

Sound Marks in Vietnam: Legal Advancement and Brand-Building Opportunities

*In an increasingly competitive branding landscape, establishing a unique impression in customers' minds is critical for survival. Beyond traditional signs such as logos or names, **sound is emerging as a "new power"**—a promising brand-building tool for Vietnamese businesses. A pivotal legal development came with the **amended Intellectual Property Law of 2022** (effective from **January 1, 2023**), enacted to fulfill Vietnam's international commitments under the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)**. For the first time, Vietnamese law has officially expanded the definition of a trademark to recognize and protect **"sound signs that can be represented graphically."** This change not only aligns with international trends but also opens a new chapter for Vietnamese businesses to secure rights and capitalize on the value of this non-traditional intellectual property (IP) asset—while also presenting new requirements and challenges that must be carefully understood.*

1. What is a Sound Mark and What is the Legal Basis in Vietnam?

Under Article 72.1 of the amended 2022 IP Law, the definition of a protectable trademark in Vietnam has been expanded beyond visible signs to include *"sound signs that can be represented graphically"*. This marks the official recognition of sound marks as a form of [non-traditional trademarks](#).

This legal change stems from Vietnam's implementation of its CPTPP obligations, particularly under Law No. 07/2022/QH15, amending several provisions of the IP Law, effective from January 1, 2023. Supplementary guidance, such as Decree No. 65/2023/ND-CP, further details the regulation—for example, Article 77.3(a) states that the use of a confusingly similar sound sign may constitute infringement of rights to a registered sound mark.

2. Prerequisites for Sound Mark Protection

To qualify for protection as a sound mark in Vietnam, a sound must meet **two essential conditions**:

a. Graphical Representation:

This is a **critical and challenging requirement**. As sound is not inherently visible, the law requires that it be represented graphically in the application. This means the applicant must submit:

- A **sound file** capturing the mark; and
- A **graphical representation**, such as musical notation (if melodic), a **spectrogram**, or a **detailed verbal description** of the sound's characteristics.

b. Distinctiveness:

Like traditional trademarks, a sound mark must be **capable of distinguishing** the goods/services of one entity from those of others. Thus, the following types of sounds are generally **not eligible for protection**:

- **Commonplace sounds** in the business field (e.g., the "ting ting" of a cash register for retail services).
- **Sounds that describe the nature or function** of the product/service (e.g., "meow" for cat food).
- **Sounds that originate from the technical function** of a product (e.g., the natural noise of an engine).

3. Key Challenges in the Registration Process

Although sound marks are now legally protectable, the registration process poses significant challenges for businesses:

- **Proving distinctiveness:** How can one demonstrate that a short sound clip is unique and non-[descriptive](#)? This is especially difficult for simple tones or non-melodic sounds.
- **New legal and examination procedures:** As this is a new category in Vietnam, the **IP Office and examiners** require time to develop practical experience and evaluation criteria, possibly leading to **uncertainty in outcomes**.
- **Technical documentation:** Accurately preparing the **graphical representation** to match the sound file requires **technical care** and sometimes expert support.

4. What Should Businesses Keep in Mind When Securing Rights?

To increase the chances of successful registration and effectively protect sound trademarks, businesses should pay particular attention to the following issues:

Carefully Prepare the Registration Dossier:

Businesses need to provide a high-quality audio recording file, free of noise, accurately representing the sound to be protected. In addition, the graphical representation of the sound must be accurate and appropriate. This is a mandatory and key requirement.

Businesses need to:

- Choose the most appropriate form of representation: Musical notation (if it is a melody), sound wave diagram (spectrogram), or a detailed verbal description. A combination of these forms may be possible.
- Ensure that the graphical representation corresponds exactly to the submitted audio file. Any discrepancy may lead to refusal.
- The verbal description should be detailed and clear about the characteristics of the sound (pitch, duration, timbre, rhythm...).

Accurately Classify Goods/Services: Clearly and accurately define the category of products or services for which the sound trademark will be used. The scope of protection will depend on this category.

Prove Distinctiveness (if necessary):

If the sound is initially assessed by the National Office of Intellectual Property as lacking sufficient distinctiveness, the business needs to prepare arguments and evidence to prove otherwise. In some cases, it may be necessary to prove distinctiveness acquired through [widespread and continuous use](#) before the filing date. Therefore, businesses should pay particular attention to the process of creating and using these sound trademarks in commercial activities to demonstrate their distinctiveness later.

Understand the Examination Process and Timeline:

The process of registering a sound trademark – a type of non-traditional trademark – is similar to that of a traditional trademark (formality examination, publication of application, substantive examination) but may be more complex in the substantive examination stage due to its novelty. Businesses should be prepared that the examination period may be prolonged and that additional information may be required by the National Office of Intellectual Property.

Use Professional Representation Services:

Due to the complexity and novelty of sound trademarks (especially the requirements for graphical representation and proving distinctiveness), using the services of experienced intellectual property lawyers and representatives is very important to minimize errors that could negatively affect the process of building a brand based on the sound trademark. Intellectual property lawyers with in-depth knowledge and expertise can provide strategic advice, prepare accurate dossiers, and effectively assist in handling issues that may arise during the examination process.

Closing thoughts

Sound trademarks, although a type of non-traditional trademark, have significant power and advantages in building and developing brands. Distinctive sounds such as advertising jingles or device startup sounds have the ability to deeply imprint themselves in the minds of consumers, creating a strong emotional connection that static signs can hardly achieve. When protected, sound trademarks become valuable intangible assets, contributing to enhancing the competitive position of businesses.

Vietnam's official acceptance of sound trademark protection is an important step forward, in line with international practices, opening up many opportunities but also bringing challenges. If a business owns or intends to develop distinctive sounds associated with its products or services, this is an opportune time to thoroughly research and seriously consider [registering for the protection](#) of this unique intellectual property asset.

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