

Interview No.20

Japanese Companies' Advance into Vietnam, what should they bear in mind?

What we heard about national character, common business practice, and intellectual property situations in Vietnam

【2012/2/14】

With the lingering yen appreciation as background, more and more Japanese companies are interested in advancing into Vietnam as a powerful production basis. We heard from Ms. Takako Okada, Patent Attorney of Miyoshi & Miyoshi, who is familiar with intellectual property situations in Vietnam, about the national character of Vietnam, current status of counterfeit goods, and what should be noted when Japanese companies advance into Vietnam.

(Hearer: Mr. Hiroshi Asakura, Editor-in-chief, Nikkei BP Chizai Awareness, TechnoAssociates, Inc.)

How did you feel about the national character and climate of Vietnam?

I've got a personal impression from my stay in Hanoi, the capital of Vietnam, that Vietnamese are "more loose with time" than Japanese. They are unabashedly late for or cancel an appointment. Even in work, rather than being required strictness and responsibility, many of them would like to perform their jobs in a moderate range of time, and try to value the time spent with their families. It may be a little different from the image that "Vietnamese are diligent" as is often told in Japan. They are also so curious that they talk positively to foreigners like me and ask about private things such as age and family make-up. This is perhaps because they change their way of speaking depending on the other party's age compared to their own, and it seems they would like to know about age by any means. As an environment in which to live, Hanoi is comfortable because it has four seasons like Japan, but I was surprised that in winter it is colder than expected. I think noodles are cheap with various menu options for Japanese preference. The Vietnamese language is simple in grammar, but difficult in pronunciation because it is tonal.

How many Japanese companies are doing business in Vietnam?

According to a recent survey, it is estimated that there are about 900 companies which are members of a local Japanese Chambers of Commerce and Industry, and about 700 which are not; that is, around 1600 companies in total. The types of their businesses cover a broad

range such as manufacturer, construction, service industry, etc. Since Japanese companies have advanced, expecting cheap labor costs, I hear they the Japanese are not expected by Vietnamese to be payers of a good salary. Actions to demand labor conditions are not unusual, and local workers often walk out, especially aiming at the time of year before the lunar New Year when the numbers of products need to be increased.

Is there anything that companies should note, among those matters you have found in Vietnam?

I hear that, in Vietnam, they basically use connections in employing workers. It seems that they are not familiar with such a system in Japan as to recruit people from a wide range and select someone from among a group of applicants. Japanese companies need to consider this point when employing staff. Further, the power supply is not stable, and there are daily blackouts. Especially, in summer when the power demand increases, a timetable of power cuts is posted. However, it often doesn't turn out as planned on the timetable. In industrial complexes, there seems to be backup power sources, but in other areas without such a facility, some countermeasures should be taken.

I hear there are many counterfeit goods in Vietnam.

Actually, the city of Vietnam is full of counterfeit goods such as cell phones, home electronic appliances, bags, clothes, motorbikes, sweets, etc. For example, there are various types (not regular products) of "iPod" portable music players on display. As for motorbikes, there are services to bring and process parts in shops to customize the motorbikes so as to look like products of a famous brand. The administrative authorities do not appear to positively crack down on such counterfeit goods. Sometimes newspapers give an account of an administrative disposal of counterfeit goods, but most of the accounts concern articles affecting human bodies such as foods and alcoholic beverages. There was a wholesale crackdown on counterfeit products of helmets for motorbikes, but it was to conform to the timing of a law obligating helmet use, and the authorities seem only to do it on an ad hoc basis.

Please tell us about the situation of the intellectual property-related legislation.

In July, 2006, the Intellectual Property Law was enforced. The law comprehensively provided

protection of the intellectual property right which was provided separately into a part of the Civil Code and plural government resolutions up to then. Furthermore, an amended law was enforced in January, 2010. By this amendment, sending a written warning in advance to an infringer is no longer required in application for administrative action against an infringing article.

How about points to be noted in business related to patent application/registration?

For example, in an international application based on the Patent Cooperation Treaty (PCT), in entering the 'national phase to be continued to the domestic procedure in Vietnam, a



translation into Vietnamese needs to be filed within 31 months from the priority date (in many cases, the date of application in Japan). As for a multiple claim (multiple dependent claim), a multi-multi-claim (multiple dependent claim referring to multiple dependent claim) can be recognized. This point is common with Japanese business practice. As for the amendment procedure after application, Vietnamese law defines that it is available any time during examination, but actually there is a local rule that the applicant should notify the examiner, during the

office action response period, that an amendment will be filed after the response term. Concerning fees, methods of calculation are different between Japan and Vietnam. As for a patent application, the fee is charged per application in the case of Japan, while it is charged per claim in Vietnam. As for a trademark application, the fee is calculated according to the number of classes in Japan, while it is calculated according to the number of classes and the number of designated goods in each class in Vietnam.

Please give some advice, if any, to Japanese companies planning to do business in Vietnam.

I have heard that, if someone is going to start with acquisition of a site before advancing into Vietnam, they would be asked to contribute to community development such as infrastructure development. I would recommend entering an industrial complex where basic conditions are favorable. Furthermore, because of the power problems, countermeasures against blackouts are essential. Besides, as the public transportation has not developed well, it will help you prepare for moving means such as arranging a car by the company.