

Trademarks or Disguised Advertising Messages: CNIPA's Proactive Invalidation of Granted Trademarks - Could Vietnam Adopt a Similar Approach?

The Situation in China: A Drastic Purge of "Pseudo-Concepts"

In recent times, the **China National Intellectual Property Administration (CNIPA)** has sent shockwaves through the legal and business communities by consistently implementing measures to **refuse** and **proactively invalidate** a series of trademarks that are **ambiguous, deceptive,** or likely to **mislead consumer perception**.

The review process reveals that numerous applications were **summarily rejected** during the **substantive examination stage**, most notably: 18 "Zero Sucrose" trademarks, 22 "0 Sucrose" trademarks, and others such as "Earth from the Mountains" and "0 Added West." Notably, since 2025, CNIPA has expanded its oversight beyond the examination stage to **proactively [invalidate numerous trademarks](#)** for which **protection titles** had already been granted. Several marks in the **FMCG** (Fast-Moving Consumer Goods) and food sectors - such as "Dezi Native," "Farm-Raised," "Qianhe 0+," and "No. 1 Native Pig"—have been **declared invalid**. Furthermore, the **actual use** of these marks in commerce is now under the **strict supervision** of regulatory authorities.

This movement reflects a significant shift in Beijing's **regulatory philosophy**: trademark examination is no longer a passive process of **"formal compliance"** but has evolved into a deep intervention to protect **"substantive fairness"** in the market. CNIPA clearly recognizes the current reality: many enterprises are not designing trademarks to fulfill the **primary function of distinguishing the origin of goods**. Instead, they are intentionally **"weaponizing"** the registration system to **"privatize" the common language** of entire industries. These entities treat [protection titles](#) as a **"legal passport" to monopolize advertising messages** (such as "Sugar-Free" or "Natural-Raised").

By clothing **ambiguous descriptive terms** in the garb of **"exclusive registered trademarks,"** a veneer of **false prestige** is created, leading consumers to mistakenly believe that the products possess superior qualities or that their quality is **"certified" by the State**. By **intervening proactively**—rather than awaiting **protracted third-party petitions or litigation** - CNIPA is delivering a **firm legal message**: enterprises cannot transform protection titles into tools for **market manipulation** or the **obstruction of fair competition**.

In Vietnam: Who Will Oversee Deceptive Descriptive Signs?

The aggressive legal developments from Chinese regulatory authorities serve as a **timely reference** for Vietnam's intellectual property (IP) system.

In reality, the market landscape for consumer goods, food, and cosmeceuticals in Vietnam is witnessing similar **distortions**. It is not uncommon for enterprises to integrate **descriptive consumer trends** such as "Organic," "Home-made," "Authentic Taste," "Clean," or "No Preservatives" into their **trademark structures**. In some instances, these elements are **stylized** or combined with **graphic components** to bypass the **substantive examination of distinctiveness**. Once a **protection title** is granted, owners exploit it in media campaigns as a **legal basis** to deliberately highlight the **descriptive portion** (which should not be subject to **exclusive protection**). They may even issue **cease-and-desist letters** to competitors, demanding they stop using terms that are part of the industry's **common language**.

To prevent the **misuse of the trademark registration mechanism** as a tool for **market deception**, the **Intellectual Property Office of Vietnam (IPVN)** and policymakers should consider establishing **multi-layered defense mechanisms**:

- **First: Upgrading the Substantive Examination "Filter" - Resolutely Rejecting "Pseudo-Concepts"** There is a need to issue stricter **internal examination guidelines** for trademarks containing words describing the **nature, quality, or composition** of goods. If a trademark appears to abuse market "trends" to create an **illusion of quality** (e.g., a product using artificial flavors but applying for a trademark containing "100% Natural"), examiners should **summarily refuse** the application on the grounds of being **"likely to mislead consumers,"** rather than showing leniency simply because of unique graphic design.
- **Second: Activating "Proactive Invalidation" Mechanisms to Protect Public Interest** Current Vietnamese law provides for the **invalidation of trademark validity** if its use causes **consumer confusion** (Article 95 of the **IP Law**). However, this mechanism still operates primarily on a **"passive"**

model—relying on **cancellation petitions** filed by third parties. Learning from the Chinese experience, when trademarks are found to have a **widespread negative impact** or infringe upon the **public interest**, the IPVN should be empowered or encouraged to exercise **ex officio** authority to initiate review and **declare invalidation**.

- **Third: Creating an Inter-disciplinary Governance Network - Closing the Gap Between "Granting" and "Actual Use"** The IPVN needs to establish a mechanism for **information sharing** and **inter-agency action** with the **General Department of Market Surveillance** and the **National Competition Commission**. If an enterprise uses a trademark on packaging in an **ambiguous manner** - deliberately obscuring **distinctive elements** while inflating **descriptive components** for **false advertising** - market regulators should not only penalize **unfair competition** but also provide feedback to the IPVN to consider **revoking the protection title**. This synergy would create a **closed-loop regulatory system**, eliminating the "registration at any cost" mindset once a certificate is obtained.

Conclusion

Intellectual property law is designed to protect **distinctive signs**, ensure **transparency of commercial origin**, and promote **fair competition** in the market. It is not intended to legitimize the **misappropriation of descriptive concepts**, which must remain available for all business entities to use in **good faith**.

Therefore, transitioning from a mindset of "registration and granting" to one of **"substantive oversight of registration and trademark use"** is an essential requirement. This is not only a solution to **purify the national registration system** but also serves as a critical message to the business community: **sustainable competitive advantage** must be built upon the **genuine quality** of goods and **market reputation**, rather than the **monopolization of ambiguous or deceptive promotional concepts**.

By Nguyễn Vũ Quân | Partner, IP Attorney
Đỗ Thị Phần | Special Counsel
Hoàng Thị Tuyết Hồng | Senior Trademark Attorney

Contact

KENFOX IP & Law Office

Building No. 6, Lane 12/93, Chinh Kinh Street, Nhan Chinh Ward, Thanh Xuan District, Hanoi, Vietnam

Tel: +84 24 3724 5656

Email: info@kenfoxlaw.com / kenfox@kenfoxlaw.com