

Trade Name Rights Defeat Trademark Squatting: LChau Pharmaceutical Company Keeps Its Brand and the Squatter Loses Registration in Court

1. Snapshot of the Case

KENFOX IP & Law Office has secured a major victory for **LChau** Pharmaceutical Company in a complex [trademark-trade name lawsuit](#) over the name “**LChau**”. This challenging case in Vietnam, which began in 2020 and spanned nearly 04 years, is not just a win for us; it's a significant victory for our client, a leading pharmaceutical giant in Vietnam with a network of nearly 2000 drug stores across the country.

Back in 2016, our client acquired a series of 04 pharmacies in Ho Chi Minh City, aiming to establish a comprehensive pharmacy ecosystem to meet the growing healthcare needs in Vietnam. In 2017, our client applied to register the trademark “**LChau**”, which is the **trade name** of the acquired pharmacy series. To their surprise, their trademark application was denied protection by the Intellectual Property Office of Vietnam (“**IPVN**”). The refusal was based on the alleged confusing similarity with the trademark “**LChau**” early registered by an individual (“**Ms. Loan**”) residing in Ho Chi Minh City in early 2016. This particular trademark was granted a Registration Certificate in December 2017. Our client took proactive measures in 2018 by commencing procedures to petition the IPVN for the invalidation of Ms. Loan's trademark. The basis for this request was the alleged confusing similarity with the trademark and trade name extensively utilized by the previous owner, from whom our client acquired the pharmacy series. After a thorough examination of the existing records, the IPVN in July 2019, rendered a Decision to invalidate Ms. Loan's trademark and subsequently awarded a protection certificate to our client.

The story appeared to conclude at this juncture, yet it marked the initiation of a protracted dispute spanning nearly 4 years. Recognizing that some pharmacies in Ho Chi Minh City, Vietnam were using names identical to their legally protected trademarks, KENFOX's client took action in January 2020. They dispatched warning letters to these alleged infringers, urging them to voluntarily eliminate infringing signage. Ironically, one of the recipients happened to be Ms. Loan - the owner of the trademark that had previously been invalidated.

In March 2020, the proprietor of the invalidated trademark (Ms. Loan) filed a lawsuit with the People's Court of Ho Chi Minh City, seeking the annulment of the entire invalidation decision by the IPVN and the restoration of the granted protection title.

What would happen if this lawsuit was decided in favor of the plaintiff – the adverse party? The pharmacy chain, comprising nearly 2,000 stores in Vietnam, which our client has diligently invested in developing since 2017, would be at risk of closure, cessation of operations, rebranding, and altering brand identity. Such consequences would result in a severe and irreparable loss, impacting the economic, reputational, and trademark value of our client.

KENFOX IP & Law Office intervened on behalf of LChau, defended the IPVN's decision, and showed the Court that Vietnamese law protects earlier trade name rights. We also demonstrated that the law does not require proof of actual, documented confusion if there is a clear likelihood of confusion and a risk to consumers - especially in the pharmaceutical sector.

In December 2023, the Court dismissed the lawsuit, confirmed that the invalidation was lawful, and refused to reinstate the cancelled trademark, terminating 4-year court case. This outcome preserved LngChau's ability to continue using and expanding the “**LChau**” brand in Vietnam without being forced to license, buy back, or abandon its own identity.

Client: **LChau Pharmaceutical** Company - a pharmaceutical retail chain that entered Vietnam in late 2016 by acquiring and rebranding a group of pharmacies under the “**LChau**” name, and actively building a pharmacy ecosystem under that trade name.

Problem: Before LChau could secure trademark protection, an individual (**Ms. Loan**) filed for and obtained a Vietnamese trademark for “**LChau**” in early 2016, with the certificate issued in December 2017. When **LChau** tried to register “**LChau**” as a trademark in 2017, the IPVN refused, citing Ms. Loan's earlier

registration. That gave the trademark squatter a powerful weapon: On paper, she “owned” the brand name that LChau was already using to build and scale its pharmacy chain in Vietnam.

This was not an ordinary office action. The squatter’s registration could be used to (i) threaten raids, (ii) demand licensing money, or (iii) force a rebrand of an entire pharmacy chain. In pharma retail, brand trust = public safety. Losing the name would have been commercially and reputationally disastrous.

Our mandate:

- Invalidate the squatter’s trademark registration.
- Prove that LChau’s trade name rights existed and had priority, even though there was no registered trademark yet
- Defend that [invalidation](#) in court when the squatter sued to overturn the IPVN’s decision.

In other words, we were not only attacking a [bad-faith mark](#), we were also defending the IPVN itself in administrative litigation to make sure the invalidation survived judicial review. This is rare. Most firms stop at filing an invalidation petition. We saw it through all the way to the People’s Court of Ho Chi Minh City.

Result:

- The IPVN invalidated Ms. Loan’s “LChau” registration in 2019 on the basis that it conflicted with LChau’s prior trade name rights.
- Ms. Loan then sued the IPVN in the People’s Court of Ho Chi Minh City to try to overturn that invalidation.
- We intervened, represented LChau, and defended the invalidation decision in full.
- After nearly 04 years of litigation, in December 2023, the Court ruled in favor of LChau and the IPVN, rejected all of Ms. Loan’s claims, and upheld the invalidation of her trademark.

2. Why the Case Was Legally Difficult?

[1] First-to-file wasn’t on our side

Ms. Loan filed “LChau” as a trademark in early 2016 and got her certificate in December 2017. LChau Pharmaceutical only entered Vietnam later in 2016 by acquiring four pharmacies in Ho Chi Minh City, and then applied in 2017 to register “LChau”. So on paper it looked like:

- She filed first.
- She’s the “true” owner under the first-to-file principle.

That’s exactly the [situation squatters](#) are counting on.

[2] The brand existed as a trade name, not (yet) a registered mark

LChau Pharmaceutical was using “LChau” as its commercial identity, storefront signage, and chain name. That’s a trade name. Under Vietnamese law, trade name rights arise through use, not necessarily registration. But, trade names are harder to enforce because there’s no single national “trade name register”. You have to prove actual use, reputation, geographic scope, customer base, etc. That is evidentiary heavy.

[3] The squatter went on offense

After the IPVN invalidated her trademark in 2019, she didn’t roll over. She sued the IPVN in court, arguing:

- the IPVN missed deadlines,
- the IPVN acted outside its power,
- the IPVN used the wrong legal standards,
- and LChau’s trade name was not clearly defined or protectable.

In Vietnam, that’s aggressive. She wasn’t just defending her mark; she was attacking the regulator and trying to undo the invalidation. So we had to do two jobs at once:

- prove that the squatter's mark was invalid from the start, and
- prove that the IPVN had acted lawfully and reasonably.

That's litigation, not just admin work.

3. KENFOX Strategy and Actions

Here's how we turned a brand that wasn't even registered yet into a winning position against a registered mark.

(i) Invalidation petition based on prior trade name rights

In 2018, an invalidation request was filed with the IPVN against Ms. Loan's "LChau" registration.

Our core theory:

- Before Ms. Loan applied, "LChau" was already being used in commerce in Vietnam by LChau Pharmaceutical as a trade name.
- That trade name had business presence, reputation, and recognition in the pharmaceutical retail space.
- Under Vietnamese IP Law, a trademark that is confusingly similar to a prior trade name in lawful use - for overlapping goods/services/business lines - cannot be protected and must be invalidated.

In other words, first-to-file does not beat first-to-use where that use has already built reputation and would be harmed by confusion.

(ii) Evidence building

Vietnam recognizes trade name rights based on use, not only on registration. That sounds simple in theory - but in litigation, you must *prove* use, territory, goodwill, and reputation. We built that [evidentiary record](#).

Specifically, we helped LChau Pharmaceutical Company assemble and organize thousands of pages of material showing that "LChau" was already operating, known, and trusted in the pharma retail market before the squatter's trademark filing:

- pharmacy establishment/operating licences
- corporate/tax filings
- pharmacy signage and storefront photos with date stamps
- consumer-facing advertising and promotional materials
- invoices, sales records, point-of-sale data
- media mentions and brand publicity in Ho Chi Minh City
- proof of store locations and customer base in 2016 and onward

This was not "random attachments". We turned it into a litigation-grade narrative: **this is a functioning pharmacy ecosystem, not a future plan**. That record was critical to (i) trigger Article 74.2(k) (likelihood of confusion with a prior trade name) and (ii) demonstrate "reputation / recognition" in the relevant business area.

(iii) Administrative victory at the IPVN

In 2019, the IPVN issued Decision, invalidating Ms. Loan's "LChau" registration. That was a big win. But the case wasn't over.

(iv) Litigation defense when the squatter sued the IPVN

After losing her registration, the squatter immediately escalated and sued the IPVN in the People's Court of Ho Chi Minh City, asking the Court to annul that decision and reinstate her trademark.

At that stage, KENFOX did not "step aside and hope". We intervened alongside the IPVN and defended both: (i) the legality of the IPVN's invalidation, and (ii) our client's priority right to the "LChau" name.

This stage is where most firms hesitate - because it means stepping fully into litigation territory. It requires mastery not only of **administrative law** and **civil procedure**, but also of **substantive intellectual property law**, **evidence rules**, and **public-interest arguments** within a highly regulated sector like pharmaceutical retail. We did not step back. **We stayed in** - addressing each of these domains simultaneously to protect our client's rights and sustain the case through every procedural and legal challenge.

4. The Legal Arguments (How We Beat the Squatter's Claims in Court)

This is where we show depth. This is what makes this case extremely credible to sophisticated clients. The squatter's lawyer made four main attacks on the invalidation. We countered each.

Squatter Argument #1: "The IPVN missed statutory timelines, so its invalidation decision is void".

They cited Point 21.3 of Consolidated Doc. 07/VBHN-BKHCN (2017), which says the IPVN should:

- notify the trademark owner within 1 month of receiving an invalidation request,
- give 2 months for response,
- and issue a decision within 3 months after the response window (with one possible 3-month extension).

They argued that because the IPVN did not strictly comply with those outer timelines for the invalidation Request filed in 2018, its invalidation Decision must be annulled as "procedurally illegal".

Our counter:

We relied on the final sentence of Point 21.3 in Consolidated Document 07/VBHN-BKHCN (2017), which clearly provides for a procedural suspension - **effectively tolling the statutory deadline** - while the IPVN undertakes "*other necessary related procedures*". Specifically, the provision states: "**The time required to carry out other necessary related procedures for resolving a request to terminate or invalidate a protection title shall not be counted toward the statutory time limits mentioned above**". This clause directly counters the squatter's claim that the invalidation Decision was void due to missed statutory timelines.

We demonstrated (with the file history, service attempts, exchanges between parties, evidence verification, and expert consultation) that this case *did* require extended procedures. So the timelines are guidance, not an automatic kill switch. Therefore, we reframed the narrative from "The IPVN broke the clock" to "The IPVN followed the law in a complex dispute". In plain terms: these timing provisions are targets, not "if you miss by 1 day, you lose jurisdiction". The law itself builds in flexibility for complicated disputes. The above means that there is no procedural fatal flaw. The IPVN acted within its delegated authority and within the structure of Point 21.3.

This shows clients: We are not just IP lawyers; we litigate administrative legality and procedural deference.

Squatter Argument #2: "The examiner had a duty to know every existing trade name from day one"

They said: if LChau's trade name existed earlier, the IPVN should have refused the trademark at examination; because it didn't, the later invalidation is unfounded. They relied on Point 39.7(b) of the same Consolidated Doc., which says examiners "may, where necessary" search additional sources (like trade names) to assess registrability.

They tried to twist that into:

- The IPVN had a duty to hunt for every unregistered trade name in Vietnam,
- The IPVN failed that duty, so granting my registration proves the mark was valid,
- So invalidation later is unfounded.

Our counter:

We highlighted two points:

(i) We walked the Court through the statutory language. Point 39.7(b) is discretionary. It literally says “may ... *where necessary*”, not “must in all cases”. The examiner *may* consult extra reference sources (like trade names) “*in cases where necessary*”, not that the examiner must proactively discover every unregistered trade name in Vietnam. There is no general obligation for the IPVN to somehow divine every unregistered, evolving trade name in the country. We highlighted a structural fact of Vietnamese IP law: trade-name rights arise from use, not registration (Article 6.3(b) IP Law) - so there is no central government database of trade names. It would be legally impossible to require examiners to pre-clear against every unregistered, use-based right in the country. What matters is that, once hard evidence of prior trade name use was presented in the invalidation proceeding, the IPVN acted - exactly as the law envisions.

This shows clients: We understand how to defend the IPVN’s discretion and how to argue statutory interpretation under Vietnamese IP law in open court.

(ii) The [invalidation mechanism](#) is designed specifically to correct trademark registrations that, upon full evidentiary review, are found to conflict with pre-existing rights. Under Article 96 of the IP Law, the IPVN is empowered to revoke a trademark if it turns out that the legal conditions for protection were not genuinely satisfied at the time of registration.

So, far from being unfounded, the IPVN did exactly what the law expects: once LChau Pharmaceutical Company produced full evidence of earlier trade name use, the IPVN reassessed and invalidated.

The IPVN did not “change its mind in bad faith”. It applied the proper correction mechanism once the complete facts were put in front of it.

Squatter Argument #3: “You can’t use an undefined “trade name” with no clear geographic “business area” to kill my registered mark”

The lawyer of Ms. Loan argued: (i) “Business area” in Article 4(21) is vague, (ii) There’s no rigid government map showing where LChau had reputation, (iii) Therefore, “prior trade name rights” are too fuzzy to invalidate a granted trademark.

Our counter:

We leaned directly on the law:

- Article 4(21) defines “business area” as the geographical area where the enterprise has partners, customers, **or reputation**. That “or reputation” phrase gives flexibility on purpose.
- Article 6.3(b) of the IP Law: trade-name rights are established through lawful use.
- Decree 103/2006 (as amended), Article 17: Vietnamese IP law protects prior rights - including trade names - against later conflicting marks.

We argued:

- The law is intentionally evidence-driven. It doesn’t require a pre-declared “zone” in a registry. Instead, a party proves its “business area” by demonstrating real-world presence and recognition.
- Accordingly, we argued that the proper inquiry is whether, before the squatter’s filing date, Lchau Pharmaceutical Company had actual pharmacies, sales, customers, and brand recognition under “LChau”. We submitted concrete proof: store locations, acquisition documents, signage, invoices, and consumer-facing use in Ho Chi Minh City pharmacies long time before the filing date of Ms. Loan, followed by rapid scaling of the “LChau” name.

The issue is not statutory vagueness; it is the squatter’s attempt to disregard goodwill and customer recognition. Vietnamese law explicitly counts them.

Squatter Argument #4: “There’s no proof of actual confusion, so you can’t invalidate. You’re just guessing”.

The lawyer of Ms. Loan tried to interpret Article 74.2(k) (conflict with a prior trade name) and 74.2(g) (conflict with a [widely recognized mark used earlier](#)) as requiring evidence of real, documented confusion. In their view, without concrete evidence-complaints, incidents, or surveys-any assertion of confusion is speculative.

Our counter:

We pointed out:

- Article 74.2(k) bars protection if the applied-for mark is *likely to cause confusion* with a prior trade name in lawful use for overlapping business. The law says “likely” not “already caused.”
- Article 96.1(b) allows invalidation when a granted trademark did not satisfy protection conditions at the time of grant. If, at that time, it was likely to cause confusion with LChau’s trade name, it fails protection conditions and must be invalidated - even if that confusion hadn’t yet exploded into formal complaints.

We also emphasized that in pharmacy retail / pharmaceuticals, confusion is especially sensitive, because consumers associate safety, trust, and medical quality with a pharmacy brand. Weaponizing a confusingly similar “LChau” mark against the real LChau pharmacies is precisely the kind of harm Vietnamese IP law is designed to stop.

Vietnamese law protects against *likelihood of confusion*, especially where medicines / pharmacies are involved. You don’t have to wait for patients to be misled and harmed to act.

And then we layered on two more angles:

Standard of review: We reminded the Court that in an administrative lawsuit like this, the judge’s job is not to re-run the IPVN’s examination from scratch. The Court asks:

- Did the IPVN have the authority to invalidate? (Yes - Articles 95-96 IP Law.)
- Did the IPVN follow a lawful procedure? (Yes - including the “clock-stopping” carve-out in Point 21.3.)
- Was the decision reasonable on the evidence? (Yes - thousands of pages of proof showing LChau’s prior use and reputation.)

Burden of proof: We argued that Ms. Loan, as the petitioner attacking the IPVN’s decision, bore the burden to prove illegality, arbitrariness, or abuse of authority. She could not meet that burden because:

- The IPVN documented its process,
- The IPVN cited Articles 74.2(k), 74.2(g), and 96,
- The IPVN considered substantive evidence of prior trade name use.

So her case was not “the IPVN broke the law”; it was “the IPVN enforced the law against me”.

5. Outcome / Impact

- **The squatter lost everything:** The IPVN’s invalidation of the “LChau” trademark - Decision No. 3675/QĐ-SHTT (31 July 2019) - was upheld in full. The Court refused to restore her registration.
- **The invalidation stands:** The People’s Court of Ho Chi Minh City, in December 2023, dismissed all of Ms. Loan’s claims. LChau Pharmaceutical kept its name, its brand, and its freedom to operate.
- **First-to-file was not allowed to override first-to-use goodwill:** The Court effectively confirmed that a trademark certificate obtained by a third party cannot be used to steal a trade name that already exists, is in lawful use, and has built market recognition in Vietnam.
- **We established courtroom recognition of trade name priority:** The case affirms that in Vietnam (i) trade name rights (arising from real-world use and reputation), (ii) can trump a later-but-registered trademark, and (iii) can survive attack in court.
- **We protected the entire pharmacy ecosystem:** LChau had invested heavily in “LChau” branding as a retail pharmacy identity. If the squatter had succeeded, the client could have been blocked from using its own name in signage, marketing, and expansion. That existential risk is now gone.

And just as importantly:

- **We defended the regulator:** We didn't just win an invalidation at the IPVN. We preserved that invalidation when the loser sued the the IPVN. That's a very high bar.

6. What This Case Proves About KENFOX?

- **We can invalidate a bad-faith / opportunistic [trademark registration](#) that conflicts with your prior trade name - even if they filed first.**
- **We know how to build evidentiary weight around trade name rights:** We assembled ~100 pages of legal argument and thousands of pages of exhibits: store acquisition documents, signage, invoices, customer-facing use, regulatory filings, pharmacy operation records, etc.
- **We defend wins in court:** When the squatter sued the IPVN to resurrect her registration, we intervened and convinced the People's Court of Ho Chi Minh City to uphold the invalidation in December 2023.
- **We eliminate "procedural technicality" attacks:** We showed that timing provisions in Point 21.3 are flexible and that the IPVN acted within lawful discretion while handling a complex invalidation.
- **We establish that likelihood of confusion - not proven, actual confusion - is enough to invalidate, especially in regulated sectors like pharmacies and pharmaceuticals.**
- **We enforce the idea that first-to-file is not absolute in Vietnam:** We demonstrated that Articles 74.2(k), 74.2(g), and 96 of the IP Law, plus Article 6.3(b) and Decree 103/2006's respect for prior rights, protect real-world goodwill against trademark hijacking.
- **We protect entire commercial identities, not just logos:** We kept LChau's pharmacy chain operating under its own name in Vietnam, prevented disruption of branding, and preserved their expansion strategy. This is exactly the reassurance a fast-growing retail or healthcare brand needs when they realize someone in Vietnam filed "their" name first.

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