

# **DOCUMENT CONCERNING GROUNDS FOR REFUSAL OF MARKS IN VIETNAM**

## **GROUNDS FOR REFUSAL OF MARKS:**

- Signs identical with or confusingly similar to the national flags, national emblems;
- Signs identical with or confusingly similar to emblems, flags, armorial bearings, abbreviations, full names of State agencies, political organizations, socio-political organizations, socio-political professional organizations, social organizations or socio-professional organizations of Vietnam or international organizations, unless permitted by such agencies or organizations;
- Signs identical with or confusingly similar to real names, alias, pen names or images of leaders, national heroes or famous persons of Vietnam or foreign countries;
- Signs identical with or confusingly similar to certification seals, control seals, warranty seals of international organizations which require that their signs must not be used, except where such seals are registered as certification marks by those organizations;
- Signs liable to mislead, confuse or deceive consumers as to the origin, functional parameters, intended purposes, quality, value or other characteristics of the goods or services;
- Signs that are contrary to the public order or prejudicial to national security;
- Signs are simple devices and geometric figures; numerals, letters, or words of uncommon languages, except for signs having been widely used and recognized as a mark;
- Signs are signs, symbols, pictures or common names in any language of goods or services that have been widely and often used and are common knowledge;
- Signs indicating the time, place, method of production, kind, quantity, quality, property, composition, intended purpose, value or other characteristics, which is descriptive of the goods or services, except for signs having acquired distinctiveness through use before the filing of mark registration applications;
- Signs describing the legal status and activity field of businesses;
- Signs indicating the geographical origin of the goods or services, except for signs having been widely used and recognized as a mark or signs registered as collective marks or certification marks as provided for in IP Law of Vietnam;
- Signs not being integrated signs which are identical with or confusingly similar to a registered mark in respect of identical or similar goods or services on the basis of a registration application having earlier filing date or earlier priority date, as applicable including applications filed under international treaties to which the Socialist Republic of Vietnam is party;

- Signs identical with or confusingly similar to another person's mark having been widely used and recognized in respect of the similar or identical goods/services as before the filing date or the date of priority, as the case may be;
- Signs identical with or confusingly similar to another person's mark already registered in respect of identical or similar goods or services the Mark registration Certificate of which has been terminated for no more than 5 years, except where the ground for such termination is non-use of the mark as provided for in subparagraph d paragraph 1 Article 95 of IP Law of Vietnam;
- Signs identical with or confusingly similar to another registered person's mark recognized as well-known in respect of the goods or services that are identical with or similar to those bearing the well-known mark; or in respect of dissimilar goods/services if the use of such marks may prejudice the distinctiveness of the well-known mark or the registration of such signs is aimed at taking advantage of goodwill of the well-known mark;
- Signs identical with or similar to another person's trade name having been used if the use of such signs is likely to cause confusion to consumers as to the source of goods or services;
- Signs identical with or similar to a geographical indication being protected if the use of such signs is likely to cause mislead consumers as to the geographical origin of goods;
- Signs identical with or containing geographical indications or being translated from the meaning or transcription of the geographical indication being protected with respect to wines or spirits if such signs have been registered for use with respect to wines and spirits not originating from the geographical area bearing such geographical indication;
- Signs identical with or insignificantly different from another person's industrial design having been protected on the basis of an industrial design registration application with filing date or priority date earlier than those of the mark registration application.
- Signs identical with a registered marks of the same owner in respect of identical goods or services.
- Where two or more applications are filed by several people to register the marks identical with or confusingly similar to each other, in respect of identical or similar goods or services, the Protection Titles may only be granted with respect to the valid application with the earliest date of priority or filing date among the applications that satisfy all the conditions for the issue of a protection title.

*(Details are provided in the Intellectual Property Law of Vietnam and Circular 01/2007/TT-BKHCHN )*