

Vietnam IP News Bulletin

Kenfox IP & Law Office

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COVENANT-NOT-TO-SUE IN VIETNAM

1. Could you advise us whether covenant-not-to-sue is acceptable in trademarks practice in Vietnam?

KENFOX: At present, Vietnam has not laid down any regulations on the covenant-not-to-sue or other waivers of rights. In the absence of such regulations, any "covenant-not-to-sue" is deemed not contrary to the laws and such waiver may be regarded being effective and binding to the parties. Nevertheless, if any disputes arise, there is still a downside risk that the party who issued the covenant may base on its statutory rights to place a claim against the other party. Actions by the former party may be still accepted despite the existence of the covenant-not-to-sue. In other words, these covenant-not-to-sue or other waivers might not impede the statutory rights of the parties to take action or seek remedies in case their rights are infringed.

2. Whether covenant-not-to-sue is a sufficient evidence to overcome a non-use cancellation in Vietnam?

KENFOX: A trademark registration will not be automatically cancelled if it has not been used for 05 years after registration. To overcome a trademark non-use cancellation in Vietnam, it is necessary to submit evidence of use, not the covenant-not-to-use.

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*Should your clients be interested in IP protection in the above-mentioned jurisdictions, please feel free to **contact us**.*