

## Binh Minh vs. Binh Minh Viet: What valuable observations can be made?

Most people believe that in cases of IP infringement, an “**expert opinion**” (“**Assessment Conclusion**”) from specialized agencies like the Vietnam Intellectual Property Research Institute (VIPRI) serves as the definitive “gold standard”, providing the most reliable scientific basis for fair judicial decisions. But the recent, protracted trademark dispute between plastics giant **Binh Minh** and newcomer **Binh Minh Viet** challenges this very assumption, making many ponder: What occurs when a conclusion of “infringement” by the premier leading expert assessment body is dismissed by the court as “**just for reference**”? Is the expert “shield”, so trusted by rights holders, losing its inherent value in the courtroom?

The lawsuit involving Binh Minh Plastics JSC and Binh Minh Viet Plastics JSC is a prime example of this complexity. Despite holding an [Expert Opinion](#) from VIPRI confirming infringement and an Administrative Sanction Decision from market authorities, Binh Minh Plastics repeatedly encountered setbacks in court. Why did a case seemingly “as clear as day” unfold in such an unpredictable manner? On what grounds did the court base its ruling when it effectively “**set aside**” the expert opinion – a widely recognized form of evidence in Vietnam?

KENFOX IP & Law Office provides practical analyses and insights from this case for rights holders to consider when developing effective trademark protection strategies in Vietnam.

### 1. Background

According to court records, Binh Minh Plastics JSC, established 1977 (the plaintiff) is the legitimate proprietor of trademarks including “ÔNG NHỰA BÌNH MINH” and “BM Plasco NHỰA BÌNH MINH”, protected by



Trademark Registration Certificates No. 180399 ( , 180400 ( ,





and 73870 () granted by the Intellectual Property Office of Vietnam (IP Vietnam)

Upon discovering that Binh Minh Viet Plastics JSC, established 2025 (the defendant) was using its company

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name (  ) and the signs “ , “BÌNH MINH VIỆT” and “NHỰA BÌNH MINH VIỆT” on PVC plastic pipe products, packaging, signboards, and other business materials, Binh Minh Plastics JSC took very systematic action.

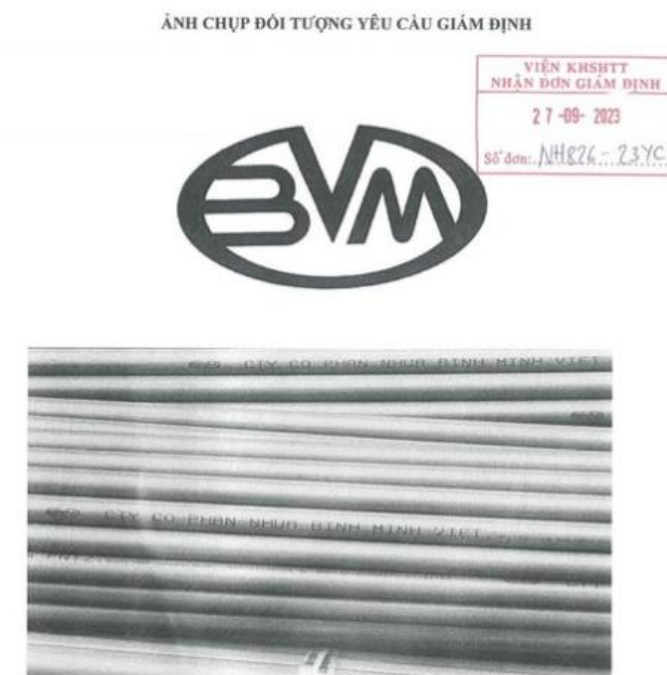
**Investigation:** The plaintiff investigated and [gathered evidence](#) of the defendant using its company name and the signs “BÌNH MINH VIỆT” and “NHỰA BÌNH MINH VIỆT” on PVC plastic pipes, packaging, signage, and other business means.

**Request for Expert Opinion:** A request was filed with VIPRI, the leading specialized assessment agency of the Ministry of Science and Technology (MOST), requesting an expert assessment. Subsequently, VIPRI issued Trademark Assessment Conclusion No. NH249-23YC/KLGD on March 28, 2023, concluding that: (i) The mark “NHUA BÌNH MINH VIỆT” used on the Defendant's PVC pipe products is an element infringing the rights to the Plaintiff's protected trademark, and (ii) The marks “BÌNH MINH VIỆT” and the Defendant's BVM logo are also elements infringing the rights to the Plaintiff's trademarks currently under protection.

**Request for Administrative Action:** On August 28, 2023, Market Management Team No. 1 of the Long An Provincial Market Management Department inspected Quoc Tai Construction Materials - Electricity and Water Co., Ltd. (Duc Hoa district, Long An province) for “compliance with laws in the production and trading of goods”. They temporarily detained 43 plastic pipes branded “NHUA BÌNH MINH VIỆT” manufactured by the defendant. Subsequently, this administrative enforcement authority had VIPRI assess the infringement related to the Binh Minh Viet trademark and trade name. VIPRI's resulting Assessment Conclusion No. NH737-23TC, issued on August 31, 2023, determined that the sign “NHUA BÌNH MINH VIỆT” on Binh Minh Viet Plastics Company's pipes “is an element infringing the rights (as per Article 77, Decree 65/2023) of the trademark protected under Trademark Registration Certificate No. 180400 belonging to the plaintiff.

The defendant contends that the plastic pipes temporarily seized by the administrative enforcement authority were old stock held by a dealer, belonging to a June 2023 batch, and were subject to a production termination

and recall notice dated August 10, 2023. The defendant states it is currently producing using the new logo "BVM CONG TY CO PHAN NHUA BINH MINH VIET".



However, on October 2nd, 2023, the VIPRI issued Industrial Property Assessment Result No. NH826-23YC. Accordingly, the sign "BVM" affixed to rigid plastic pipe products constitutes an infringing element (as prescribed in Article 77 of Decree No. 65/2023/ND-CP) of the trademark protected under Certificate of Trademark Registration No. 73870, registered for Class 19 in the name of Binh Minh Plastics Joint Stock Company.

The Long An Provincial Market Surveillance Department issued a decision to impose administrative sanctions against the store that sold the infringing plastic pipe products of the Defendant, for the act of trading in goods infringing the trademark rights of the Plaintiff.

[The Inspectorate of the Ministry of Science and Technology](#) also concluded that the use of the element "NHỰA BÌNH MINH" (BINH MINH PLASTICS) in the trade name and on the products of Binh Minh Viet Plastics Joint Stock Company constitutes an act of [intellectual property infringement](#).

The Ho Chi Minh City Department of Planning and Investment issued [an official letter requesting Binh Minh Viet Plastics JSC to change its company name](#), specifically to remove the words "Binh Minh" from its name to avoid confusion with Binh Minh Plastics Joint Stock Company.

From a typical IP legal perspective, with evidence comprising protected trademarks, infringing products, and crucially, VIPRI's Expert Assessment Conclusion, administrative penalty decisions, the MOST Inspectorate's conclusion, and the HCMC DPI's request, [the lawsuit by the plaintiff ought to have held a considerable advantage](#). VIPRI's Expert Assessment Conclusion is regarded as a professional opinion of high value, founded on objective and scientific evaluation criteria concerning likelihood of confusion, subject matter, and scope of protection.

## 2. Surprising Judgments from the First-Instance and Appellate Courts

However, developments in court followed an entirely different path. The Ho Chi Minh City People's Court (First Instance) dismissed the Plaintiff's claims. The Court found that:

The Plaintiff's exclusive protection applies only to the trademark "Binh Minh" and does not include the phrase "nhựa Binh Minh Viet". Consequently, the request for the Defendant to entirely eliminate the "Binh Minh" sign is baseless. *This reasoning is highly debatable, because the assessment of infringement is usually based on the overall likelihood of confusion, not merely confined to whether the plaintiff holds exclusive rights over the exact phrase used by the defendant.*

The Court stated that the Expert Assessment Conclusion from VIPRI and the administrative sanction decision by the Market Management authorities serve only as **reference material**, and **are not evidence for resolving the case**. This truly shocked legal experts and the business community.

The High People's Court in Ho Chi Minh City (Appellate) upheld the first-instance judgment and dismissed the Plaintiff's appeal, focusing primarily on differences in form/appearance. The Court found that even though both incorporate the element "BÌNH MINH", the parties' respective logos (BM vs. BVM), labels, dimensions, typeface, and information on goods origin are **entirely different**, and thus are **not likely to cause consumer confusion**.

The Court acknowledged the Defendant's copyright registration for the BVM logo and the filing of a trademark application which IP Vietnam deemed formally valid. It is important to note, however, that formality acceptance is merely the first step and does not equate to the grant of protection; crucially, a later registration cannot legalize an infringing act against pre-existing rights.

### 3. Vexing Issue: VIPRI's Assessment Conclusions and Administrative Sanctions Being Downplayed

The judgment from both court levels, particularly the disregard for the value of VIPRI's Expert Assessment Conclusion and infringement sanction decisions from administrative enforcement bodies, has set a **worrying precedent**.

If administrative enforcement Sanction Decisions and conclusions from the top expert assessment body, founded on scientific analysis, are only treated as "**reference material**", then, what is the true role and meaning of IP assessment activities? This could erode businesses' confidence in the assessment system and the IP rights protection mechanism.

IP disputes, especially those concerning trademarks, require deep specialized knowledge of law, market conditions, and consumer psychology to properly assess the likelihood of confusion. When a court evaluates such matters independently—without relying on (or even dismissing) expert conclusions—or fails to seek a re-examination when doubts arise, it risks issuing judgments that lack objectivity and a solid evidentiary basis, as pointed out by the Procuracy during the appellate hearing. The Procuracy recommended amending the first-instance judgment, asserting that there was [sufficient evidence to determine infringing acts](#) based on the Expert Assessment Conclusion from VIPRI and the Administrative Sanction Decision issued by the Long An Market Management Department. It also highlighted that the first-instance court had committed a "*serious error in evaluating the evidence*".

The Court's issuance of a judgment that completely contradicts the conclusions and sanction decisions of the intellectual property authorities (such as the Assessment Conclusion and the Sanction Decision), despite all prior efforts to provide proof, is tantamount to **negating all the effort and resources that have been expended**. This **forces the rights holder to continue depleting enormous resources in a costly and exhausting legal race, merely to convince the Court of a truth that has already been proven**.

### 4. Assessment of Likelihood of Confusion: Based on which principle?

The Appeal Court focused on differences in logo, font, size, etc., to conclude that there was no likelihood of confusion. However, from the perspective of intellectual property law, the assessment of likelihood of confusion needs to consider all factors comprehensively based on legal provisions (Article 26.8 of Circular 23/2023/TT-BKHCN and Article 77 of Decree 65/2023/ND-CP), including:

- **Degree of similarity between the marks:** The element "Binh Minh" is a main component, easily perceived, and highly distinctive in the names of both parties. Are the visual differences sufficient to exclude confusion about the origin of the enterprise when the main name component is similar on the same type of product (PVC plastic pipes)?
- **Degree of similarity of products/services:** Both companies manufacture and trade PVC plastic pipes, which are completely identical products.
- **Fame of the infringed trademark:** The trademark "Binh Minh" of the Plaintiff is a long-standing and reputable brand in the construction materials market. The higher the level of fame, the broader the scope of protection and the greater the likelihood of consumers being confused when seeing a [similar mark](#) appear.
- **Distribution channels and target consumers:** It is necessary to consider whether the products of both parties are sold through the same distribution channels and directed towards the same group of customers.

The Court's excessive focus on minor formal details clearly overlooked the overarching impact and decisive nature of the verbal component "Binh Minh," which is the core element causing the dispute.

## 5. Lessons Learned from the Case for Intellectual Property Rights Holders

From the aforementioned case, from a legal and practical perspective, we can draw some important lessons:

- **Intellectual property assessment conclusions:** While still an important and necessary tool, the Assessment Conclusion should not be considered the sole and [guaranteed factor for winning an IP infringement lawsuit](#). Rights holders need to be prepared for the possibility that the Court may have independent, even contrary, assessments, and should build a more diverse and robust system of arguments and evidence, not relying solely on the assessment conclusion.
- **Comprehensive trademark registration strategy to prevent "commercial parasitism":** Proactively and intelligently building a strategy to protect one's intellectual property is the best way to prevent "commercial parasitism". It is no longer enough to just register the main, core trademark; businesses now need to consider registering logos, slogans, distinctive visual marks, and even variations of the mark in various forms (word marks, figurative marks, combined marks) to create a sufficiently strong "IP ecosystem". This establishes multiple "layers" to build a more solid legal barrier, effectively preventing the extremely troublesome and sophisticated intellectual property theft currently occurring in Vietnam. Binh Minh Viet Plastic's registration of copyright for its logo and filing for trademark registration also demonstrates their strategy of building a "legal shield".
- **Anticipate the complexity, cost, and unpredictability of IP Litigation:** Pursuing an intellectual property lawsuit, especially when there are differing legal interpretations, is a time-consuming and costly process with many inherent risks. Businesses need to carefully consider and comprehensively evaluate all aspects, benefits, and risks before deciding to file a lawsuit or pursue an appeal.
- **Continuous market monitoring and proactive rights enforcement:** Binh Minh Plastic's early detection and request for [administrative handling](#) was entirely correct. Although the outcome in Court was not as expected, continuous monitoring and timely legal action (including administrative measures) remain crucial to prevent widespread infringement, collect evidence, and demonstrate the determination to protect one's brand.

## Final thoughts

The dispute between Binh Minh Plastic and Binh Minh Viet Plastic is not merely a legal confrontation between two businesses, but a significant test for legal thinking in a context [where brand has become representative](#) of consumer trust. Winning or losing this case is not solely determined by the judgment; it also reflects how the Vietnamese legal system is establishing intellectual property protection standards, thereby directly impacting the quality of the competitive environment and market confidence.

The reality of the unexpected ruling in the case – where specialized assessment conclusions and administrative sanction decisions were largely disregarded – has sounded an alarm for the business community. It highlights that, in the current legal environment, protecting brands and consumer trust requires more than just possessing valid legal documents. Businesses need to be clearly aware of the limitations of the enforcement system and prepare comprehensively, from protection strategies and litigation strategies to flexibly responding to practical legal shortcomings.

In the context of increasingly sophisticated "commercial parasitism", businesses not only need to proactively build a trademark protection strategy from the outset but also must establish sufficiently strong legal tools to defend themselves against all infringing acts. Persevering in enforcing rights in a systematic and multifaceted manner, coupled with anticipating the complex developments of legal practice in Vietnam, becomes a vital requirement. Simultaneously, being fully equipped with knowledge and seeking in-depth advice from IP lawyers are key factors for optimally protecting a business's valuable intellectual property assets in the long term.

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