similarities with IP objects such as trademarks and inspectorates especially in the domain of science and technology. However, a fundamental challenge of administrative action is the lack of enforcement when the offending parties do not voluntarily return the disputed domain names and the Vietnam Internet Network Information Centre (VNNIC), the authority in charge of the management of .vn domain names, refuses to apply technical methods to coerce the offending parties to obey the rules.

To settle the above obstacle, the Ministry of Science and Technology and the Ministry of Information and Communication have cooperated to issue the joint Circular No. 14/2016/TTLT-BTTTT-BKHHCN on June 8, 2016 providing guidance on procedure and process of change and withdrawal of domain names violating regulations on intellectual property (Joint Circular 14). Under this Joint Circular 14, there are three types of sanctions

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applied for violation of the rules for .vn domain names:

- (i) Change of information of .vn domain names: where an electronic information page connected with a .vn domain name contains advertisements, information about the sale of goods and services which are identical or similar to a registered trademark and damage goodwill, reputation or physical assets of the trademark proprietor, the competent authorities can issue an administrative sanction to request the owner of right to use such domain name to change content of the connected electronic page ie removal of the advertisements, information in question.

- (ii) Return of disputed .vn domain names: where the .vn domain names are identical to or confusingly similar with, a registered trademark, trade name or geographical indicator and the owner of right to use such domain name has no lawful rights and interests to the said IP objects, the competent authorities can request such owner to return the disputed domain names within 30 days from effective date of related decision on administrative sanction.

- (iii) Withdrawal of disputed .vn domain names: where the owner of right to use such domain names fails to obey one of the two above requests, the authority which issues administrative sanctions shall be responsible to request VNNIC to apply technical measures to abolish the right to use the disputed domain names of the said owner.

By this guidance, either domain name or content of electronic pages connected with a domain name can be subject to enforcement activities with the key point being a procedure of withdrawal to coerce the offending parties to obey the rules.

The issuance of Joint Circular 14 can be considered an obvious advance of resolving .vn domain disputes because it provides a solid legal ground to deal with different types of violations, a straightforward procedure to actively handle cases regardless of offending parties’ non-cooperation and a mechanism of effective cooperation between state authorities to ignore delays in execution.