

Trademark Use in Vietnam: How to Correctly Understand and Effectively Rebut Non-Use Cancellation Attacks

In Vietnam, owning [a trademark registration](#) is only half the battle - *keeping it alive* is where the real challenge begins. Many foreign businesses secure broad protection for their brands across a wide range of goods and services, only to discover years later that their registrations are vulnerable to non-use cancellation. What if your products haven't yet entered the Vietnamese market? What if your app or website is used by Vietnamese consumers but your company is based abroad? Does that count as "use"?

Vietnam's IP Law draws a fine line between registered rights and active rights - and the distinction can make or break your brand protection strategy. Under Article 124.5, "use" takes on specific, legally defined forms, but the interpretation is evolving with the digital economy. From token use and localized websites to app-based visibility, businesses must address a complex web of evidentiary and practical requirements to avoid losing their hard-earned [trademark rights](#).

This article explores three critical questions that every rights holder should ask:

1. What options exist if your registered trademarks aren't yet in use for all designated goods or services in Vietnam?
2. How can you maintain protection on a limited budget while still satisfying legal use requirements?
3. Can the use of an app, software, or digital platform by Vietnamese users constitute valid "use" under Vietnam's trademark law?

Through these questions, KENFOX IP & Law Office reveals how strategic use - even symbolic or digital - can protect your trademarks against non-use challenges and ensure your brand remains enforceable in Vietnam's competitive market.

1. If we are unable to put our registered trademark into actual use for all designated goods and services, what options are available to protect our trademark rights for these goods and services in Vietnam?

In Vietnam, a registered trademark can be canceled, either partially or fully, if it hasn't been used for **five consecutive years** without a justifiable reason. Use of a registered trademark resumed **at least 3 months** before a termination request can cure the vulnerability. If you are unable to use your registered trademark for all designated goods and services, you should consider the following options to mitigate the risk of cancellation and maintain your trademark rights in Vietnam.

What counts as "use"?

As per Article 124.5 of Vietnam's IP Law, to prove use of your client's trademarks in Vietnam and avoid the risk of losing them, the following acts are recognized as constituting use of a mark:

- (a) *Affixing the protected mark on goods, goods packages, business facilities, means of service provision or transaction documents in business activities;*
- (b) *Circulating, offering, advertising for sale or stocking for sale goods bearing the protected mark;*
- (c) *Importing goods or services bearing the protected mark.*

In addition, key considerations are as follows: (i) Actual use **of a slightly modified form** is acceptable if the differences are **insignificant** and do not change distinctiveness (Article 40.2 of [Decree No. 65/2023/ND-CP](#) & Article 5.C.2 of the Paris Convention) and (ii) Use of a registered trademark in Vietnam by **licensees** also counts.

Options if you can't use on your registered marks in Vietnam now?

Vietnam's IP Law or sub-law documents do not lay down any specific provisions on “genuine use” and “token use” although, in principle, genuine use of the mark should be in a sustainable and sufficiently broad manner. However, in case “genuine use” is not feasible, symbolic or token use of a registered trademark in Vietnam must be taken into account.

In light of Article 124.5 of Vietnam's IP Law, to rebut [a non-use cancellation](#), you should maintain a **documented trail** of use based on the following:

[1] Structure use activities around legally recognized “use” acts

(a) Affixing the mark

Apply the registered mark (*or an acceptable variant under Article 40.2 Decree 65/2023/ND-CP & Article 5.C.2 Paris Convention*) to:

- **Goods & packaging:** Boxes, labels, instruction manuals, stickers.
- **Business facilities:** Office signage, reception desk, exhibition booths in Vietnam.
- **Means of service provision:** App splash screens, website headers, in-app icons targeting Vietnamese users.
- **Transaction documents:** Invoices, contracts, receipts, delivery notes.
- **Documentation to collect:** High-resolution photos, dated design proofs, print samples.

(b) Circulating, offering, advertising, or stocking

Make goods/services with the mark **available to Vietnamese consumers** via:

- [E-commerce listings \(Shopee, Lazada, Tiki\)](#) or own website with Vietnam language/targeting. It is advisable for trademark owners to register a “.vn” and/or “.com.vn” (Vietnamese domain names) and run a website based on these domain name to post/publish the goods/services bearing their marks thereon.
- Social media ads or sponsored posts aimed at Vietnam.
- Printed brochures/flyers distributed in Vietnam.
- Display in Vietnam-based showrooms or retail outlets.
- **Documentation to collect:** Screenshots with visible date & URL, ad invoices, media placement orders, distributor catalogues.

(c) Importing goods/services bearing the mark

- Ship products into Vietnam under customs declarations showing the mark on goods or packing lists.
- **Documentation to collect:** Import/export declarations, bills of lading, commercial invoices, packing lists, customs clearance records.

[2] Extend protection via permissible variants and licensee use

- **Slightly modified mark forms:** Allowed if differences are minor and do not alter distinctiveness. Keep [dated design files](#) and usage examples to prove compliance.
- **Licensee use:**
 - Conclude simple trademark license agreements with Vietnam distributors/partners.
 - Recordal with IPVN is advisable for evidentiary clarity (not mandatory for validity).
 - Keep copies of sales documents from licensees.

[3] When genuine use is not feasible - token/symbolic use

Vietnamese law doesn't define “genuine” vs. “token” use, but even minimal use can rebut non-use cancellation if properly documented.

- **Examples:** Limited sales to a distributor, a small ad campaign, an “offer to sell” on [a VN-targeted websites](#).

- **Important:** Ensure at least one qualifying act every ≤5 years per mark/goods/service group, or resume use ≥3 months before any anticipated challenge.

[4] Build a clear chain of documentation

For each mark, create and maintain an **evidence file** containing:

- Product samples or packaging with the mark.
- Brochures, catalogues, or flyers.
- Business correspondence (email, letters) with the mark in header/footer.
- Sales/distribution contracts.
- Import/export documentation.
- Online/print advertisements targeting Vietnam.

Tip: Date-stamp all evidence (system dates in screenshots, publication dates, signed/dated contracts).

Best practice: Consolidate into an affidavit of use, notarized, to strengthen admissibility before IPVN or courts.

[5] Risk management & procedural notes

- **Offers without sales** still count if targeted at Vietnamese consumers.
- **Website/app targeting Vietnamese consumers** can qualify, ensure language, currency, shipping options, or disclaimers show Vietnamese consumer focus.
- **Calendar use:** Keep a schedule to ensure evidence for each mark within the 5-year window.
- **Re-filing the trademark with some slight amendments to your trademark and/or the list of goods/services before the 5-year non-use period expires.** This option is recommended for clients seeking to reduce costs, as applying to register a trademark in Vietnam is quite cheap.

2. If we encounter “budget” constraints in maintaining our registered trademarks, what strategies can we employ to reduce costs while still protecting our trademark rights?

KENFOX: In Vietnam, because the law does not strictly define “genuine use” vs. “token use,” a **Vietnam-targeted website using the registered trademark** can serve as a **low-cost, sustainable way** to preserve rights if full-scale commercial use is not yet feasible.

Under **Article 124.5 of Vietnam’s IP Law**, the following acts constitute trademark use:

- Advertising goods/services bearing the mark
- Offering goods/services for sale
- Affixing the mark on transaction documents

A website hosted under a “.vn” or “.com.vn” domain that displays and promotes goods/services bearing the mark satisfies these criteria.

Below is a systematic and specific guide tailored for you to implement this approach effectively

[i] Register Vietnamese domain names

- Secure “.vn” and/or “.com.vn” domains that match key trademarks.
- Register via accredited registrars under the **Vietnam Internet Network Information Center (VNNIC)**.

[ii] Build a localized website

- Create a website in Vietnamese or bilingual format
- Include:
 - Product/service descriptions bearing the trademark

- Company profile and contact info
- Downloadable brochures or demo materials
- News or blog posts referencing the brand

[iii] Affix the trademark prominently

- Display the trademark on:
- Website header/footer
- Product/service pages
- PDF brochures or downloadable materials

[iv] Advertise and promote

- Run **Google Ads or social media campaigns** targeting Vietnamese users
- Link ads to the domain name website
- Archive ad creatives and analytics as evidence

[v] Maintain documentation

- Keep dated screenshots of [the website](#)
- Save WHOIS records showing domain ownership
- Archive correspondence or inquiries received via the site

Registering and running a Vietnam-targeted website under “.vn” or “.com.vn” is indeed a **practical, low-cost strategy** to create a continuous, provable chain of trademark use evidence in Vietnam. If implemented with the above steps, it will help you reduce maintenance costs while safeguarding rights against non-use cancellation.

3. Whether use of the app/software/platform by Vietnamese users can be considered “use” to defend against non-use cancellation actions?

KENFOX: Our answer: **potentially yes**, but it depends greatly on how such use is demonstrated, such as, the form, nature, and supporting evidence.

Specifically, if the app or platform:

- Is accessible from Vietnam;
- Displays the registered trademark or [logo](#) visibly to users within Vietnam (for example, on the login screen, interface, splash pages, or transaction confirmations); and
- Includes marketing or communication directed toward Vietnamese users (e.g., content in Vietnamese, currency in VND, or targeted digital ads),

then these activities could constitute valid “use” of the trademark in Vietnam.

Such use demonstrates that the trademark has been *affixed* to the service and *used in offering services* to Vietnamese consumers, both of which fall within the statutory definition of “use”.

Practical limitations and risks

However, some limitations should be carefully noted:

- If there is **no localized marketing** or visible connection to Vietnam (for instance, the app is only globally available, with Vietnamese users appearing by coincidence), this use might be viewed as **“passive”** and not sufficient to maintain the mark.
- If the trademark is not shown visibly in the user experience (e.g., no logo, brand name hidden), IP VIETNAM may consider that the mark has not been “used”.

- The IP VIETNAM often requires **clear documentary evidence**, such as screenshots, server logs identifying Vietnam-based users, dated advertisements, invoices, or transaction records. Lack of such evidence may weaken the defense.
- We note that the burden of proof rests with [the trademark owner](#). If the submitted evidence is not convincing, IP VIETNAM may still decide to cancel the registration for non-use.

In summary, the fact that Vietnamese users use the client's app/software/platform *may* be accepted as "use" of the trademark in Vietnam, **provided that** there is clear, dated, and verifiable evidence showing the mark's visibility and connection to Vietnamese consumers.

If the app is merely available worldwide and the Vietnamese users are incidental, without any concrete localization or visible branding, in our opinion, this alone would **not be sufficient** to defend against a non-use cancellation.

Recommended actions: Please advise the client to:

- Ensure that the trademark/logo appears visibly in the app, on websites, and in any materials used for users in Vietnam.
- Keep **dated records** (screenshots, server logs, invoices, advertising reports) proving that the app/services were offered under the mark to users located in Vietnam.
- Consider establishing a **Vietnam-targeted landing page** or localized website (.vn or [.com.vn](#) domain), which provides clear evidence of commercial presence in the Vietnamese market.

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