

Vietnam's Intellectual Property Legal Framework: Opportunities and Challenges for Foreign Investors

Vietnam has developed a comprehensive legal framework for intellectual property (IP) rights that is increasingly important for foreign investors. As Vietnam's economy integrates globally, its IP laws have evolved to align with international standards (e.g. WTO TRIPS Agreement) while addressing local enforcement challenges.

KENFOX IP & Law Office, with its practical and extensive expertise in IP field, provides a comprehensive overview and analysis of Vietnam's IP legal system, covering the main IP categories (copyright, trademarks, patents, industrial designs, trade secrets), key legislation and agencies, recent legal reforms, enforcement mechanisms, international treaty commitments, and practical guidance for foreign companies, enabling foreign trademark owners to understand how to protect and manage IP when expanding into Vietnam.

I. Overview of Vietnam's IP Legal System

Vietnam's IP legal system is codified primarily in the **Law on Intellectual Property 2005** (IP Law) as amended. This comprehensive IP Law governs all major types of IP – including copyright and related rights, industrial property (patents, trademarks, trade secrets, industrial designs, geographical indications, etc.), and plant variety rights. Vietnam does not enact separate statutes for each IP type; instead, the 2005 IP Law (Law No. 50/2005/QH11) serves as the umbrella law, supplemented by implementing decrees and circulars issued by the government and relevant ministries. The IP Law has been amended multiple times - notably in 2009 and 2019 – to strengthen protection and comply with treaties like TRIPS. Most recently, a **sweeping amendment was passed in June 2022** and took effect January 1, 2023, marking the most significant IP law overhaul in over a decade. These updates were driven by Vietnam's commitments under new trade agreements (CPTPP, EVFTA, RCEP) and the need to modernize IP provisions after 15+ years of economic growth.

Under the IP Law framework, protection is generally based on a **first-to-file** principle for registrable rights such as patents, trademarks, designs and GIs. Foreign IP rights (like U.S. or EU registrations) are not automatically effective in Vietnam – rights must be filed/registered under [Vietnamese law](#) to obtain protection. Substantively, Vietnam's legislation meets international minimum standards (e.g. WTO TRIPS) in covering the major forms of IP and providing legal remedies. The law defines acts of infringement and available civil, administrative, or criminal penalties. However, in practice **IP enforcement has historically been a weak point**, with slow processes and limited deterrence for infringers. Recognizing this, Vietnam has been updating not only its statutes but also its enforcement infrastructure.

II. Key IP Legislation and Regulatory Bodies

Primary Laws and Regulations: The cornerstone is the **Law on Intellectual Property (2005)**, as amended by Laws in 2009, 2019, and the extensive 2022 Amendment. The IP Law covers copyright and related rights; industrial property (including inventions, utility solutions, trademarks, industrial designs, geographical indications, layout designs of semiconductor circuits, and trade secrets); and plant variety rights. Key implementing regulations include government decrees and ministerial circulars which provide practical guidance on procedures. For example, Decree No. **65/2023/ND-CP** and Circular No. **23/2023/TT-BKHCN** were issued to implement the 2022 IP Law changes, while older Decree **99/2013/ND-CP** (as recently amended by Decree 11/2023 and 46/2024) governs sanctions for administrative IP infringements. In addition, Vietnam's **Civil Code (2015)** and **Civil Procedure Code (2015)** apply to IP as they provide general principles on civil obligations, contracts, and litigation procedures. The **Penal Code (2015, amended 2017)** criminalizes certain IP infringements (e.g. willful trademark counterfeiting, piracy) and the Criminal Procedure Code sets out prosecution procedures. Ancillary laws such as the Competition Law (for unfair competition acts related to IP) and Customs Law (for border measures) also form part of the legal framework. Together, these instruments establish a fairly comprehensive legislative regime for IP protection and enforcement in Vietnam.

Regulatory and Administrative Bodies: Several government agencies are responsible for administering IP rights and policy:

- **Intellectual Property Office of Vietnam (IP Vietnam):** Formerly called the National Office of Intellectual Property (NOIP), this agency under the Ministry of Science and Technology is the principal authority for industrial property rights. IP Vietnam handles the examination and registration of patents, utility solutions, trademarks, industrial designs, and geographical indications, as well as maintaining the IP registries. It also guides IP policy, drafts legislation, and coordinates enforcement of industrial property rights. Foreign applicants must generally file through licensed local IP agents to

secure rights at IP Vietnam. Industrial property rights are established on a first-to-file basis, meaning whichever party first files a valid application will generally have priority to the patent or trademark in Vietnam.

- **Copyright Office of Vietnam (COV):** This agency under the Ministry of Culture, Sports and Tourism oversees copyright and related rights. While copyright arises automatically, the [Copyright Office](#) handles voluntary registration of copyrights and issues Certificates of Copyright Registration. Registering a work is not mandatory under the Berne Convention principles, but it is **recommended** as evidence of ownership in case of disputes. The COV also administers rights related to musical, artistic, literary works, computer software, etc., and helps draft and enforce copyright regulations.
- **Plant Variety Protection Office:** Under the Ministry of Agriculture and Rural Development, this office administers rights in new plant varieties (plant breeders' rights). Vietnam is a member of UPOV (International Union for Protection of New Varieties of Plants) and provides exclusive rights for registered plant varieties. Foreign breeders can apply for Plant Variety Protection (PVP) certificates through this office, which grants rights similar to patents for new plant breeds.
- **Ministry of Science and Technology (MOST):** This ministry has overall responsibility for state management of industrial IP. IP Vietnam is part of MOST, and the Ministry's Inspectorate plays a role in administrative enforcement of industrial IP rights. MOST drafts IP laws (except copyright) and represents Vietnam in IP treaty matters. It also coordinates the National IP Strategy and public awareness programs.
- **Ministry of Culture, Sports and Tourism (MCST):** Manages copyright and related rights policy. The MCST's Copyright Office (as noted above) handles registrations, and its Inspectorate can conduct inspections and administrative sanctions against copyright infringements (e.g. raids on pirated media).

Other relevant bodies include the **Ministry of Industry and Trade**, which through its **Market Surveillance Authority** (formerly Market Management Bureau) leads market inspections for counterfeit goods and [IP infringement](#) on the ground. The **General Department of Customs** (under the Ministry of Finance) is empowered to intercept counterfeit or infringing goods at the border – rights holders can record their IP with Customs and request suspensions of suspected infringing imports/exports. For dispute resolution, the **People's Courts** (under the Supreme People's Court) adjudicate IP civil litigation and appeals of administrative decisions. In 2024, Vietnam even amended its laws to establish specialized IP Courts to improve judicial expertise in IP. Finally, the **Ministry of Public Security** (Economic Police) handles criminal investigations of IP crimes, though historically criminal enforcement has been rare. All these agencies form the institutional framework that foreign businesses will interact with when protecting IP or dealing with infringement in Vietnam.

III. Types of IP Rights in Vietnam

1. Copyright and Related Rights

Scope of Protection: Vietnam protects copyrights for literary, artistic, and scientific works, as well as “related rights” (neighboring rights) of performers, producers of sound/video recordings, and broadcasting organizations.

In line with the Berne Convention, copyright in Vietnam arises automatically at the moment a work is created and fixed in a tangible form, regardless of its content, quality, presentation, or whether it has been published or registered. This means legal rights exist without formal registration. However, formal registration with the Copyright Office of Vietnam (COV) is strongly advised for evidentiary purposes, providing a clear record of ownership for potential enforcement. This suggests a practical reality where, despite automatic protection, formal registration is highly beneficial for enforcement and proving ownership in disputes. For creators and businesses, relying solely on automatic protection might be risky in practice; registration provides a clear, verifiable record, which can significantly streamline enforcement actions and provide stronger legal standing in a system still maturing in its [enforcement mechanisms](#).

Vietnamese law also explicitly protects derivative works (translations, adaptations, compilations) as long as the underlying work's rights are respected. The 2022 amendments refined some definitions - for example, the law now clearly defines “derivative work” and updated the concept of “author” (clarifying co-authorship, etc.). Notably, moral rights are strongly recognized: authors have the right to be credited, to title their work, and to protect the integrity of their work indefinitely. However, the 2022 amendment introduced some limits on moral rights in cinematographic works – only the director and screenwriter have full moral rights, while other contributors (composer, actors, etc.) have a right to be credited but not to veto modifications. This change was meant to facilitate film production by balancing creators' rights with investors' interests.

Duration: Copyright in Vietnam generally lasts for the life of the author plus 50 years after their death, in line with Berne/TRIPS minimums. For works of corporate authorship or works with anonymous/pseudonymous authors, the term is 75 years from first publication (or from creation if not published within 25 years). Related rights have shorter terms (e.g. 50 years from fixation for phonograms and performances).

Administration and Registration: Registration is not mandatory for copyright protection, but authors and rights owners can **voluntarily register** their works or related rights with the Copyright Office to obtain a certificate. Such registration can be useful evidence of ownership and date of creation if enforcement is needed. The application must be in Vietnamese and include copies of the work and proof of authorship. Foreign works from Berne member countries are protected in Vietnam regardless of registration, but local registration may still be done (for example, a foreign software company can register a key software or manual in Vietnam to better enforce against piracy).

Recent Developments: In 2021–2022, Vietnam acceded to the **WIPO Copyright Treaty (WCT)** and **WIPO Performances and Phonograms Treaty (WPPT)**, enhancing protection of digital works and performances. New provisions were added in 2022 to address digital rights management and technological protection measures, in compliance with those treaties. For instance, the amended law defines and prohibits circumvention of technological protection and removal of rights management information. There are also new exceptions for uses benefiting persons with disabilities and expanded “fair use” exemptions for purposes like research, education, and library use, reflecting modern copyright balance. Overall, foreign investors in creative industries should find Vietnam’s copyright laws largely in harmony with international norms, with an improving legal basis for tackling online piracy.

The Ministry of Culture, Sport, and Tourism holds jurisdiction over copyright matters. The Copyright Office of Vietnam (COV) in Hanoi, with representative offices in Ho Chi Minh City and Da Nang, is responsible for [copyright registration](#). Decree No. 17/2023/ND-CP, issued in April 2023, provides detailed definitions of copyrightable subject matters and outlines specific exceptions to copyright infringement, such as reasonable reproduction of part of a work for scientific research, personal study, or non-commercial purposes. It also clarifies mechanisms for determining infringements and calculating damages, and specifies the responsibilities of Internet Service Providers (ISPs) regarding online copyright infringement.

2. Trademarks and Geographical Indications

Protectable Marks: Trademarks in Vietnam are signs capable of distinguishing goods or services, including words, logos, symbols, phrases, and certain non-traditional marks. Historically, Vietnam only allowed visible signs, but under new trade agreement commitments, the IP Law was amended to recognize “**invisible**” marks like [sound marks](#) as registrable trademarks. As of January 2022, **sound marks** are officially protectable in Vietnam, marking the first time non-visual trademarks have been accepted. (Other non-traditional marks such as scents or holograms are still not explicitly recognized.) Trademark protection is granted via registration with IP Vietnam, except for well-known trademarks which are protected based on reputation. Vietnam is a **first-to-file jurisdiction** – the first applicant to file for a mark will generally have priority, so foreign businesses should secure key brand names and logos early. A trademark registration covers specified classes of goods/services (Vietnam follows the Nice Classification). The term of protection is 10 years from the filing date, renewable indefinitely for additional 10-year periods.

Geographical Indications (GIs): The IP Law also provides protection for geographical indications – names/indications used on products that have a specific origin and qualities or reputation due to that origin (e.g. “Phu Quoc” for fish sauce). GIs are registered with IP Vietnam by or on behalf of producers in the region. Notably, Vietnam agreed under the EVFTA to protect dozens of EU GIs (champagne, parmigiano reggiano, etc.), integrating them into its GI registry. Foreign GIs can be registered if protected in their home country. GI protection in Vietnam is indefinite in duration (no expiration) but subject to continued existence of the conditions that gave rise to the indication’s fame/quality.

Key Principles and Recent Changes: Trademark examination in Vietnam includes absolute and relative grounds. Marks that are generic, descriptive, or contrary to public order are refused, as are marks confusingly similar to prior registered marks. The 2022 law revision updated the **definition of a well-known trademark**, now simply defined as a mark “widely known by the relevant public in the territory of Vietnam”, aligning with international standards. Vietnam’s approach aligns with WIPO recommendations, considering parameters beyond mere prominence among consumers. It also codified that a mark’s well-known status must exist **before the filing date of any conflicting mark** to be asserted, preventing overly broad or post-hoc claims of fame.

The 2022 amendments to Vietnam’s Intellectual Property Law introduced several significant reforms aimed at strengthening trademark protection and aligning Vietnam’s system with international best practices.

A particularly important development is the introduction of a formal [opposition procedure](#). Previously, third parties could only submit **informal observations** during examination. Now, they can **formally oppose pending trademark, patent, or design applications within prescribed timeframes**, giving rights holders a clearer and more effective path to challenge problematic filings.

Bad faith is another critical focus of the amendments. The concept of [bad faith](#) has been **explicitly codified as a ground for refusal or cancellation** of trademark applications. This is a welcome change for foreign companies facing [trademark squatting](#), providing a solid legal basis to challenge bad-faith applications both during prosecution and after registration.

In addition to these measures, the amendments introduce several other important trademark-related updates:

- Allowing for the **suspension of trademark examination** in specific, clearly defined circumstances;
- **Explicitly recognizing sound marks** as registrable subject matter;
- **Clarifying the relationship between trademarks and plant variety rights** to prevent conflicts;
- Confirming the **validity and enforceability of international trademark registrations** under the Madrid System.

Together, these reforms aim to build a **fairer, more efficient, and transparent trademark system**, discouraging abusive filings and ensuring that only marks used in genuine commerce receive protection.

International Systems: Vietnam is a member of the **Madrid System (Madrid Agreement since 1949, and Madrid Protocol since 2006)** for international trademark registration. Foreign investors can thus seek trademark protection in Vietnam by extending an International Registration via WIPO, designating Vietnam. Similarly, Vietnam's trademarks can be protected abroad through Madrid. In practice, many foreign companies secure their marks in Vietnam either directly via national filing or through Madrid. All trademark applications (national or international designations) are examined substantively by IP Vietnam. The country is also part of the **Paris Convention** (since 1949) which allows a six-month priority period to file in Vietnam after an initial trademark filing in another Paris member country.

Trademarks are enforced through similar means as other IP (civil suits, administrative raids, etc.). Notably, **trademark counterfeiting is a crime** under Vietnam's Penal Code, but the bar for criminal liability (commercial scale, intent) is high and historically few cases have been prosecuted. Most trademark disputes are resolved via administrative action (seizure of counterfeit goods by authorities) or civil actions seeking injunctions. Foreign brand owners should also be aware of Vietnam's laws on unfair competition – e.g., use of a mark or trade dress confusingly similar to another's can be addressed as an unfair competition act under the Competition Law if not covered by trademark infringement provisions.

3. Patents (*Inventions, Utility Solutions, Industrial Designs*)

Vietnam's patent system provides distinct protection for inventions, utility solutions, industrial designs, and layout-designs of semiconductor integrated circuits, reflecting different levels of innovation.

3.1. Inventions (*Invention Patents*):

An **invention patent** grants exclusive rights over a product or process that offers a new technical solution to a problem. To be patentable, an invention must meet three key criteria: **novelty**, **inventive step (non-obviousness)**, and **industrial applicability**. Vietnam excludes from patent protection certain subject matters, including scientific discoveries, theories, mathematical methods, business methods, [computer programs](#) as such, methods of treatment/diagnosis for humans or animals, and plant/animal varieties (which are protected separately under Plant Variety Protection laws). Following its **CPTPP commitments**, Vietnam introduced a **12-month grace period** for novelty: public disclosures made by the inventor within 12 months before the filing date will not destroy novelty, aligning Vietnam with international practices. The **term of protection** for invention patents is **20 years from the filing date**, and they are **non-renewable**. Substantive examination is required, and must be requested within **42 months** from the filing date.

3.2. Utility Solutions (*Utility Solution Patents*):

For less complex or incremental technical improvements, Vietnam provides **Utility Solution Patents** (also called **utility models** or **petty patents**). These protect new and industrially applicable technical solutions that may lack the full inventive step required for an invention patent. The **term** for a utility solution patent is **10 years from the filing date**, **non-renewable**. Examination procedures are similar to those for invention patents

but are typically faster and less stringent regarding inventiveness. The request for substantive examination must be filed within **36 months** from the filing date.

Application and Examination Process

Vietnam follows the **first-to-file principle**, meaning the first applicant to file will have priority. Patent applications are filed with **IP Vietnam**.

Key procedural points:

- **Publication** occurs **18 months after the priority date** (unless early publication is requested).
- Vietnam is a member of the [Patent Cooperation Treaty \(PCT\)](#). PCT applicants must enter the Vietnamese national phase within **31 months** of the priority date.
- All applications must be filed in **Vietnamese**; foreign language documents (like PCT applications or priority documents) must be translated.

Recent reforms via **Decree No. 65/2023/ND-CP (effective August 2023)** bring several changes:

- Introduction of **security control for patents** and definition of **secret inventions**.
- Detailed procedures for **splitting and withdrawing applications**.
- Updates to **application forms** and the introduction of **electronic protection titles**.

Patent Rights and Enforcement: Once granted, a patent gives the owner the exclusive right to prevent others from making, using, selling, or importing the patented product or process. Vietnam's law allows for civil suits against infringers, as well as administrative action (e.g. inspectorate orders to cease infringement). Preliminary injunctive relief is available in principle via courts. The law also permits **compulsory licensing** of patents in limited circumstances such as for public health needs or failure to work the patent, in line with TRIPS flexibilities. For most foreign investors, compulsory licensing is unlikely to arise, but it exists as a safeguard in the law. Vietnam's 2022 amendments also clarified patent disclosure requirements and added new grounds to invalidate patents (e.g. if the granted patent's specification did not sufficiently disclose the invention, or if the patent was derived from an application filed abroad without required security clearance). These helps ensure patent quality and compliance with int'l norms.

3.3. Industrial Designs:

[Industrial designs](#) protect the ornamental or aesthetic appearance of a product or component, expressed through shapes, lines, colors, or combinations visible during use. To be registrable, a design must be **novel** and **industrially applicable**, covering both manufactured and handmade products. Protection lasts **5 years from the filing date**, renewable for up to **two additional five-year terms**, for a total maximum term of **15 years**. Vietnam has incorporated **international design registration procedures under the Hague Agreement**, making it easier for foreign applicants to seek design protection in Vietnam.

Notable Changes: A significant update in 2022 was the **broadening of the definition of "industrial design" to include partial designs** – i.e. the design of a **component part of a complex product**, provided the part is visible during normal use of the product. This change was made to comply with EVFTA commitments and allows protection for designs of, for example, a car headlamp or a smartphone screen icon, as long as that part's appearance is novel. Previously, Vietnam may have only protected whole-product designs; now foreign companies can better protect specific design elements. Additionally, Vietnam joined the **Hague Agreement** on international registration of industrial designs in 2019, enabling foreigners to file design applications through WIPO and designate Vietnam. The Hague system came into force in Vietnam in 2019, and since then foreign applicants have the option of seeking design protection via a single international application. Vietnam's IP Office examines Hague design designations just like national filings.

Design Registration Process: Similar to patents and trademarks, design applications are filed with IP Vietnam (or via the [Hague system](#)). Designs are published, and third parties can submit observations or now even formal oppositions within a set time. The 2022 amendments also simplified some formal requirements for design applications and allow applicants to request a delay of publication (useful if one wants to keep the design confidential a bit longer). A single application can include up to 100 variations of a design, provided they are of the same design concept (though Vietnam used to have strict unity rules, this might be evolving).

For foreign businesses, protecting product designs in Vietnam is important given the country's manufacturing base and the risk of look-alike products. With Vietnam's accession to the Hague Agreement, it is easier to include Vietnam in an international design portfolio. Design rights can be enforced against products that copy

the protected appearance – often via customs seizures or market inspections if counterfeits are found. It's worth noting that under Vietnamese law, there's also a concept of "[industrial design infringement](#)" separate from trademark, so one could stop knockoffs that replicate a product's distinctive shape even if no confusing trademark is used.

3.4. Layout-designs of Semiconductor Integrated Circuits

Vietnam also protects the **layout-designs of semiconductor integrated circuits**, which cover the three-dimensional configuration of circuit elements and their interconnections. Protection lasts for **10 years** from either the filing date or the date of first commercial exploitation anywhere in the world, whichever comes first.

International Treaties Influence: Besides the PCT, Vietnam's patent regime is shaped by treaties like the Paris Convention (providing 12-month priority for foreign filings), TRIPS (minimum 20-year term, etc.), and recent FTAs. Under the CPTPP and EVFTA, Vietnam agreed to strengthen certain patent provisions – for example, CPTPP requires an adjustment of patent term or effective patent life if there are "unreasonable" delays in granting patents. Vietnam's 2022 law changes did not explicitly introduce patent term extension, but they did address regulatory review timelines for agricultural chemical data protection and other technical areas. Also, Vietnam joined the **Budapest Treaty (2021)** on microorganism deposit for patent procedure, aiding biotech patent applicants. Foreign companies engaging in R&D or biotech in Vietnam should note this addition, as it streamlines patenting biological material inventions.

In summary, Vietnam's patent system offers robust protection comparable to other jurisdictions, with some unique aspects (utility solutions, newly adopted grace period). Foreign inventors are advised to file promptly (within Paris Convention deadlines) and work with local patent counsel to navigate procedural requirements.

3.5. Trade Secrets

Definition and Protection: Trade secrets are recognized as a form of intellectual property in Vietnam, classified under "industrial property rights" in the IP Law alongside patents and trademarks. A trade secret is defined as information that (i) is neither common knowledge nor readily ascertainable, (ii) confers economic/business advantages on its owner, and (iii) is subject to reasonable measures by the owner to keep it secret. This definition aligns with the TRIPS standard for undisclosed information. **No registration** is required – protection arises as long as the information meets the criteria and the owner maintains its secrecy. Examples include formulas, recipes, business strategies, customer lists, manufacturing processes, or any confidential know-how. Foreign investors should implement internal safeguards (NDAs, access controls, etc.) because the law only protects secrets "**if the owner has taken appropriate measures to maintain secrecy**".

Vietnamese law prohibits misappropriation of trade secrets – such acts are considered acts of unfair competition or infringement of industrial property rights. Specifically, it is unlawful for a person to acquire a trade secret by breaching confidentiality or hacking, or to disclose or use a trade secret without permission and through illegitimate means. Employees or business partners who improperly disclose confidential information can face legal consequences. The IP Law provides that trade secret owners can take civil action against misappropriation, seeking injunctions and compensation. Administrative remedies are also available: for instance, authorities can sanction parties who steal [trade secrets](#) (especially in the context of industrial or competition violations). In some cases, the Vietnamese **Penal Code criminalizes trade secret theft** – for example, Article 289 of the Penal Code punishes the disclosure or sale of another's business secret, technical know-how or customer data obtained by illegal means, in serious cases. However, criminal enforcement in this area has been infrequent.

Duration: Trade secrets can theoretically last indefinitely – there is no time limit as long as the information remains secret and valuable. This makes them an attractive IP asset for certain technologies (like Coca-Cola's recipe) if patenting is not desired. But once a secret is publicly disclosed (without breaching an obligation), it loses protection.

Practical Considerations: Foreign companies operating in Vietnam should be vigilant in using confidentiality agreements with employees, partners, and vendors. Vietnam's labor law allows certain non-disclosure and non-compete clauses with employees (within reason), which help protect trade secrets. The 2022 IP Law amendments, in line with CPTPP, bolstered trade secret protections by ensuring that enforcement measures (civil and administrative) are available against electronic espionage and unauthorized disclosures, including by third-party intermediaries. For example, if a competitor induces a former employee to provide confidential data, that competitor could be liable. Overall, while trade secret enforcement through courts is not common in Vietnam, the legal framework to protect confidential business information is in place. Given the rising concern about data leaks and cyber intrusions, trade secret protection is increasingly relevant and Vietnam's laws are

gradually adapting (including new provisions on liability of internet service providers for content that infringes trade secrets or other IP). Companies are advised to treat trade secrets with the same care as in other jurisdictions – register patents for inventions that can be reverse-engineered, and keep truly secret information tightly controlled.

IV. Recent Legal Developments and Reforms (2018–2025)

Vietnam's IP landscape has seen significant reforms in the last five years, driven largely by its commitments in new trade agreements and a national push to enhance IP protection. Key developments include:

- Comprehensive IP Law Amendment 2022:** As noted, the National Assembly passed extensive amendments to the IP Law in June 2022 (effective Jan 2023, with certain provisions phased in). This was the most wide-ranging IP law reform since 2005, amending over 100 articles. Changes were made across the board – from clarifying basic definitions to introducing new mechanisms for IP registration and enforcement. Some highlights already discussed are: formal opposition proceedings for patents/trademarks; explicit recognition of bad-faith filings and well-known marks criteria; protection of sound marks; an inventor grace period for patents; broader design protection for parts; limitations on certain moral rights in films; and safe harbor rules for internet intermediaries regarding copyright. The amendment also strengthened **IP enforcement provisions** (e.g. allowing **ex officio customs actions** to seize counterfeits without a rights holder request, and expanding corporate criminal liability for IP crimes). Overall, the 2022 amendments integrated many “**new-generation FTA**” commitments from the CPTPP, EVFTA, and RCEP into domestic law. This has been viewed positively by businesses – aligning Vietnamese law with higher standards is expected to increase foreign investor confidence in Vietnam's IP system.
- Accession to Key Treaties:** Vietnam joined several important IP treaties in this period. Notably, it acceded to the **WIPO Copyright Treaty (WCT)** in late 2021 (in force Feb 2022) and the **WIPO Performances and Phonograms Treaty (WPPT)** in 2022, which modernize copyright law for the digital environment. Vietnam also joined the **Hague Agreement (1999 Act) on Industrial Designs** in 2019, enabling Hague design filings as of early 2020. In 2021, Vietnam became a member of the **Budapest Treaty** on the deposit of microorganisms for patent purposes, which is particularly relevant for [pharmaceutical and biotech patents](#). These accessions were often timed to fulfill FTA requirements (for example, EVFTA required joining WCT/WPPT within 3 years, which Vietnam did). They reflect Vietnam's deeper integration into the global IP system.
- Institutional Changes and IP Office Improvements:** In 2018, the government restructured enforcement authorities by elevating the Market Surveillance Department to a national general department under direct central control, aiming for more coordinated anti-counterfeiting actions. The IP Office (IP Vietnam) has been upgrading its e-filing and examination capacity – it launched online filing portals and has participated in the [ASEAN Patent Examination Cooperation \(ASPEC\) program](#) to expedite patent examination via work-sharing. The IP Office's workload has grown with increasing filings (a sign of investor interest in Vietnam), prompting these capacity-building measures. Vietnam's National IP Strategy 2018–2030 (approved in 2019) outlines further actions like IP education, improving examination quality, and incentivizing domestic innovation.
- Specialized IP Courts (2024):** A very recent development is the move to establish specialized IP courts. In June 2024, Vietnam's National Assembly approved amendments to the Law on Organization of People's Courts that pave the way for **dedicated IP courts** at the first-instance level. This is a milestone: traditionally, IP cases were handled by general civil or economic courts with no specialization, often resulting in inconsistent or delayed outcomes. The new IP courts, initially set up in major cities (Hanoi and Ho Chi Minh City), will have judges trained in IP law and jurisdiction to hear IP disputes exclusively. This reform is aimed at improving the effectiveness of civil IP enforcement and was motivated by the low number of IP cases historically litigated (e.g., only about a dozen IP civil cases per year in recent times, versus hundreds of administrative seizures). For foreign companies, the introduction of specialized IP courts signals a more reliable litigation environment in the near future, aligning with global practices and fulfilling FTA commitments on judicial enforcement.
- Increased Penalties and Online Enforcement:** Vietnam has incrementally raised administrative fines for IP infringement over the years and enhanced enforcement in the digital space. A new **Decree 17/2023** (amending Decree 98/2020) increased penalties for trading in counterfeit goods, including counterfeit trademarks, up to VND 500 million for organizations (approx. \$21,000). The amended IP Law and subsequent decrees also give clearer authority to tackle online piracy – for instance,

regulators can now force removal of infringing digital content and even utilize **website blocking** or **keyword filtering** for egregious piracy sites. These measures target Vietnam's growing problem of [online piracy](#), as Vietnam has unfortunately been host to some notorious piracy websites. In response, the government in 2023 launched enforcement campaigns against illicit streaming sites and pirated music apps. While challenges remain (pirates often relocate sites or use VPNs), these steps demonstrate Vietnam's intent to improve IP enforcement in the online realm.

- **Ongoing Revisions:** As of 2025, additional guiding regulations (circulars) are still being issued to fully implement the 2022 IP Law changes. For example, a new **Copyright Decree** is being finalized to guide the amended copyright provisions. Businesses should stay updated on such secondary legislation, as it often clarifies procedures like how to notify ISPs of infringing content or how opposition proceedings operate in practice. The legal community in Vietnam (law firms, IP associations) is actively engaging with authorities to ensure the new laws are workable.

In summary, the last five years in Vietnam have brought the country's IP laws to a more advanced level, closer to EU/U.S. standards in many aspects. The reforms address long-standing gaps (like lack of opposition system, limited digital enforcement tools) and demonstrate Vietnam's commitment to meeting international IP obligations. For foreign investors, these developments are largely positive – though the true measure will be how effectively the new laws are enforced on the ground, which leads to the next topic of enforcement mechanisms and effectiveness.

V. IP Enforcement Mechanisms in Vietnam

Enforcing IP rights in Vietnam can involve **administrative actions**, [civil litigation](#), or **criminal prosecution**, each with its own process and practical effectiveness. Vietnam's enforcement system is somewhat unique in that administrative measures have been the most commonly used avenue for IP enforcement, whereas civil court cases have been relatively few. Below is a breakdown of each mechanism and how well it works in practice:

Administrative Enforcement

Overview: Administrative enforcement is often the **fastest and most utilized route** for IP owners confronting infringement in Vietnam. Multiple government authorities have administrative powers to handle IP infringements by inspecting, confiscating goods, and levying fines. Key players include the Market Surveillance forces (for raids on counterfeit products in markets and shops), the Science & Technology inspectors (for patent/design infringements in industrial settings), the Information & Communications inspectors (for online or software piracy cases), and the Culture inspectors (for copyright piracy like unlicensed media). An IP owner can file a complaint with the relevant agency – for example, notify the Market Surveillance Department about a store selling counterfeits of their trademark. The agency can then investigate, often conduct a surprise inspection (raid), seize infringing goods, and impose monetary fines on the violators under the administrative sanctions regime.

Pros and Cons: Administrative actions are generally **quicker and less costly than civil litigation**. They do not require the IP owner to file a lawsuit; instead, the agency carries out the enforcement action and issues a decision. This is particularly effective for clear-cut cases like counterfeit goods, where the goal is to promptly stop sales and confiscate fake products. For instance, if a foreign fashion brand discovers counterfeit apparel in Hanoi, the Market Surveillance officers can swiftly raid and shut down the operation, whereas a civil court case could take years. However, administrative bodies can only impose penalties (fines, seizure, orders to desist) – they cannot award damages to the IP owner or issue long-term injunctions. The fines in the past were often modest and seen as a “cost of doing business” by counterfeiters, though recent decrees have increased fine levels to improve deterrence. Administrative decisions can be appealed to court, but infringers rarely do so unless fines are substantial.

In practice, **the majority of IP infringement cases in Vietnam are resolved via administrative sanctions**. Statistics illustrate this imbalance: in 2023, authorities handled 644 IP infringement incidents through administrative sanctions, whereas only 16 cases led to criminal prosecution and only a dozen or so civil IP lawsuits were concluded. This underscores the reliance on administrative enforcement. For foreign companies, it means the first line of defense is usually working with local enforcement authorities to raid infringers, rather than suing them immediately. Administrative enforcement is effective for stopping infringement quickly, but it may not fully compensate losses or stop repeat offenders in the long run.

Civil Litigation

Overview: Civil enforcement involves filing a lawsuit in the People's Court against the alleged infringer for IP infringement or unfair competition. The IP owner can seek remedies such as injunctions (to stop the infringing act), destruction of infringing goods, and compensatory damages for economic loss. Vietnam's civil court system for IP has historically been underutilized – partly due to lack of specialized judges and lengthy procedures. However, with the upcoming **specialized IP courts** (starting 2025), civil litigation is expected to become a more viable and predictable avenue.

Process: A civil case begins with a petition filed in a court of [competent jurisdiction](#) (usually a provincial-level court for IP cases, often in the locality where infringement occurred or where the defendant is based). Vietnam being a civil law system, there is no extensive discovery process like in common law jurisdictions; the burden is on the plaintiff to present evidence of infringement and damages. Evidence can include expert opinions (Vietnam has IP assessment organizations that can give [expert conclusions](#) on infringement), market surveys, etc. Notably, preliminary injunctions are theoretically available – the IP Law allows a right holder to request **provisional measures** from a court to seize or secure infringing goods if delaying would cause irreparable harm. In practice, obtaining ex parte injunctions has been challenging, but some courts have granted them when strong evidence is provided (e.g., to seize counterfeit pharmaceuticals stored in a warehouse).

Remedies: If the court finds infringement, it can order the defendant to cease the infringement, apologize publicly, and pay damages. Damage awards in Vietnam tend to be relatively low due to strict requirements of proof (actual loss, infringer's profits, etc.), and punitive damages are not available. Statutory damages up to VND 500 million (approx. \$21,000) can be awarded when losses are hard to quantify. While not large by Western standards, damage awards in court can at least cover investigation costs or license fees. Another remedy the court can order is the **destruction or distribution of infringing goods** (e.g., handing counterfeit merchandise to charity without the infringing mark, if appropriate).

Challenges and Improvements: Historically, companies avoided civil litigation because cases could drag on for 1-2 years or more and judges often lacked IP expertise, leading to inconsistent rulings. Moreover, a court judgment might be difficult to enforce (defendants hiding assets, etc.). The establishment of **IP-specialized courts** aims to address these issues by training judges who focus on IP, resulting in more consistent and informed decisions. This reform, aligned with Vietnam's international commitments, should encourage more rights holders – including foreign investors – to consider litigation for serious infringements, especially where large damages or injunctive relief are needed. As the IP courts come online in 2025, we anticipate more robust civil jurisprudence on IP in Vietnam.

Criminal Enforcement

Overview: Vietnam's law provides criminal penalties for certain IP infringements, mainly trademark counterfeiting and willful copyright piracy on a commercial scale. The Penal Code prescribes fines and possible imprisonment for individuals, and since 2018 Vietnam also recognizes **criminal liability of corporate entities** for IP crimes (e.g., a company dealing in counterfeit goods can be fined and its operations suspended). Despite this legal framework, **criminal enforcement of IP has been extremely limited in practice**. As noted by the U.S. Trade Representative, Vietnam has “almost no criminal investigations or prosecutions” for copyright and trademark infringement despite having the laws on the books. This has been a point of criticism in USTR Special 301 Reports and by other trade partners.

When It's Used: [Criminal enforcement](#) tends to be reserved for the most egregious cases – for example, large-scale manufacturing of counterfeit luxury goods, pharmaceutical counterfeiting that poses public health risks, or piracy operations making substantial profit. The thresholds for criminal prosecution are high: the infringement must cause loss above a certain monetary value or involve a large quantity of goods, and the intent to directly profit from someone else's IP must be shown. Enforcement agencies (like Economic Police) often need the IP owner's complaint plus strong evidence before they will initiate a criminal case. In the rare instances that criminal cases move forward, they can result in seizure of assets, jail terms for responsible individuals (up to 3 years or more, depending on the offense and scale), and significant fines.

Challenges: The rarity of criminal IP cases in Vietnam is due to several factors: evidentiary hurdles, limited resources/prioritization by police (IP crimes may not be seen as high-priority compared to other crimes), and a traditional preference for administrative handling of counterfeiting. There may also be a lack of technical expertise among local police or prosecutors to pursue complex IP cases. Nonetheless, Vietnam's government has been under pressure to improve in this area, especially for counterfeit medicines and recurring offenders. Training programs with foreign agencies have been conducted to build capacity. The 2022 IP amendments explicitly added provisions to facilitate criminal enforcement – for instance, clarifying that “**commercial legal**

entities” (companies) can be criminally liable for IP infringement, and refining the definitions of IP counterfeit goods (trademark counterfeits and GI counterfeits) for easier reference by enforcement bodies.

For foreign investors, the bottom line is that criminal enforcement in Vietnam is available but should not be relied upon as the primary remedy except in severe cases. It can be effective as a deterrent if achieved – a jail sentence or a high-profile arrest sends a strong message – but given the rarity, many companies focus on administrative or civil routes. One practical strategy is to escalate an issue: start with administrative raids to gather evidence, and if the scale is huge (e.g. a factory of fakes) and the local authorities are cooperative, push for criminal charges. Engaging industry groups or foreign chambers of commerce to urge crackdowns (for instance, in pharmaceuticals or consumer electronics) can also spur more criminal enforcement.

Border Measures

Customs Enforcement: Vietnam Customs plays an important role in preventing importation or exportation of IP-infringing goods. Rights holders can record their trademarks, patents, designs, or copyright with Customs authorities, providing details of their IP rights and authentic products. If Customs officers encounter shipments suspected of containing counterfeit or pirated goods, they can **suspend the clearance** of those goods. Under the IP Law, Customs can act upon a request by the IP owner (application for border control measures) and, since 2022, customs officials also have clearer authority to act *ex officio* (on their own initiative) in obvious cases. For example, if Customs notices a shipment of goods bearing a famous logo that seems likely counterfeit, they can hold it and notify the IP owner even if no prior request was lodged – a recent improvement aligning with EVFTA commitments. The IP owner then has to confirm the infringement and may need to post a bond to secure continued detention while pursuing legal action.

Effectiveness: [Customs enforcement](#) has had some success intercepting fake products (like stopping containers of counterfeit apparel or electronics). However, challenges include the sheer volume of trade and the need for training customs officers to identify counterfeits. Vietnam's long land borders and many ports mean that some counterfeit goods still slip through. The EVFTA and CPTPP both pressed Vietnam to boost border enforcement, leading to better regulations and cooperation. Foreign businesses are advised to register their key trademarks with Customs and provide product identification guides, so that officers are equipped to spot fakes. Vietnam Customs also works with foreign Customs (under WCO frameworks) to share intelligence on transnational counterfeit smuggling.

Effectiveness and Practical Insights

In practice, **IP protection in Vietnam is improving but still faces enforcement hurdles**. Administrative actions are effective for quick relief but may not suffice against sophisticated or repeat infringers. Civil litigation has been underused due to slow process and low damages, though the creation of specialized IP courts aims to change this by providing more expert, consistent adjudication. Criminal enforcement remains the weak link – as noted, virtually no criminal IP cases have been pursued relative to the scale of infringement, especially in the online piracy arena. This lack of aggressive criminal prosecution has arguably made Vietnam attractive to counterfeiters and pirate site operators, a situation the government is under pressure to rectify. The U.S. government has kept Vietnam on its Special 301 “**Watch List**” for over a decade due to enforcement concerns, and USTR's 2023 Notorious Markets Report cited places in Vietnam known for counterfeit sales (e.g. Saigon Square in Ho Chi Minh City).

That said, foreign companies have successfully enforced their IP in Vietnam through a combination of methods. Many take a **strategic approach**: for instance, conducting private investigations and market surveillance, then using administrative raids to seize infringing goods and gather evidence, and finally using the threat of civil or criminal action to negotiate settlements or deter further violation. It's common to involve local IP consultants or law firms who have good working relationships with enforcement bodies. The Vietnamese authorities do respond to well-substantiated complaints, especially if there is an element of consumer safety (e.g. counterfeit pharmaceuticals or food) or significant economic harm. The government has also set up a National Steering Committee 389 (Chỉ đạo 389) specifically to combat smuggling and counterfeiting, reflecting a high-level commitment to crack down on IP violations as part of unfair trade.

Encouragingly, the **trend** is toward stronger enforcement: the new IP courts will allow more cases to go to trial with knowledgeable judges, and the legal changes (higher fines, ISP liability rules, etc.) give rights holders better tools to enforce their rights. [Foreign investors](#), however, should approach Vietnam as a jurisdiction where proactive protection is needed – meaning register your IP, monitor the market, and be prepared to work closely with enforcement agencies or pursue legal action when infringements occur. Patience and persistence are often required, but many global companies (in sectors like apparel, consumer goods, software, pharmaceuticals) have managed to significantly curb infringement in Vietnam through sustained enforcement campaigns.

Final thoughts

Vietnam's intellectual property legal framework has matured significantly, evolving from basic provisions within its civil code to a comprehensive and increasingly sophisticated system. This evolution, primarily driven by the landmark Law on Intellectual Property of 2005 and its subsequent amendments, reflects Vietnam's strategic commitment to global economic integration and the recognition of IP as a vital asset for national development.

The framework provides robust protection across key IP categories, including copyrights, trademarks, patents, industrial designs, geographical indications, and trade secrets.

Vietnam's active participation in major international IP conventions (TRIPS, Berne, Madrid, Hague, PCT, Paris) and its commitments under significant free trade agreements (EVFTA, CPTPP, RCEP) have been instrumental in shaping its domestic IP policy. These international obligations have pushed Vietnam towards higher standards of protection and enforcement, fostering a more predictable and secure environment for IP rights holders, both domestic and foreign.

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