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INSIDE

New finds this week

Vietnam has made commendable progress in modernizing its intellectual property system and aligning GI protection with international standards. The amended IP Law and its implementing regulations represent a significant step forward in strengthening transparency, enforcement, and substantive protection.

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New finds this week

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VIETNAM'S GEOGRAPHICAL INDICATION REGIME AFTER THE 2025 IP LAW AMENDMENTS

Overview

Intellectual property (IP) rights play a central role in the modern economy by protecting innovation, creativity, and commercial goodwill. The most widely recognized forms of IP protection include copyrights, patents, and trademarks. Alongside these well-known rights, geographical indications (GIs) represent a distinct and increasingly significant category of IP protection that is often less understood but equally important.

Geographical indications identify products as originating from a specific territory, region, or locality where a given quality, reputation, or characteristic of the product is essentially attributable to its geographical origin. GI protection is recognized under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and is widely regarded as a mechanism for preserving cultural heritage, traditional knowledge, and regional economic value. As a result, GIs have become one of the most contested areas of IP law worldwide.

GIs are most commonly associated with agricultural and food products, particularly those originating in Europe, such as Champagne, Parmesan, and Mozzarella. Their economic value derives from the close link between product quality and place of origin—an association that cannot be easily replicated outside the designated geographical area.

This intrinsic link has given rise to persistent debates over whether producers outside the designated region should be permitted to use geographical names when such terms are arguably generic. These tensions have also surfaced in Vietnam, including disputes involving U.S. producers challenging the protection of certain European cheese names on the basis that they function as common product names rather than exclusive geographical indications.

At the same time, the overlap between GI protection and trademark rights continues to pose complex legal and policy challenges, particularly where prior trademarks incorporate or resemble geographical terms.

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Vietnam's International Commitments and Legal Framework

Vietnam has undertaken substantial efforts to align its IP regime with international standards. The country is a member of the TRIPS Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the EU-Vietnam Free Trade Agreement (EVFTA). These agreements impose enhanced obligations regarding GI protection, transparency, enforcement, and the balancing of competing private interests.

Vietnam's Intellectual Property Law has been amended several times, most notably by Law No. 07/2022/QH15, with implementing decrees and Circular No. 23/2023/TT-BKHCN, which remains applicable in 2025. While these reforms significantly strengthen GI protection, the effective implementation of Vietnam's international commitments continues to depend on detailed guidance and consistent administrative practice.

Information Transparency

Under the CPTPP, Vietnam is required to ensure transparency in the GI protection system by publishing GI applications or petitions for opposition and establishing procedures for third parties to challenge proposed GI registrations. The CPTPP also obliges Vietnam to make relevant information publicly accessible so that interested parties may understand filing procedures and track the status of specific applications.

At present, Vietnam does not maintain a standalone public GI database. Information on GI applications and registrations is primarily disseminated through publications in the Industrial Property Official Gazette. While this practice satisfies certain disclosure requirements, it falls short of providing a fully accessible and user-friendly system for monitoring GI rights.

Pursuant to Article 10.3(d) of Circular 23/2023, publications of GI applications must include an abstract of the specific characteristics of the product and the GI-bearing product name. However, two transparency gaps remain when measured against CPTPP expectations. First, publications do not clearly identify disclaimed elements in cases where multi-component terms are sought for GI protection. Second, they do not indicate whether the GI application includes a translation or transliteration of the protected name. Addressing these issues would significantly enhance legal certainty for stakeholders.



Standard Terms and Fair Market Access

The amended IP Law expressly provides that a GI shall not be protected if it has become a common name of goods as perceived by relevant consumers in Vietnam. While this principle aligns with international practice, the law does not yet provide detailed criteria for determining when a term is considered generic.

The CPTPP offers useful, though non-exhaustive, guidance by suggesting reference to dictionaries, media usage, commercial practices, and the manner in which goods are marketed and perceived by consumers. To ensure predictability and fair market access, Vietnam would benefit from issuing supplementary guidelines reflecting these factors. Public disclosure of a non-exhaustive list of commonly accepted generic terms could further reduce uncertainty and prevent unjustified monopolization through GI protection.

In addition, the EVFTA contains specific transitional exceptions for certain cheese names such as Asiago, Feta, Fontina, and Gorgonzola, allowing continued use in Vietnam by parties who had used these terms in good faith prior to January 01, 2017. However, as of 2025, detailed domestic guidance confirming the scope and implementation of these exceptions remains limited, leaving affected businesses without clear legal assurance.

Prior Trademark Rights

Vietnam's amended IP Law strengthens the protection of GIs while maintaining safeguards for prior trademark rights. A GI will not be protected if it is identical or confusingly similar to a trademark that has been applied for or registered in good faith with an earlier filing or priority date, where such use would mislead consumers as to the commercial origin of goods.

In practice, during the GI examination process, the Intellectual Property Office of Vietnam (IP Office of Vietnam) may notify owners of earlier trademarks and invite opinions regarding the proposed GI registration. Nonetheless, past cases—most notably the “Tân Triều” pomelo dispute—have raised concerns regarding legal consistency. In that case, trademark registrations granted in 2008 were later invalidated following the registration of a GI in 2012, prompting questions about the stability of prior trademark rights.

Under Article 24.5 of the TRIPS Agreement, trademarks acquired or registered in good faith prior to GI protection should not be prejudiced solely due to similarity with a GI. While Vietnam's IP Law reflects this principle in general terms, neither the law nor Circular 23/2023 provides sufficiently explicit procedural guidance on resolving such conflicts. More detailed regulations would help prevent disputes and reinforce confidence in the coexistence of trademark and GI rights.



Conclusion

Vietnam has made commendable progress in modernizing its intellectual property system and aligning GI protection with international standards. The amended IP Law and its implementing regulations represent a significant step forward in strengthening transparency, enforcement, and substantive protection.

Nevertheless, to ensure effective and predictable application of GI and trademark rights, further practical measures are needed. These include enhanced public access to GI information, clearer standards for determining generic terms, and more explicit rules governing the relationship between prior trademarks and later GI registrations. Addressing these issues will be essential to balancing the legitimate interests of rights holders, market participants, and consumers in Vietnam's evolving IP landscape.

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