

THE MINISTRY OF
INFORMATION AND
COMMUNICATIONS -
THE MINISTRY OF
SCIENCE AND
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JOINT CIRCULAR

GUIDING THE ORDER AND PROCEDURES FOR CHANGING AND REVOKING DOMAIN NAMES INFRINGING UPON THE INTELLECTUAL PROPERTY RIGHTS

Pursuant to the Governments Decree No. 99/2013/ND-CP of August 29, 2013, on sanctioning of administrative violations in the field of industrial property;

Pursuant to the Government's Decree No. 72/2013/ND-CP of July 15, 2013, on management, provision and use of Internet services and online information;

Pursuant to the Government's Decree No. 174/2013/ND-CP of November 13, 2013, on sanctioning of administrative violations in the fields of post and telecommunications, information technology and radio frequency;

Pursuant to the Government's Decree No. 132/2013/ND-CP of October 16, 2013, defining the functions, tasks, powers and organizational structure of the Ministry of Information and Communications;

Pursuant to the Government's Decree No. 20/2013/ND-CP of February 26, 2013, defining the functions, tasks, powers and organizational structure of the Ministry of Science and Technology;

The Minister of Information and Communications and the Minister of Science and Technology promulgate the Joint Circular guiding the order and procedures for changing and revoking domain names infringing upon the intellectual property rights.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Joint Circular guides the order and procedures for changing, returning and revoking domain names infringing upon the intellectual property rights.

Article 2. Subjects of application This Joint Circular applies to:

1. Organizations and individuals registering and using domain names ".vn" (below referred to as users of domain names ".vn") that commit acts violating the law on intellectual property.
2. Agencies, organizations and individuals involved in the use of domain names ".vn".
3. Agencies competent to handle administrative violations, agencies of persons competent to sanction administrative violations (below referred to as agencies competent to handle violations); and persons competent to sanction administrative violations in accordance with law.
4. The agency managing domain names ".vn" (the Vietnam Internet Network Information Center - the Ministry of Information and Communications); and registrants of domain names ".vn".

Article 3. Interpretation of terms

In this Circular, the terms below are construed as follows:

1. Change of information on a domain name ".vto" means the removal of elements and information that infringe upon the intellectual property rights posted on the website pointed to by such domain name.
2. Return of a domain name ".vn" means the return of a domain name ".vn" by its user to the agency managing domain names ".vn" according the order and procedures for return of domain names prescribed in Article 10 of the Ministry of Information and Communications' Circular No. 24/2015/TT-BTTTT of August 18, 2015, on the management and use of Internet resources.
3. Revocation of a domain name ".vn" means the removal and confiscation of such domain name from the system of national DNS servers.

Article 4. General principles

1. The identification of the act of registering and using domain names ".vn" infringing upon the intellectual property rights and the application of the remedy of forcible change of information on, or forcible return or revocation of, domain names ".vn" must comply with the laws on intellectual property, information, technology and telecommunications, as concluded or decided by agencies competent to handle violations or persons competent to sanction administrative violations or in the field of intellectual property.
2. The remedy of forcible change of information on or forcible return or revocation of, domain names ".vn" infringing upon the intellectual property rights shall be considered and applied in the following cases:
 - a/ The domain name is identical or confusingly similar to the protected intellectual property subject matter and contents posted on the website pointed to by the domain name, infringing upon the intellectual property rights;
 - b/ The domain name is used to post information infringing upon the intellectual property rights.

Article 5. Remedy of forcible change of information on domain names ".vn"

A person competent to sanction administrative violations shall apply the remedy of forcible change of information on a domain name “.vn” in case the website pointed to by such domain name posts information infringing upon the intellectual property rights such as product advertising or introduction information, offer for sale or sale of products or sendees which are identical, similar or related to, or damage the prestige, reputation and property of the owner of, a protected mark, trade name or geographical indication.

Article 6. Remedy of forcible return of domain names “.vn”

A person competent to sanction administrative violations shall apply the remedy of forcible return of a domain name “.vn” in case the domain name user commits an act violating the law on intellectual property and the following conditions are fully met:

1. The domain name “.vn” is identical or confusingly similar to a protected mark, trade name or geographical indication over which its owner has the lawful rights or interests.
2. The user of the domain name “.vn” has no lawful rights and interests to the protected mark, trade name or geographical indication.
3. The website pointed to by the domain name “.vn” contains information on product advertising or introduction, offer for sale or sale of products or sendees which are identical, similar or related to, or damage the prestige, reputation or property of the owner of a protected mark, trade name or geographical indication; or information disgracing or slandering similar products, goods or services of the owner of a protected mark, trade name or a geographical indication.

Article 7. Remedy of revocation of domain names “.vn”

1. Agencies competent to handle violations shall revoke a domain name “.vn” in the following cases:

a/ The user of the domain name “.vn” infringing upon the intellectual property rights fails to change information on such domain name or return the domain name under the decision on sanctioning of administrative violations in the field of intellectual property within 30 days from the date such decision takes effect.

b/ The user of the domain name “.vn” fails to prevent or remove information infringing upon the intellectual property rights posted on the website pointed to by such domain name at the request of a competent state agency.

2. The application of the remedy of revocation of domain names “.vn” and request the application by the domain name managing agency of technical and professional measures to address such domain names on the system of national DNS servers shall be clearly stated in decisions on sanctioning of administrative violations.

Chapter II

ORDER AND PROCEDURES FOR CHANGING INFORMATION ON, AND RETURNING OR REVOKING, DOMAIN NAMES “.VN”

Article 8. Order and procedures for changing information on domain names “.vn”

1. In case a decision on sanctioning of administrative violations requires the application of the remedy of forcible change of information on a domain name “.vn”, the agency competent to handle violations shall send the decision to concerned parties, the domain name management agency and domain name registrant currently managing such domain name for coordination.

2. Within 30 days after the decision on sanctioning of administrative violations takes effect, the user of the infringing domain name shall remove the infringing information posted on the website pointed to by such domain name and report it in writing to the decision issuer, the domain name management agency and registrant managing such domain name.

Article 9. Order and procedures for return of domain names “.vn”

1. In case a decision on sanctioning of administrative violations requires the application of the remedy of forcible return of a domain name “.vn”, the agency competent to handle violations shall send the decision to the concerned parties, domain name management agency and registrant managing such domain name for coordination.

2. Within 30 days after the decision on sanctioning of administrative violations takes effect, the user of the infringing domain name shall carry out procedures for returning the domain name “.vn” to the registrant managing such domain name. The order and procedures for returning the domain name must comply with Article 10 of the Ministry of Information and Communications’ Circular No. 24/2015/TT-BTTTT of August 18, 2015, on management and use of Internet resources.

3. Within 3 working days after the user of the infringing domain name “.vn” completes the procedures for returning the domain name, the registrant managing such domain name shall report it in writing to the sanctioning decision issuer, the agency competent to handle violations and domain name management agency.

Article 10. Order and procedures for revocation of domain names “.vn”

1. Within 5 working days after the expiration of the time limit for application of the remedy specified at Point a, Clause 1, Article 7 of this Circular, the agency competent to handle violations shall send a written request to the domain name management agency for revocation of the domain name “.vn” stated in the decision on sanctioning of administrative violations.

2. In case a domain name must be revoked under Point b, Clause 1, Article 7 of this Circular, the agency competent to handle violations shall send a written request to the domain name management agency for revocation (confiscation) of the domain name as stated in the decision on sanctioning of administrative violations.

3. Upon receiving a written request for revocation of the domain name “.vn” from the agency competent to handle violations, the domain name management agency shall apply technical and professional measures to address the domain name “.vn” on the system of national DNS servers for revocation of the domain name within 3 working days after receiving the request, and notify the results in writing to the agency handling administrative violations and concerned registrant of such domain name.

Chapter III

RESPONSIBILITY FOR COORDINATED HANDLING OF DOMAIN NAMES “.VN” INFRINGING UPON THE INTELLECTUAL PROPERTY RIGHTS

Article 11. Coordinated handling of infringements

In the course of infringement handling, the agency competent to handle violations shall consider and send written requests to the Ministry of Information and Communications (the agency managing domain names “.vn”) for coordination and professional consultancy before persons competent to sanction administrative violations issue decisions on sanctioning of administrative violations requiring the application of the remedy of forcible change of information on or return of domain names “.vn”. Persons competent to sanction administrative violations shall issue decisions and take responsibility before law for their decisions.

Article 12. Responsibilities of the agency managing domain names “.vn”

1. To give written opinions on issues under the management of the Ministry of Information and Communications within 7 working days after receiving requests for coordination from the agency competent to handle violations under Article 11 of this Circular.
2. To apply technical and professional measures for revocation of domain names “.vn” at requests of the agency competent to handle violations specified in Article 10 of this Circular.
3. To send written notices to registrants managing infringing domain names “.vn” for revocation of such domain names within 3 working days after receiving written requests from the agency competent to handle intellectual property infringements.

Article 13. Responsibilities of the agency competent to handle violations

1. To coordinate with, and send written requests to, the Ministry of Information and Communications (the agency managing domain names “.vn”) for professional opinions under Article 11 of this Circular.
2. To send written requests to the agency managing domain names “.vn” for application of measures to execute decisions on sanctioning of administrative violations regarding contents related to domain names “.vn” under Article 10 of this Circular.

Article 14. Responsibilities of registrants currently managing domain names “.vn”

1. To send notices on revocation of domain names to users of domain names “.vn” infringing upon the intellectual property rights within 3 working days after receiving notices of domain name revocation from the domain name management agency.
2. To revoke domain names “.vn” and report such in writing to the domain name management agency within 3 working days after completing the revocation.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 15. Effect

This Circular takes effect on July 25, 2016.

Article 16. Organization of implementation

1. Heads of the units of the Ministry of Information and Communications and the Ministry of Science and Technology, heads of related agencies and organizations and related individuals shall implement this Circular.
2. The Inspectorates of the Ministry of Information and Communications and Ministry of Science and Technology shall provide professional instructions to the Inspectorates of the provincial-level Departments of Information and Communications and Departments of Science and Technology for implementing this Circular.
3. Any problems arising in the course of implementation should be reported to the Ministry of Information and Communications and the Ministry of Science and Technology for Study and settlement.-

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

**FOR THE MINISTER OF
INFORMATION AND
COMMUNICATIONS
DEPUTY MINISTER**

Tran Quoc Khanh

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