

DOCTORAL THESIS IN BRIEF

TRAN VAN HAI. *Vietnam's Criminal Law on infringements upon intellectual property rights*

Major: Criminal Code and Criminal Procedure Code

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The protection of intellectual property rights has become an important issue for each country and is considered a basic principle in transactions of the world economy. However, in terms of economic development and integration, Vietnam's intellectual property legal system has revealed many limitations and incompatibility, hindering the integration and development of the country. Especially in the context of the 4.0 revolution, when the acts of infringing on intellectual property rights have been increased in number, diversity, and complexity in terms of nature and danger, the provisions of Vietnam's Criminal Code on criminality and punishments for these crimes still reveals many shortcomings and limitations. This Thesis will contribute to the development and improvement of provisions of criminal laws for crimes of infringing upon intellectual property rights, and improve the effectiveness of the application of legal stipulations to these crimes, to limit and control this group of criminals to fully protect the objects which have been protected in terms of intellectual property rights and to contribute and to promoting the development of the knowledge economy.

The main thesis content was organized into 4 chapters: 1/ *Overview of research on criminal legal policies for crimes of infringing upon intellectual property rights*; 2/ *Theoretical issues on criminal legal policies for crimes of infringing upon intellectual property rights*; 3/ *Evaluation of Vietnam's criminal legal policies for crimes of infringing upon intellectual property rights*; 4/ *Completing the policies of criminal laws for crimes of infringing upon intellectual property rights in Vietnam*. Some highlights from the research results of the Thesis will be introduced in the next section below.

Criminal legal policies for crimes of infringing upon intellectual property rights are composed of many factors, each of which plays an important role in the process of planning, formulating, and implementing criminal legal policies against this group of criminals. The author has conducted an assessment of the criminal legal policies in Vietnam for crimes of infringing upon intellectual property rights to point out the achievements and advantages in the implementation process, to further promote and develop related legal provisions, and at the same time identify the difficulties, limitations, and challenges for the criminal legal policies on this group of criminals, as a basis for proposing strategies and perfecting solutions relating legal policies. Evaluation of Vietnam's criminal legal policies for crimes of infringing upon intellectual property rights over time (according to the milestones of promulgation,

amendment, and supplementation of the Criminal Code in 1985, 1999, 2015, and 2017), especially through the reality of criminalization, decriminalization, the author has concluded: Vietnam's criminal legal systems for the crime of infringing upon intellectual property rights has been increasingly improved with quite appropriate, completed and comprehensive regulations.

For example, according to the Criminal Code 2015, the legal policies for crimes of infringing upon intellectual property rights were fully expressed through the content of regulations related to the perpetration and penalties for these criminal groups. Typically, the punishment's policies through stipulations for criminalization and the decriminalization have been adjusted and supplemented, namely, there are regulations on separating crimes, adding new criminal acts, adding the subject of the crime, and amending the definition of criminal signs of the act and its consequences (for crimes of manufacturing and trading fake goods: The crime of producing and trading in fake goods being food, rations, medicine, and preventive medicine have been separated into two separate crimes; Expanding the scope of prosecution criminal liability for acts of producing and trading counterfeit goods as food additives).

Evaluation of the implementation of criminal legal policies for crimes of infringing upon intellectual property rights (mainly through the practice assessment) from the application of criminal provisions for these crimes before and after the amended and supplemented Criminal Code 2015 took effect in 2017, the author

commented: The process of implementing criminal legal policies was increasingly being carried out in a timely, complete and effective manner. State agencies have timely detected and effectively handed crimes, especially in complex cases (eg. for example, the case of VN Pharma since 2017 related to smuggling, forging seals and documents of agencies and organizations, trading in counterfeit goods that are medicinal drugs); timely implemented new provisions to handle criminal acts, demonstrated the deterrence and strictness of the laws. According to new additions to the criminalization stipulations, the 2015 Criminal Code has expanded the scope of criminal prosecution for acts of producing and trading in counterfeit goods as "food additives" to the crime of producing and trading in counterfeit products as food. After the Criminal Code 2015 was revised, supplemented, and took effect in 2017, several delinquents engaged in the production and trading of fake food additives were detected and brought to criminal prosecution, a typical example was the case of Duong Hoang Q who sold counterfeit goods that are food additives for the production of fake Ajinomoto MSG in Ho Chi Minh City in 2018.

The policies of Vietnam's criminal law for crimes of infringing upon intellectual property rights have achieved important goals such as contributing to the fight against these crimes, protecting intellectual property rights, and helping to promote Vietnam's knowledge economy. However, difficulties and limitations from objective and subjective factors have hindered the implementation of entire targets. As a result,

the goals of the criminal legal policies for these crimes have not been comprehensive and effectively achieved.

According to the author's sentiments, to perfect Vietnam's legal policies on the protection of intellectual property rights, it is necessary to complete the provisions in the general part as well as specific provisions of condemnable signs of crimes. There should be guiding documents of provisions of the Criminal Code to concretize and ensure consistency in practicing and handling criminal acts related to crimes infringing upon intellectual property rights. In addition, to properly and effectively

implement related legal policies, the author also offers some specific solutions to overcome difficulties and limitations in the application of criminal laws in dealing with crimes of infringing upon intellectual property rights and proposing solutions to raise awareness, legal consciousness of enterprises and consumers on intellectual property rights.

The thesis was successfully defended at the Thesis Examination Council of the Graduate Academy of Social Sciences, Vietnam Academy of Social Sciences in 2021.

Introduced by
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