

Letter of Consent in Vietnamese Trademark Registration: How KENFOX Helped a Client Overcome a Trademark Refusal

Vietnam's Intellectual Property Law (IP Law), along with its guiding legal documents such as Decree 65/2023/ND-CP and Circular 23/2023/TT-BKHCN, does not contain any provisions stating that a "[Letter of Consent](#)" (LOC) can automatically eliminate the risk of confusion between trademarks or automatically lead to the approval of a trademark application when such a document is submitted. This lack of a clear legal mechanism for Letters of Consent has created a significant legal gap, making the examination process unpredictable and inconsistent, especially in cases where applicants have diligently negotiated and obtained consent from the owner of the cited trademark.

In practice, the Intellectual Property Office of Vietnam (IPVN) can still reject a trademark application if it determines that the similarity between two trademarks is likely to cause confusion among consumers – regardless of the existence of an LOC. In the current legal system, an LOC is only considered a reference document, providing argumentative support rather than being decisive or legally binding on the examination outcome.

A Typical Case from KENFOX IP & Law Office: ATTURRA vs. Altura

Recently, however, **KENFOX IP & Law Office** successfully assisted an Australian client in overcoming a refusal of protection issued by the IPVN. The refusal was based on the grounds that the trademark "ATTURRA" was deemed [confusingly similar](#) to the previously protected trademark "ALTURA."

To achieve this result, KENFOX IP & Law Office conducted an in-depth and comprehensive analysis of the trademark's constituent elements, including:

- **Differences in structure and presentation:** The trademark "ATTURRA" consists of 7 uppercase letters, with the letters "T" and "R" repeated twice. In contrast, the trademark "Altura" consists of 6 letters, with only the initial "A" capitalized and the remaining letters in lowercase, with no character repetition. KENFOX IP & Law Office argued that this difference creates a strong visual effect and reduces the risk of confusion.
- **Phonetic differences:** The trademark "ATTURRA" is pronounced /æt – tɜː – ra/, while the trademark "Altura" is pronounced /ɔːl – tʃə – ra/. Although both have three syllables, the first two syllables are entirely distinct, reinforcing their clear distinguishability.
- **Differences in meaning:** "ATTURRA" is a coined word, not found in any dictionary or language, whereas "Altura" means "height" in a foreign language, making it descriptive of the services. This difference in meaning is a crucial factor in helping consumers easily distinguish between them.
- **Specialized nature of services:** The services in Class 42 for both the applied-for trademark and the cited trademark are scientific, technological, research, and design services related to information technology, computers, and software, requiring high expertise. Users of these services are individuals with specific knowledge, not ordinary consumers. Therefore, they would exercise more careful consideration when choosing services and providers, reducing the likelihood of confusion between trademarks with clear distinctions.
- **Letter of Consent:** The owner of the cited mark has agreed to issue a Letter of Consent to the applicant, thereby confirming that they do not oppose or object to the registration and use of the applied-for trademark.

Based on KENFOX's persuasive arguments, the IPVN issued a Notice of Acceptance for the protection of the "ATTURRA" trademark on June 30, 2025.

Key Takeaways

1. **The IPVN considers Letters of Consent on a case-by-case basis.** Possessing a letter of consent is not enough to conclusively state there is no likelihood of confusion, nor does it completely eliminate the possibility of confusion or create a legal obligation for the IPVN to grant protection. During the examination process, the IPVN will still conduct an independent and comprehensive assessment to ensure that the co-existence of two trademarks will not cause serious confusion or affect consumer rights. This means that the existence of an LOC is merely a reference factor, not a mandatory legal basis compelling the IPVN to grant protection for the applied-for trademark.
2. **The consent of the owner of the cited trademark is a weighty factor, but the more important, decisive factor lies in the analytical capabilities and legal argumentation strategy of the**

intellectual property lawyer. Refusal notices from the IPVN are often issued based on strict evaluation criteria stipulated by law, with the ultimate goal of preventing potential confusion for consumers in the marketplace. Therefore, the value of a letter of consent primarily lies in demonstrating goodwill.

To overcome this hurdle, the crucial role of an intellectual property lawyer in protecting client interests is undeniable. In-depth legal analysis, rigorous arguments regarding the structure, phonetics, and meaning of the trademark that clarify the actual distinctiveness between trademarks, along with insightful analysis of the differences or specialized nature of the related goods/services, will help solidify the view that while two trademarks may be similar in some aspects, that similarity is insufficient to create a significant risk of confusion or, overall, they are entirely distinguishable.

Closing thoughts

In the context of Vietnamese intellectual property law, which lacks specific provisions regarding the legal value of a Letter of Consent, overcoming a cited trademark during the [trademark registration process](#) cannot rely solely on the goodwill between parties. A Letter of Consent, while supportive, is still only one part of a complex legal landscape where success largely depends on the intellectual property lawyer's ability to conduct comprehensive analysis, present rigorous arguments, and employ smart strategic approaches to overcome obstacles from the IPVN, even when a trademark faces the risk of refusal due to conflict with a cited trademark.

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