

# **INDUSTRIAL DESIGN AND REGIONAL DEVELOPMENT THE CASE OF VIETNAM**

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# RATE OF IP ASSETS IN LEADING COMPANIES

| Company          | Rate of IP Assets |
|------------------|-------------------|
| Walt Disney      | 70.9%             |
| Philip Morris    | 78.8%             |
| Johnson& Johnson | 87.9%             |
| Procter & Gamble | 88.5%             |
| Microsoft        | 97.8%             |

*(Source: InterBrand Corporation)*

# ECONOMIC BENEFITS OF IP

## AT MACROECONOMIC LEVEL

- Increase GDP and competitiveness
- Enhance exports of high value
- Stimulate R&D
- Reduce brain drain by providing incentives
- Help address national human needs
- Develop national brand and cultural identity
- Attract beneficial FDI and local investment
- Job creation

# ECONOMIC BENEFITS OF IP-SOME EVIDENCES

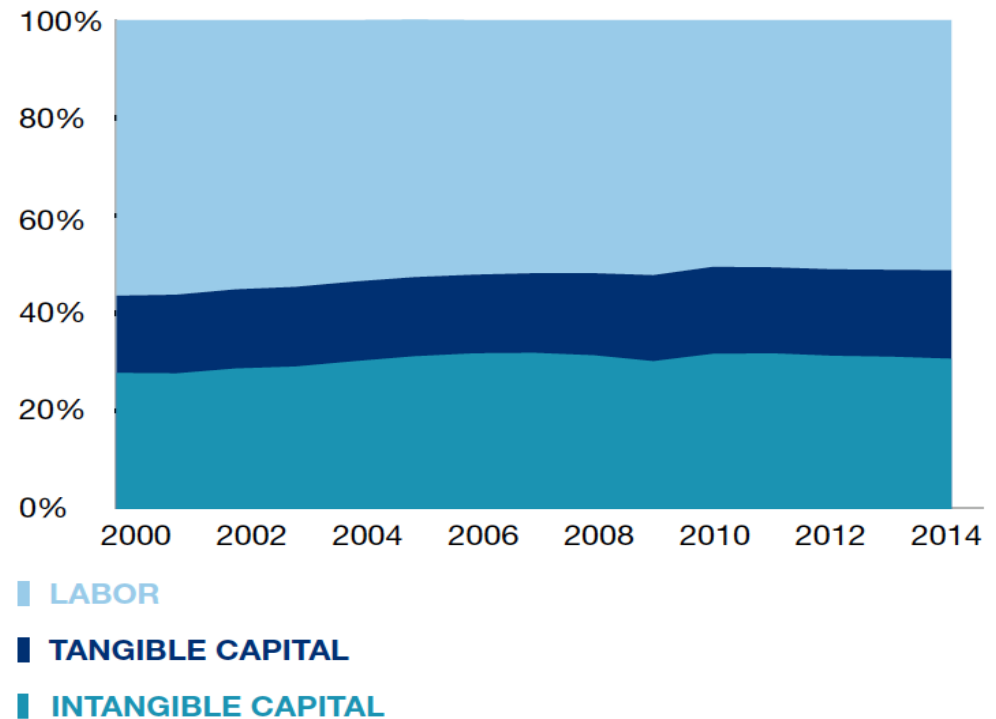
- \* European Union report, 2013  
IPR-intensive industries contribute 39% of GDP.
- \* USPTO reports, 2011  
IP-intensive industries accounted for about 5.06 trillion USD in value added, or 34.8% of US GDP in 2010.

# IP AND DEVELOPMENT

**Figure 1.7**

## **Intangible capital captures more value than tangible capital**

Value added as a percentage of the total value of all products manufactured and sold worldwide



Source: Chen et al. (2017).

*Source: WIPO  
Publication No.944, 2017*

# IP POLICY AND DEVELOPMENT

- IP systems can be **critical** in helping national and regional development via the transformation of their innovation potential and creativity into market value and competitiveness.
  - IPR **protect** their IP assets and have **other functions**:
    - + signaling current and prospective value to investors, competitors and partners;
    - + accessing knowledge markets and networks, and
    - + accessing to finances.
- ≠ **However**, IP systems can also create **obstacles** to the development of entrepreneurial ideas and **hamper knowledge diffusion and innovation**.

# IP AND OTHER DEVELOPMENT POLICY

- Exclusive rights as incentive for inventors.
- ≠ However, Government must provide balance between IP protection and access by competitors to technology information in various areas:
  - + health (access to affordable medicines),
  - + education (access to scientific materials),
  - + biotechnology (use of genetic research tools),
  - + food (food security),
  - + agriculture (preservation of biodiversity), etc.
- the line between IP protection and public domain?



## **RELATED INTERNATIONAL TREATIES AND CONVENTIONS**

- 1/ Paris Convention (Paris Convention for the Protection of Industrial Property, 1883-industrial properties: patent, trademark, industrial design, utility models, service marks, trade names, geographical indications and the repression of unfair competition)
- 2/ Hague Agreement (1925, international registration of industrial designs)
- 3/ TRIPS Agreement (1995, The Agreement on Trade-Related Aspects of Intellectual Property Rights, international legal agreement between all the member nations of the World Trade Organization)

## **RELATED REGIONAL TREATIES AND CONVENTIONS**

- **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP- TPP11 or TPP-11** between Canada, Australia, New Zealand, Mexico, Peru, Chile, Japan, Malaysia, Brunei, Singapore and Vietnam), 2017, contains a comprehensive chapter on intellectual property (IP), which includes provisions across almost all areas of IP rights protection and enforcement.
- **ASEAN Framework Agreement on Intellectual Property Cooperation, 1995.**

## **RELATED BILATERAL TREATIES**

- **ASEAN** has bilateral agreements with the following countries and blocs: China, India, Japan, Korea, Australia, Newzealands.
- European Union (EU) has bilateral agreements with 27 countries and blocs, **EU-VIETNAM FREE TRADE AGREEMENT (EVFTA), 2019?**

# INDUSTRIAL DESIGN IN TRIPS

## *Article 25 Requirements for Protection*

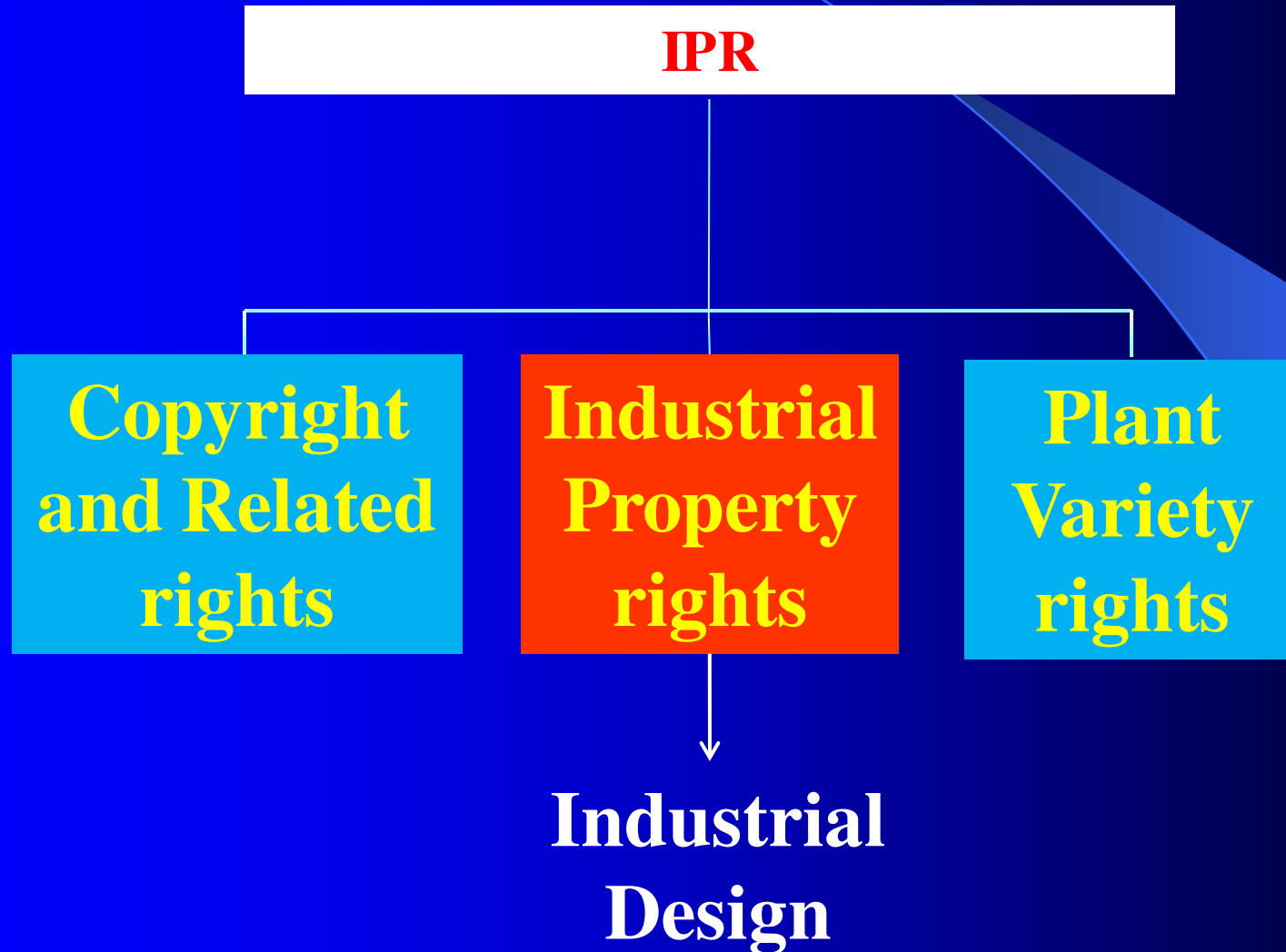
1. Members shall provide for the protection of independently created industrial designs that are **new or original**. Members may provide that designs are not new or original if they do not **significantly differ** from known designs or combinations of known design features. Members may provide that such protection shall **not extend to designs dictated essentially by technical or functional considerations**.

2. Each Member shall ensure that requirements for securing protection for **textile designs**, in particular in regard to any cost, examination or publication, **do not unreasonably impair** the opportunity to seek and obtain such protection. Members shall be **free to meet this obligation through industrial design law or through copyright law**.

## *Article 26 Protection*

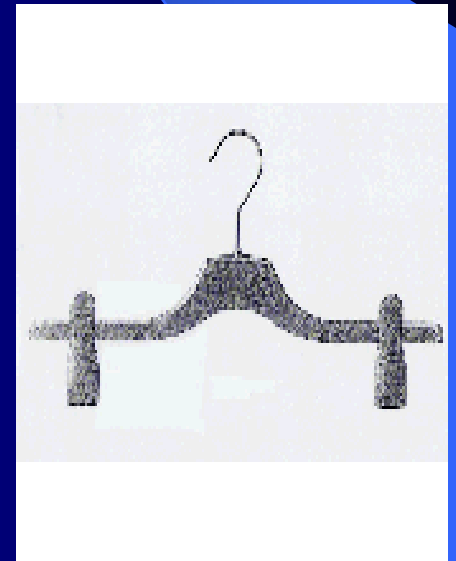
3. The duration of protection available shall amount to **at least 10 years**.

# **EFFORT OF IP LAW 2005, amended in 2009**



# DEFINITION OF INDUSTRIAL DESIGN

*Outside shape* of a product illustrated by dimensional shape, outline, color or combination of them (Art. 4.13, IP Law of Vietnam, 2005).



## **CONDITIONS FOR PROTECTION**

- a) Novelty;
- b) Inventive step;
- c) Industrial Application.

## **DURATION OF PROTECTION**

05 years, renewal of 2 times x 5 year

# STATUS FOR ID REGISTRATION

| YEAR | BY THE VIETNAMESE | BY THE FOREIGNER | TOTAL |
|------|-------------------|------------------|-------|
| 2006 | 1105              | 490              | 1595  |
| 2007 | 1338              | 567              | 1905  |
| 2008 | 1088              | 648              | 1736  |
| 2009 | 1430              | 469              | 1899  |
| 2010 | 1207              | 523              | 1730  |
| 2011 | 1200              | 661              | 1861  |
| 2012 | 1349              | 597              | 1946  |
| 2013 | 1366              | 763              | 2129  |
| 2014 | 1594              | 717              | 2311  |
| 2015 | 1607              | 838              | 2445  |
| 2016 | 1861              | 1007             | 2868  |
| 2017 | 1583              | 1158             | 2741  |

*Industrial design applications fled from 2006 to 2017, Sources: NOIP*



# STATUS FOR ID GRANTED

| YEAR | BY THE VIETNAMESE | BY THE FOREIGNER | TOTAL |
|------|-------------------|------------------|-------|
| 2006 | 678               | 497              | 1175  |
| 2007 | 896               | 474              | 1370  |
| 2008 | 908               | 429              | 1337  |
| 2009 | 747               | 489              | 1236  |
| 2010 | 832               | 320              | 1152  |
| 2011 | 807               | 338              | 1145  |
| 2012 | 681               | 440              | 1121  |
| 2013 | 852               | 510              | 1362  |
| 2014 | 984               | 650              | 1634  |
| 2015 | 841               | 545              | 1386  |
| 2016 | 877               | 577              | 1454  |
| 2017 | 1339              | 928              | 2267  |

*Industrial designs granted from 2006 to 2017, Sources: NOIP*

# GDP OF VIETNAM

| YEAR | GDP (VND trillion) |
|------|--------------------|
| 2006 | 1062               |
| 2007 | 1247               |
| 2008 | 1616               |
| 2009 | 1809               |
| 2010 | 2158               |
| 2011 | 2780               |
| 2012 | 3245               |
| 2013 | 3584               |
| 2014 | 3938               |
| 2015 | 4193               |
| 2016 | 4503               |
| 2017 | 5008               |

*GDP of Vietnam from 2006 to 2017, Sources: General Statistics Office*

# **EFFORT OF ACCESSION TO THE HAGUE AGREEMENT**

Effort to join in the Hague Agreement (submission of 01 international registration to a total of assigned 69 members, managed by WIPO with 01 currency) with following reasons:

1. Under the context of strong integration and globalization, Vietnam is good destination for foreign investors and Vietnamese companies expand their operations to abroad. The simplification of ID protection (new product) helps to raise their competitiveness.
2. Hague Agreement has big development by the accession of developed countries such as USA, Japan, South Korea, Russia and Canada. ASEAN members shall access to the Agreement to simplify the registration for regional applicants, thereby to raise the competitiveness of ASEAN economies in the world.

NOIP has been conducting the following works:

- + raising awareness for Vietnamese applicants;
- + modernizing IT system;
- + upgrading application management system;
- + preparing human resources with advanced level to treat applications.

# CONCLUSIONS

- Increase of IP assets including ID supports the economic development and GDP, not only for Vietnam but also for ASEAN region.
  - Vietnam has have efforts to have good ID policy to raise the competitiveness of her products domestically and abroad; to facilitate for foreign investment and concurrently to prevent from ID infringement.
  - Catching up with international standards is one of Vietnam's biggest efforts for regional development.
- Reason why Vietnam's ID application and granted certificates are increasing in recent years.

**THANKS FOR YOUR TIME!**

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