

Trademark Law in Vietnam: A Comprehensive Overview

Unlike many jurisdictions, Vietnam doesn't have a standalone trademark law. Instead, the country's legal framework for trademarks is seamlessly integrated into its broader **Intellectual Property Law (IP Law)**. This comprehensive law was first enacted in 2005 and has since undergone significant amendments in 2009, 2019, and 2022 to align with the evolving international IP landscape. While a distinct "Trademark Law" is absent, all aspects concerning trademarks are meticulously regulated within the overarching IP Law.

KENFOX IP & Law Office provide below a comprehensive overview of legal instruments governing trademark related matters and historical development of trademark provisions in Vietnam for your review.

Key Legal Instruments for Trademarks

The primary legal provisions governing trademarks in Vietnam can be found in the following:

1. **IP Law:** This overarching law establishes the foundational principles for trademark protection and enforcement. This law, along with its implementing decrees and circulars, forms the cornerstone of trademark protection in Vietnam.
2. **Decrees:** These legal instruments provide specific details and regulations related to various aspects of trademark rights.
3. **Circulars:** Issued by the Ministry of Science and Technology, these provide practical guidance and instructions on how to implement the IP Law and its corresponding decrees.
4. **Decisions:** The IP Office of Vietnam issues these decisions to address specific technical and [administrative](#) matters related to trademarks.
5. **Other relevant laws:** While the IP Law is central, other legal instruments, such as the Civil Code, Civil Procedure Code, Penal Code, and Criminal Procedure Code, along with laws related to customs, e-commerce, advertising, and consumer protection, can also influence trademark disputes and [enforcement](#).

Historical Development of Trademark Law in Vietnam

Early Stage (1980s):

The 1980s witnessed the enactment of several legal documents focused on industrial property rights, including decrees related to trademarks, industrial designs, and utility solutions, including

- Decree No. 197/HDBT of December 14, 1982, on trademarks.
- Decree No. 85/HDBT of May 13, 1985, on industrial designs.
- Decree No. 200/HDBT of December 28, 1988, on utility solutions.
- Decree No. 201/HDBT of December 28, 1988, on purchase of patents for innovation, utility solution, industrial designs, trademarks and technical know-how.

Modern Era (2005 Onward):

- **2005:** The comprehensive IP Law was enacted, marking a significant milestone in establishing a robust legal framework for all IP rights, including trademarks.
- **2009 & 2019:** Amendments to the IP Law further strengthened IP protection and enforcement, aligning Vietnam's legal framework with international agreements like the TRIPS Agreement.
- **2022:** Extensive updates addressed legal loopholes and enhanced trademark protection. These changes streamlined registration processes and improved enforcement mechanisms.

International Agreements and Treaties

Vietnam's active participation in key international agreements and treaties underscores its dedication to upholding international standards in IP protection. These include:

- **Paris Convention on Protection of Industrial Property:** Vietnam has been a member since 1949. This convention ensures that trademarks are protected in all member countries, providing priority rights and establishing the national treatment principle.
- **Madrid Agreement and Madrid Protocol on the International Registration of Marks (1891/1989):** Vietnam joined the Madrid Agreement in 1949 and the Madrid Protocol in 2006. These treaties allow for the international registration of trademarks through a single application, simplifying the process for trademark protection in multiple countries.
- **World Trade Organization (WTO) and TRIPS Agreement (1995):** Vietnam became a WTO member in 2007. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) establishes minimum standards for the protection and enforcement of IP rights, including trademarks, in all WTO member states.
- **ASEAN Framework Agreement on Intellectual Property Cooperation** (*joined 22 January 1997*): As a member of the Association of Southeast Asian Nations (ASEAN), Vietnam has committed to regional cooperation in the IP field, including trademarks.
- **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)** (*Signed: 08 March 2018. Effective date: 30 December 2018*): Vietnam is a signatory to the CPTPP, which includes provisions on IP rights, including trademarks. It requires high standards for the protection and enforcement of trademarks.
- **European Union–Vietnam Free Trade Agreement (EVFTA)** (*signed on 30 June 2019*): This agreement includes significant provisions related to IP rights, requiring a higher level of trademark protection, especially, well-known and [non-traditional trademarks](#).
- **Regional Comprehensive Economic Partnership (RCEP)** (*Signed: 15 November 2020. Effective date: 01 January 2022*): This agreement also includes provisions on IP rights, providing important provisions for trademarks, aiming to harmonize and strengthen IP systems across the region.

Current Legal Framework

The following acts and legal documents serve as the foundation of trademark law in Vietnam:

- **Intellectual Property Law** (*2005, amended in 2009, 2019, and 2022*): This serves as the fundamental legal framework for all aspects of IP rights in Vietnam, including trademarks.
- **Civil Code** (2015): This provides general principles on civil liability and remedies, which can be applicable in trademark disputes, particularly concerning damages and compensation.
- **Civil Procedure Code (2015)**: This sets out the procedural rules for initiating and conducting civil lawsuits, including those related to [trademark infringement](#).
- **Penal Code** (*2015, amended 2017*): This sets out criminal liability for several IP-related crimes, including trademark counterfeiting.
- **Criminal Procedure Code** (2015): This provides the basic principles and procedure for criminal cases.
- **Relevant Decrees, Circulars and Joint Circulars:** These provide detailed guidance and implementation regulations for the above laws. Notable examples include:
 - (i) Decree No. 65/2023/ND-CP detailing and guiding the implementation of several articles of the IP Law.
 - (ii) Decree No. 99/2013/ND-CP on the sanctioning of administrative violations in the field of industrial property, revised under Decree No. 46/2024/ND-CP.

- (iii) Circular No. 23/2023/TT-BKHCHN providing detailed guidance on the IP Law and implements measures from Decree 65/2023/ND-CP, particularly focusing on procedures for establishing and protecting industrial property rights.
- (iv) Circular No. 11/2015/TT-BKHCHN providing detailed instructions on how to handle administrative violations related to IP rights in Vietnam, specifying the procedures for imposing sanctions and addressing various violations outlined in Decree No. 99/2013/ND-CP.
- (v) Joint Circular No. 01/2008/TTLT-TANDTC-VKSNDTC-BCA-BTP guiding the examination of penal liability for acts of infringing upon IP rights.
- (vi) Joint Circular No. 02-2008-TTLT-TANDTC-VKSNDTC-BVHTTDL-BKHCHN-BTP guiding the application of a number of legal provisions to the settlement of disputes over IP rights at people's courts.
- (vii) Joint Circular no. 05/2016/TTLT-BKHCHN-BKHDT on detailing and guiding measures against corporate names that infringe industrial property rights.
- (viii) Joint Circular 14/2016/TTLT-BTTTT-BKHCHN guiding the order and procedures for changing and revoking domain names infringing upon the IP rights.
- (ix) Resolution No. 02/2020/NQ-HDTP of September 24, 2020, of the Judicial Council of the Supreme People's Court guiding the application of some provisions stipulating provisional measures in the Civil Procedure Code ("Resolution No. 02/2020")

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