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CIRCULAR

**GUIDING GRANT AND REVOCATION OF INDUSTRIAL PROPERTY ASSESSOR CARD
AND CERTIFICATE OF ORGANIZATIONS ELIGIBLE TO OPERATE IN INDUSTRIAL
PROPERTY ASSESSMENT**

Pursuant to the Government's Decree No. 54/2003/ND-CP, of May 19, 2003, defining the functions, tasks, powers and organizational structure of the Ministry of Science and Technology and the Government's Decree No.28/2004/ND-CP, of January 16, 2004 on amending and supplementing a number of articles of the Decree No. 54/2003/ND-CP;

Pursuant to the Government's Decree No. 105/2006/ND-CP, of September 22, 2006 detailing and guiding implementation of a number of articles of Law on intellectual property regarding intellectual property right protection and intellectual property state management;

The Ministry of Science and Technology guides grant and revocation of industrial property assessor card and certificate of organizations eligible to operate in industrial property right assessment (hereinafter referred to as "industrial property assessment") as follows:

**I. CONDITION AND FORM OF INDUSTRIAL PROPERTY ASSESSMENT
ACTIVITIES**

1. The specialized sectors of industrial property assessment

The field of industrial property assessment specified in point b clause 2 Article 39 of the Decree No. 105/2006/ND-CP includes the following specialized sectors:

- a) Assessment of inventions and layout designs of semiconductor integrated circuits;
- b) Assessment of industrial designs;
- c) Assessment of marks and geographical indications;
- d) Assessment of other industrial property right.

2. Conditions of industrial property assessor card grant.

Conditions to be granted industrial property assessor card (hereinafter referred to as "assessor card") specified in clause 3, Article 44 of the Decree No. 105/2006/ND-CP are construed as follows:

- a) Having a university degree in the area of assessment means having a university or postgraduate degree in technical, science and physical, chemical or biological sectors for specialized sectors of assessment of inventions and layout design of semiconductor integrated circuit; having a university degree or postgraduate degree in any sector for other specialized sectors of assessment.

b) Possessing good moral qualities means not yet been handled administrative violations due to violations of law on industrial property or actions breaching professional ethics and not liable to criminal prosecution or have been condemned but not yet deleted criminal records.

c) The industrial property professional comprehension means being granted certificate of professional qualification to do as industrial property assessor as prescribed in point c, clause 6 section II of this Circular.

3. Operational conditions for organizations of industrial property assessment

Organizations of science and technology, enterprises may operate in industrial property assessment upon meeting fully conditions specified in clause 2 and clause 3 Article 42 of the Decree No. 105/2006/ND-CP, in which “business registration permit, assessment practice permit under current law” mean certificate of organizations eligible to operate in industrial property assessment granted under procedures specified in clause 3 section IV of this Circular (hereinafter referred to as “certificate of assessment organization”)

4. Form of industrial property assessment activities

An individual granted assessor card may select only one in two operational forms specified in clause 1 Article 44 of the Decree No. 105/2006/ND-CP. In case individuals select operational form under name of an industrial property assessment organization, such assessors must be recognized in List of assessors in organization under procedures for granting certificate of assessment organization and that operational form recognized in List of industrial property assessors specified in clause 6 section III of this Circular.

II. EXAMINATION ON INDUSTRIAL PROPERTY ASSESSMENT PROFESSIONAL QUALIFICATIONS

1. Contents of examination and subjects being exempted from examination on industrial property assessment professional qualifications

a) Contents of examination on assessment professional qualifications specified in point d clause 3 Article 44 of the Decree No. 105/2006/ND-CP include subject on law on industrial property and specialized subjects on assessment.

b) The subject on industrial property law is content being examined compulsorily for all specialized sectors on assessment.

Persons who have at least 15 consecutive years working as drafting and guiding execution of legal documents on industrial property, settling disputes, complaints, denunciations, inspections on industrial property at state management agencies of industrial property, studying and teaching law on industrial property at organizations of studying and training established and operate lawfully shall be exempted from examination for subject on industrial property law.

c) The assessment specialized subjects include assessment of inventions (including utility solution) and layout designs of semiconductor integrated circuits, assessment of industrial designs, assessment of marks and geographical indications (including goods origin appellations) and assessment of other industrial property rights are contents of examination for corresponding specialized assessments.

Persons who have at least 15 consecutive years working as explaining, guiding implementation of law regulations, elaborating regulations, directly implementing or approving result of

appraisal (testing) of content of application for registration of inventions (including utility solutions), application for registration of industrial designs, application for trademark registration, or application for geographical indication registration (including goods origin appellations) at national or international industrial property agencies, shall be exempted from examination for corresponding specialized subject on assessment.

2. The examination council of industrial property assessment professional qualifications

a) The Minister of Science and Technology shall issue decision on establishment of examination council of industrial property assessment professional qualifications (hereinafter referred to as “The examination council”) on the basis of proposal of Director of National Office of Intellectual Property. Chairperson of examination council is director of the National Office of Intellectual Property; members of examination council include persons with experiences and professional prestige in industrial property sector.

b) The examination council shall elaborate bank of exam questions (including answers and score frame), organize examination terms and assess result of examination as prescribed in clauses 3, 5 and 6 section II of this Circular.

The examination council may use stamp of the National Office of Intellectual Property in order to serve examination work on industrial property assessment professional qualifications.

d) The National Office of Intellectual Property is an assisting agency of the examination council, have duties specified in clause 3 and clause 5 section II of this Circular and other duties under assignment of the chairperson of examination council.

3. Organizing examination

a) The National Office of Intellectual Property shall notify on its website and on a central daily newspaper in three consecutive issuances about holding examination on industrial property professional qualifications, in which stating clearly conditions to participate in examination, procedures for submission of dossier, content of examination, duration, location of examination.

b) The examination term must be held within 3 months since there are at least 05 persons registering to participate in examination with dossier of registration accepted as prescribed in point a, clause 5 section II of this Circular.

c) The examination question shall be selected randomly from bank of examination question specified in point b clause 2 section II of this Circular.

4. Dossier of registration for participation in examination

Dossier of registration for participation in examination includes the following documents:

a) The declaration on registration for participation in examination on industrial property assessment professional qualifications, made in according to the Form specified in Annex I of this Circular;

b) Copy (authenticated) of university degree or postgraduate degree;

c) Confirmation of working duration, if the registrant to participate in examination has requirement to be exempted from examination subject stated in point b and point c clause 1 section II of this Circular (being granted by agencies, organizations where such person worked);

d) 02 3x4 cm photos;

e) Charge and fee receipts.

5. Competence of, procedures for consideration of dossier registering examination participation

The national office of intellectual property is agency receiving dossier of registration for participation in examination. Within 15 days after receiving dossier, the national office of intellectual property shall consider dossier in according to the following regulation:

a) In case dossier has sufficient documents specified in clause 4, section II of this Circular and the registrant meet fully condition to participate in examination, the Director of national office of intellectual property shall issue a notification on acceptance of dossier, in which stating clearly the plan on examination having been defined or not yet been defined because not yet been sufficient registers to participate in examination as prescribed in point b, clause 3 section II of this Circular.

b) In case dossier has shortcoming or the registrant fails to satisfy fully condition to participate in examination, the Director of National Office of Intellectual Property shall issue notification of intending to refuse dossier, in which stating clearly reason and defined time limit of 1 month since day of issuing notification for registrant to fix shortcoming or giving opinion to oppose. Upon expiring the defined time limit but registrant fails to fix shortcoming or fails to meet requirement upon fixing shortcoming, has no idea to oppose or has idea to oppose but not exact, the Director of National Office of intellectual property shall issue an official notification to refuse dossier, in which stating clearly reason of refusal.

6. Assessment of examination result

a) Exam papers shall be scored by examination council in according to answers and score frame of questions. The result of examination shall be approved by the chairperson of Council.

b) Person getting exam score from average or higher or being exempted from examination for exam subjects shall be considered as meet requirement for such exam subjects.

c) Within 2 months from the day of examination, the chairperson of Examination Council shall notify result of examination for exam participants and grant certificates of professional qualifications to do as industrial property assessor, which are made in according to Form in Annex V of this Circular, for persons meeting requirements with respect to all exam subjects, in which clearly stating the assessment specialized sector corresponding to exam subject and defining the valid time of certificate (used as document to file dossier requesting grant of assessor card) is 1 year as from the day of granting.

d) Within 12 days as from the day of issuing notification on result of examination, the exam participants are entitled to request the Examination Council to verify their exam papers and must pay charges for verification as prescribed. The verification is implemented under principle of exam paper grading.

III. COMPETENCE OF, PROCEDURES FOR GRANT, REVOCATION OF ASSESSOR CARD

1. Competence of grant, re-grant, revocation of assessor card, elaboration and publication of list of industrial property assessors

Director of the National Office of Intellectual Property has right to grant, re-grant, revoke assessor cards, elaborate and publish list of industrial property assessors under the procedures specified in clauses 3, 4, 5 and 6, section III of this Circular.

The National Office of Intellectual Property is agency receiving and considering dossier requesting for grant, re-grant, revocation of assessor cards as prescribed in clauses 2, 3 and 4 section III of this Circular.

2. Dossier requesting grant of assessor card

Dossier requesting grant of assessor card includes the following documents:

- a) The declaration on request for grant of assessor card, made in according to the Form specified in Annex II of this Circular;
- b) The original or copy of certificate of professional qualifications to do as industrial property assessor which being granted by chairperson of Examination Council as prescribed in point c, clause 6 section II of this Circular;
- c) Copy of identification card;
- d) 02 3x4 cm photos;
- e) Charge and fee receipts.

3. Procedures for grant of assessor card

Within 1 month after receiving dossier, the National Office of Intellectual Property shall consider dossier in according to the following regulation:

- a) In case dossier meeting regulation on clause 2 section III of this Circular and the applicant meeting conditions specified in clause 2 section I of this Circular, director of the national office of intellectual property shall issue decision to grant assessor card, in which clearly stating full name, permanent residence, number of identification card and assessment specialized sector of the person being granted card.
- b) In case dossier has shortcoming or the applicant for assessor card fails to satisfy conditions specified in clause 2 section I of this Circular, the Director of National Office of Intellectual Property shall issue notification of intending to refuse dossier, in which stating clearly reason and defining time limit of 1 month from the day of issuing notification for applicant for assessor card to fix shortcoming or giving opinion to oppose. Upon expiring the defined time limit but the applicant for assessor card fails to fix shortcoming or fails to meet requirement upon fixing shortcoming, has no idea to oppose or has idea to oppose but not exact, the Director of National Office of intellectual property shall issue a decision to refuse grant of assessor card, in which stating clearly reason of refusal.
- c) The assessor cards are made in according to the Form specified in Annex IV of this Circular;

4. Re-grant of assessor card

- a) At the request of assessor, director of the National Office of Intellectual Property shall issue decision on re-grant of assessor card in case the assessor card is lost, error, so corrupted (torn, soiled, faded, etc) that not to use; or has changes about information recorded in assessor card as prescribed in point a clause 3 section III of this Circular.

- b) Assessors have obligation to require the National Office of Intellectual Property to re-grant their assessor card in order to record again changes in above-mentioned point a.
- c) Provisions in clause 2 and clause 3 section III of this Circular shall be apply to procedures for re-grant of assessor card; separately time limit for the National Office of Intellectual Property to consider dossier is 15 days, from the day of receiving dossier.
- d) In case the assessor card has error which is caused by the National Office of Intellectual Property, the National Office of Intellectual Property shall re-grant card on free within 5 days after receiving requirement of person issuing card.

5. Revocation of assessor card

The director of National Office of Intellectual Property shall issue decision on revocation of assessor card in the following cases:

- a) Having evidences to affirm that the assessor card is granted contrary to provisions of law
- b) Persons being granted assessor card no longer meet conditions specified in clause 3, Article 44 of the Decree No.105/2006/ND-CP and clause 2, section I of this Circular.
- c) Persons being granted assessor card are deprived the right using assessor card in no time limit as prescribed in clause 2 Article 8 of the Government's Decree No. 106/2006/ND-CP, of September 22, 2006 providing for sanctioning of administrative violations in the domain of industrial property;
- d) Persons being granted assessor card abandon assessment operation.

6. Compilation and announcement of list of industrial property assessors, notification of changes of information relating to assessor cards

- a) The National Office of Intellectual Property shall set up List of industrial property assessors, record, delete name of assessor in the List of industrial property assessors in according to decisions on grant, re-grant, revocation of assessor cards, record the operational form of assessors in conformity with the List of organizations of industrial property assessment specified in point 6 section IV of this Circular. The List of industrial property assessors must be published in the Industrial Property Official Gazette and on the website of the national office of intellectual property together with the List of organizations of industrial property assessment above-mentioned.
- b) The National Office of Intellectual Property shall notify to Departments of Science and Technology for information on changes relating to assessor cards of assessors operating in corresponding local organizations of industrial property assessment in order to serve work of grant, re-grant and revocation of certificate of assessment organizations in localities.

IV. COMPETENCE OF, PROCEDURES FOR GRANT, REVOCATION OF CERTIFICATE OF ASSESSMENT ORGANIZATION

1. Competence of grant, re-grant, revocation of certificate of assessment organization, compilation and publication of list of industrial property assessment organizations

- a) The director of National Office of Intellectual Property has right to grant, re-grant, revoke certificate of assessment organization, set up and publish list of industrial property assessment organizations under procedures specified in clauses 3, 4, 5 and 6 section IV of this Circular for

organizations registering science and technology operation at the Ministry of science and technology.

b) The directors of Departments of Science and Technology have competence to grant, re-grant, revoke certificates of assessment organizations under procedures specified in clauses 3, 4 and 5 section IV of this Circular for organizations registering science and technology operation at the Ministry of Science and Technology.

c) The National Office of Intellectual Property, Departments of Science and Technology are agencies receiving and considering dossier requesting for grant of certificate of assessment organization under corresponding competence specified in point a and point b above-mentioned.

2. Dossier requesting for grant of certificate of assessment organization

Dossier requesting for grant of certificate of assessment organization includes the following documents:

a) The declaration on request for grant of certificate of assessment organization, made in according to the Form specified in Annex III of this Circular;

b) Copy (authenticated) of registration of science-technological operation specified in point b clause 3 Article 42 of the Decree No. 105/2006/ND-CP;

c) Copies (authenticated) of decisions on recruitment or labor contracts between organization and industrial property assessors operating for organization;

d) Charge and fee receipts.

3. Procedures for grant of certificate of assessment organization

Within 1 month after receiving dossier, the National Office of Intellectual Property, Departments of Science and Technology must consider dossier in according to the following provisions:

a) In case dossier meets provisions in clause 2 section IV of this Circular and organization meets conditions specified in clause 3 section I of this Circular, the director of National Office of Intellectual Property, directors of Departments of Science and Technology shall issue decision on grant of certificate of assessment organization, in which clearly stating full name, transaction name, address of organization and assessment specialized sectors of organization corresponding to assessment specialized sectors of assessors of organization, list of industrial property assessors being members of organization.

b) In case dossier has shortcoming or organization fails to satisfy conditions specified in clause 3 section I of this Circular, the Director of National office of intellectual property, directors of Department of science and technology shall issue notification of intending to refuse dossier, in which stating clearly reason and defining time limit of 1 month from the day of issuing notification for organization applying dossier to fix shortcoming or give opinion to oppose. Upon expiring the defined time limit but the organization fails to fix shortcoming or fails to meet requirement upon fixing shortcoming, has no idea to oppose or has idea to oppose but not exact, the Director of National Office of intellectual property, directors of Department of science and technology shall issue a decision to refuse grant of certificate of assessment organization, in which stating clearly reason of refusal.

c) The certificate of assessment organization is made in according to the Form specified in Annex 6 of this Circular.

4. Re-grant of certificate of assessment organization

- a) At the request of assessment organizations, director of the national office of intellectual property, directors of Departments of science and technology shall issue decision on re-grant of certificate of assessment organizations in case the certificates are lost, error, so corrupted (torn, soiled, faded, etc) that not to use; or have changes relating to information recorded in certificate as prescribed in point a clause 3 section IV of this Circular.
- b) The assessment organizations have obligation to do procedures to request agencies having granted certificates of assessment organizations to regrant certificate in order to record again changes mentioned in point 1 this clause.
- c) Provisions in clause 2 and clause 3 section IV of this Circular shall be apply to procedures for re-grant of assessment organization; separately time limit for the national office of intellectual property, Departments of science and technology to consider dossier is 15 days, from the day of receiving dossier.
- d) In case the certificate of assessment organization has error which is caused by the National Office of Intellectual Property, or Department of Science and Technology which has granted that certificate, the agency granted that certificate shall re-grant certificate on free within 5 days after receiving requirement of assessment organization.

5. Revocation of certificate of assessment organization

The director of National Office of Intellectual Property, directors of Departments of Science and Technology shall issue decision on revocation of certificate of assessment organization in the following cases:

- a) Having evidences to affirm that the certificate has been granted contrary to provisions of law;
- b) Organization no longer meets conditions specified in clause 3 section I of this Circular;
- c) Organization ends its assessment operation.

6. Compilation and publication of list of industrial property assessment organizations, notification on changes relating to certificate of assessment organization

- a) The National Office of Intellectual Property shall set up List of industrial property assessment organizations, record and delete name of property assessment organizations in List of industrial property assessment organizations according to decisions on grant, re-grant, revocation of certificate of assessment organization and publish in the Industrial Property Official Gazette and on the website of the national office of intellectual property.
- b) The Departments of Science and Technology shall notify for the National Office of Intellectual Property all information about grant, re-grant, revocation of certificate of assessment organization in order to serve for compilation of List of industrial property assessment organizations mentioned in point a this clause.

V. IMPLEMENTATION

1. Complaints, denunciations

Complaints and handling of complaints; denunciations and handling of denunciations for actions breaching law relating to implementation of procedures for grant, re-grant, revocation of assessor

card, certificate of assessment organization are implemented as prescribed by law on complaints, denunciations.

2. Charges and Fees

Collection, remittance, management and use of charges, fees for examination on assessment professional qualifications, appraisal of dossiers of grant, re-grant of assessor card and certificate of assessment organization specified in this Circular are temporarily applied under corresponding regulations in respect to the industrial property representation service in the Circular No. 132/2004/TT-BTC, of December 30, 2004 of the Ministry of Finance guiding regime of collection, remittance, management and use of charges, fees on industrial property until having other regulation.

3. Effectiveness

This Circular takes effect after 15 days from the day of printed in Public Gazette.

In the course of implementation, any arising problems should be reported to the Ministry of Science and Technology for research and settlement.

**FOR THE MINISTER OF SCIENCE
AND TECHNOLOGY
DEPUTY MINISTER**

Nguyen Quan