

2016 PHARMACEUTICAL PATENT OVERVIEW FOR VIETNAM

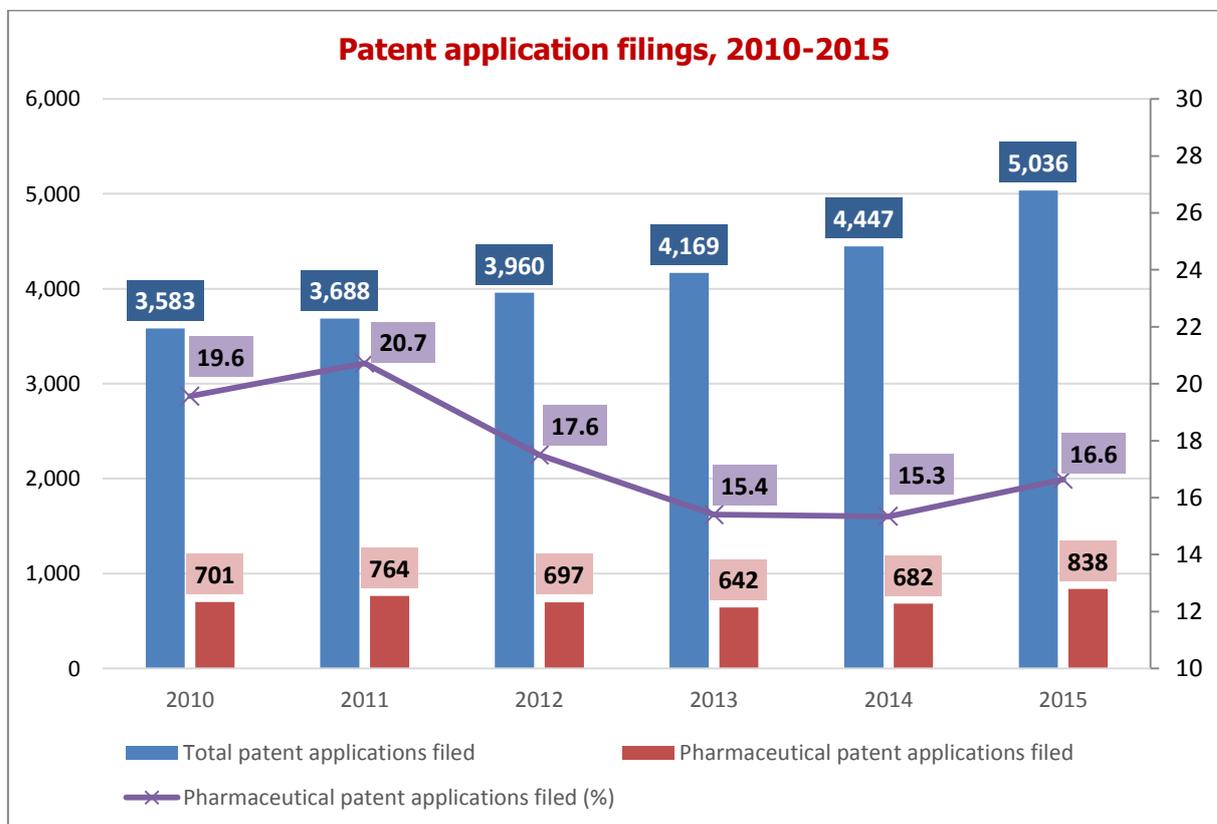
With a population approaching 100 million, a burgeoning health care industry, increasing consumer affluence, and relatively weak competition from local pharmaceutical manufacturers, Vietnam would appear to be a very promising market for foreign pharmaceutical companies. A study of the pharmaceutical patent filing statistics in Vietnam reveals that foreign investors are indeed interested in the market—but perhaps are not protecting their innovations to the extent we might expect by filing patents.

Pharmaceutical Patent Filing Trends

1. Pharmaceutical Patent Filings in Vietnam

Below are some revealing statistics showing the trends in pharmaceutical patent filing in recent years.

Comparison of total patent application filings and total pharmaceutical patent application filings in Vietnam, 2010-2015



The total number of patent applications filed in Vietnam has seen continuous year-over-year growth from 2010 to 2015. Applications for pharmaceutical patents, however, have not kept pace with the overall trend, staying relatively stable from 2010 to 2014 before surging in 2015. To some extent, this may suggest lukewarm interest from foreign investors, as trading and investment into a market normally proceeds in parallel with seeking patent protection in that market. But the promising results of 2015 may indicate a breakthrough is coming with surging filings.

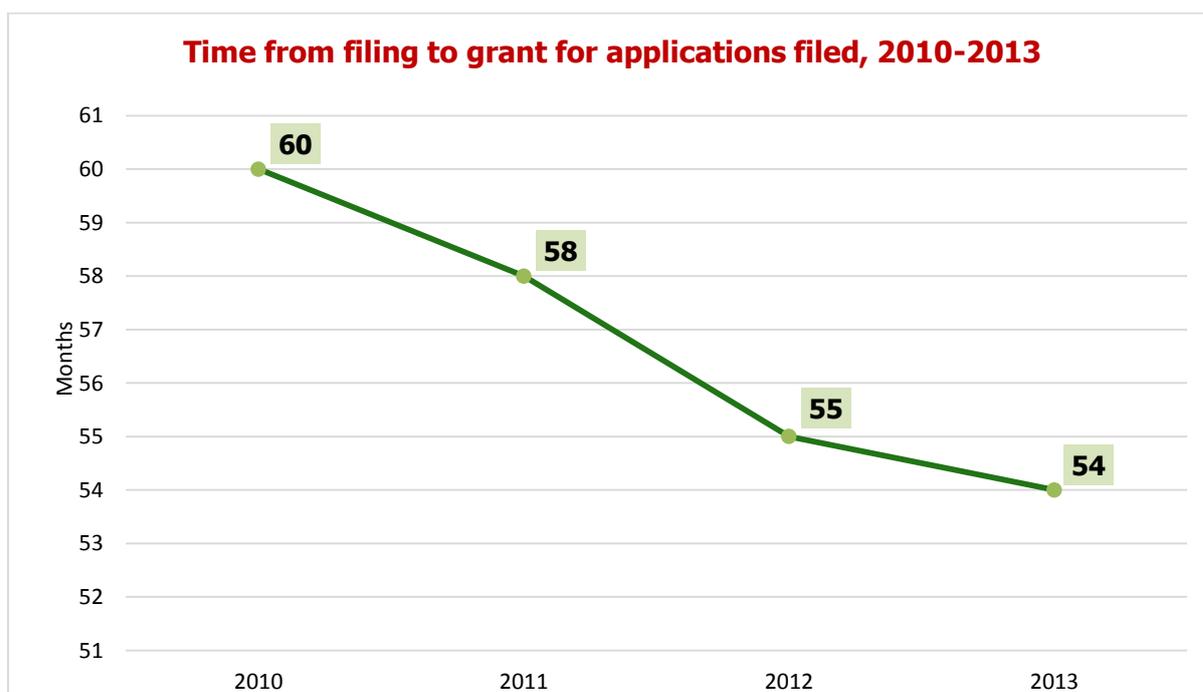
Nevertheless, it is worth noting that pharmaceutical patent applications over this period have represented between 15% and 21% of all patent applications filed in Vietnam each year, far exceeding the global rate. (Pharmaceutical applications typically represent only around 5% of all PCT filings.) By this measure, Vietnam's pharmaceutical sector clearly has the attention of major pharmaceutical companies seeking to protect their innovations.

A possible reason for the slow growth in pharmaceutical patent filing is that foreign investors are still concerned about the patent enforcement system in Vietnam, which has a reputation for being ineffective. In the pharmaceutical sector in particular, patent infringement has been increasing. If investors perceive that patent protection cannot prevent or discourage infringement, the pursuit of patents may be seen as a waste of time and money.

However, there is promising news on this front. In recent years, patent litigation has been on the rise in Vietnam, and court cases are no longer rare. The government is taking steps to assure foreign patent holders that their intellectual property will be respected in Vietnam, thereby increasing the value of registered patents. The Vietnam Intellectual Property Research Institute (VIPRI), which issues non-binding but very persuasive opinions on patent infringement, has so far ruled in favor of innovators in at least 95% of all cases.

Average time from filing to grant in pharmaceutical sector, 2010-2013

As shown below, the time for patent examination is steadily reducing, showing the improvements in the Vietnamese patent office.



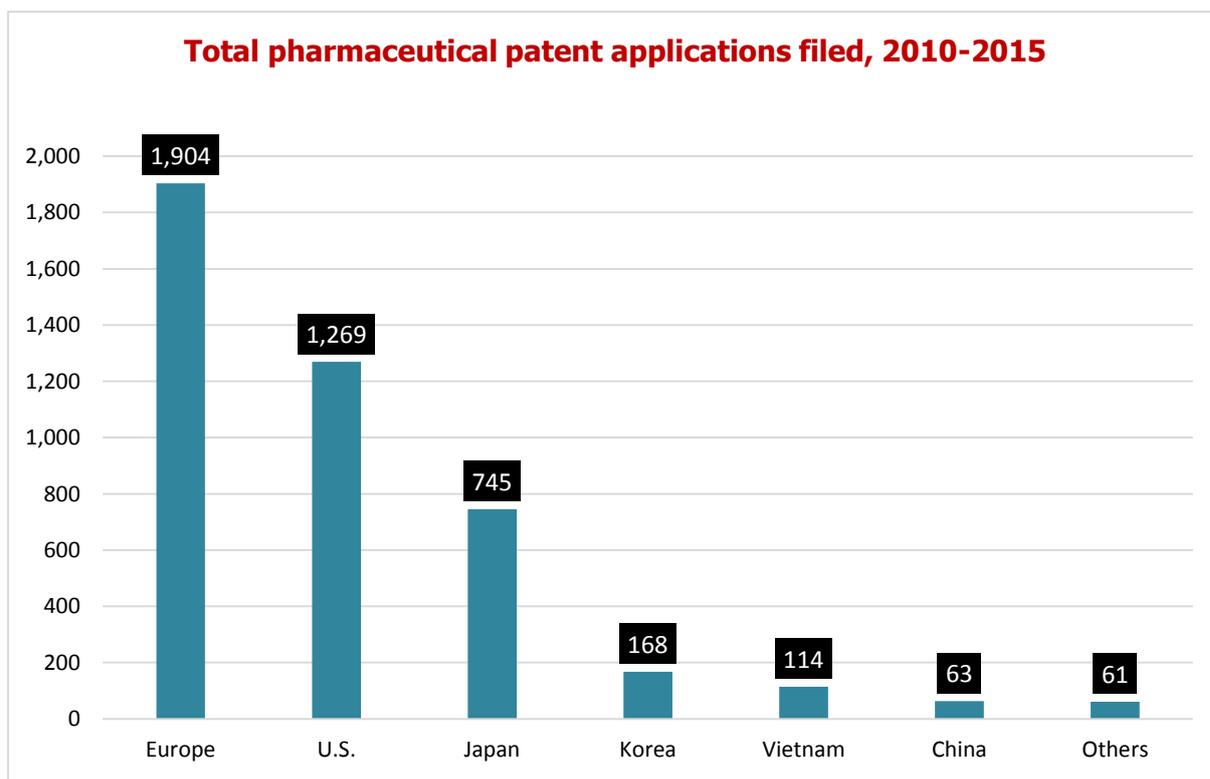
Typically, in Vietnam it takes about four and a half years from the filing of a pharmaceutical patent application for the patent to be granted. Though this time has been improving, the changes have been gradual. The patent office will hopefully make even greater efforts to reduce the prosecution time.

In addition, under the current practice, applicants wishing to obtain certain patents quickly will often encounter difficulties, as the accelerated examination system is currently not strong. So far, the patent office has launched only one Patent Prosecution Highway (PPH) pilot program, with the Japanese Patent Office. The program has been popular and the results appear to be very positive, despite limitations such as the number of applications accepted. By improving other accelerated examination proceedings, signing additional PPHs, and extending the current PPH, the needs of applicants could be satisfied. Still, informal patent acceleration is extremely popular, with applicants requesting to make voluntary amendments to obtain allowance after a corresponding foreign patent application in a strong patent country is granted. An ASEAN patent acceleration system also exists, but so far has not been popular.

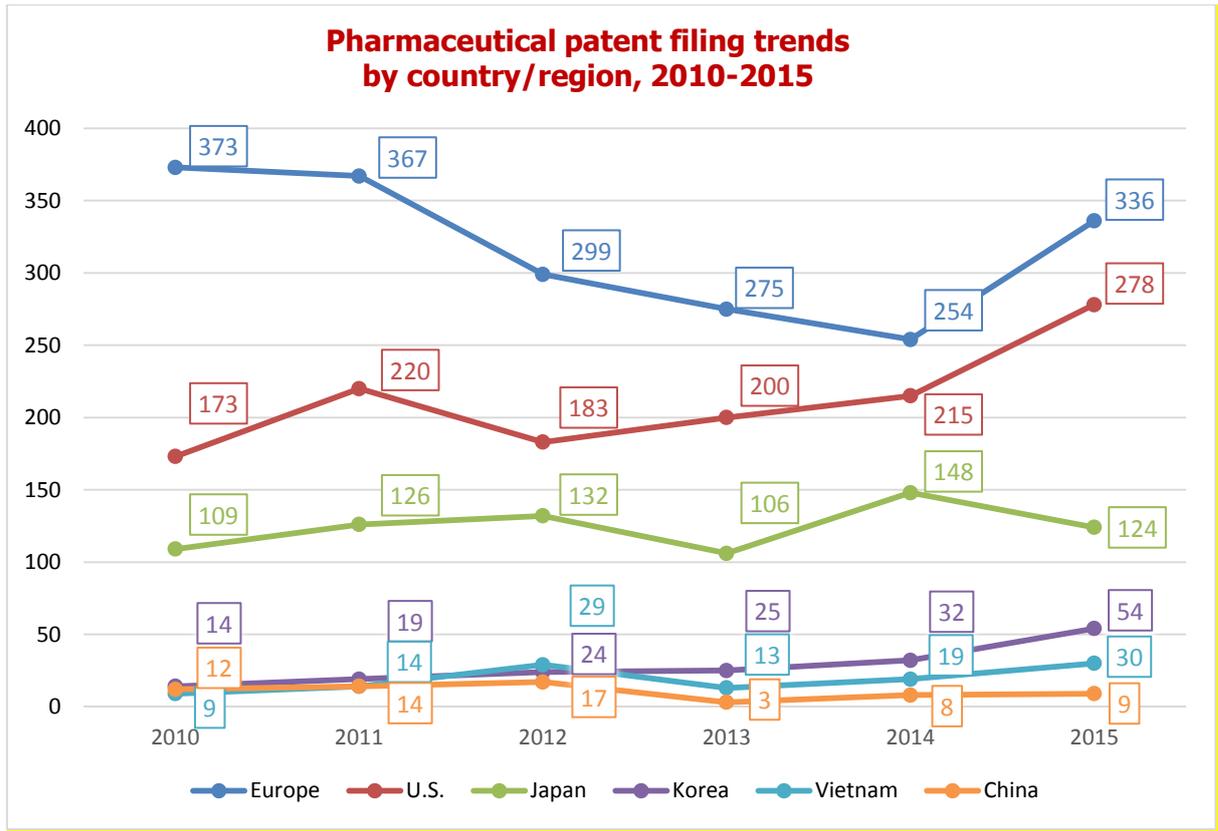
2. Pharmaceutical Patent Applicants in Vietnam by Country of Origin

It is also interesting to review the trends of where the major applicants are located, as shown below.

Pharmaceutical patent applications in Vietnam by country/territory, 2010-2015



Around the world, the United States is the largest filer of pharmaceutical patent applications. In Vietnam, however, the number of U.S. patent applications lags far behind the number of applications from Europe, although U.S. applications have been recently increasing.

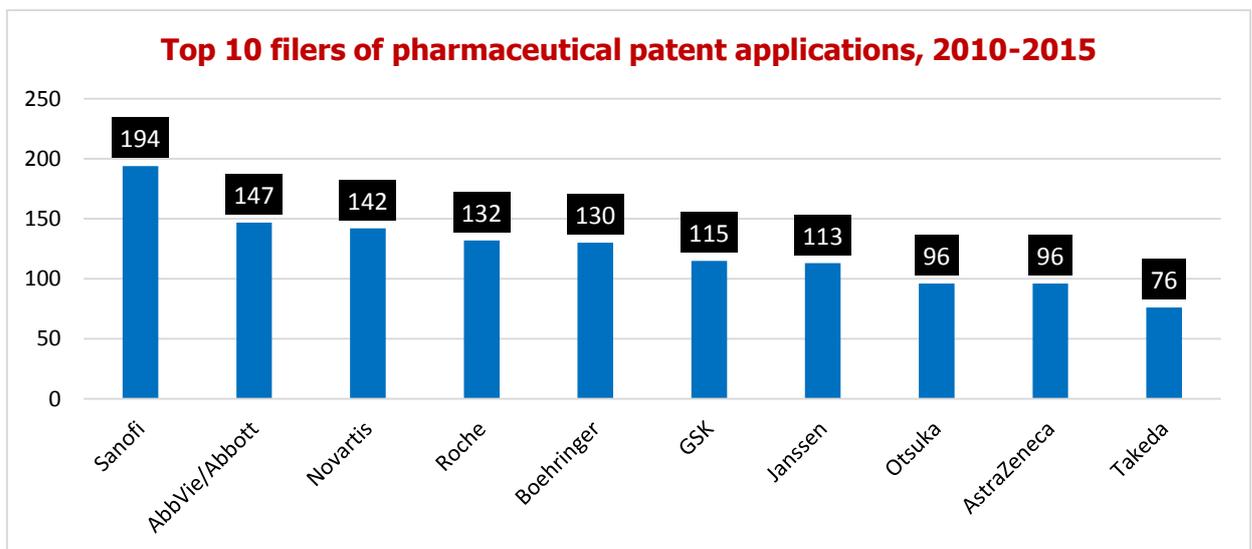


In general, these countries have filed applications in Vietnam at a steady rate, with only Korea and the United States exhibiting significant growth since 2010.

3. Top Patent Filers in Vietnam among Pharmaceutical Filing Companies

Below is a review of the filing trends among major pharmaceutical companies.

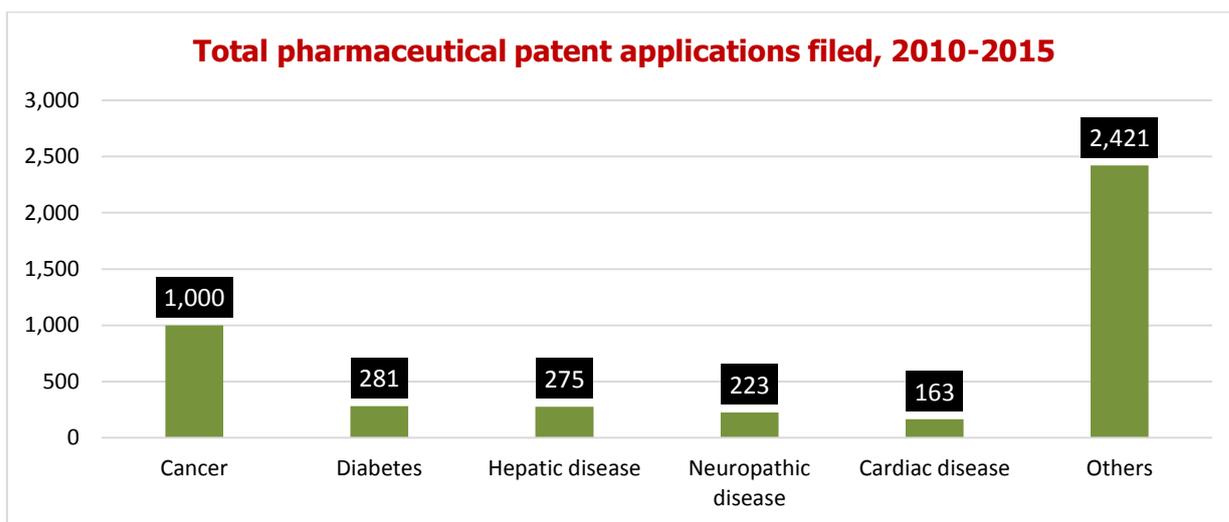
Top 10 filers of pharmaceutical patent applications in Vietnam, 2010-2015



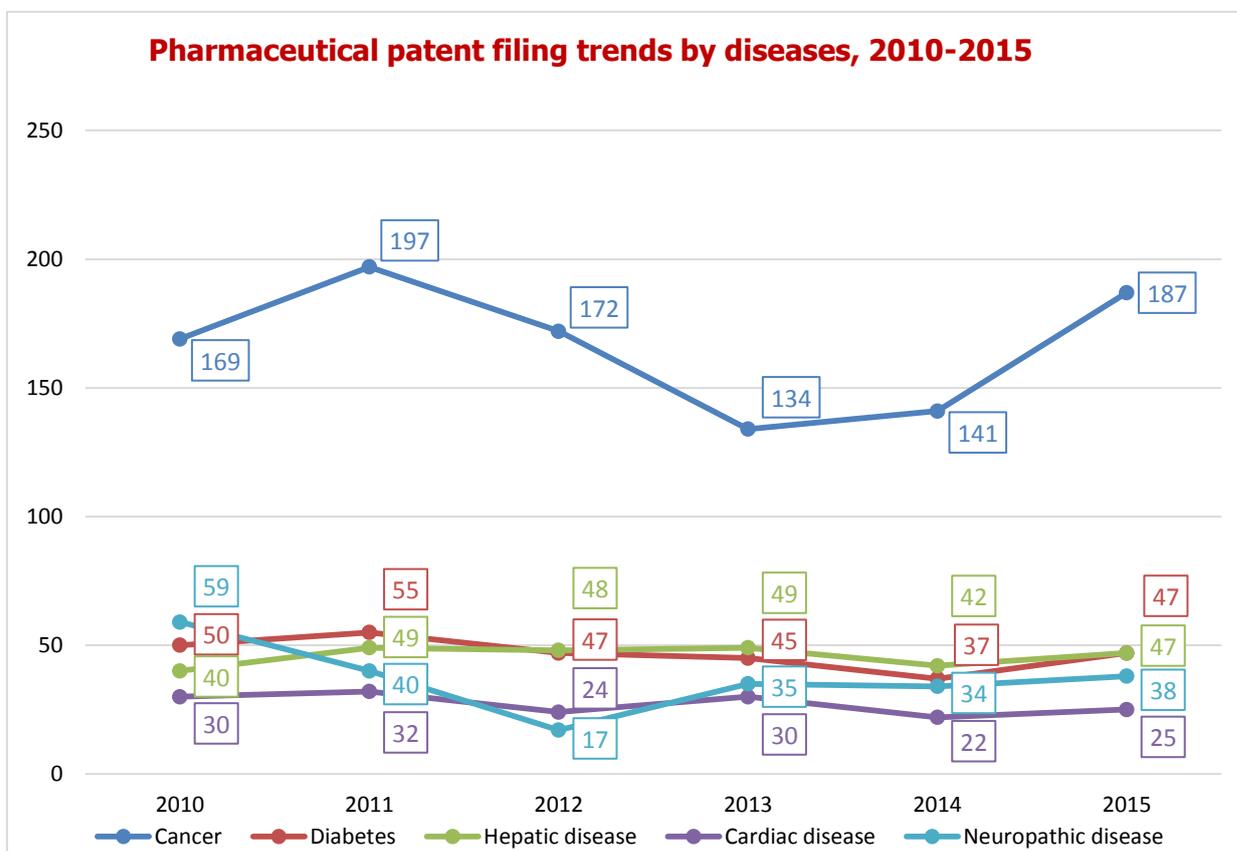
The giants of the global pharmaceutical industry are certainly present in Vietnam. However, the biggest international pharmaceutical manufacturers do not show much dominance in patent filing, with the top 10 filers accounting for only 1,240 applications, or 29% of all applications filed. Additionally, some of the largest pharmaceutical companies in the world are notably absent from the top 10 list, suggesting a reluctance to file applications in Vietnam or perhaps a business decision not to focus on the Vietnamese market.

4. Review of Patent Filings by Main Indication

Pharmaceutical patent applications by main indication



Filing trends for main indications



In general, the charts above show that there have been no remarkable changes in the number of patent applications for different indications over recent years. The rapid changes in Vietnam's increasingly industrialized/urbanized economy have led to changes in lifestyle and diet which have corresponded to a constant increase in cancer, diabetes and heart disease. This should signal an increased demand for drugs to treat those diseases. Indeed, filers do tend to focus on the key diseases threatening the Vietnamese population.

Final Comments

The pharmaceutical area is one of great importance for Vietnam. However, the filing statistics indicate that there is still room for growth. The following points should be considered to improve the system further:

- **Patent prosecution:** A stronger accelerated examination system should be set up.
- **Patent enforcement:** Although enforcement has improved, even stronger reform should be implemented, such as making preliminary injunctions more available in practice, and fast-tracking of invalidation proceedings.
- **Regulatory affairs:** Vietnam's preference for generics should be reconsidered to ensure the best quality and newest medicines are available.

This article was written by Thomas Treutler (thomas.t@tilleke.com), Thang Duc Nguyen (thang.n@tilleke.com), and Hien Thi Thu Vu (thuhien.v@tilleke.com) from the Hanoi office of Tilleke & Gibbins. This summary is designed to provide general information only and is not offered as specific advice on any particular matter.

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