

## DECEMBER 2009 / JANUARY 2010 Vietnam: Trade mark opposition deadlines explained

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It is very difficult to cancel registered trade marks in Vietnam (even cases of obvious bad faith may take up to two years to resolve, which is both time-consuming and costly to rights owners). This means rights holders and their counsel need to quickly oppose trade mark applications prior to registration. Accordingly, it is important to understand the relevant timelines that affect the filing of oppositions in Vietnam.

Once a trade mark application is formally accepted (typically two to three months after filing), the trade mark application details and specimen mark will be published in the Official Industrial Property Gazette of the National Office of Intellectual Property (NOIP). Counsel may obtain a copy of the Gazette (published on a monthly basis) and may review it for potentially infringing trade mark applications.

It is important to note that a specific deadline for opposition to an application is not specifically provided for in Vietnamese law. Pursuant to Article 112 of the Intellectual Property Law of 2005, at any time from the date a trade mark application is published and up until the date of trade mark registration, any third party may file an opposition petition with the NOIP.

In practice, certain Vietnamese trade mark lawyers set a conservative, yet soft deadline for opposition based on the time limit for substantive examination of a trade mark application provided under Vietnamese law (six months from the publication date). However, a third party almost always still has an additional window of time to file an opposition after this six-month time limit because, in most cases, a decision on allowing the registration of a trade mark is typically not issued until well after that time limit (usually three to six months later, but sometimes up to one year thereafter). In any event, given these uncertainties, it is most prudent to file an opposition within six months after formal acceptance of the application by the NOIP.

It is hoped that, in the near future, the timing of proceedings in relation to trade mark oppositions in Vietnam will be further clarified.



*Trung Duong Hieu and Thomas  
J Treutler*

### **Tilleke & Gibbins Consultants Limited**

HAREC Building, 4th Floor

4A Lang Ha Street

Ba Dinh District

Hanoi, Vietnam

Tel: +84 4 3772 6688

Fax: +84 4 3772 5568

[thuylien.v@tillekeandgibbins.com](mailto:thuylien.v@tillekeandgibbins.com)

[www.tillekeandgibbins.com](http://www.tillekeandgibbins.com)