

# Top 5 Notes Before Litigation Intellectual Property in Vietnam

In recent years, **disputes over intellectual property** have received more attention due to the increasing awareness and the need to protect intangible assets of enterprises and individuals. However, due to the novelty of these types of disputes, there are still issues that businesses and individuals participating in the dispute need to grasp. The following article will summarise some notes regarding **litigation of intellectual property in Vietnam**.

## 1. Proactively register for protection of intellectual property such as inventions, trademarks and geographical indications in order to litigation intellectual property

**Intellectual property law** stipulates that a number of intellectual property of enterprises such as **trademarks**, geographical indications and inventions to be protected need to be registered with the NOIP. However, the conditions of protection for each object will be different by law and the registration process must also be conducted through several stages. Accordingly, before registering for protection of this intellectual property, enterprises need to take the first step of looking up and assessing their protection ability.

Procedures for protection registration for intellectual property are relatively complicated. Individuals and businesses should therefore consider using the services of an **Intellectual Property Law Firm in Vietnam**, so that the registration process can be carried out quickly and professionally. This is to protect the integrity of **intellectual property rights of individuals**, and enterprises themselves. Protection registration for intellectual property may help you a lot in **litigation of intellectual property in Vietnam**

## 2. Competence to resolve litigation of intellectual property in Vietnam

When there is a litigation of intellectual property, enterprises and individuals should be aware of the current measures which can be applied to resolve intellectual property disputes, namely criminal, administrative and civil measures. However, the reality is that many enterprises still do not understand clearly the authorities which have the competence to resolve intellectual property disputes. As a result, most of the litigation intellectual property in Vietnam is handled through by administrative measures, which are less of a deterrent – these disputes should be handled by civil procedures. Therefore, individuals and enterprises should pay appropriate attention to the competence before proceeding to resolve disputes on intellectual property. Specifically, the competence of the authorities resolving the litigation of intellectual property in Vietnam, as follows:

- Within the scope of their tasks and powers, the Court, Inspector, Market Management, Customs, Police and People’s Committees agencies at all levels can competently handle violations of ownership rights.
- The application of civil and criminal measures is under the jurisdiction of the Court. In case of necessity, the Court may apply provisional emergency measures as prescribed by law.
- The application of administrative measures falls under the jurisdiction of the Inspectorate, Police, Market Management, Customs and People’s Committees at all levels. In cases of necessity, these agencies may apply preventive measures and ensure administrative sanctions according to the provisions of law.

### **3. All documents and evidence should be well-prepared before litigation of intellectual property in Vietnam**

The preparation of adequate documents and evidence before participating in the settlement of **intellectual property disputes** is an important matter. In fact,

there is a long process for businesses and individuals to prove the infringement of intellectual property rights with regard to trademarks, products, literary works, etc., including collection of evidence and testing. In order to complete the documents before the **litigation of intellectual property in Vietnam**, individuals and businesses can render the advice of an **Intellectual Property Law Firm in Vietnam**.

#### **4. Protection title and invalidation of protection title**

Protection titles recognise owners of inventions, industrial designs, layout designs and marks (hereinafter referred to as protection title owners); inventors, industrial designs, layout designs; subject, scope and term of protection.

Protection titles for geographical indications recognise the organisation managing geographical indications, organisations and individuals have the right to use geographical indications, protected geographical indications, and specific characteristics of bearing products, geographical indications, specific characteristics of geographical conditions and geographical areas bearing geographical indications.

The protection title is invalidated in the following cases:

- The applicant has no right to register and may not assign the registration right to the invention, industrial design, layout design and trademark;
- Industrial property objects do not meet the protection conditions at the time of granting the protection title.

#### **5. The statute of limitations for requesting protection title cancellation**

The statute of limitations for exercising the right to request protection title validity cancellation is the entire term of protection; for marks, the statute of limitations is

five years from the date the protection title is granted, except where the protection title is granted due to the dishonesty of the applicant.

In the process of resolving **disputes on intellectual property**, enterprises will surely face many difficulties due to problems with intellectual property law and competition law. To be effective in **resolving litigation of intellectual property in Vietnam**, businesses and individuals should seek consultation with a law firm specialising in **intellectual property in Vietnam**.

*If you are having difficulty finding an **Intellectual Property Law Firm in Vietnam**, please contact us: P & Associates is a **professional law firm established in Vietnam** and currently has nearly 100 members working at three offices in Ho Chi Minh City, Hanoi and Da Nang. P & Associates are also considered to be one of the **leading law firms specialising in law on business in Vietnam**, which has a number of notable practice fields in the legal market such as **Labour and Employment, Banking Law, Taxes, Purchases, Selling and Merging, Litigation**, and **Intellectual Property**. We are confident to be the **Intellectual Property Law Firm in Vietnam** providing clients with legal services optimally and effectively.*