INTA Practice Guides Report
Trademark Cancellations Guide
Vietnam
SINGLE JURISDICTION REPORT

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I. Availability — A. Availability

- Cancellation of a trademark is available for:national marks;international marks.This jurisdiction is not a member of the European Union; we have no European Union Trade Marks.
- "Cancellation" is defined by legislation as follows: Article 95 of the Vietnamese Intellectual Property Law (Law No. 50/2005/QH11 of November 29, 2005, amended 2009, 2019, 2022) states that the validity of a Protection Title shall be totally or partially terminated in the following cases:(a) its owner has not paid the due fees for renewal as prescribed;(b) its owner has declared the relinquishment of the rights conferred by the Protection Title;(c) its owner no longer exists or the owner of a mark registration certificate no longer engages in business and has no lawful successor;(d) the mark has not been used by its owner or his licensee, without justifiable reason, for a term of five consecutive years prior to a request for termination of validity, except if the use is commenced or resumed at least three months before the request for termination;(e) the owner of a mark registration certificate in respect of a collective mark fails to supervise or ineffectively supervises the implementation of the rules on using collective marks;(f) the owner of a mark registration certificate in respect of a certification mark violates the rules on using certification marks or fails to supervise or ineffectively supervises the implementation of such rules;(g) the geographical conditions attributable to the reputation, quality, or characteristics of the product bearing a geographical indication have changed resulting in a loss of the reputation, quality, or characteristics of the product;(h) The use of the protected mark for goods and services by the mark owner or a person permitted by the mark owner causes users to misunderstand the nature, quality, or geographical origin of such goods or services;(i) The protected mark has become a common name of the goods or service registered for the mark.Article 96 of the Vietnamese Intellectual Property Law (amended 2009, 2019, 2022, 2026) states that a Protection Title shall be entirely or partially invalidated in the following cases:(a) The application is filed for malicious intent;(b) The applicant does not have the right and is not authorized by the person who has the right to register the mark;(c) The subject matter of industrial property fails to satisfy the protection conditions specified in Article 8 and Chapter VII of this Law;(d) The revision to the industrial property registration application expands the scope of subject matter that have been disclosed or mentioned in the application or changes the nature of the subject matter mentioned in the application;(e) The trademark does not comply with the first-to-file principle prescribed in Article 90 of this Law.
- Cancellation actions can be filed online at the following URL: https://dichvucong.ipvietnam.gov.vn

II. Grounds — A. Absolute Grounds

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• The following absolute grounds may be raised in cancellation proceedings:the mark is descriptive;the mark is misleading and/or deceptive;the mark lacks distinctiveness;the mark is generic;the mark consists of a geographical indication;the mark is functional;the mark is against public policy or principles of morality;the mark has not been authorized by competent authorities pursuant to Article 6ter of the Paris Convention;the mark includes a badge or emblem of particular public interest;the mark is used in a misleading and/or deceptive manner;the mark is prohibited in this jurisdiction;the application for or registration of the mark was made in bad faith;other absolute grounds, i.e., grounds that relate to the inherent registrability of a mark: signs identical with or confusingly similar to real names, aliases, pen names or images of leaders, national heroes or famous persons of Vietnam or foreign countries;simple devices and geometric figures, as well as numerals, letters, or words of uncommon languages, except for signs that have been widely used and are recognized as a mark;sign that has the inherent shape of the product or a shape that is the result of the technical properties of the product;sign that contains a copy of the work, unless it is permitted by the work owner.

II. Grounds — B. Relative Grounds

• The following relative grounds may be raised in cancellation proceedings:there is an earlier application or registered mark;there are earlier use-based rights in an unregistered mark;the application for or registration of the mark was made in bad faith;the mark is covered by a copyright;the mark is a company name (provided that the trade name is registered and was in use before the filing date of the mark);the mark is notorious or well known (Article 6bis of the Paris Convention);the trademark application was filed or the registration was granted in the name of an agent or other person with a business connection to the owner of the mark (Article 6septies of the Paris Convention);the mark is a trade or business name;other relative grounds, i.e., grounds that are based on another party’s proprietary rights: signs identical with or similar to a protected geographical indication if the use of such signs is likely to mislead consumers as to the geographical origin of goods;signs identical with or insignificantly different from another person’s industrial design protected by an industrial design registration application with a filing date or priority date earlier than those of the mark's registration application;sign that is identical to or confusingly similar to the name of a plant variety that has been protected in Vietnam if such sign is registered for a plant variety of the same or similar species, or for products obtained from such plant variety.

II. Grounds — C. Grounds Other Than Absolute, Relative or Non-Use

• In addition to the absolute or relative grounds listed above and/or the non-use grounds listed below, the following grounds may also be raised in cancellation proceedings: the owner has not paid the due fees for the maintenance or renewal as prescribed;the owner has declared to relinquish the rights conferred by the Protection Title;the owner no longer exists or the owner of a mark registration certificate no longer engages in business without a lawful successor;the owner of a mark registration certificate in respect of a collective mark fails to supervise or ineffectively supervises the implementation of the rules on using a collective mark;the owner of a mark registration certificate in respect of a certification mark violates the rules on using a certification mark or fails to supervise or ineffectively supervises the implementation of such rules;the use of the protected mark for goods and services by the mark owner or a person permitted by the mark owner causes users to

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misunderstand the nature, quality, or geographical origin of such goods or services;the protected mark has become a common name of the goods or services registered for the mark.

II. Grounds — D. Non-Use Grounds

• Non-use may be raised as a ground in cancellation proceedings, provided that the cancellation request is raised by a third party.
• In relation to cancellation for non-use, "use" is defined as: (a) affixing the protected mark to goods, packages of goods, means of business of supplying services, and communicating papers in business activities; (b) selling, offering, advertising for sale, displaying for sale, storing for sale, or transporting goods bearing the protected mark; or (c) importing goods or services bearing the protected mark.
• The definition of "use" provided above is derived from statute, regulation or administrative rule: It is derived from Article 124.5 of the Vietnamese Intellectual Property Law.
• Use by a licensee or with the consent of the proprietor constitutes use by the proprietor provided that the consent is in written form and executed by both parties.
• The time frame within which a mark must be used in order to avoid cancellation runs from:other: Use is not linked to any specific time relative to the application filing date or the registration date. After registration, the trademark simply needs to be used at any time within five years to ensure that the period of its non-use does not last for five consecutive years. Consult a local trademark attorney.
• Counting from the above date, to avoid cancellation for non-use, the mark must be used within: every five years.
• The consequences of use being interrupted are: non-use cancellation, upon request of a third party, if the interruption lasts for at least five consecutive years.

II. Grounds — E. Multiple Grounds

• An application for cancellation may be based on multiple grounds (i.e., on a combination of absolute, relative and non-use grounds), provided that the grounds are related to each other (for example: relative and absolute grounds are related ones). Consult a local attorney.
• The advantages of filing an action based on multiple grounds are as follows: The applicant may have a better chance of success and save the cost. If one ground fails, the competent authority will then continue to consider other ground(s).
• If an action is based on multiple grounds and the action could be disposed of on one ground, the other grounds will nevertheless be considered.

II. Grounds — F. International Registrations and European Union Trade Marks

• Grounds for cancellation are the same in respect of international marks as they are for national marks.

II. Grounds — G. Introduced Later in Proceedings

• Additional grounds for cancellation may be introduced at a later stage in the proceedings. The deadline for introducing additional grounds is: There is no specific deadline. However, it must be submitted before the issuance of a decision on the cancellation.

III. Forum — A. Forum

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• The forum for cancellation proceedings is the same regardless of the grounds on which the proceedings are brought.Cancellation proceedings on all grounds may be brought before the following court or other judicial tribunal: People's Courts of first instance specialized in intellectual property.Cancellation proceedings on all grounds may be brought before the following administrative body: the Intellectual Property Office of Vietnam (IPVN); the Ministry of Science and Technology (MOST).
• The administrative body/bodies listed above is/are not independent of the trademark registry. The Intellectual Property Office of Vietnam (IPVN) is our Trademark Registry and is directly under the Ministry of Science and Technology (MOST). Cancellation proceedings will be brought before the IPVN. The first appeal, if any, is handled by the IPVN; The second appeal, if any, is handled by the MOST.

IV. Standing — A. On Basis of Grounds

• The following parties have legal standing to apply for cancellation, regardless of the grounds for cancellation:any person. Legal interest is not required (any person who has the capacity for civil acts of individuals).a legal representative acting “in the public interest.”
• For cancellations based on grounds other than absolute, relative or non-use grounds, the following parties have standing:any person. Legal interest is not required. (This refers to any person who has the capacity for civil acts of individuals.)a legal representative acting “in the public interest.”other: a trademark owner, if the cancellation ground is that the owner has declared relinquishment of the trademark right.

IV. Standing — B. Person/"Interested Person" Defined

• For purposes of standing, a “person” is defined as:both natural and juridical persons.

IV. Standing — C. Domestic/Foreign Applicant

• The legal standing criteria for domestic and foreign applicants are the same, regardless of the grounds for cancellation.

IV. Standing — D. Multiple Applicants

• More than one applicant may apply jointly for cancellation, regardless of the grounds for cancellation.

IV. Standing — E. Infringement Defendant as Applicant

• In a court action for trademark infringement, cancellation of the plaintiff's trademark registration may be sought by a defendant, but only under independent proceedings.

V. Representation — A. Qualifications

• The applicant is required to appoint a representative (attorney, agent or other legal representative) in cancellation proceedings in the following circumstances: Where the applicant is a foreigner not having permanent residence in Vietnam or foreign company not having a production and business facility in Vietnam, it is required to appoint a recorded IP agent in Vietnam.
• The representative must be domestic, i.e., with an office in the jurisdiction.
• Additional professional qualifications required of a representative in cancellation proceedings are as follows: The representative shall be granted a Practice Certificate

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of Industrial Property Representation Service by the IPVN.

V. Representation — B. Power of Attorney-- Notarization/Legalization Requirements

• A signed power of attorney must be provided to a representative by an applicant in cancellation proceedings.
• There are no notarization/legalization requirements for a power of attorney form in cancellation proceedings before the Intellectual Property Office of Vietnam or the Ministry of Science and Technology. However, notarization and legalization requirements must be met in cancellation proceedings before a court.

VI. Commencement — A. Timing

• Cancellation proceedings that are independent of opposition proceedings may never be commenced before a mark is registered.

VI. Commencement — B. Deadline

• The deadline for bringing cancellation proceedings varies, depending on the grounds for cancellation.For proceedings based on absolute grounds, the deadline is: on the last date of a period of the first five years from the date of granting of the certificate of trademark registration.For proceedings based on relative grounds, the deadline is: on the last date of a period of the first five years from the date of granting of the certificate of trademark registration, except for bad-faith grounds.For proceedings based on non-use grounds, the deadline is: none.For proceedings based on grounds other than absolute, relative or non-use grounds, the deadline is: none.

VI. Commencement — C. Statute of Limitations

• The statute of limitations or acquiescence provisions that will prevent cancellation vary, depending on the grounds for cancellation.For proceedings brought on absolute grounds, the statute of limitations or acquiescence provision is: within five years of the registration date of the trademark.For proceedings brought on relative grounds, the statute of limitations or acquiescence provision is: within five years of the registration date of the trademark.For proceedings brought on non-use grounds, the statute of limitations or acquiescence provision is: after five years from the registration date of the trademark.For proceedings based on grounds other than absolute, relative or non-use grounds, the statute of limitations or acquiescence provision is: There is no statute of limitations or acquiescence provision if the cancellation request is based on the bad faith of the trademark holder at the time of filing the trademark.

VII. Partial Cancellation — A. Partial Cancellation

• Partial cancellation of a registration is possible, regardless of the grounds for cancellation, because a cancellation (both partial or total) is brought by a third party's own volition, not dependent on grounds.
• For single-class registrations and for multi-class registrations, it is possible to apply for cancellation of some of the goods either within the single class or within a given class, as appropriate, without applying for cancellation of all of the goods within the class.

VIII. Length of Proceedings — A. Length of Proceedings

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• The average duration of cancellation proceedings is: By regulation, five to eight months as from the filing date of the cancellation request; however, in practice, it is two or three years, or longer depending on the complexity of each case.
• After final arguments have been made and/or oral hearings have taken place, a decision will be rendered within the following time frame: one month by the regulation. However, in practice, it may take eight to 12 months.

IX. Costs and Fees to Initiate — A. Costs and Fees to Initiate

• The following costs and fees are associated with initiating cancellation proceedings:attorney fees;statutory or regulatory fees;administrative costs relating to legalization and/or notarization.
• No official fees are refundable if an application for cancellation is withdrawn, regardless of the grounds for cancellation.
• If an application for cancellation is based on multiple grounds, no additional official fees are due.

X. Documentation-- Notarization / Legalization Requirements — A. Documentation-- Notarization / Legalization Requirements

• The following documents must be notarized in cancellation proceedings, regardless of the grounds for cancellation: any supporting evidence or material under administrative procedure.The following documents must be legalized in cancellation proceedings, regardless of the grounds for cancellation: any supporting evidence or material under trial procedure.
• The documentation that must be submitted and the procedures necessary to initiate cancellation proceedings vary, depending on the grounds for cancellation.The documentation and procedures to initiate cancellation proceedings based on absolute grounds are as follows: statement requesting the termination or abrogation of the validity of the protection title following Form No. 05 in Appendix II of Circular No. 10/2026/TT-BKHCN dated March 31, 2026;evidence (if any);authorizing documents (if the request is submitted by a representative);explanation for the request (specifying certificates, reasons, legal grounds, the content of the request for the termination or abrogation of a part or a whole of the validity of the protection title) and relevant documents;copies of payment invoices of fees and charges (if paying fees and charges via postal services or directly to the account of the industrial property right authority).The documentation and procedures to initiate cancellation proceedings based on relative grounds are as follows: statement requesting the termination or abrogation of the validity of the protection title following Form No. 05 in Appendix II of Circular No. 10/2026/TT-BKHCN dated March 31, 2026;evidence (if any);authorizing documents (if the request is submitted by a representative);explanation for the request (specifying certificates, reasons, legal grounds, the content of the request for the termination or abrogation of a part or a whole of the validity of the protection title) and relevant documents;copies of payment invoices of fees and charges (if paying fees and charges via postal services or directly to the account of the industrial property right authority).The documentation and procedures to initiate cancellation proceedings on non-use grounds are as follows: statement requesting the termination or abrogation of the validity of the protection title following Form No. 04 in Appendix II of Circular No. 10/2026/TT-BKHCN dated March 31, 2026;evidence (if any);authorizing documents (if the request is submitted by a representative);explanation for the request (specifying certificates, reasons, legal grounds, the content of the request for the termination or abrogation of a part or a

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whole of the validity of the protection title) and relevant documents;copies of payment invoices of fees and charges (if paying fees and charges via postal services or directly to the account of the industrial property right authority).The documentation and procedures to initiate cancellation proceedings based on grounds other than absolute, relative or non-use grounds are as follows: statement requesting the termination or abrogation of the validity of the protection title following Form No. 04 in Appendix II of Circular No. 10/2026/TT-BKHCN dated March 31, 2026;evidence (if any);authorizing documents (if the request is submitted by a representative);explanation for the request (specifying certificates, reasons, legal grounds, the content of the request for the termination or abrogation of a part or a whole of the validity of the protection title) and relevant documents;copies of payment invoices of fees and charges (if paying fees and charges via postal services or directly to the account of the industrial property right authority).

XI. Discovery — A. Interrogatories

• Any party may request that any other party answer written questions, under oath ("Interrogatories"). The oath procedures are not expressly provided for under Vietnam legislation. Only the administrative agency or court may request the concerning party to answer written questions.
• The general rules concerning the timing, number and scope of Interrogatories are as follows: After receiving a cancellation petition, the administrative body or the court may request that a party answer written questions. There is no specific regulation on the number of Interrogatories. The scope of Interrogatories should be directly or indirectly involved in the cancellation request.
• If the requested party fails to provide answers to Interrogatories, in whole or in part, there is no procedure by which the requesting party can compel compliance.
• If the requested party fails to provide answers to Interrogatories, in whole or in part, the consequences are as follows: The case is considered on the available documents, and goes to a decision.
• The grounds on which a party may justify its refusal to respond to Interrogatories, in whole or in part, and the circumstances in which these grounds are applicable are as follows: (a) the question is not related to the cancellation case; or(b) there is force majeure or objective reasons.
• Answers to Interrogatories may be used as evidence in the action, provided that the answers are in an official written document.

XI. Discovery — B. Document Requests

• Any party may request that any other party produce documents in response to written document requests ("Document Requests"). Only the administrative agency or court may request the concerning party to produce documents in response.
• The general rules concerning the timing, number and scope of Document Requests are: After receiving a cancellation petition, the administrative body or the court may request the parties to produce documents in response. Each party is invited to produce documents at least once, but additional requests may be made, depending on the complexity of the case.
• If the requested party fails to provide documents in response to Document Requests, in whole or in part, there is no procedure by which the requesting party can compel compliance.
• If the requested party fails to provide documents in response to Document Requests, in whole or in part, the consequences are as follows: The case is

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considered on the available documents.

• The grounds on which the requested party may justify its refusal to produce documents in response to Document Requests, in whole or in part, and the circumstances in which these grounds are applicable are as follows: the question is not related to the cancellation case;the answer is obvious; orthere is force majeure or other objective reasons.

• Documents obtained in response to Document Requests may be used as evidence in the action, provided that the answer is in an official written document and meets the requirement of formality.

XI. Discovery — C. Depositions

• No party may request that one or more witnesses for any other party appear in person to be cross-examined under oath ("Depositions") in an administrative procedure; but it is possible in a trial.

XII. Burden of Proof — A. Burden of Proof

• The burden of proof can shift to the other party during the course of cancellation proceedings under the following circumstances: (a) there is a factor showing the given proof is not true or appropriate; (b) other ground(s) for cancellation arise during the course of the cancellation.

XIII. Written Arguments — A. Requirement/Deadline

• Written arguments are mandatory.

• The deadline for the applicant to submit written arguments is determined by statute, rule or regulation and is: It is not provided specifically under our regulation; In practice, it may be one to two months from the filing date of the cancellation.The deadline for the respondent to submit written arguments is determined by statute, rule or regulation and is: one to two months for national registration and three months for International Registration from the signing date of the notification for the cancellation.The deadline for submitting written arguments is determined by scheduling order or ruling of the court, other judicial tribunal or administrative body and is: 30 to 45 days.

XIII. Written Arguments — B. Extensions to File

• Extensions of time are available to the applicant to file written arguments.The duration of the extension is: a period of time equal to the set time limit.The following number of extensions is available: one.

• Extensions of time are available to the respondent to file written arguments.The duration of the extension is: a period of time equal to the set time limit.The following number of extensions is available: one.

• Extensions do not require the consent of the adverse party.

• Extensions require the approval of the court, other judicial tribunal or administrative body.

• The following official fees must be paid to obtain extensions: The official fee of VND 120,000 must be paid to obtain an extension in administrative procedures, but no official fee is required in the case of a trial.

XIV. Oral Hearings — A. Oral Hearings

• Oral hearings are permitted in cancellation proceedings. They are very popular in

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the trial procedure, but very few occur in the administrative procedure.
• The determination of whether oral hearings will take place is made by: an administrative body or by the court.

XV. Evidence — A. To Establish Absolute Grounds

• The following types of evidence may be submitted to establish absolute grounds: There is no specific regulation on types of evidence to establish absolute grounds. However, under current practice, the following documents could be considered:certified professional documents;documents from third party;official dictionaries;precedent from worldwide trademark registries.All documents are required to be in hard copy (paper).
• Evidence must be submitted to: the administrative body or cancellation tribunal.
• Evidence must be submitted by the following deadline: The evidence must accompany the cancellation request or be submitted by the deadline decided by the administrative body or cancellation tribunal.

XV. Evidence — B. To Establish Relative Grounds

• The following types of evidence may be submitted to establish relative grounds: evidence of earlier use, such as an invoice, advertisement materials, or a list of distributors;evidence of famous characters, such as a number of related consumers who are aware of the mark through purchase or use of the goods or services bearing the mark or through advertising;territorial scope of circulation of the goods/services bearing the mark;turnover of the sale or supply of the goods or services bearing the mark or the volume of the goods sold or the services supplied;the period of continuous use of the mark;widespread goodwill of the goods or services bearing the mark;countries granting protection to the mark;countries recognizing the mark as well-known;the value of the assignment, the licensing price or the value of investment capital contribution in respect of the mark;distribution agreement and/or any other evidence for proving bad-faith registration;information of prior rights in Vietnam (trademark registration, protected trade name, protected geographical indication, protected industrial design, prior copyright, prior name of a plant variety);successful precedents in worldwide trademark registries;social survey.All documents are required to be in hard copy (paper).
• Evidence must be submitted to: the administrative body or cancellation tribunal.
• Evidence must be submitted by the following deadline: The evidence must accompany the cancellation request or be submitted by the deadline decided by the administrative body or cancellation tribunal.

XV. Evidence — C. To Establish Non-Use Grounds

• The following types of evidence may be submitted to establish non-use grounds: initial non-use evidence presented by a simple market survey or search result of a competent authority.
• Evidence must be submitted to: the administrative body or cancellation tribunal.
• Evidence must be submitted by the following deadline: The evidence must accompany the cancellation request or be submitted by the deadline decided by the administrative body or cancellation tribunal.

XV. Evidence — D. To Establish Other Grounds

• The following types of evidence may be submitted to establish grounds other than

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absolute, relative or non-use grounds: information about the prior rights from the database of competent authority;declaration of the trademark's owner to relinquish the trademark right;confirmation from the Business Registry to prove the trademark's owner no longer existed;evidence proving the implementation of the rules on using collective or certification is not secured;dictionaries.All documents are required to be in hard copy.

• Evidence must be submitted to: the administrative body or cancellation tribunal.

• Evidence must be submitted by the following deadline: The evidence must accompany the cancellation request or be submitted by the deadline decided by the administrative body or cancellation tribunal.

XV. Evidence — E. Applicant's Proof of Use

• The applicant is not required to submit proof of use of the mark on which the cancellation is based, provided that the mark has already been registered and the cancellation is not based on a prior reputation and/or famous unregistered mark.

XV. Evidence — F. Applicant's Extensions of Time

• Extensions of time available for the applicant's submission of evidence are the same, regardless of the grounds on which the cancellation proceedings are based. Extension is possible for: a period of time equal to the set time limit before the deadline and payment of the prescribed fee.

• Official fees payable to obtain an extension for submitting evidence are as follows: VND 120,000 in a case at the administrative body. No official fees are payable to obtain an extension in a case at the court.

XV. Evidence — G. Additional Evidence

• Additional evidence may be submitted at a later stage in the cancellation proceedings. The deadline for submitting additional evidence is: There is no specific deadline. However, it must be submitted before the issuance of a decision on the cancellation.

XV. Evidence — H. Evidence in Reply/Deadline and Extensions

• Evidence in reply is optional.

• Evidence in reply must be submitted by the following deadline: There is no specific deadline, and the deadlines will vary by case; they are set by the administrative authorities or the court.

• The following extensions of time for the respondent's submissions are available: a period of time equal to the set time limit in the Notice.

• The official fees payable to obtain these extensions are: VND 120,000 in a case at the administrative body. No official fees are payable to obtain an extension in a case at the court.

• Petitioner cannot demand that respondent provide additional particulars relating to the respondent's proffered evidence.

XV. Evidence — I. Proof of Respondent's Use

• The respondent may submit the following kinds of evidence to prove use:invoices;catalogues;evidence of turnover;packaging;labels;price lists;advertisements;written statements;market surveys;use of the mark on the Internet;maintenance of a website;use of the mark on a social media

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site;other: distribution contract; processing contract.

• In assessing whether "use has been made," sufficient use is demonstrated by: affixing the protected mark to goods, packages of goods, means of business or supplying services and communicating papers in business activities;selling, offering, advertising for sale, displaying for sale, storing for sale, transporting goods bearing the protected mark; orimporting goods or services bearing the protected mark.All done in the territory and in actual commerce.

• The following factors are considered when determining whether a mark has been sufficiently used:the nature of the goods or services at issue;market characteristics;the scale and frequency of use of the mark;export use (Transited products for temporary import and re-export or duty free are not considered.).other: A trademark shall not be deemed to have been used where the use is merely token use and does not reflect actual commercial utilization of the goods or services bearing the trademark, including in the following cases:(a) The trademark is used solely for business preparation, research, or testing activities relating to goods or services bearing the trademark, without generating commercial transactions or clear evidence of actual implementation to place such goods or services on the market;(b) The trademark is used only within the internal activities of the applying organization and is not intended for supplying trademark-bearing goods or services to the market;(c) The trademark appears only on documents, reports, designs, websites, advertising media, or other information media without being associated with goods or services intended to bear the trademark and plans for marketing such goods or services or goods or services that have been marketed.

• The respondent can demand that the petitioner provide additional particulars relating to the petitioner's proffered evidence, using the following procedure: (i) submission of a written opinion to the Administrative Offices or the Court; and/or (ii) Interrogatories.

XV. Evidence — J. Consequences of Failure to Respond

• The consequences if a respondent fails to file a response or answer to a petition for cancellation are as follows:Upon request of the petitioner, the court, other judicial tribunal or administrative body may enter a default judgment in favor of the petitioner.The court, other judicial tribunal or administrative body must consider and decide the matter on the merits despite such failure.

XVI. Defenses — A. Acquired Distinctiveness

• Acquired distinctiveness can be a valid defense in cancellation proceedings based on absolute grounds. The following criteria are used to establish acquired distinctiveness: the number of related consumers who are aware of the mark through purchase or use of the goods or services bearing the mark or through advertising;the territorial scope of circulation of the goods or services bearing the mark;turnover of the sale or supply of the goods or services bearing the mark or the volume of the goods sold or the services supplied;the period of continuous use of the mark;widespread goodwill of the goods or services bearing the mark;worldwide successful trademark registrations.

XVI. Defenses — B. Excusable Non-use

• Non-use can be excused, thereby avoiding cancellation, if: there is a justifiable reason, such as commerce restrictions, or other government requirements, i.e., state monopoly or prohibition of the sale of the goods for reasons of health or national defense; oruse is commenced or resumed independently at least three months before

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the request for cancellation.

XVII. Monetary Awards/Attorney Fees — A. Basis/Amount of Award

• A cancellation decision may include a formal monetary award against the losing party, regardless of the grounds for cancellation, provided that the decision is issued by a court. Under the administrative procedure, there is no provision for monetary awards.
• Monetary awards are based on:actual losses; reasonable legal expense.
• Monetary awards are not influenced by any particular circumstances of the case.

XVII. Monetary Awards/Attorney Fees — B. Attorney Fees

• The successful party is entitled to recover attorney fees in cancellation proceedings, regardless of the grounds for cancellation, but only in trial procedures. Recovery of attorney fees is not available in administrative procedures.
• The award of attorney fees in cancellation proceedings is:discretionary.

XVIII. Conclusion of Proceedings — A. Effect of Decision

• A decision in cancellation proceedings is valid against all third parties, regardless of the grounds on which the proceedings were brought, provided that the third party has an interest in the canceled mark, e.g., a licensee or a subsidiary of the trademark owner.
• A decision ordering cancellation of a mark takes effect: If it is an administrative decision ordering cancellation, it takes effect from the signing date of the decision. If it is a court decision ordering cancellation, it takes effect 15 days from the signing date of the decision, provided that it is not further appealed.

XVIII. Conclusion of Proceedings — B. Withdrawal or Termination of Proceeding/Costs

• Cancellation proceedings can be terminated by withdrawing the cancellation application, regardless of the grounds for cancellation. However, a cancellation that is based on the mark's being contrary to public order or morals cannot be terminated by withdrawing the cancellation application.
• Withdrawal of a cancellation application does not require the approval of the court, other judicial tribunal or administrative body; termination is automatic. The exception is a cancellation based on the mark's being contrary to public order or morals; this type of cancellation cannot be withdrawn.
• Withdrawal of a cancellation application does not require the approval of the other party to the proceedings; termination is automatic regardless of the grounds for cancellation.
• When cancellation applications are withdrawn, the cost of the proceedings is borne by: the petitioner.

XIX. Appeals — A. Availability/Deadline

• A cancellation decision may be appealed.
• Appeals of cancellation decisions must be brought before the following deadline: 90 days from the date of receiving or knowing the decision for the appeal before the Intellectual Property Office of Vietnam;one year from the date of receiving or knowing the decision for the appeal before the court.

XIX. Appeals — B. Forum

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• Regardless of the grounds for cancellation, appeals are heard bythe following court or other judicial tribunal: People's Courts of first instance specialized in intellectual property.the following administrative body: the National Office of Intellectual Property; the Ministry of Science and Technology.

XIX. Appeals — C. New Evidence

• New evidence may not be submitted on appeal unless the applicant can convincingly prove that he failed to submit such evidence earlier (in the examination of the cancellation request) due to force majeure events or objective obstacles.

XIX. Appeals — D. Representation/Cost/Awards

• The approximate cost range of official fees (in local currency) to file an appeal is: National Office of Intellectual Property and the Ministry of Science and Technology: VND 730,000 per class, plus VND 150,000 per each additional item of goods from the seventh onward;Administrative Court: VND 300,000.
• Specialist counsel is not required, but is recommended, for an appeal of a cancellation decision.
• An appeal decision can include a monetary award against the losing party even if the earlier decision did not include a monetary award. The approximate award, in local currency, would be: In the case of a trial, the award is based on the actual damage and legal expenses. A monetary award is not available in administrative proceedings.

XIX. Appeals — E. Scope

• An appeal consists of a complete rehearing of the matter.

XIX. Appeals — F. Further Appeals/Alternatives to Appeal

• Appeal decisions may be further appealed.Appeal decisions may be appealed to: The Intellectual Property Office of Vietnam;The Ministry of Science and Technology; orThe People's Courts of first instance specialized in intellectual property.Details regarding the deadlines and fees for further appeal are as follows: 30 days as from the date of receipt of the decision. The fee for a further appeal before the Ministry of Science and Technology is the same as that for an appeal to the National Office of Intellectual Property. The fee for appeal to the People's Courts of first instance specialized in intellectual property is VND 300,000.
• There is no alternative procedure to an appeal.

XX. Consequences — A. Status of Mark After Cancellation

• The terminology relating to cancellation proceedings can vary from jurisdiction to jurisdiction. Within jurisdictions, the grounds for bringing a cancellation proceeding can ultimately influence the legal consequences of the cancellation.In this jurisdiction, if an applicant is successful in obtaining cancellation, the legal consequences of the cancellation will depend on the grounds on which the proceedings were brought (see below).
• If an applicant succeeds in obtaining cancellation on absolute grounds:the mark is considered as if it were never registered.
• If an applicant succeeds in obtaining cancellation on relative grounds:the mark is considered as if it were never registered.
• If an applicant succeeds in obtaining cancellation on non-use grounds:the mark is

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considered as having been validly registered until the date of the decision to cancel the mark.

• If an applicant succeeds in obtaining cancellation on grounds other than absolute, relative or non-use grounds:the mark is considered as having been validly registered until the date of the decision to cancel the mark, unless the ground is that the mark was filed based on the bad faith of the applicant.

XX. Consequences — B. Licenses, Assignments, Other Transactions

• The consequences for past assignments if a mark is cancelled are: They depend on the consequences of the canceled mark.

• The consequences for past licenses if a mark is cancelled are: They depend on the consequences of the canceled mark.

• The consequences for past contracts if a mark is cancelled are: They depend on the consequences of the canceled mark.

XXI. Notification to TM Office — A. Notification to TM Office

• Following a decision to cancel a mark, the Trademark Office must be formally notified of the cancellation, regardless of the grounds on which the proceedings were brought.The following party has the responsibility to notify the Office: the Ministry of Science and Technology or the People's Courts of first instance specialized in intellectual property.The deadline to make the notification is: on the date of a decision from the Ministry of Science and Technology;on the date of judgment pronouncement from the People's Courts of first instance specialized in intellectual property.

• The consequences of failing to meet the deadline to notify the Trademark Office are: There is no regulation regarding this matter.

XXII. Refiling of Identical Mark — A. Refiling of Identical Mark

• After a cancellation, depending upon the grounds on which the proceeding was based, an application to register the mark may be refiled:by either of the parties to the action;by a third party.

• There are no time limits for refiling following the cancellation of a mark.

XXIII. Collective Marks — A. Collective Marks

• Collective marks may be registered in this jurisdiction. Collective marks are defined as: marks used to distinguish goods or services of members from those of non-members of an organization that is the owner of the mark (Article 4.17 of the Vietnamese Intellectual Property Law).

• The provisions discussed throughout this jurisdictional profile all apply to the cancellation of collective marks.

XXIV. Certification Marks — A. Certification Marks

• Certification marks may be registered in this jurisdiction. Certification marks are defined as: marks licensed by their owners to other organizations or individuals to use for their goods or services in order to certify characteristics in respect of origin, materials, raw materials, and methods of goods production or methods of services supply, quality, accuracy, safety, or other characteristics of such goods or services (Article 4.18 of the Vietnamese Intellectual Property Law).

• The provisions discussed throughout this jurisdictional profile all apply to the cancellation of certification marks.

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