Bad-Faith Trademark Filings in Vietnam: What's new in the IP Law 2025?

Vietnam's first-to-file trademark system has increasingly been exploited by professional trademark squatters. In practice, certain individuals and companies have filed dozens, or even hundreds, of trademarks that appear to copy or imitate marks already used by foreign brand owners, overseas manufacturers, franchise chains, online sellers, or businesses preparing to enter Vietnam. These filings are often not made for genuine commercial use. Rather, they are made to wait for a payoff.

Once registered, that mark may be used not only as a passive obstacle to registration, but also as an active commercial weapon: to demand payment, block distribution, pressure local partners, file e-commerce complaints, or threaten enforcement against the true brand owner's products.

For this reason, "bad faith" has become one of the most important legal concepts in Vietnam's trademark regime. The 2025 amendments to Vietnam's Intellectual Property Law, together with Circular No. 10/2026/TT-BKHCN effective from 1 April 2026, represent a significant development in the fight against trademark squatting. They do not eliminate Vietnam's first-to-file principle. However, they provide brand owners with more realistic tools to challenge abusive filings and registrations.

What changed in 2025: a more commercially realistic bad-faith framework

The most important change introduced by the 2025 reform is that Vietnam's bad-faith rules are now expressed in more concrete and commercially realistic terms. Instead of requiring brand owners to rely mainly on difficult evidence of the applicant's subjective knowledge and dishonest intention, the new framework identifies specific factual scenarios that may constitute bad faith.

Pursuant to **Article 112.3 of Circular No. 10/2026/TT-BKHCN**, a trademark registration may be invalidated for bad faith under any of the following circumstances:

a) Mass Filings and Hoarding: The applicant registers a large number of trademarks identical or confusingly similar to trademarks already used by others in Vietnam for identical or similar goods or services, where such registration exceeds normal business capacity, and there is no evidence of a genuine intention to use those trademarks in production or business activities.

b) Free-Riding and Market Blocking: At the filing date, the applied-for trademark is identical or confusingly similar to a trademark recognized by relevant consumers in Vietnam as indicating the commercial origin of identical or similar goods or services of another person, or is identical or confusingly similar to a trademark well known in other countries; and the registration is intended to take unfair advantage of the reputation or goodwill of that trademark for profit, or is primarily intended for sale, licensing, or transfer of the registration right to the owner of such trademark, or to prevent such trademark owner from entering the market so as to restrict competition, or to engage in other acts contrary to honest commercial practices.

By transforming bad faith from an abstract concept into a practical legal evaluation, this wording creates two critical strategic levers for foreign brand owners.

Scenario 1: Mass Filings and Trademark Hoarding

This provision directly targets applicants who file a large number of marks identical or confusingly similar to marks already used by others in Vietnam. The key elements are: The number of filings, the similarity between the filed marks and marks used by others, the overlap or similarity of goods/services, the applicant's normal business capacity, and the absence of evidence showing genuine intent to use the marks.

This is directed at professional trademark squatters. In practice, such parties may file dozens or hundreds of marks, not because they have real business plans for all of them, but because they expect the genuine owners to later pay for assignment or settlement. Under the new rule, the filing pattern itself may become important evidence of bad faith.

This is a positive development. Previously, even where a squatter had filed multiple foreign marks, the genuine owner still often had to prove that the squatter knew of its particular mark and acted with a dishonest motive. The new framework allows IP VIETNAM to look more directly at the commercial reality: whether the applicant's conduct resembles genuine brand development or systematic trademark hoarding.

Scenario 2: Free-Riding, Resale Pressure, and Market Blocking

The second scenario concerns filings that target another party's reputation. It applies where, at the filing date, the applied-for mark is identical or confusingly similar to a mark recognized by relevant Vietnamese consumers as indicating another party's commercial origin for identical or similar goods/services, or to a mark well-known in other countries.

However, similarity and reputation alone are not enough. The rule also requires an improper purpose, such as taking unfair advantage of the reputation or goodwill of the genuine mark, selling, licensing, or transferring the registration right to the genuine owner, blocking the genuine owner's market entry, restricting competition, or otherwise acting contrary to honest commercial practices.

This is particularly useful for foreign investors whose brands may not yet be famous among the general Vietnamese public, but are already known within a specific industry, trade channel, professional buyer group, consumer segment, online community, franchise sector, or distribution network. The reference to "relevant consumers in Vietnam" is therefore important. It suggests that evidence may focus on the actual market concerned, rather than requiring proof of nationwide public recognition.

Strategic Approaches to Dealing with Bad-Faith Trademark Filings in Vietnam

Vietnam's 2025 IP Law sends a clear message: The system is moving toward stronger protection against dishonest trademark filings. The new rules better reflect commercial reality and give brand owners improved tools to challenge trademark hoarding and reputation-based misappropriation.

However, bad faith is still an evidence-driven ground. It is not enough to say that a filing is unfair, suspicious, or commercially opportunistic. The brand owner must prove the relevant facts: the earlier mark, the applicant's conduct, the commercial context, the filing pattern, the reputation or recognition of the legitimate mark, and the improper purpose behind the filing.

The 2025 reform improves the legal environment, but it does not replace the need for proactive brand protection. IPR holders should take the following steps before entering Vietnam.

1. File early. Trademark applications should be filed in Vietnam before product launch, distributor appointment, franchise negotiation, marketing campaign, trade fair participation, or online market testing. Early filing remains the most cost-effective protection against squatters.

2. Conduct clearance and watch searches. Investors should search for identical or similar marks already filed or registered in Vietnam. They should also monitor newly published applications so that oppositions can be filed within the statutory deadline.

3. Preserve evidence of brand creation, ownership, and international reputation. This includes home-country registrations, Madrid registrations, overseas use, advertising materials, awards, press coverage, sales figures, domain names, social media accounts, and company records showing brand history.

4. Build Vietnam-facing evidence early. Even before formal market entry, brand owners should document Vietnam-directed promotion, inquiries from Vietnamese customers, distributor communications, trade fair participation, Vietnamese-language websites or social media, e-commerce listings, import records, samples, marketing materials, and evidence of recognition among relevant consumers.

5. Document dealings with local partners. Many bad-faith disputes arise from failed relationships with distributors, agents, OEM manufacturers, former partners, or local collaborators. Contracts, emails, quotations, meeting records, sample requests, and confidentiality obligations may later become crucial evidence of the adverse party's knowledge.

6. Do not rely on bad faith alone. A strong challenge should combine all available legal grounds, such as likelihood of confusion with earlier marks, lack of distinctiveness, conflict with trade name rights, copyright in logos or applied-art works, well-known mark protection, prior use, non-entitlement to register, or non-use cancellation where applicable.

Conclusion

For IPR holders, the practical conclusion is simple: Vietnam should be treated as a priority filing jurisdiction, not a market to be protected only after launch. The strongest anti-squatting strategy is still prevention. But where a bad-faith filing has already occurred, the 2025 reform provides a more powerful framework to fight back - especially for rights holders who have preserved the right evidence from the beginning.

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