

HAICNEAL vs. HAINOZAL: Stopping a Copycat Shampoo Line, Forcing Destruction of Labels and Printing Equipment, and Blocking a Trademark Hijacking

1. Snapshot of the Case

KENFOX IP & Law Office acted for Kunming Dihon Pharmaceutical Co., Ltd. (China), owner of the **HAICNEAL** medicated shampoo brand (**HAICNEAL**), and its exclusive Vietnamese distributor, Dong A Pharmaceutical Trading Co., Ltd., after a Vietnamese company (ASEM VINA JSC) began producing and commercializing a shampoo using packaging that closely imitated HAICNEAL's trade dress while marketing it under "HAINOZAL" (**HAINOZAL**). Because "HAICNEAL" and "HAINOZAL" are not confusingly similar as trademarks, and because HAICNEAL's box/label had not been registered as an "industrial design" in Vietnam, a conventional "trademark infringement" theory was not strong. We shifted the focus of the dispute to Vietnam's unfair competition regime, deployed in-house investigators to document large-scale manufacturing and stockpiled labels at the ASEM VINA factory, and immediately combined a detailed Cease & Desist Letter alongside a formal Petition to the Inspectorate of the Ministry of Science & Technology (IMOST). IMOST sought an "Expert Opinion" from [the Intellectual Property Office of Vietnam](#) (IPVN), which confirmed that ASEM VINA's packaging constituted unfair competition. Confronted with regulatory pressure, ASEM VINA admitted wrongdoing in writing, apologized, disclosed the scale of infringing materials (*tens of thousands of label meters*), and physically delivered all infringing labels and six printing machines to our client's Hanoi Office for destruction. IMOST later issued a formal Conclusion finding unfair competition. In parallel, we filed an opposition against ASEM Co., Ltd.'s "HAINOZAL" trademark application, which the IPVN ultimately refused. **This combined strategy was decisive:** production capacity was dismantled, infringing packaging was removed from the market, future trademark weaponization was prevented, and HAICNEAL's commercial position in Vietnam was protected.

Client:

- Kunming Dihon Pharmaceutical Co., Ltd. ("**DIHON**"), China - owner of the "**HAICNEAL**" mark for medicated shampoo (Class 05).
- Dong A Pharmaceutical Trading Co., Ltd. ("**DONG A**"), Vietnam - exclusive distributor of HAICNEAL medicated shampoo in Vietnam.

Infringer(s):

- Công ty Cổ phần ASEM VINA ("**ASEM VINA**" JSC), Vietnam - [manufacturing](#) and commercializing a shampoo product with packaging imitating HAICNEAL.
- Công ty TNHH ASEM ("**ASEM Co., Ltd.**"), Vietnam - attempted to register "HAINOZAL" (device) in Vietnam for Class 03.

Issue:

The infringer produced and prepared to sell an imitation shampoo under "HAINOZAL", using packaging/get-up closely modeled on HAICNEAL's presentation, but without copying the mark "HAICNEAL" itself.

DIHON's products / Genuine Owner



Result:

- We obtained an admission of wrongdoing and a written apology from ASEM VINA.
- The infringer delivered all infringing packaging and **six printing machines** to be destroyed.
- We secured an official conclusion from the Inspectorate of the Ministry of Science & Technology ("IMOST") confirming unfair competition.
- We filed an opposition that resulted in refusal of the "HAINOZAL" [trademark application](#) - preventing the infringer from "legalizing" the copycat branding in Vietnam.

2. Why the Case Was Legally Difficult?

- **Challenge 1: No clear mark-to-mark confusion:** DIHON's brand was "HAICNEAL", while the infringer used "HAINOZAL". Under Vietnam's standard trademark examination and infringement tests, these two marks are not deemed confusingly similar in structure, pronunciation, or overall appearance. In other words, we couldn't simply allege trademark infringement; the marks were legally distinct enough to fail a direct confusion argument.
- **Challenge 2: Packaging was not registered as a design:** HAICNEAL's product box, label, and trade dress had not been separately registered as an industrial design in Vietnam. This meant there was no legal ground to pursue the matter as an ["industrial design infringement"](#).

This scenario is precisely what sophisticated imitators exploit. They avoid copying the exact trademark but replicate the entire commercial image - the layout, colors, and visual identity - which are what consumers truly recognize.

At first glance, DIHON and its partner DONG A seemed vulnerable. Had we relied solely on a classic trademark infringement strategy, enforcement would have been weak and likely unsuccessful. That's where KENFOX distinguished itself. We reframed the issue: the infringer had copied our client's *commercial identity*, not merely the brand name - and Vietnam's trademark law alone was too narrow to stop them.

3. KENFOX Strategy and Actions

We approached the case through four coordinated steps designed to uncover facts, frame the legal argument correctly, and neutralize both current and future risks.

(i) Evidence capture and market intelligence: Rather than relying on assumptions, KENFOX initiated an on-site investigation. Our in-house investigator was dispatched directly to ASEM VINA's premises to verify the scale and nature of their activities. [The investigation](#) confirmed that ASEM VINA was actively producing HAINOZAL shampoo in significant quantities and held a large stock of unused infringing labels and packaging prepared for use. This proved the activity was not experimental - it was full-scale production. Establishing such scale was vital because Vietnamese enforcement bodies act far more decisively when presented with concrete proof of widespread commercial activity, not mere online similarities.

We go beyond paperwork - we collect physical evidence and quantify infringement to make regulators act.

(ii) Legal framing: unfair competition, not just trademark infringement: We advised DIHON and DONG A to proceed under Vietnam's *unfair competition* regime rather than pure trademark law. The reasoning was clear: Even if "HAICNEAL" and "HAINOZAL" were not confusingly similar as marks, the infringer's imitation of HAICNEAL's get-up and labeling for an identical medicated shampoo misled consumers about origin and unfairly exploited HAICNEAL's goodwill. Under Vietnamese law, such imitation of commercial appearance constitutes *unfair competition*. In practical terms, our argument was simple - "You are dressing your product to look like ours to benefit from our reputation". This broader legal framing opened the door to stronger regulatory enforcement.

We know how to use unfair competition law in Vietnam to protect trade dress and market goodwill, even without a registered design.

(iii) Dual-track enforcement: warning and escalation: We applied a multi-layered pressure strategy rather than relying on a single demand.

- **Cease and Desist Letter (C&D):** We sent a formal C&D to ASEM VINA highlighting detailed side-by-side comparisons between the HAICNEAL and HAINOZAL packaging, citing relevant unfair competition provisions, and warning of administrative penalties under Vietnamese law. This served both as legal notice - crucial for future liability - and as a psychological trigger for compliance.
- **Regulatory Petition to IMOST:** Immediately after sending the C&D, we escalated the matter to the Inspectorate of the Ministry of Science and Technology (IMOST), which has jurisdiction over IP and unfair competition in product labeling and trade dress. This move made clear that the issue was already under state scrutiny, signaling that non-cooperation would have direct regulatory consequences.
- **Forcing an Expert Opinion from the IPVN:** Following our petition, IMOST formally requested a technical opinion from the Intellectual Property Office of Vietnam (IPVN). The IPVN then issued an official correspondence confirming that ASEM VINA's HAICNEAL-style packaging constituted an act of unfair competition. This converted our allegations into an authoritative, state-backed finding, leaving the infringer little room to argue that [the packaging](#) was merely "similar in style".

We coordinate enforcement agencies so that the IP Office and regulators jointly corner the infringer and validate our claims.

(iv) Parallel trademark defense: eliminating future threats: While the unfair competition action was underway, a related company - ASEM Co., Ltd. - attempted to reinforce its position by filing a trademark



application for “HAINOZAL” (). If granted, that registration could later be used to attack DIHON’s legitimate HAICNEAL sales in Vietnam, mirroring tactics seen in other “bad faith” cases. KENFOX acted swiftly. We filed a Notice of Opposition against ASEM Co., Ltd.’s application. Rather than focusing on weak similarity arguments, we grounded our opposition on *unfair competition* and *bad faith imitation of commercial presentation*. The IPVN notified ASEM Co., Ltd. and requested their observations. Ultimately, the IPVN issued its decision upholding our opposition and refusing registration of “HAINOZAL”.

Through this, we not only stopped the current act of imitation but also preempted the infringer’s attempt to legitimize and weaponize the copycat brand in the future. We deliver end-to-end protection - removing today’s infringing products while blocking tomorrow’s legal threats.

4. Outcome / Impact

(a) Admission of wrongdoing and apology: Following receipt of our cease-and-desist letter and the escalating regulatory actions, ASEM VINA formally responded. In its written reply, the company expressly admitted that its conduct constituted unfair competition and issued an apology to our client for infringing DIHON’s intellectual property–related interests. Such an on-record admission is extremely rare in practice. It not only strengthens any potential future claim for damages but also serves as a powerful deterrent document against similar misconduct by others.

(b) Quantified infringing materials: In the same correspondence, ASEM VINA disclosed the full scale of its infringing activity. The company confirmed that large quantities of unused HAINOZAL labels and packaging had already been printed and stockpiled at its factory. They even provided detailed figures - roll counts, dimensions, and total square meters of printed materials ready for application. This level of detail proved that [the infringement](#) was not incidental or accidental; it reflected deliberate, organized mass production.

(c) Physical surrender and destruction: ASEM VINA’s authorized representative, Mr. Nguyễn Văn Tiệp, personally delivered all infringing labels and six printing machines to our client’s representative office in Hanoi for destruction. This was not merely a paper promise of compliance - it was the physical elimination of the infringer’s production capacity. For most rights owners, this represents the ideal enforcement outcome: not only halting sales but also ensuring the infringer can no longer produce lookalike packaging in the future.

(d) Official enforcement record from IMOST: The Inspectorate of the Ministry of Science and Technology (IMOST) issued an official Minutes of Conclusion, finding that ASEM VINA had infringed DIHON's rights under Vietnam's unfair competition regime. This outcome provided a state-backed confirmation of infringement, a permanent enforcement record for future escalation should the infringer reoffend, and a clear deterrent message to other companies operating in the same product category.

(e) Trademark application defeated: Finally, the IPVN refused ASEM Co., Ltd.'s trademark application for the mark "HAINOZAL" in Class 03, following our opposition. This decisive outcome prevented the infringer from later asserting ownership of the mark and claiming that DIHON's HAICNEAL infringed a registered Vietnamese trademark. It also ensured that DIHON, through its local partner DONG A, could continue marketing and distributing HAICNEAL in Vietnam without the threat of obstruction from [bad-faith](#) local filings.

Commercial impact: The results were comprehensive: the HAINOZAL lookalike product and its packaging were completely removed from the market; the infringer's production assets were neutralized; its attempt to secure trademark protection for the copycat brand failed; and HAICNEAL's market position in Vietnam - through DONG A - was fully preserved.

5. What This Case Proves About KENFOX?

- **We enforce even when [trademark similarity](#) is weak:** "HAICNEAL" vs. "HAINOZAL" was not confusingly similar under standard trademark analysis. We still shut down the imitation by invoking unfair competition law.
- **We protect trade dress and market identity, not just registered word marks:** Even though HAICNEAL's packaging was not registered as an industrial design, we got VNIPO to confirm in writing that copying that get-up constituted unfair competition.
- **We generate leverage fast, not just paperwork:** We combined an urgent Cease & Desist with immediate escalation to IMOST. This created both private pressure and State pressure at the same time.
- **We force physical remediation:** The infringer surrendered and we oversaw destruction of infringing labels and **six printing machines** used to produce the imitation packaging. That's a tangible shutdown of production capacity.
- **We attack both the present and the future:** While eliminating current infringement, we also opposed and defeated the infringer's "HAINOZAL" trademark application. We prevented them from turning counterfeit presentation into a legalized domestic brand weapon.
- **We deliver enforceable regulatory findings:** We obtained a formal conclusion from the Inspectorate of the Ministry of [Science & Technology](#) stating that ASEM VINA had engaged in unfair competition. This gives our client a State-recognized record of violation.

This is rare. Most firms will say, "*We sent a warning letter*". We can say, "*We dismantled the label supply chain, destroyed the machines, and got the State to brand you an unfair competitor*".

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