

## Why Trademark Opposition is a Must in Vietnam?

Many trademark owners might think that examiners at the Vietnam Intellectual Property Office (“**VNIPO**”) will automatically reject trademark applications that are strikingly similar to existing marks, but reality can differ surprisingly. The assumption that very similar trademarks, especially those registered for similar or related goods and services, will certainly be rejected is a common misconception. Due to unforeseen reasons during the examination process, even marks that appear confusingly similar can sometimes be granted protection.

Therefore, if one becomes aware of a [new trademark application](#) in Vietnam that is substantially similar to their prior mark, especially for the same type of product or service, procrastination is not an option. Trademark owners should seriously consider taking immediate and decisive action by filing an opposition. Waiting and hoping that the examiners will automatically reject the trademark is a gamble too risky for their brand's future.

KENFOX IP & Law Office provides practical insights on this matter and potential risks if no opposition is timely filed.

### Trademark opposition: A must-have strategy in Vietnam

Trademark examination in Vietnam, like in many jurisdictions, involves both formality examination and substantive examination. Substantive examination includes a search for prior similar or identical marks. Filing a trademark opposition in Vietnam can indeed serve as a critical alert mechanism.

No matter how strong the trademark database system is built and how dedicated the examiners are, errors are inevitable. Every database has limitations in terms of information, coverage, and update capability. Algorithms cannot fully replace human judgment and assessment, especially in determining “similarity”, which inherently involves a degree of subjectivity. The increasing number of trademark applications, coupled with limited examination time, can lead to examiners being overwhelmed and potentially missing information. These undesirable factors can occur in any process, including the [examination process](#). Therefore, errors are unavoidable in any trademark examination procedure.

The trademark opposition mechanism is specifically designed to provide a second layer of review after the preliminary assessment by the examiner, but before the trademark is officially granted protection. This mechanism allows the rights holders, who are the most knowledgeable about their own brands and the overall market landscape, to present potential conflicts for consideration by the examiners at the VNIPO.

A well-filed trademark opposition isn't just a general objection; it's a detailed legal argument that *specifically* points out the similarities between the marks, the relatedness of the goods/services, and the likelihood of consumer confusion in the Vietnamese market. This detailed alert can be invaluable for the examiner to re-evaluate their initial assessment and potentially issue a refusal.

### Risks of inaction: The consequences of not opposing

Choosing not to oppose a similar trademark application can expose your trademark to significant risks:

- **Registration of a conflicting trademark:** If no opposition is filed, and the application meets all other registration criteria, the similar trademark may be officially registered. This registration grants the applicant legal rights to use the mark, potentially creating direct conflict and confusion with your brand in the Vietnamese market.
- **Increasing consumer confusion:** Without opposition, the similar mark will enter the marketplace, significantly increasing the likelihood of actual consumer confusion. This can directly damage your brand's reputation as consumers struggle to differentiate between offerings.
- **Brand dilution and erosion:** The registration of a [similar mark](#) contributes to the gradual dilution of your brand's unique identity and market influence. Over time, this can weaken your brand's overall strength and impact.
- **More complex and costly enforcement later:** Allowing a similar mark to proceed to registration and then attempting to address it becomes significantly more challenging and expensive. Post-registration actions like cancellation proceedings or infringement lawsuits are typically more protracted, complex, and costly than initiating an opposition.

- **Potential market share loss:** Consumer confusion stemming from a similar mark can lead to a tangible loss of market share. Customers, misled by the similarity, may inadvertently choose a competitor's products or services, impacting your bottom line.

## Key considerations before filing an opposition

Before making a decision, carefully consider these crucial factors:

- **Similarity assessment:** Thoroughly evaluate the degree of similarity between the applied-for mark and your prior mark. This assessment should encompass visual, phonetic (sound), and conceptual similarities. Furthermore, analyze the relatedness of the goods and services covered by both marks. High similarity coupled with related goods/services significantly increases the risk of consumer confusion and strengthens [the case for opposition](#).
- **Strict 5-month deadline:** Be aware of the strict **5-month deadline** from the publication date of the trademark application to file an opposition in Vietnam. Missing this critical deadline means forfeiting your opportunity to oppose during the initial examination phase.
- **Seek professional legal counsel:** Consulting with a qualified trademark attorney or agent in Vietnam is highly recommended. An expert can provide tailored advice based on your specific situation, assess the strength of your opposition grounds, and skillfully prepare and file the necessary opposition documentation.

## Closing thoughts

When a trademark application in Vietnam is found to be highly similar to an existing trademark, especially if it is registered for related goods or services, filing a trademark opposition is generally a wise and absolutely necessary decision. This proactive action plays an important role in protecting the prior trademark of the owner, preventing consumer confusion, and minimizing subsequent legal and commercial consequences. Conversely, ignoring the opposition, especially when the similarity between the two trademarks is significantly high, can have extremely severe consequences and cause long-term damage to the [owner's brand](#) position in the Vietnamese market.

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