

Chinese-character trademarks in Vietnam: Does similarity/identicalness in meaning with another trademark constitute infringement?

Whether use of a Chinese trademark having similar/identical meaning with a prior English mark constitutes a trademark infringement in Vietnam. Imagine you choose a Chinese character trademark for a new product line in Vietnam to avoid conflicts with existing marks. However, this Chinese mark has the exact same meaning as an English language trademark already protected in Vietnam. This increasingly common scenario poses a key question: Does this semantic similarity alone trigger trademark infringement in Vietnam?

KENFOX IP & Law Office, one of the most professional leading IP firms in Vietnam, provide analysis on this complex question, examining the scope of trademark protection under Vietnamese law, specifically Decree No. 65/2023/ND-CP, and assessing whether the "conceptual similarity" between a Chinese and English mark can indeed constitute infringement.

Legal Framework for Trademark Infringement in Vietnam

In Vietnam, establishing [trademark infringement](#) necessitates meeting 02 key legal conditions. These conditions ensure that trademark protection is balanced and focused on preventing genuine consumer confusion.

a) "Identical or Confusingly Similar" Marks: The first condition centers on the similarity between the marks themselves. A suspected sign is considered "*identical*" if it mirrors the registered trademark in structure and presentation, representing a direct replication. However, the concept of "*confusingly similar*" is broader and more complicated. Decree 65/2023/ND-CP explicitly defines confusing similarity as existing when signs share "*identical or highly similar elements that are difficult to distinguish*" across a range of factors. These factors are comprehensive and importantly include: structure, pronunciation, transliteration, **meaning**, presentation, or color (*for visible signs*), and melody or sound (*for auditory/sound marks*). Beyond mere similarity, the use of such a sign must also be "*likely to cause confusion among consumers regarding the origin of the goods or services*". This "likelihood of confusion" is the ultimate test. This focuses on whether consumers might be misled about the source due to the mark's similarity.





b) "Identical or Similar Goods/Services": The second condition addresses the relationship between the goods or services associated with the marks. Infringement requires that the goods or services bearing the suspected sign are "*identical or similar in nature, function, or purpose*" to those protected under the registered trademark. This similarity can also be established if the goods/services share "*the same distribution channels*" or if there exists an "*inherent relationship between them in terms of nature, function, or implementation method*". This condition ensures that trademark protection is not overly broad, focusing infringement assessments on related or competitive goods and services.

The Concept of "Conceptual Similarity" in Vietnamese Trademark Law

While Vietnamese trademark law, like many jurisdictions, traditionally emphasizes visual and phonetic similarity, the principle of "conceptual similarity" adds a critical layer of complexity. This concept recognizes that trademark infringement can occur even when marks are visually and aurally different, if they convey the same or highly similar **meaning** or overall **commercial impression** to consumers. In essence, conceptual similarity focuses on the semantic content of trademarks and how consumers perceive their underlying message.

The relevance of conceptual similarity stems from how consumers interact with trademarks. **Trademarks are not merely abstract symbols**; they function as **communicators of meaning, instantly conveying information** about the origin, quality, and nature of goods or services. When two marks, **even in different languages or scripts, evoke the same core meaning**, they can **create a similar mental association** in the consumer's mind. This shared meaning can lead consumers to mistakenly believe that goods or services offered under the later mark originate from the same source as, or are affiliated with, the earlier, conceptually similar trademark. Therefore, during the examination process, the IP Office of Vietnam has refused registration of the applied-for mark due to similarity in the trademark meaning.

No.	Applied-for trademark	Cited trademark	Remarks
1	Trademark: DÉESSE Class: 03 (cosmetics) Appln No.: 4-2008-22358	Trademark: NỮ THẦN Class: 35 (selling and buying cosmetics)	"DÉESSE" is the French word meaning "Nữ Thần" in Vietnamese. The trademark

	Filing date: October 17, 2008	Reg. No.: 149483 Reg. date: July 15, 2010	was refused due to having the same meaning as the cited trademark
2	Trademark:  Class: 43 (Restaurants) Appln No.: 4-2007-02629 Filing date: February 6, 2007	Trademark:  Class: 43 (restaurants) Reg. No.: 113663 Reg. date: November 13, 2008	The phrase "Sông biển" in the applied-for trademark means "sea wave." In the cited trademark, the English word "sea" means "biển," and "SÔNG" means "wave" in Vietnamese. Therefore, "Sông biển" is considered similar in meaning to the cited trademark "sea.SÔNG."
3	Trademark: KHẢI HOÀN Class: 28 (sports equipment) Appln No.: 4-2006-17700 Filing date: October 20, 2006	Trademark: TRIUMPH Class: 28 Reg. No.: 6227 Reg. date: September 19, 1992	"KHẢI HOÀN" is a Vietnamese phrase meaning "TRIUMPH" in English. Therefore, the applied-for trademark "KHẢI HOÀN" is considered confusingly similar in meaning to the cited trademark "TRIUMPH".
4	Trademark: AU DEPÂRT Class: 03, 09, 14, 18, 25 Int'l Reg. No.: 1325310 Reg. date: July 20, 2016	Trademark: START Class: 03 Int'l Reg. No.: 610828 Reg. date: December 3, 1993	"AU DEPÂRT" is a French word meaning "Start" in English. Therefore, the applied-for trademark "AU DEPÂRT" is considered confusingly similar in meaning to the cited trademark "START"
5	Trademark: LA ROSÉE Class: 03 Int'l Reg. No.: 1574390 Reg. date: March 16, 2020	 Trademark: DEW Class: 03, 21 Reg. date: November 26, 2007	"LA ROSÉE" is the French word meaning "Dew" in English.
6	Trademark: DUNG DỊCH VỆ SINH PHỤ NỮ NÀNG THƠ Class: 05 Appln No.: 4-2022-41252	Trademark: MUSE Class: 05 Int'l Reg. No.: 665320	The mark "DUNG DỊCH VỆ SINH PHỤ NỮ NÀNG THƠ" is deemed confusingly similar to the mark "MUSE" in which MUSE is an English word meaning "NÀNG THƠ" in Vietnamese.
7	Trademark: A NEW DAY Class: 18, 25, 35 Appln No.: 4-2017-19981	Trademark:  Class: 16, 18 Đăng ký số: 85365	The applied-for trademark "A NEW DAY" is translated into Vietnamese as "MỘT NGÀY MỚI," which is considered confusingly similar in meaning to the cited trademark "NGÀY MỚI, Hình"

An assessment of the likelihood of confusion based on similarity in trademark meaning indicates that, if a later sign is considered similar in meaning to a previously registered trademark **to the extent that** it may lead consumers to believe they share the same origin, the later mark may indeed constitute an infringement of the earlier mark's rights. Hence, the conceptual similarity is only legally important if it's strong enough to actually confuse consumers. The confusion must be about whether the goods or services offered under the new trademark come from the same source as the goods or services offered under the older, registered trademark.

More importantly, this confusion must be in relation to products or services that are the same or very similar. Therefore, [Vietnamese trademark law](#) doesn't just protect the *look* and *sound* of a trademark. It also protects the *meaning* or *concept* that the trademark represents in the minds of consumers.

From the trademark owner's perspective, legal arguments concerning the similarity in trademark meaning that may cause consumer confusion about the commercial origin of the goods can be based on the following key viewpoints:

- **Consumer understanding of Chinese in Vietnam:** The widespread understanding of Chinese characters in Vietnam, especially in commercial contexts, significantly increase potential confusion based on meaning. Consumers are likely to decode the Chinese mark and connect it to the English mark with the same meaning.
- **Likelihood of confusion based on meaning:** If the Chinese mark's meaning directly mirrors the English mark's meaning for similar goods, it becomes highly plausible that consumers will be confused about the origin of the goods, satisfying a key requirement for infringement under Article 77.3.
- **Trading on goodwill and reputation:** Using a Chinese mark that carries the same meaning as a well-established English mark could be interpreted as an attempt to unfairly capitalize on the goodwill and reputation associated with the prior mark, taking advantage of its semantic space in the consumer's mind.
- **Scope of trademark Ppotection:** Trademark protection should extend to the essential meaning and commercial impression of a mark, regardless of its linguistic expression. Limiting protection solely to visual and phonetic aspects would undermine the very purpose of trademarks as source identifiers based on consumer perception of meaning.

Applying Conceptual Similarity to the Chinese-English Trademark Scenario

If a Chinese-language trademark has a similar or identical meaning to an English-language trademark that has been previously protected in Vietnam, does this similarity in meaning alone create a risk of infringement?

The answer, based on the principles discussed above, leans toward the likelihood of infringement, although not in all cases. An important factor in the Vietnamese context is the relatively high level of Chinese language recognition among the public, especially in commercial context. A notable segment of Vietnamese consumers possesses at least a basic understanding of Chinese characters, often encountered in commerce and everyday life. Consequently, consumers encountering a Chinese character mark in Vietnam are *more likely* to decipher its meaning. If this meaning directly corresponds to the meaning of a prior English mark associated with similar goods, the potential for consumer confusion about the origin of these goods becomes tangible and substantial.

Furthermore, it's important to acknowledge that although Chinese character marks might face challenges in registration in Vietnam due to inherent indistinctiveness, the *"use"* of such marks in the marketplace presents a different legal issue. Even if a mark might be deemed **"unregistrable"**, its use can still infringe upon the rights of a prior, conceptually [similar trademark](#) if it is likely to cause confusion.

Vietnamese law provides regulations on the similarity in meaning between trademarks and prohibits the registration and use of trademarks with identical meanings. However, in practice—particularly in assessing the semantic similarity between Chinese-language trademarks and trademarks in other languages that are protected in Vietnam—this remains an area that has not been comprehensively tested or clearly defined.

Beyond Infringement: Unfair Competition and Trademark Dilution

Even if the Vietnamese authorities determine that the use of a Chinese-language trademark with a similar meaning does not constitute direct trademark infringement under Article 77.3, the owner of the registered English-language trademark may still pursue other legal remedies. The use of a Chinese-language trademark bearing the same meaning as a well-known English or Vietnamese brand may be considered an act of [unfair competition](#). This legal concept is broader than traditional trademark infringement, focusing on unfair competitive practices and may include the unauthorized appropriation of a competitor's brand value by imitating its meaning (through semantic mimicry).

Additionally, **another legal aspect to consider is the concept of trademark dilution, particularly when the previously registered English-language trademark is recognized as "well-known"**. Trademark dilution refers to the weakening of the inherent distinctiveness of a well-known mark, even in the absence of direct consumer confusion regarding the origin of the goods or services. The use of a Chinese-language trademark

with an identical meaning—especially across a wide range of unrelated or dissimilar goods—may dilute the uniqueness and brand strength of the long-established English-language mark, even if consumers are not immediately confused about the source.

Final thoughts

In conclusion, the use of a Chinese trademark having similar or identical meaning with a prior English mark protected in Vietnam presents a **genuine and significant risk of trademark infringement**. While Vietnamese trademark law, particularly Decree No. 65/2023/ND-CP, explicitly includes "meaning" as a factor in assessing confusing similarity, the practical application of this principle in cases relying solely on conceptual equivalence, especially between Chinese and English marks, remains an evolving area.

The fact that many Vietnamese consumers, particularly in the business context, understand the meaning of Chinese words - combined with the recognition of semantic similarity under Vietnamese law - indicates that enforcement authorities and courts may find infringement in such cases, especially where a likelihood of consumer confusion regarding the commercial origin of the goods or services can be clearly demonstrated. Furthermore, even if direct trademark infringement cannot be established, businesses using such trademarks may still face legal claims related to unfair competition or trademark dilution.

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