

KENFOX Overturns Trademark Refusal for "MINIX" After Nine-Year Appeal in Vietnam

KENFOX IP & Law Office has secured a significant victory for its client, Minix Technology Ltd., a Shenzhen, China-based technology company. After nine years of persistent pursuit, KENFOX successfully persuaded the Intellectual Property Office of Vietnam (IPVN) to grant protection for the "MINIX" trademark in Class 09. This success not only affirms Minix Technology Ltd.'s legitimate rights but also establishes a valuable legal precedent for similar cases in the future.

Background

Minix Technology Ltd., established in 2008, is a technology company specializing in the development and production of advanced products such as mini-computers, media players, and other electronic devices. The company filed an international trademark application for "MINIX" under the Madrid Protocol, designating protection in Vietnam. However, the IPVN issued [a decision refusing to grant a trademark registration certificate](#) for Class 09, which includes computer hardware and peripherals, on the grounds that the "Minix" mark was descriptive. The IPVN's basis was an internet search result indicating "Minix" was the name of a known computer operating system.

Under Vietnamese trademark law, [descriptive marks](#) – those that directly describe the characteristics, quality, purpose, geographical origin, or generic name of goods/services – are generally not eligible for protection due to a lack of distinctiveness. However, a descriptive mark can still be protected if it can be proven to have acquired distinctiveness through extensive and continuous use in the Vietnamese market. This is known as "secondary meaning," where consumers have become familiar with and associate the mark with the goods/services of a specific entity, rather than understanding it in its ordinary sense.

Initial Appeal and Evidence of Use

Representing Minix, KENFOX filed an appeal challenging the IPVN's refusal decision. In the appeal, KENFOX argued that:

- *First*, products bearing the "MINIX" brand had been actively distributed in the Vietnamese market through stable and long-term business relationships with domestic enterprises, demonstrating a significant level of brand presence and recognition.
- *Second*, the "MINIX" trademark had been successfully registered in many other Madrid member countries without any objections regarding descriptiveness. This indicated that the trademark was widely recognized for its distinctiveness in the international market.

Based on these points, KENFOX asserted that the "MINIX" trademark was not descriptive as initially perceived by the IPVN, but had acquired distinctiveness through actual use and widespread consumer recognition.

IPVN Concerns and Argument on "Related Goods"

Although KENFOX presented sharp and compelling arguments from the early stage of the [appeal](#) process, the case continued to face complex legal hurdles. In early 2025, after nine years of review, an examiner from the Intellectual Property Office of Vietnam raised a new concern.

The examiner acknowledged that the documents provided by KENFOX had demonstrated extensive use of the "MINIX" trademark in the market, but still argued that most of this evidence focused on "Android box" products. These are media player devices, which did not fully match the specific goods listed in the Class 09 application, such as computers and computer peripherals.

The examiner argued that, although "Android boxes" are also technology products, their nature and function were not sufficiently similar to the goods specified in the application to infer that the "MINIX" trademark had acquired distinctiveness across the entire list of registered goods. Therefore, the secondary meaning of the trademark was not yet fully proven for the specific products in Class 09.

KENFOX's Persuasive Arguments: Comprehensive Connection of Aspects

To counter the examiner's concerns, KENFOX presented a rigorous and comprehensive set of arguments, focusing on four key points:

- **Essential relationship between goods:** KENFOX pointed out that, although "Android boxes" were not specifically listed in the Class 09 goods, they were closely related to the specified products. Functionally and technologically, Android boxes are a form of miniature computer, falling within modern consumers' broader understanding of "computer devices" or "digital devices."
- **Broad interpretation of "computer peripherals":** KENFOX emphasized the need for a flexible interpretation, consistent with market realities, when defining the scope of the term "computer peripherals." Android boxes, with their ability to connect to and enhance the functionality of screens (TVs), could entirely be considered a form of peripheral device, even if not belonging to traditional groups like mice or keyboards.
- **"Spillover effect" from brand recognition:** KENFOX argued that the "MINIX" trademark had achieved a high level of recognition and consumer trust in the Android box sector. This success created a spillover effect, leading consumers to extend that recognition to related technology products – including the Class 09 goods for which trademark protection was sought.
- **International registration precedents:** The successful registration of the "MINIX" trademark in many countries – especially English-speaking countries like Australia and European nations – demonstrated that the mark was not inherently descriptive and had acquired distinctiveness. These international precedents served as compelling evidence, strongly supporting the request for protection in Vietnam.

Closing thoughts

After a nine-year appeal process, KENFOX's persistent and legally sound arguments finally persuaded the examiner of the Intellectual Property Office of Vietnam (IPVN). Based on a comprehensive re-evaluation of the file and supplementary evidence, the examiner decided to withdraw the previous refusal decision and approve the grant of protection for the "MINIX" trademark in Class 09.

This decision not only marks the success of Minix Technology Ltd. in protecting its intellectual property rights in Vietnam but also officially concludes a challenging legal journey spanning nearly a decade.

The "MINIX" trademark case is not merely an individual victory for Minix Technology Ltd., but also establishes a valuable precedent for similar cases in the future, particularly for trademarks initially deemed descriptive.

This success demonstrates that, with a deep understanding of market perception and consumer behavior, along with providing clear and relevant evidence of actual use related to the respective class of goods, businesses can overcome initial legal barriers. Furthermore, a solid international registration portfolio under the Madrid System also plays a crucial role in strengthening a trademark's distinctiveness.

The MINIX case therefore serves as a clear testament that, within Vietnam's intellectual property legal system, descriptiveness is not an absolute barrier, provided there is an appropriate legal strategy and compelling evidence.

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