

Trademark Cancellation for Non-Use in Vietnam: What Valuable Lessons Can Be Drawn?

The trademark cancellation request against Trademark Registration Certificate No. 103943 (“DD DANTI, device”), filed and pursued by KENFOX IP & Law Office, lasted for a decade and has become a landmark case in the field of intellectual property (IP) in Vietnam. What initially appeared to be a straightforward matter of cancelling [a trademark](#) for non-use turned into a complex legal battle between enterprises competing to defend and secure their IP rights.

This case has helped to more clearly define the regulations on **“use of a trademark”** under Article 124.5 of Vietnam’s IP Law, limiting ambiguous interpretations and preventing the abuse of this provision to unjustifiably maintain trademark rights in Vietnam.

Background

In 2015, **Guangzhou City Baiyun Lianjia Fine Chemical Factory (China)**, through our firm, **KENFOX IP & Law Office**, filed a request with the **Intellectual Property Office of VIETNAM (IPVN)** to cancel



Trademark Registration Certificate No. 103943 for the trademark **“DANTI”** (“DD DANTI, device”) for cosmetic and perfumery products in Class 03.

The petitioner asserted that this trademark had not been used continuously by **DAN TI Co., Ltd.** for five years in Vietnam. To support its argument, the petitioner provided an official letter from the **Market and Price Magazine (Ministry of Finance)**, which confirmed that the trademark had not been used from 2010 to 2015.

In rebuttal, the trademark owner, **DANTI Co., Ltd.**, argued that the trademark was still in use for the majority of its registered products and that the company was **“preparing the necessary conditions for its use”** for the remaining products in various shopping centers nationwide. The trademark owner also submitted a request for the renewal of their trademark registration.

On August 8, 2025, the IPVN issued a Decision on the cancellation of validity of the trademark “DD DANTI, device,” rejecting in full the arguments advanced by Dan Ti Co., Ltd.

Key Takeaways

The Decision on the cancellation of validity of the trademark “DD DANTI, device” is not merely an ordinary administrative ruling but also provides several important lessons, clarifying how the IPVN interprets and applies the provisions on **“use of a trademark”** under Article 124.5 of Vietnam’s IP Law.

1. “Preparation for Business” Does Not Constitute “Use of a Trademark” Under the Law

Dan Ti Co., Ltd., the owner of the trademark “DD DANTI, device”, opposed our cancellation request on the grounds that it had continuously used the trademark “DD DANTI & device” for most of the registered products, and that it was *“preparing the necessary conditions for use”* of the remaining products at the following locations: (i) 160 Ly Tu Trong, District 1, Ho Chi Minh City; (ii) 176 Ly Tu Trong, District 1, Ho Chi Minh City; (iii) Diamond Plaza, 34 Le Duan, District 1, Ho Chi Minh City; (iv) Vincom Center, 72 Le Thanh Ton, District 1, Ho Chi Minh City; (v) Riverside Tower, 74 Bach Dang, Hai Chau District, Da Nang City; and (vi) Imperial Plaza, 159–163 Thuy Van, Vung Tau City. In addition, [the trademark owner](#) submitted a request for renewal of the protection title.

However, the IPVN interpreted the provision on “use of a trademark” under Article 124(5) of Vietnam’s IP Law to mean that only acts such as **affixing the trademark to products or packaging, circulating, offering for sale, advertising for sale, stocking for sale, or importing goods/services bearing the**

trademark qualify as use. Preparatory acts, anticipated business plans, or administrative procedures (such as renewal of the trademark registration) do not constitute use under the law.

This Decision of the IPVN has set a clear precedent: **Intent to use** has no legal effect; only **actual use** is recognized. A trademark, regardless of its business potential, if not put into genuine commercial use, remains subject to cancellation of validity.

2. Filing a Renewal Application Does Not Constitute Evidence of Use

In addition to its arguments concerning the “*preparation of necessary conditions for use*” of the remaining products in Vietnam, the trademark owner, Dan Ti Co., Ltd., further contended that it had filed a renewal application for the validity of the trademark “DD DANTI, device”, and on that basis requested the IPVN to reject the [non-use cancellation](#) request filed by our firm, KENFOX IP & Law Office. The IPVN, however, dismissed this argument.

The act of renewing a trademark registration merely reflects the owner’s **intent** to maintain legal rights over the trademark; it does not establish the actual presence of the trademark in the marketplace. Within the current legal framework, the IPVN has drawn a clear distinction between the intention to preserve ownership rights and the genuine act of use. Renewal is, by nature, an administrative procedure entirely separate from commercial exploitation and cannot substitute for proof of trademark use in commerce.

Under the Intellectual Property Law, the validity of a trademark cannot be protected solely by completing periodic administrative formalities. Instead, the owner must demonstrate that the trademark has been continuously and genuinely used within the preceding five years through activities such as advertising, distribution, and circulation of goods or services bearing the mark.

In this case, the IPVN’s Decision rejected the notion that a “[renewal application](#)” could qualify as “**evidence of use**” affirming instead the core principle of trademark protection: protecting only those signs that are actively exploited in commerce, rather than rights that remain “**frozen**” merely on paper.

3. Evidence of “Non-Use of a Trademark” in Support of a Cancellation Request in Vietnam

The petitioner is required to provide sufficiently persuasive evidence that the trademark has not been used for a continuous period of five years. In Vietnam, reports issued by a state authority concerning the status of use or non-use of a trademark are regarded by the IPVN as objective and independent preliminary evidence for consideration of a cancellation petition. By contrast, evidence or documents self-collected from the Internet and submitted by the petitioner will not be accepted as admissible evidence in support of a request for cancellation of validity in Vietnam.

Conclusion

Intellectual property rights are neither absolute nor perpetual. A trademark, even when granted a protection title, remains subject to cancellation if it is not genuinely and continuously used in commerce. The “DD DANTI, device” case serve as clear evidence of this principle: Only through actual commercial exploitation of a trademark in Vietnam can [trademark rights](#) be preserved.

The IPVN’s Decision not only affirms the strict application of Articles 124.5 and 95.1(d) of Vietnam’s IP Law but also establishes an important precedent: intent to use, administrative formalities, or preparations for business cannot substitute for actual use. This delivers a clear message to trademark owners that trademark rights inherently carry with them the “**obligation**” of active and continuous commercial exploitation.

The cancellation mechanism for non-use serves not only to uphold transparency within the legal system but also to create opportunities for other enterprises to access and develop trademarks of genuine commercial value. In this way, the law fosters fair competition, eliminates purely formalistic claims of ownership, and ensures that protection is afforded only to “living” trademarks - those actively present in the marketplace - rather than marks that remain “**dormant**” on paper.

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