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MANUAL FOR BRANDING AGRICULTURAL PRODUCTS

A GUIDE FOR STATE MANAGEMENT AGENCIES



MANUAL FOR BRANDING AGRICULTURAL PRODUCTS

A guide for state management agencies

(Translated from the original version in Vietnamese)

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FOREWORD

Agriculture and food production have made a significant contribution to export value, job creation, and income generation. The export turnover of the agricultural, forestry and fishery sector in 2021 reached 48.6 billion USD, of which there are 6 commodities of over 3 billion USD, including wood and wood products (US\$ 14.8 billion), seafood (US\$8.88 billion), cashew nuts (US\$3.64 billion), fruits and vegetables (US\$3.55 billion), rubber (US\$3.28 billion), rice (US\$3.3 billion) and coffee (US\$3.07 billion) and exported to the major markets such as the US, EU and Japan (Ministry of Industry and Trade 2022).

Despite impressive and remarkable export turnover, up to 90% of Vietnam's agricultural output is still exported as raw materials, and its export price is lower than that of many other nations that produce the same products. Although Vietnam takes lead in exporting many agricultural products, the country hasn't got strong and powerful agricultural brands that are widely recognized by global customers. 80% of exported agricultural products are either still unbranded or not fully adhered to global value chains. Many goods are exported and marketed under foreign brands and by non-Vietnamese companies in overseas markets.

Branding agricultural products of Vietnam has an important role in increasing value and improving product quality, reservation and valorization of cultural values of the community and local and indigenous products in view of enhancing competitiveness and added value in global value chains. Accordingly, promoting branding and brand development for agricultural products are mentioned and stipulated in some policy papers of the Government of Vietnam as “a focus put on branding sub-sectors, branded products and increasing competitiveness to participate in global value chains” (Resolution No. 40/NQ-CP dated on May 10th, 2017), “building national brand, branding for products to be exported and building brand for enterprises and businesses” (Decision No. 1137/QĐ-TT dated on August 03, 2017 of the Prime Minister approving the Project on improving competitiveness of Vietnam's exports by 2020 with the orientation by 2030), “supporting market accessibility for small and medium sized enterprises, cooperatives and farming households (building geographical indications, establishing codes for production zones, codes for packaging facilities, protection of intellectual property as patents and trademarks, etc.)” (Decision 150/QĐ-TTg dated January 28, 2022 on approving the sustainable agriculture and rural development strategies for the period 2021-2030 and

vision to 2050), “continuing brand positioning and developing for agricultural, forestry and fisheries of Vietnam in the international market” (Decision 174-QD/TTg dated February 05, 2021 on approving the project on improving competitiveness of Vietnam’s exports by 2030” and some other important programs.

However, branding and brand development for agricultural products of Vietnam still meets a number of difficulties. Vietnamese’s agricultural production is characterized by diversity and links to specific national conditions of ecological regions, smallholder farming so that it is challenging to proceed standardization. Local producers are easily affected by crowd and don’t create much differentiation in products, the most important factor of branding. Also, we have witnessed a modest number of businesses and enterprises in the agricultural sector, while cooperatives which are on increase in number are of limited awareness and weak capacity of branding their products. Vietnam lacks, therefore, strong brands and has not yet fully integrated in global value chains.

This manual systematizes issues related to branding in order to help actors engaged in the agricultural value chains have a systematic view of branding process and branding management suitable to the Vietnamese context and characteristics of the agricultural sector. It is expected that this manual provides state management agencies with rules and regulations on branding at some key markets of Vietnamese exports, so that they can effectively apply in their management work, contributing to effective branding of Vietnamese agricultural products in the market.

This manual is structured into the following main sections:

- Part 1: Basics of branding
- Part 2: Branding and brand development for agricultural products
- Part 3: Types of trademark protection
- Part 4: Regulations on trademark protection in Vietnam
- Part 5: Regulations on international trademark registration
- Part 6: Lessons learned from brand management and development of some countries.

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ACRONYMS

EU	European Union
EUIPO	European Union Intellectual Property Office
EUTM	European Union Trade Mark
Coop.	Cooperative
GI	Geographical Indication
IFAD	International Fund for Agricultural Development
IP	Intellectual Property
IPVN	National Office of Intellectual Property of Vietnam
JPO	Japan Patent Office
KIPO	Korean Intellectual Property Office
MARD	Ministry of Agriculture and Rural Development
MOIT	Ministry of Industry and Trade
MOST	Ministry of Science and Technology
NOIP	National Office of Intellectual Property
PGI	Protected Geographical Indication
POA	Power of Attorney
SME	Small and Medium Enterprises
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UNIDO	United Nations Industrial Development Organization
USPTO	United States Patent and Trademark Office
WIPO	World Intellectual Property Office
WTO	World Trade Organization

PART I

BASICS OF BRANDING

1.1. DEFINITIONS AND CONCEPTS

1.1.1. What is a trademark?

A trademark (or trade mark or a mark) means any sign used to distinguish goods and/or services of different organizations or individuals (Clause 16, Article 4, IP Law).

A trademark shall be protected when it satisfies the following conditions (Article 72, IP Law):

- Being a visible sign in the form of letters, words, drawings or images, including holograms, or a combination thereof, represented in one or more colors;
- Being capable of distinguishing goods or services of the mark owner from those of other subjects.

Marks are mainly used to affix to goods and services to indicate the producer or the supplier.

Example: Coca-Cola, Sony, Vinataba, Vinamilk, Trung Nguyên, Vietnam Airlines, TH True Milk...



1.1.2. What is a trade name?

A trade name is an official name under which an individual or an organization conducts business, capable of distinguishing the business entity bearing it from another entity in the same business domain and area (Clause 21, Article 4, Law on Intellectual Property - IP Law).

1.1.3. What is a brand?

A brand includes a set of signs (tangible or intangible) to identify a product that is manufactured or supplied by an individual or an organization (World Intellectual Property Organization (WIPO)).

1.2. DISTINCTION BETWEEN BRANDS AND TRADEMARKS

A brand includes not only signs as in a trademark, but more importantly, refers to the image of goods and/or services in the consumers' minds. Brands are considered as the “soul” and trademarks are considered as the “body” of the reputation of goods and services.

Dimension	Brand	Trademark
Legal aspect	The concept is not legalized in Vietnam and internationally. Brands are not subject to protected IP rights in Vietnam	The concept is legalized in Vietnam and internationally. Trademarks are subject to protected IP rights in Vietnam
Material aspect	Persist in the consumers' minds	Consumers perceive through images, words, symbols, etc.
Time/ existence duration	Long term	In a defined period of time

On legal and legislation aspect:

From a legal perspective, using the term of “trademark” goes in line with the provisions of Vietnamese law, but in terms of corporate governance, “brand” is more widely used. The Law on Intellectual Property of Vietnam (IP Law) does not have a definition of “brands”, but gives a definition of trademarks. Thus, only “trademarks” are subject to the IP protection in Vietnam.

On material aspect:

Brands refer to the images and impression of goods and services in the minds of consumers.

Example:

- when it comes to Nokia phones, consumers envision a durable product;
- when it comes to Iphone, consumers will picture a “luxury” product;
- when it comes to Moc Chau milk, consumers will imagine extended green prairie.

On time aspect:

Brands exist longer than trademarks. Trademarks can be created in a short period of time, while branding (creating brand image in the minds of consumers) is a long process.

Brands are permanently positioned in consumers's mind. Trademarks are only valid for a certain period (trademark protection is usually 10 years and can be extended).

Well-known brands will last over time, but trademarks are subject to changes according to external factors such as consumer tastes and preferences.

Trademarks are recognized and protected by State. Brands are the result of the long-term efforts of businesses and are perceived and appreciated by consumers.

1.3. STRUCTURE OF A BRAND

Brands are made up of following core elements:

- **Readable part** includes elements that can be read, affecting the consumers' hearing such as company name (eg: P&G, Nokia...), product name (555, Coca Cola...), slogans ("I love Vietnam" of Honda motorbikes; "Green grasslands, fresh milk" of Moc Chau milk"; Biti's "Cherish Vietnamese foot"....), piece of music, singing and other vocal elements.
- **Unreadable part** includes elements that cannot be read but only be perceived visually, such as drawings, symbols (Vietnam Airlines' golden lotus), colors (Nokia's blue, Coca-Cola's red or design, packaging (Heineken beer bottle style) and other visual elements
- **Brand loyalty of consumers** refers to the attachment and love of customers to companies and enterprises. Loyal customers are those who are always with the company, even during difficult times.

1.4. ROLE AND BENEFITS OF BRANDING AND BRAND DEVELOPMENT

1.4.1. For producers

- Branding is a tool to identify and differentiate products, a means to legally protect the advantages and unique characteristics of products and services, as well as to create a legal basis to protect the interests of enterprises.

Box 1:

Apple - a strong brand

Apple has a solid base of loyal customers who don't seriously care about prices of iMac, MacBook, iPad, iPhone because of their loyalty to the brand. Many current clients are willing to replace their current electronic devices by new ones as soon as Apple launches any new devices version.

- Branding affirms the quality of products and services, putting product images ingrained in the minds of consumers, and constitutes competitive advantages. Brands are intangible assets, making an important contribution to increasing profits and raising added value of goods and services.
- Branding helps enterprises, especially small and medium-sized enterprises (SMEs), to access different markets. Branding facilitates businesses in expanding their markets and attracting potential customers.
- Investments in building and developing brands will attract customers. Brand is the main deciding factor when customers choose to buy a good or a service, because brand gives them confidence in the origin and quality of the product or the service, enables time-saving in information searches, and reduces potential risks.
- Branding helps to reduce costs for trade promotion and marketing activities. Brands are an effective marketing tool for enterprises to approach target markets and implement market expansion.
- Strong brands generate increased profits and dividends. Giant groups and companies in the world, such as Coca-Cola, BMW, American Express, or Adidas, take their branding strategies very seriously. All of these big companies see their brands beyond a sales tool. Branding is considered as a management tool that can create business value. Branding agricultural products allows producers and suppliers to increase their negotiating position with big buyers.
- Brands are not only enterprises' assets but also country's property. When entering international markets, brands are associated with national images through trademarks, place of origin, and product characteristics. The more famous brands a country has, the higher its economy's competitiveness will be, and the more its position will be consolidated in the international arena, facilitating socio-cultural cooperation and development, international exchanges, and world economic integration. For example, when it comes to Sony, Toyota, Toshiba, etc., everyone knows that they are famous Japanese products, although nowadays they are produced in many countries thanks to international labor divisions or joint ventures driven by international investment and technology transfer.

1.4.2. For consumers

- Brands help consumers to identify the origin of products, to attribute responsibility to manufacturers or suppliers, and to create consumer trust in the price and quality of products. Origin of products benefits consumers in terms of reduced risks in consumption, saving costs for searching, and assured quality.
- Brands can alter perception and experiences of consumers about products. For consumers, brands make their life more convenient and interesting.
- Brands contribute to protecting the interests of consumers. State-protected trademarks prevent products from being counterfeited or misrepresented to deceive consumers. Brands enable consumers to buy and consume products of committed quality and make consumers satisfied with product quality.

1.4.3. For national economy in the integration process

Brands represent national power and pride. A country which has many famous brands and brands of long tradition is believed to be long-lived and of development path.

Example:

- *Republic of Korea acknowledges branding Korean agricultural products is an important foundation for national economic development by launching the national brand “Hansik - The taste of Korea”.*
- *Thailand launched the national brand “Thailand - Kitchen of the world” with a hope to make Thailand the kitchen of the world.*

In the context of regional and global integration, for developing countries as Vietnam, branding and building strong brands is a strategic action to hinder the penetration of products of poor quality and of cheap price in view of protecting domestic market.

If Vietnamese brands recognized and acknowledged by foreign consumers, it is to fortify reputation of Vietnamese products and position of Vietnam in the world arena. This will make great contribution to attract foreign investments and narrow the gap with developed countries.

PART II

BRANDING AND BRAND DEVELOPMENT FOR VIETNAMESE AGRICULTURAL PRODUCTS

2.1. NATIONAL BRAND

National branding is a fairly new concept, especially for developing countries. In the context of increasingly fierce global competition where countries face many challenges in domestic and foreign markets, many countries choose national branding as a pioneer program in their long-term strategy to build national identity and have positive awareness of the global community. Depending on specific conditions, each country is conscious of positioning the national brand from the identity and advantages of their products.

National branding is used as a tool to help businesses develop production and improve competitiveness in the market through large-scale influential promotion programs. At the same time, it is accompanied by policies and solutions to manage, control and maintain the stability and reputation of the brand. National branding strategy brings benefits to many actors without discrimination of actors' characteristics, of ownership patterns and of socio-cultural conditions.

Example:



National brand of
Columbian Coffee



National brand of
Korea Food Industry



National brand of Vietnam
for goods and services

National, regional and local brands help to enhance the prestige and value of enterprises' products in the world market, in the main aspects, which are:

1. Traditional quality standards built on advantages of production conditions;
2. The reputation of products is constituted by the history of the product. The geographical origin becomes the core element to evaluate product quality, besides the price, packaging, producer's name. National, regional, local and corporate brands are interactive. On the one hand, a good national, regional and local brand will bring prestige to the enterprises; on the other hand, richness and diversity of

corporate brands with outstanding local products will contribute to maintaining and expanding the reputation of national, regional and local brands. Thanks to the richness in product potentials, local experiences and practices, branding and brand development are strategic to make Vietnam's agricultural products higher valued, more competitive in the world market.

For national branding, it is necessary to focus on building and managing national brands to ensure that national brands are used for the right purposes, and fulfill objectives of the program on national branding.

Around the world, more than 80 countries have national branding programs to target the international market. The Vietnam Value Program is a trade promotion program of the Government, approved by the Prime Minister and implemented by the Ministry of Industry and Trade since 2003. Products participating in the program are selected on the 3 criteria: quality, innovation, creativity and pioneering capacity. Products are evaluated on the 1,000-point scale. Products eligible for the Vietnam Value title must rated from 650 points and score for each criteria must be at least 60% of the sub-score (*See details of the criteria in the Appendix 2*).

Box 2: Vietnam Value Program for the 2020 - 2030 period

Decision 1320/QĐ-TTg dated October 08, 2019 of the Prime Minister

General objective: To build the image of Vietnam as a country with a reputation for high-quality goods and services, increasing pride and attractiveness of the country and Vietnamese people, contributing to the development of foreign trade and improve national competitiveness

Specific objective: For the period between 2020 and 2030, it is to focus on building and developing Vietnam national brand associated with outstanding values of the brand, with following objectives:

- i. Effectively implement the Program on the basis of consistency and synchronization with the strategy of importing and exporting goods and services; the export turnover of the group of products eligible for Vietnam national brand enjoy an increase higher than the national average;
- ii. Raising the national brand value by 20% annually on average according to the evaluation by rating agencies around the world;
- iii. More than 1,000 products recognized as national brands;
- iv. A 10% annual increase in the number of businesses entering the list of firms with the most valuable brands by the world's major rating agencies;

- v. 90% of the enterprises nationwide are set to be well aware of the brands' importance to production, business and investment activities.
- vi. 100% products entitled national brand are promoted at home and key exporting markets.

The Vietnam Value Program has 4 main components:

- 1) Raise awareness of the society about the role of brands in production, business and investment activities;
- 2) Improve the capacity of building, developing and managing brands for businesses to meet the Program's criteria.
- 3) Promote the Vietnam national brand in association with the brand promotion of products that are eligible for the Vietnam national brand.
- 4) The contents mentioned in this section are developed and implemented in accordance with the Regulation on formulation, management and implementation of the Program.

2.2. CORPORATE BRAND AND PRODUCT BRAND

Corporate brand is a way for companies to create advantages over their competitors. Corporate brand is built on a series of important decisions: mission, values, target market, and price.

Product brand (also known as brand of goods) refers to the marketing of a particular product. Branding a product requires market research and appropriate target market selection.

Box 3: Added value from branding products: case of Barbados sugar and Namibia beef

Case 1: In 2012, the island of Barbados built brand of Barbados Sugar. West Indies Sugar & Trading Co. Ltd has sold sugar branded Barbados with high added value to more than 1,500 stores and major manufacturers in Europe. This has helped the company overcome the disadvantages of production costs and gain more than 1 million USD in added value for manufacturers.

Case 2: The Namibian brand for beef is built on the image of a nature reserve and with a marketing approach focused on the same principles of sustainable supply chains as developed countries to reduce the cost of farming, to comply with production practices. Thus, the annual value brought to cattle farmers in the country is more than 25 million USD..

The keys to the success of these brands is: strong external agent system (both production and trade), multiple distribution channels, diversified investment portfolio, multi-product-based branding, product diversification to each market (local, regional and export), support from the public sector, and a strong existing organization.

The core value of these companies lies not in their physical products but in their intellectual property - Brand. This provides leverage in negotiations with buyers and create long-term value to the company and their satellite producers.

Source: Docherty (2012)

Box 4: Branding strategy based on the sustainable production approach: Case of Chiquita banana

Chiquita bananas are a prime example of how a traditional private sector producer's brand has developed the commodity agribusiness industry. Chiquita Brands International Inc. (headquartered in North Carolina, USA) owns the "Miss Chiquita" brand (registered in 1944) which distinguishes the company's bananas from other suppliers and all the players in the system gained benefit. Chiquita Brands International Inc., after being merged with Fyffes Plc. in 2014, became the world's largest banana company, accounting for nearly a quarter of the world market share. The company's annual sales are approximately US\$3 billion and the company now operates in over 70 countries with more than 20,000 employees. The success of Chiquita Inc. is driven by innovative brands and supported by strong domestic distribution and global supply chain integration.

Chiquita-branded bananas are sold at a premium compared to their competitors in most retail stores despite modest differences in properties among products of manufacturers because they are all of the Cavendish variety. This price advantage was part of an attempt to "rescue" a brand that had suffered, in the 1920s, by labor, social and environmental problems that affected banana growers, especially in the Latin American countries.

Since then, Chiquita has built its reputation through participating in the Banana Initiative and working with the Rainforest Alliance, and has done innovative marketing to differentiate its products. Chiquita is now a standout company in a fruit industry where producers often do more practically throughout the supply chain than simply applying logo templates to advertise a company's logo.

Source: Docherty (2012)

Product brand is the property of the business. However, in recent years, many Vietnamese enterprises have not really paid attention to the trademark protection for their agricultural products in both domestic and international markets. An agricultural product brand is the convergence of 3 factors: market, farmers and businesses.

The market is built by consumers, while the State takes an important role of market promotion. Programs and projects on branding connect farmers and businesses who have weighted voices. The protection of agricultural trademarks in foreign markets is still limited and facing many challenges. The number of international applications for trademark protection is still small. Many Vietnamese agricultural trademarks has been infringed; and trademark disputes in foreign markets have become increasingly popular, such as: ST25 rice in the US, Trung Nguyen coffee in the US, Phu Quoc fish sauce in the US. Thailand, Buon Ma Thuot coffee in China....

In order to promote the international protection of trademarks of Vietnamese agricultural products, the Ministry of Agriculture and Rural Development (MARD), the Ministry of Science and Technology (MOST), and the Ministry of Industry and Trade (MOIT) have signed the “Plan of coordinating and supporting the protection of trademarks and Geographical Indications (GI) for Vietnam’s potential agricultural exports abroad in the period of 2022-2025”¹. This plan has 06 main tasks with a focus on reviewing and assessing the needs for trademark protection; strengthening propaganda and support for trademark protection of GIs abroad; promoting consultation on international protection of trademarks and GIs in association with agricultural exports ... In the immediate future, three products are identified for trial cooperation and coordination under the Plan: lychee of Bac Giang province, mangoes of Dong Thap province, longan (fresh and dried) of Son La province. Tentative activities are conducting assessment to identify potential products and key markets to propose directions to support international registration of trademark or GI.

¹ Signed on December 31, 2021 in Hanoi

Exporting businesses engaged in the value chains will be the beneficiaries of support activities. The support will be extended to other potential agricultural export products, especially local specialties.

2.3. LOCAL AND REGIONAL BRAND

Branding for specialty products, associated with geographical origin is a widely-implemented strategy to promote the diverse advantages of natural, ethnic and cultural conditions of regions. Programs and projects of both central and local governments aim to establish protection of intellectual property (IP) rights to protect names, gradually develop products, and enhance added value for products. Vietnam has made great efforts to protect IP rights in the form of community marks (including collective mark, certification mark, and GI) which are considered as an important tool fighting against trademark abuse and trade fraud, raising consumer awareness, and increasing the competitiveness of more than 1,000 specialty agricultural, forestry and fishery products, and traditional handicrafts.

Building community marks usually anchors on 3 value dimensions of a product, including: (i) origin and name; (ii) particular quality; (iii) history and reputation. For GIs, all these three factors must be attributes of the product, associated with the protected product; while for collective mark and certification mark, it is not necessary to have all three factors converging. The problem in the process of building a community mark is the choice of an appropriate name and a relevant form of protection.

In addition to the general policies and programs of the Government, each locality has developed its own programs and plans, based on its characteristics, conditions and resources. Many approaches have been implemented by localities, focusing on the following main models:

- Building a comprehensive program on agricultural branding: The locality focus its resources on branding agricultural products, especially in forms of collective mark, certification mark and GI. Approaches of policy supports lay on general issues, such as establishing IP protection rights, supporting production organization, building management models, and trade promotion. Some localities taking lead in implementing this approach can be named as Quang Ninh, Ha Nam, Son La, Ha Tinh, Ben Tre, Yen Bai, Bac Ninh, Bac Giang, Ha Giang, ...
- Implementing support policies based on approach of IP protection prior to

trademark management and development: Policies focus resources on supporting IP protection for specialty products first. The advantage of these solutions is that the quick protection of specialties and a larger number of products to be supported. However, this approach requires the local government to have abundant resources to implement interventions. Some provinces applying this policy can be named as Hanoi, Hai Phong...

Over the past time, through the policies, programs and projects of the central and local governments, especially the Program to support the development of IP assets², the number of agricultural products entitled IP rights in various forms have increased rapidly. One of the unique characteristics of IP protection in Vietnam (as in Southeast Asia) is the use of geographical name of place for trademark registration in the form of collective mark or certification mark.

2.4. ROLE OF PARTIES CONCERNED

In terms of benefits, national, regional and local brands are assets meaningful to the business community and people in the geographical area. National brands are very supportive for corporate and community brand in the international market. For corporate brands, sometimes it is not necessary to attach the country name as it may be made multinational. However, the community brand is necessarily associated with the national brand because it is linked to the region and associated with specific ecological conditions.

Vietnam is one of the countries with a long tradition of agricultural cultivation and having diversified typical specialties that are popular in the domestic and foreign markets. However, it is said that Vietnamese specialty brands are still rarely seen in the international market. Most of the products are exported in the form of raw materials, while finished products sold to consumers, under the packaging and brand of foreign importers or suppliers.

Over the past time, the Government of Vietnam has had many solutions to promote Vietnamese specialties abroad and has achieved remarkable results. Some national

² Programs on development of intellectual property assets managed by the Ministr of Science and Technology are impleneted for every 5-year period: From 2006, there are 4 programs carried out, for period of 2006-2010 (Decision 68/QĐ-TTg dated April 4, 2005), 2011-2015 (Decision 2204/QĐ-TTg dated December 12, 020), 2016-2020 (Decision 1062/QĐ-TTg dated June 14, 2016), 2021-2030 (Decisioin 2205/QĐ-TTg dated December 24, 2020).

products have positioned themselves in the international market (rice, coffee, catfish, mango, dragon fruit, lychee...). However, this is not significant and has not brought into full play the actual potential of Vietnamese agricultural products. In order to further improve the effectiveness of promoting local specialties abroad, it is necessary to strengthen the ‘four-actor’ linkage and the cooperation: the State, businesses, farmers, and scientists.

On the basis of experiences and lessons learnt from some countries, some recommendations are proposed to Vietnam.

2.4.1. Role of the State

- Strengthening institutions, policies and programs which support improved capacity of producers and traders of local specialties; establishing and capacity building for collective organizations of producers and traders so that they can actively set up and run operational system of trademark management and promoting products.
- Implementing promotion campaigns and activities to accompany businesses in promoting the image of local specialties at international level.
- Building and operating a national system of quality control of agricultural products to meet international standards and to ensure stable quality of products traded in the international market and effective traceability. This helps to maintain the prestige and reputation of Vietnamese agricultural products in the market.
- Strengthening international cooperation; joining international organizations and networks (such as OgiGIn) to promote local products (linked to GIs) at the national level and also international level.

2.4.2. Role of farmers

- Improving production capacity through professional planning, strict compliance with regulations on quality schemes and traceability; thereby creating a foundation for sustainable export promotion, maintaining and diversifying markets.
- Gradually getting out of habits of fragmented and small production, thinking of immediate benefit rather than long-term interests and the common interests of the whole community.
- Having a sense of building, preserving and protecting the prestige and reputation

for agricultural products and local specialties; passing on to the next generation the pride of local products and traditions.

2.4.3. Role of Scientists

- Conducting research and applying scientific and technical advances to improve productivity and product quality, creating a premise for affirming and maintaining a sustainable product “brand” on the global market.
- Participating in consulting and supporting SMEs, cooperatives, collective groups branding and brand management.

2.4.4. Role of Enterprises

- Building institutions that link small businesses, operate along the value chain with specialization in each production and trading stage, thereby creating collective power and, building brands strong enough to compete with long-existing brands in the international market.
- Strengthening research activities to analyze and assess ability of market access and expansion; establishing units specialized in market development and trade promotion with well-trained and professional staffs and experts.

2.5. MANAGEMENT OF COMMUNITY MARK

Branding rural products (agricultural products, foodstuffs, handicrafts) in forms of community brands associated with geographical origin has become an important orientation to promote the competitiveness and value of rural specialties in view of new rural development and implementing the Government’s One Commune One Product (OCOP) Program. In order to fully promote the value of the community’s IP (as GIs, collective mark, certification mark), it is required to have feasible and effective management and development plans.

To ensure that IP assets are effectively exploited and promoted, following activities are underlined:

2.5.1. Building up management model for each type of trademark

- For collective mark: Trademark owner (collective organizations such as cooperatives, associations, etc.) sets up a control committee, specialized sections assisting the owner and the members of the collective organization.

- For certification mark: Trademark owner is a state management agency which can be the Provincial People's Committee, the District People's Committee or related departments and agencies; there are a control body certifying product quality, specialized departments and even collective organizations to exploit the certification mark.
- Building an operational mechanism to manage the use of the mark.
- Allocating human resources, facilities and techniques to serve the activities of parties participating in the management of the use of the mark.

2.5.2. Developing regulatory papers to serve trademark management

In order to effectively operate the trademark management system, besides the regulations on the use of marks, it is necessary to develop other documents detailing the management activities; Specifically, some of the following texts are recommended:

- Procedure for granting and revoking the right to use trademarks;
- Process of quality control of branded products;
- Process of controlling and managing production and business activities;
- Technical process of production, harvesting, preservation and processing;
- Process of traceability;
- Regulations on using the mark on goods and services.

2.5.3. Trial operation of management model, granting the right of trademark use to eligible organizations and individuals

- Applying rules and regulations to management practices.
- Organizing propaganda, training to guide producers and on collective mark, certification mark as well as trademark management and use.
- Granting the right to use the mark: The trademark owner has the authority to appraise and grant the right of trademark use to organizations and individuals who apply. Applicants have to send a request to the trademark owner in accordance with the regulations on the trademark use. The trademark owner conducts an actual check on the production and business activities of the applicants before making a decision (approval or refusal).

2.5.4. Product development

- Promoting production linkages to raise the value of the value chains, and to ensure the origin and quality of products.
- Applying science and technology to improve productivity and quality, to maintain the typical and traditional features of the products, and to reduce costs.
- Focusing on investment in production materials, building models (farming, processing) to have areas sourcing quality materials.
- Using and improving existing technologies to produce quality products suitable to consumer tastes.
- Strengthening trade promotion to attract capable investors.
- Performing supervision of the compliance with the regulations on the trademark use; checking production and business processes; inspecting goods and services traded in the market to ensure products of the highest quality supplied to consumers.

2.5.5. Building tools promotional tools and exploiting the value of trademark

Designing, producing and releasing communication materials to introduce goods, services, logo and labels used for trademarks (traceability stamps, labels, leaflets, posters, advertising boards, etc.) to consumers. These communication materials and tools have content required by the trademark owners, people directly involved in the production and trading of products.

Implementing brand promotion activities:

- + Exhibiting goods and services bearing collective mark and certification mark at fairs and exhibitions.
- + Making reportage, advertising programs on the media (radio, television, internet...) to introduce goods and services bearing collective mark and certification mark.
- + Developing websites to introduce and promote goods and services.
- + Developing trade and sales plans; establishing supply chains at home and abroad; organizing suitable sale channels on the basis of the nature and potential of goods and services.
- + Conducting market survey, trademark registration in foreign countries (if necessary).

2.5.6. Promoting products with registered trademark through tourism activities

- Carrying out restoration of relics related to the production of products as these places are tourist attractions of the craft villages.
- Building product stories capturing history and legends of the product formation and development.
- Organizing demonstration zones where industries and products are presented and showed up to tourists.
- Designing and manufacturing products for domestic and foreign tourists.
- Organizing ecotourism and experiential activities which allow visitors to create products by themselves.

PART III

TYPES OF TRADEMARK PROTECTION

3.1. RIGHT TO REGISTER MARKS AND SIGNS TO DISTINGUISH MARKS

3.1.1. Right to register marks

Pursuant to the *Clause 87 of the IP Law*, right to register marks is stipulated as follows:

- Organizations or individuals shall have the right to register marks to be used for goods they produce or services they provide.
- Organizations or individuals lawfully trading in products produced by others shall have the right to register marks for such products, provided that the producers neither use such marks for their products nor object to such registration.
- Two or more organizations or individuals shall have the right to jointly register a mark in order to become its co-owners on the following conditions: (1) Such mark is used in the names of all co-owners or used for goods or services which are produced or dealt in with the participation of all co-owners; (2) The use of such mark causes no confusion to consumers as to the origin of goods or services.

3.1.2. Signs not protected as marks

The Articles 73 of the IP Law stipulates that following signs shall not protected as marks:

- Signs identical with or confusingly similar to national flags or national emblems;
- Signs identical with or confusingly similar to emblems, flags, armorial bearings, abbreviated names or full names of Vietnamese state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations or socio-professional organizations or international organizations, unless permitted by such agencies or organizations;
- Signs identical with or confusingly similar to real names, alias, pseudonyms or images of leaders, national heroes or famous personalities of Vietnam or foreign countries;
- Signs identical with or confusingly similar to certification seals, check seals or warranty seals of international organizations which require that their signs must not be used, unless such seals are registered as certification marks by those organizations;
- Signs which cause misleading or confusion or deceive consumers as to the origin, properties, intended utilities, quality, value or other characteristics of goods or services.

3.1.3. Distinctiveness of marks

A mark shall be considered distinctive if it consists of one or several easily noticeable and memorable elements, or of many elements forming an easily noticeable and memorable combination, and does not include signs and elements which are unable to distinguish.

A mark shall be not protected if they are considered as indistinctive, having signs identical or similar to signs already registered.

a) Normal signs which are indistinctive

- Simple shapes and geometric figures, numerals, letters or scripts of uncommon languages, except where such signs have been widely used and recognized as a mark;

◆ *Example:*



- Conventional signs or symbols, pictures or common names in any language of goods or services that have been widely and regularly used and known to many people;

◆ *Example: "Honey", "Mango",*

- Signs indicating time, place and method of production, category, quantity, quality, properties, ingredients, intended utility, value or other characteristics, which is descriptive of goods or services, except where such signs have acquired distinctiveness through use before the filing of mark registration applications;

◆ *Example: "The best", "Traditional", "Since1950"*

- Signs describing the legal status and business field of business entities;

◆ *Example: "Joint stock company", "Cooperative", "Estate", "Crop production"*

- Signs indicating the geographical origin of goods or services, except where such signs have been widely used and recognized as a mark or registered as collective marks or certification marks;

◆ *Example: "Delta", "North", "Red River"*

b) Signs are considered identical or confusingly similar

- Signs other than integrated marks which are identical with or confusingly similar to registered marks of identical or similar goods or services on the basis of registration applications with earlier filing dates or priority dates, as applicable, including mark registration applications filed under treaties to which the Socialist Republic of Vietnam is a contracting party;
- Signs identical with or confusingly similar to another person's mark which has been widely used and recognized for similar or identical goods or services before the filing date or the priority date, as applicable;
- Signs identical with or confusingly similar to another person's mark which has been registered for identical or similar goods or services, the registration certificate of which has been invalidated for no more than 5 years, except where the ground for such invalidation is non-use of the mark according to Point d, Clause 1, Article 95 of the IP Law;
- Signs identical with or confusingly similar to another person's mark recognized as a well-known mark which has been registered for goods or services which are identical with or similar to those bearing such well-known mark, or for dissimilar goods or services if the use of such mark may affect the distinctiveness of the well-known mark or the mark registration is aimed at taking advantage of the reputation of the well-known mark;
- Signs identical with or similar to another person's trade name currently in use if the use of such signs may cause confusion to consumers as to the origin of goods or services;
- Signs identical with or similar to a GI being protected if the use of such signs may mislead consumers as to the geographical origin of goods;
- Signs identical with, containing or being translated or transcribed from GIs being protected for wines or spirits if such signs have been registered for use with respect to wines and spirits not originating from the geographical areas bearing such GIs;
- Signs identical with or insignificantly different from another person's industrial design which has been protected on the basis of an industrial design registration application with the filing date or priority date earlier than that of the mark registration application.

3.2. COMMON MARK

There are two basic types of trademark, namely trademark of goods and trademark of services.

- Trademark of goods is used to distinguish goods of different individuals and business organizations for showing producers of those goods. Trademarks of goods that are descriptive or bear product names are not registrable.
- Trademark of services is used to differentiate services (finance, banking, travel, catering, etc.) of one service provider to those of other providers. Service marks are often affixed on boards or banners to make the services recognized by the consumers. Service marks can be registered, renewed, cancelled, transferred of ownership and right to use under the same conditions as marks of goods.

3.3. INTEGRATED MARK AND WELL-KNOWN MARK

3.3.1. Integrated mark

An integrated mark means identical or similar marks registered by the same entity and intended for use on products or services which are of the same type or similar types or interrelated (*Clause 19, Article 4, IP Law*). An integrated mark makes customers assured when using products or services as the integrated mark has a connection with products and services they have used before.

For example: Honda's product lines of Wave motorcycles include: Wave, Wave RX, Wave SX... But this trademark is an integrated mark because it meets three conditions: Honda is the only entity to register the mark; these products all have similar basic features and belong to the Wave motorcycles series.

3.3.2. Well-known mark

A well-known mark means a mark widely known by consumers throughout the Vietnamese territory (*Clause 20, Article 4, IP Law*).

The following criteria shall be taken into account when a mark is considered well-known (*Article 73, IP Law*):

- The number of involved consumers who have been aware of the mark through purchase or use of goods or services bearing the mark or through advertising;
- Territorial area in which goods or services bearing the mark are circulated;
- Turnover of the sale of goods or provision of services bearing the mark or the

- quantity of goods sold or services provided;
- Duration of continuous use of the mark;
- Wide reputation of goods or services bearing the mark;
- Number of countries protecting the mark;
- Number of countries recognizing the mark as a well-known mark;
- Assignment price, licensing price, or investment capital contribution value of the mark.

Some features of well-known trademarks:

- It is regulated that well-known trademarks are established through the recognition procedure of the competent state agency, not through the procedure of filing a trademark application like other common marks.
- In general, well-known trademarks are subject to a stronger protection. For example, a well-known trademark is protected even when it is not registered (or not used) in a certain territory.
- Furthermore, if marks are protected against confusingly similar marks only if they are used for identical or similar products, well-known trademarks are usually protected against marks identical or confusingly similar even if they are used for unrelated products, if certain conditions are met.
- The main purpose of stronger protection is to prevent companies from taking advantage of the reputation of a well-known mark and/or causing damage to the reputation and trust of customers for that mark.

3.4. COLLECTIVE MARK

3.4.1. Definition

A collective mark means a mark used to distinguish goods and/or services of members from those of non-members of an organization which is the owner of such mark (*Clause 17, Article 4, IP Law*).

3.4.2. Eligible organizations for collective mark registration

Collective organizations lawfully established shall have the right to register collective marks to be used by their members under the regulations on use of collective marks. For signs indicating geographical origins of goods or services, organizations having the right to register them shall be collective organizations of organizations or individuals engaged in production or trading in relevant localities (*Clause 3, Article 87, IP Law*).

According to the provisions of Decree No. 77/2019/ND-CP dated October 10, 2019, the Collective Group has no legal status, so it shall not have the right to register collective marks.

3.4.3. Features of collective marks

- The characteristic of collective mark is that many entities have the right to use the collective mark. Yet, it should be noted that when a collective organization uses the collective mark, the mark is no longer considered as a collective mark but a common mark because it is used by only one entity.
- In general, the collective mark is owned by an association or a cooperative, but these organizations themselves do not use the collective mark. Only their members can use collective mark to sell their products and/or services.
- The collective organization that owns the exclusive collective mark grants its members the right to use the mark provided that the members comply with the conditions and standards specified in the regulations on the use of the collective mark (for example, technical standards, quality standards, geographical origin).
- Registering collective mark is an effective way to jointly market the products of a group of producers and/or traders as individual or separate effort would make it more difficult to have their individual marks to be widely recognized by consumers.
- *Example: A typical successful collective mark is MELINDA which is used by 5,200 apple producers in the Valle di Non and Vale del Sole regions of Italy. Any producer is entitled to use the mark MELINDA owned by the MELINDA Company as long as their apple product meets the standards set forth by this company.*

3.5. CERTIFICATION MARK

3.5.1. Definition

A certification mark means a mark which is authorized by its owner to be used by another organization or individual on the latter's goods and/or services, for the purpose of certifying the origin, raw materials, materials, mode of manufacture of goods or manner of provision of services, quality, accuracy, safety or other characteristics of goods and/or services bearing the mark (*Clause 18, Article 4, IP Law*).

Example:

- *ISO 9000 quality standard recognized worldwide is a certification mark*

- Vietnam's national brand "Vietnam Value" is a certification mark.

3.5.2. Eligible organizations for certification mark registration

Organizations with the function of controlling and certifying quality, properties, origin or other relevant criteria of goods or services shall have the right to register certification marks, provided that they are not engaged in production or trading of such goods or services (Clause 4, Article 87, IP Law).

In reality, entities register certification marks for agricultural products are relatively diversified, but most of them are state management agencies.

3.5.3. Features of certification marks

- Certification mark is issued to certify the conformity to defined standards but are not restricted to any member.
- Certification mark may be used by any organizations or individuals provided they can prove that the products or services concerned meets pre-defined criteria and standards.
- The main difference between a collective mark and a certification mark is that a collective mark can only be used by a specific group of businesses (for example, a member of an association) while a certification mark can be used by any organizations or individuals that comply with the criteria and standards developed by the owner of the certification mark.
- An important condition for a certification mark is that the applicant for the certification mark shall be deemed to be "competent to certify" the products concerned.

Example: The Woolmark certification mark is only used to certify products manufactured from 100% wool.

3.6. GEOGRAPHICAL INDICATION

3.6.1. Definition

WTO³ defines a geographical indication (GI) as an indication which identifies a good as originating in the territory of a member, or a regional locality in that territory, where a given quality, reputation or other characteristic of the goods is essentially attributable

³ TRIPS – Agreement on Trade-Related Aspects of Intellectual Property Rights):
https://www.wto.org/english/tratop_e/trips_e/gi_background_e.htm#general

to its geographical origin.

As per to the Article 4 of the IP Law, a GI is a sign which indentifies a product as originating from a specific region, locally, territory or country.

3.6.2. General conditions for protected geographical indication

A GI shall be protected when it satisfies the following conditions (*Article 79, IP Law*):

- The product bearing the GI originates from the area, locality, territory or country corresponding to such GI;
- The product bearing the GI has a reputation, quality or characteristics mainly attributable to GIs of the area, locality, territory or country corresponding to such GI.

3.6.3. Objects are not protected under GI

- Names and indications have become common names of goods according to the perception of relevant consumers in the territory of Vietnam;
- GIs of foreign countries in which the GIs are not protected, terminated or no longer in use;
- A GI identical or similar to a mark that is being protected or has been filed under a trademark application with an earlier filing date or priority date; if the use of that GI is made, it is possible to cause consumers' confusion about the origin of the goods;
- A GI misleads consumers to the true geographical origin of the product bearing the GI.

3.6.4. Right to register GI

The Article 88 of the IP Law stipulates regulations on the right to register GI:

- The right to register Vietnamese GIs belongs to the State.
- The State allows organizations and individuals producing products bearing GI, collective structure representing organizations and/or individuals or management agencies of localities to which the GI pertain to exercise the right to register such GI.
- Persons who exercise the right to register GI shall not become owners of the GI.

3.7. WHICH TYPE OF PRODUCT PROTECTION SHOULD BE CHOSEN?

For each form of IP protection for agricultural products, in addition to legal requirements, protection strategy also associate with different practical conditions:

Table 1: Registration options to apply for intellectual property protection

Dimension	Geographical Indication	Mark	Certification mark	Collective mark
Conditions to apply	- Applicable to products with unique reputation/ properties / quality associated with geographical areas and places⁴. - Geographical factors include natural conditions, customs, skills or production experiences that other places do not have.	- Applicable to organizations and individuals producing and trading products. - A registered mark is a visible sign (with pictures, letters, or a combination of both), capable of distinguishing it from the marks of other organizations and individuals	- Applicable to organizations that have the ability to certify origin/ process/ characteristics/ quality, etc. of products - Name of place or geographical elements may be included	-Applicable to collective organizations (cooperative, association, ...) that jointly produce and trade goods and/or services. - Name of place or geographical elements may be included.
Owner ⁵	State	Organizations or individual who applies for trademark registration	Organization or individual who applies for certification mark registration	Collective group or organization who applies for collective mark registration
Users	Eligible organizations and individuals are permitted to use by the State representative	Organizations and individuals are allowed to use the registered marks.	- Organizations and individuals get permission to use from the mark owner. - The trademark owner does not use the certification mark by themselves	Members of collective organizations are allowed to use the collective mark

⁴ Geographical areas and place names must be permitted by the People's Committees of provinces and centrally run cities, and applied with geographical indications, collective marks, and certification marks.

⁵ Ownership are constituted when National Office of Intellectual Property grant the Registration Certificate.

3.8. INTELLECTUAL PROPERTY PROTECTION REGARDING GEOGRAPHICAL NAME

The selection of a type of IP protection associated with geographical names for agricultural products bases on the following points: current situation of IP protection for the geographical name, specificities of the product, and local conditions when filing a trademark application and taking advantages and disadvantages of each IP protection type into account.

3.8.1. *Considering current IP protection title using geographical name*

Upon the status of IP protection, a geographical name is registered or not at the National Office of Intellectual Property of Vietnam (IPVN) in one (or several) forms:

a) Geographical name is not yet registered for IP protection

The IP protection under the collective mark or certification mark or GI is based on the mark's ability to satisfy the corresponding conditions of the geographical name and the ability of local government and trademark owner to implement the trademark registration and management.

Note: In order to avoid the situation that geographical names are registered as common marks and owned exclusively by any organization or individual, causing difficulties in applying for other suitable protection title, local authorities should not allow any organization/individual using geographical names to register trademark. In the mean time, it is necessary to notify and request IPVN not to register trademarks using geographical names for agricultural products and local specialties upon individual registration request.

b) Geographical name registered as common mark

- Case 1: If the trademark bearing the geographical name has been widely used for the local specialty, then the protection of the geographical name in another form (collective mark or GI) can only be done if the trademark owner agrees.

If the registration of a community mark (in the form of a GI) is necessary and beneficial to the majority of local producers and community, the local government can negotiate with the trademark owner on transfer the trademark to the local community for common use, then proceed the registration of the geographical name as a GI.

- Case 2: If the registered trademark are not widely used and has no reputation in the

market and does not cause any confusion about the origin of the product, it is still possible to register the geographical name as a GI.

c) Geographical name registered as Collective Mark

In this case, the registration of geographical name as a GI can only be carried out only if the collective trademark is cancelled.

If the registration of a GI is necessary to ensure the interests of the entire local community, the local government should work with the trademark owner and the members of the collective organization to persuade them cooperate to build up a GI instead of the established collective mark.

d) Geographical indication is registered under Certification Mark

In principle, the registration of geographical name in the form of a certification trademark does not affect the registration of geographical name as an GI. Therefore, if necessary, the local community can still carry out the procedure for GI registration for the geographical name.

Note:

- The registration of a geographical name is only really meaningful for producers and consumers if the use of trademarks, GI associated with the geographical name is well managed.
- The management of collective trademark and certification trademark is done by trademark owner on the basis of concluded rules and regulations on trademark management.
- For GI, management is complex and requires participation and coordination of different agencies and organizations.
- For products suitable for GI protection but GI protection is not really necessary and beyond the local capacity, parties concerned can apply for collective mark or certification mark, and practice a good management of the registered mark. Thus, the later application for GI protection will be more efficient.

3.8.2. Considering the features of trademark protection types

In case there are many trademark types suitable for protection of a geographical name, the most suitable option can be defined as following:

Table 2: Types of IP protection for geographical names

Dimension	Protection of geographical names under collective mark	Protection of geographical names under certification mark	Protection of geographical names under GI
Product bearing trademark	- Available market having development potential; - In a same area, there are many producers and traders those make or trade products of different and unregulated quality, brands, and models; - Reputation, prestige of the product is in danger of decline; There are fake goods, counterfeits in the market	- Available market having development potential; - In a same area, there are many producers and traders those make or trade products of different and unregulated quality, brands, and models; - Reputation, prestige of the product is in danger of decline; There are fake goods, counterfeits in the market	- Products with special reputation and quality brought about by natural and human conditions in the production area; - The manufacturing industry with a long tradition is in danger of being lost and needs to be maintained and developed. - Available markets having development potentials - In a same area, there are many producers and traders those make or trade products of different and unregulated quality, brands, and models; - Reputation, prestige of the product is in danger of decline; - There are fake goods, counterfeits in the market
Producers and traders	- Being aware of the needs to protect and maintain the quality and reputation of the local products; - Voluntarily participating in building a common brand for local product to ensure certain characteristics (origin, standards, technical requirements, quality, etc.). - Contributing funds to jointly brand building and development	- Not being aware of the need to preserve the reputation and quality of local products. - Having difficulties in gathering producers voluntarily building up a common brand for local products in view of ensuring quality standards. - Having difficulties in mobilizing funds to jointly brand building and development.	- Being aware of the needs to protect and maintain the quality and reputation of the local products; - Being able to gather producers voluntarily building up GI for local products. - Being able to mobilize funds for building up and developing GI.

Dimension	Protection of geographical names under collective mark	Protection of geographical names under certification mark	Protection of geographical names under GI
Local government	- Having policy orientation for product development and having available supports (expertise, budget) for building up and developing brands for agricultural products. - Providing guidances and instructions to producers and traders to set up collective organizations and proceed registration and management of collective mark.	- Having policy orientation for product development and having available supports (expertise, budget) for building up and developing brands for agricultural products. - Allowing or establishing organizations eligible for registering and managing certification mark (for specific characteristic, geographical origin, quality, etc.)	- Having policy orientation for product development and having available supports (expertise, budget) for building up and developing GI for agricultural products. - Putting investment in building up a GI management system which benefits the quality control over product bearing GI produced by local producers
Advantage	- Preparation works are not complicated, costly and dependent on professional agencies as GI; - The registration process take shorter than GI; - Management works are done by trademark owner; the State doesn't involve much in post-registration management.	- Preparation works are not complicated, costly and dependent on professional agencies as GI; - The registration process take shorter than GI; - The origin and quality of products can be managed through controlling the use of the certification mark and checking characteristics of products bearing the certification mark.	- Ensuring the ability to grant the use rights to organizations or individuals capable to use GI; - Set foundation for managing origin and quality of products bearing GI; - Enhancing role and responsibility of local management agency regarding production and trading key agricultural products of the localities.
Disadvantage	- Quality and other requirements for products bearing the collective mark may not accurately represent the specific quality and attributes of the product; - The number of users is limited, affecting the ability to register and use the GI (for products bearing the geographical name)	- Quality and other requirements for products bearing certification mark may not reflect the specific quality and attributes of local products; - The control and certification of product characteristics are not synchronously organized along the value chain (from production to transportation and sale); - Characteristics and quality are verified solely on the results of a probability-based assessment, evaluation and measurement	- Preparation works are complicated, costly and dependent on professional agencies; - The registration process takes longer than registration of other marks; - It requires participation and coordination of many professional agencies as well cooperation between producers and other parties concerned.

PART IV

**REGULATIONS ON
TRADEMARK
REGISTRATION
IN VIETNAM**

4.1. LEGAL FRAMEWORK FOR TRADEMARK PROTECTION

- Integrated Document No. 07/VBHN-VPQH of June 25, 2019 of the Office of the National Assembly on Law on Intellectual Property:

- Law on Intellectual Property No. 50/2005/QH11 passed by the National Assembly on November 29, 2005, taking effect as from 01 July, 2006;
- Law No. 36/2009/QH12 of June 10, 2009 on amending and supplementing a number of articles of the Law on Intellectual Property, taking effect as from January 01, 2010;
- Law No. 42/2019/QH14 of June 14, 2019, amending and supplementing a number of articles of the Law on Intellectual Property, taking effect as from November 01, 2019.

- Decree No. 103/2006/ND-CP of September 22, 2006 of the Government, detailing and guiding the implementation of a number of articles of the Law on Intellectual Property regarding Industrial Property.

- Decree No. 122/2010/ND-CP of December 31, 2010, amending and supplementing a number of articles of the Decree No. 103/2006/ND-CP.

- Circular No. 01/2007/TT-BKHCN of February 14, 2007 of the Ministry of Science and Technology (MOST), guiding the implementation of the Decree No. 103/ND-CP of September 22, 2006 detailing and guiding the implementation of a number of articles of the Intellectual Property Law regarding Industrial Property.

- Circular No. 16/2016/TT-BKHCN of June 30, 2016 of the MOST amending and supplementing a number of articles of Circular No. 01/2007/TT-BKHCN dated February 14, 2007 of the MOST guiding the implementation of Decree No. 103/ND-CP of September 22, 2006 of the Government detailing and guiding the implementation of a number of articles of the Intellectual Property Law regarding Industrial Property, amended and supplemented according to the Circular No. 13/2010/TT-BKHCN of July 30, 2010, the Circular No. 13/2010/TT-BKHCN of July 30, 2010, the Circular No. 18/2011/TT-BKHCN of July 22, 2011 and the Circular No. 05/2013/TT-BKHCN of February 20, 2013.

- Circular No. 263/2016/TT-BTC of November 14, 2016 of the Ministry of Finance on collection, payment, management and use of industrial property fees and charges

4.2. REGULATIONS ON APPLICATION FOR TRADEMARK REGISTRATION

4.2.1. Application document for trademark registration

The application for trademark registration includes the following documents:

- Declaration for registration, which are typed according to the Form: 04-NH Appendix A of the Circular No. 01/2007/TT-BKHCN;
- Mark representation: 5 specimens (size of $\leq 80 \times 80$ mm và $\geq 20 \times 20$ mm) identical as the mark representation in the written Declaration.
- Power of Attorney (in case the trademark owner doesn't file the application directly);
- Fee and charge receipt (issued and certified by the Receipt of the application);

4.2.2. Procedure handling trademark registration

Processing a trademark registration application at the IPVN, which applies to all four types of trademark protection, is depicted in Figure 1. General conditions and registration procedures are summarized in Figure 2.

Figure 1: Procedure of application examination at the IPVN

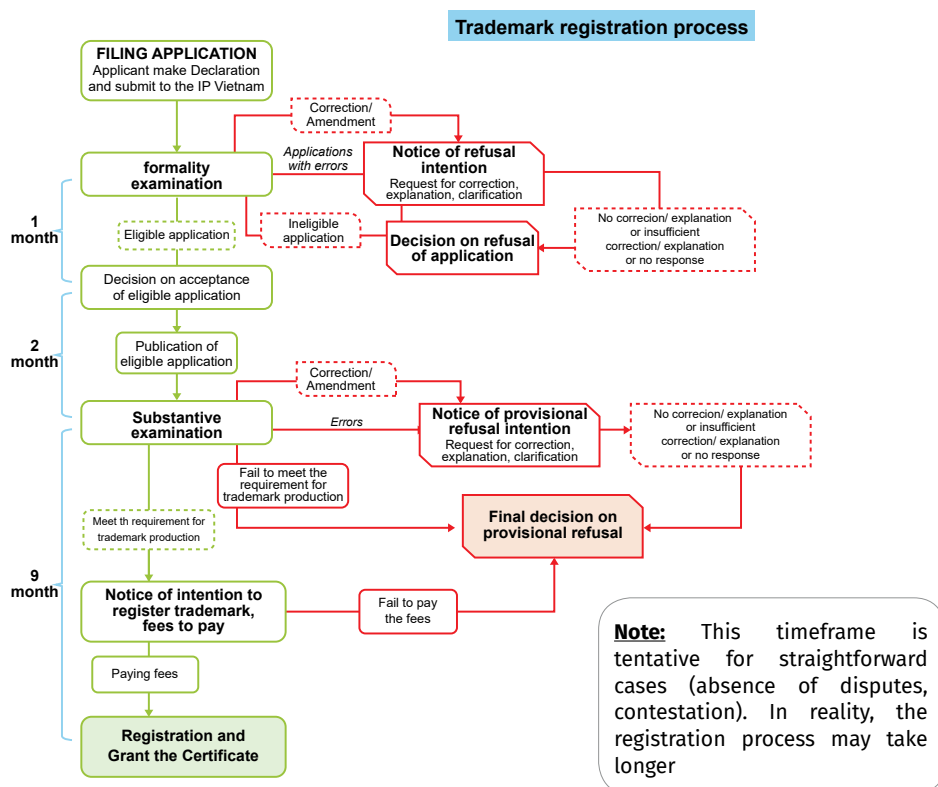
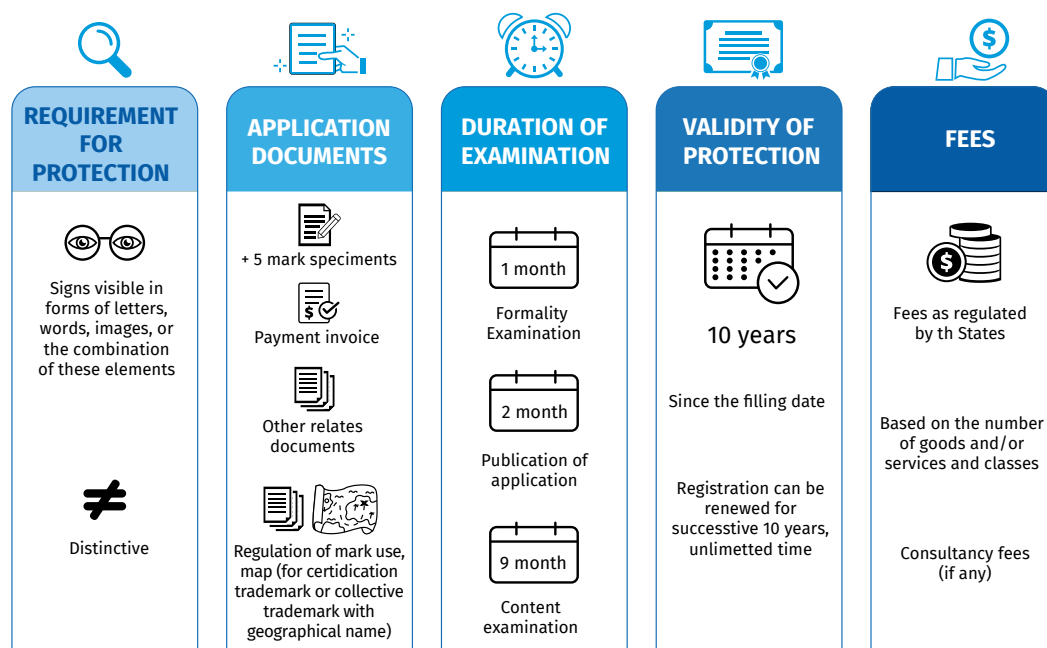


Figure 2: Conditions and process to file the application at the IPVN



4.3. REGISTRATION OF COLLECTIVE MARK

Application dossier for registering collective trademark includes:

- (1) Request made in prescribed form;
- (2) Mark representation: 05 specimens (size $\leq 80 \times 80$ mm and $\geq 20 \times 20$ mm) identical to the mark attached to the Declaration;
- (3) Regulation on management and use of collective trademark. The Regulation has following contents:
 - Name, address, establishment evidences of the collective organization;
 - Stadards to become members of the collective organization;
 - List of organizations and individuals allowed to use the trademark;
 - Conditions for the use of trademark;
 - Tools for handling violation of the regulation on trademark use
- (4) Description of characteristics, specificities, quality of products bearing collective trademark (if collective trademark is registered for products of special feature). Normally, it is not necessary to have separate Description as the description may be included in the Regulation.

- (5) Map of the geographical area if the collective trademark contains geographical name or other signs indicating the place of origine of the local products.
- (6) Document of the Provincial People's Committee allowing the use the geographical name or other signs indicating place of origin for local products to register collective trademark.
- (7) Receipt of fees and charages;
- (8) Other documents (if any): Power of Attorney, etc.

Application dossier is made in two set (copies) of equal legal validity.

4.4. REGISTRATION OF CERTIFICATION MARK

Application dossier for registering certification trademark includes:

- (1) Request made in prescribed forms;
- (2) Mark representation: 05 specimens (size $\leq 80 \times 80$ mm and $\geq 20 \times 20$ mm) identical to the mark attached to the Declaration;
- (3) Regulation on management and use of certification trademark. The Regulation has following contents:
 - Name, address, establishment evidences of the trademark owner;
 - Conditions for the use of trademark;
 - Specificities of the goods and/or services subject to trademark registration;
 - Methodology to evaluate characteristics and specificities of goods and/or services; and methodology to monitoring and controlling the use of the trademark;
 - Costs to be incurred if the trademark users have to pay for using and protecting trademark (if any)
- (4) Description of characteristics, specificities, quality of products bearing certificate trademark (if certificate trademark refers to the quality certification). Normally, it is not necessary to have separate Description as the description may be included in the Regulation.
- (5) Map of the geographical area if the certification trademark contains geographical name or other signs indicating the place of origine of the local products.

- (6) Document of the Provincial People's Committee allowing the use the geographical name or other signs indicating place of origin for local products to register certification trademark.
- (7) Receipt of fees and charges;
- (8) Other documents (if any): Power of Attorney, etc.

Application dossier is made in two set (copies) of equal legal validity

4.5. REGISTRATION OF GEOGRAPHICAL INDICATION

4.5.1. Application dossier for GI applicaiton

Requirements for the application dossier for GI are specified in the Article 106 of IP Law and Point 7, Point 10.1 and Point 43 of the Circular No. 01/2007/TT-BKHCN⁶.

Application dossier for registering GI includes:

- (1) Request made in prescribed form (form 05-CDDL, appendix A, Circular 01/2007/TT-BKHCN);
- (2) Description of particular characteristics, specificities, quality of products bearing the GI (if certificate trademark refers to the quality certification).
- (3) Document of the Provincial People's Committee evidencing the right to GI registration
- (4) Map of the geographical area corresponding to the GI;
- (5) Receipt of fees and charges
- (6) Other documents: documents evidencing specificities, quality and reputation, power of attorney.

4.5.2. Description of GI specifications

In the GI application, the most important paper is the Description of GI specifications which encompass peculiar characteristics and reputation of the product bearing the GI and key particular natural conditions which create the pellicular characteristics, quality and reputation of the product.

The Description of GI specifications must have following content (*Section 43.4, Circular 01/2007/TT-BKHCN*):

⁶ Circular 01/2007/TT-BKHCN dated February 14, 2007

- List of peculiar attributes and quality of the product bearing the GI which are decided by the geographical conditions and defined by sensory, qualitative, quantitative, physical, chemical, biological indicators which can be checked by technical tools or by experts according to the pre-defined test method; and/or
- Reputation of the product bearing the GI decided by the geographical conditions is defined by the widely awareness and acknowledge of the concerned consumer community and possible to verify; and/or
- Geographical conditions which constitute peculiar properties and quality of the product bearing the GI, including:
 - Natural factors: weather, climate, hydrology, geology, topography, ecosystem, and other natural conditions;
 - Human factors: skills of the producers, know-how, traditional and local production and processing method;
- Information on relationship between the peculiar characteristics and quality, or reputation of the product and the geographical conditions;
- Documents evidencing information on characteristic and quality or reputation certified (test results, research, study, etc.).

4.5.3. Map of geographical area corresponding to the GI

Map of the geographical area corresponding to the GI must show sufficient information to the extent that it is possible to accurately identify the geographical area having all natural conditions that create the specific characteristics/quality and reputation of the product. The map may be submitted with a description of the geographical area corresponding to the GI (*Section 43.5, Circular 01/2007/TT-BKHCHN*).

PART V

**REGULATIONS ON
INTERNATIONAL
TRADEMARK
REGISTRATION**

5.1. THE NEED FOR TRADEMARK PROTECTION ABROAD

In recent years, Vietnam is one of countries the most active in enhancing trade cooperation with countries and territories world-wide. A number of bilateral and multilateral treaties and free trade agreements (FTA) have affirmed the confidence of the international community in Vietnam's development potentials, and opened up export opportunities for key industries of Vietnam, especially agriculture, forestry and fisheries. In the big world market full of opportunities and acute competition, Vietnamese enterprises are said to gradually build their reputation through product quality and branding.

Many Vietnamese companies focus on production and trade to overcome the barriers on business conditions or standards in export market, but don't pay enough attention to trademark protection. Trademarks, as a component of a brand, are the intellectual property of enterprises, and are an effective tool in international economic integration. Trademark registration is voluntary and optional, but it constitutes recognition of the market for the products or services.

Trademark registration in Vietnam and abroad is crucial for Vietnamese enterprises, especially those have export activities. The exclusive protection of trademarks in the export market shall:

- Help businesses to penetrate and develop their export markets,
- Have trademarks be protected by law against any violations, unfair competition or appropriation of competitors;
- Help local producers or makers to increase the distinguishability of the mark from others;
- To increase commercial value.

5.2. PRINCIPLES AND RULES

For a product or a service, reputation is an intangible element expressed in the form of a trademark, which is protected by law if it meets the conditions stipulated in the IP Law of each country. In general, following principles and rules are applied to the IP protection in the international market:

5.2.1. Principle of territorial rights

Territorial rights: A trademark exclusively protected in a country or territory does not

mean that the trademark is protected worldwide. The trademark's effects only extend to the territory or territories where protection is requested. For a trademark protected in the territory of interest, the applicant must satisfy all conditions required by law and navigate the registration process in accordance with regulations of the respective country or territory.

A pre-requisite for trademark protection sets that the trademark intended for registration is not identical or similar to any other marks in the target country. To meet this condition, the applicant is recommended to do a clearance search before filing an application.

Although applicants can use some free search engine systems such as the WIPO Global Brand Database (<https://branddb.wipo.int/branddb/en/>) or the European Union's trademark search engine (TMView - <https://www.tmdn.org/tmview/#/tmview>), each country has its own trademark database. The regulations on similarity of trademarks differ among countries and territories.

A clearance search of the trademark registration and preliminary assessment is recommended to be carried out by professionals such as an IP representative or a law office in the target country.

5.2.2. Principle of “first-to-file”

In the event that trademarks applied for registration are identical, the trademark registration shall be granted to the first person or company filing the application in that country (“first-to-file” rule).

5.2.3. Principle of IP Representative

In addition to legal expertise, it is not mandatory for a foreign enterprise to work with an IP representative or an IP attorney to file a trademark registration. Working with IP representatives is beneficial because they understand the legal jargon and nuances of the application form, helping the applicant to avoid errors within the application itself and saving both time and money in the overall application process. The applicants can do a search and selection of an experienced service provider in a foreign country. However, authorizing an IP representative domiciled in Vietnam will help the applicant reduce efforts in information exchange, document collection and monitoring of trademarks.

There are two options for protecting a trademark abroad:

- 1) The direct route: The national route is where separate applications for trademark registration are filed directly with the IP Offices of each country or territory where protection

is sought. The regional route is where a single application is filed with an intergovernmental organization in the region where protection is sought (for example, the European Union Intellectual Property Office);

- 2) The international route (via the Madrid System), where a single application is filed for multiple countries and regions where protection is sought.

5.3. CONSEQUENCES OF LOSING THE TRADEMARKS

Trademark appropriation is a common occurrence in Vietnam and internationally. Once a trademark is not registered abroad in time and others succeed in mark registration, consequences that enterprises may encounter are:

- If the goods are not exported to a foreign market, any export plan will be impossible. Thus, enterprises must change and switch to other brands if they want to continue their export strategies. This action thus incurs new costs.
- If the goods are already exported to that market, the legal owners of the registered mark would be able to request legal interventions that may lead to the surrender of imported goods, sanction against the owner of goods, and the risk of losing market.
- If the trademark is appropriated in the neighbouring countries of Vietnam, there is a risk that the trademark appropriator will produce counterfeit goods and sell them into Vietnam.

5.4. DIRECT NATIONAL AND REGIONAL ROUTE FOR INTERNATIONAL TRADEMARK REGISTRATION

International trademark registration is done when the trademark holders file application for trademark protection directly to the IP Office of the country of interest.

The application needs to be prepared in local language and meet the regulations of the respective country. All the registration process and fees correspond to the regulations of that country.

Direct application in country of interest is suitable when the applicant just targets just a few markets (1-3 countries), making it easy for proactively managing the status of the application and then sustaining the validity of the protection title.

5.4.1. Trademark registration in the European Union

Website: <https://euipo.europa.eu/ohimportal/en/home>

a) General information

The European Union (EU) consists of 27 member states: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden. The European Union Intellectual Property Office (“EUIPO”) has developed a standard legal system that applies to all member states. Trademarks registered through this system are known as the European Union Trade Mark (“EUTM”).

When registering a trademark through the EUTM registration system, the trademark holder only has to submit a single application, and the trademark can be protected in all EU member countries. However, if a trademark is rejected or invalidated in a member state, it is also invalidated in the community as a whole. At this point, if the trademark holder still wants to register the trademark in other countries in EU, the applicant can convert the EUTM application into a separate national application for each country of interest. The application resulting from the conversion bears the same filing date as that of the EUTM application.

Since the EUTM registration system is independent from national registration system, the trademark owner is free to file either a EUTM application or a national application, or both of them. EUTM and national registered trademarks can coexist.

The 5 official working languages of EUIPO include English, French, German, Italian and Spanish.

Box 5: Options for registering trademarks in the EU

- **National level:** Applications are submitted directly to the IP Offices in the target EU countries. This route allows only the protection the mark within a country of target.
- **Regional level:** Applications are filed at the Belenux Office of IP (BOIP) to have the trademark protection valid in the countries of Belgium, Netherlands and Luxembourg.
- **EU level:** Applications are submitted to register EU Trademark at the EU Intellectual Property Office (EUIPO). Any change or cancelation shall be applied and valid in all state members.
- **International level:** Trademark owners or holders can register their trademarks through the Madrid System to have their trademarks protected in EU countries. However, this route doesn't automatically cover all 27 member states. This single procedure is recommended if you only use your trademark in a few European countries or if you want to protect your trademark outside the EU.

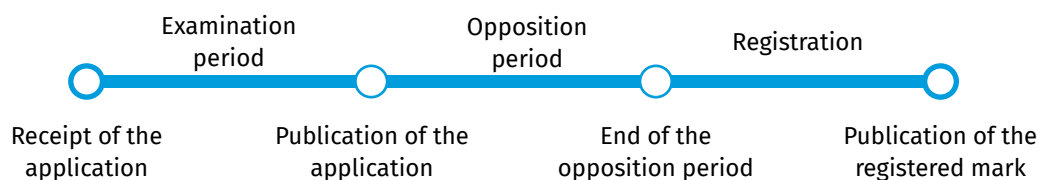
b) Application dossier includes following documents:

- Power of Attorney (if any);
- Request for registration of a trademark;
- Applicant's details;
- Representation of the trademark;
- List of the goods and/or services;
- Invoice of fees payment.

c) Duration of registration procedure

Registering an EU trademark (in case of absence of objection or rejection) usually takes around 9 to 12 months.

Figure 3: Trademark registration procedure in EU



Note:

- đ The fees for trademark registration shall be paid within 1 month since the date of filing the application to enact the official application procedure in the EUIPO system.
- đ When filing the application, the applicant can request additional search services from EUIPO. The search report will be sent to the applicant prior to the publication of the application. In the event of an identical or similar trademark (“control trademark”), the holder of this control trademark will also be notified by EUIPO.
- đ During the examination of the application, if there are any errors or objections to the application, EUIPO will send a notice to the applicant to request an amendment or a response to the objection within 02 months. In case the amendment/response is not accepted by the registration authority, the trademark application may be rejected or cancelled.
- đ At the end of the examination stage, the trademark application will be published in the EU Trademark Bulletin to enable any third parties to make objections (if any) within 3 months from the date of the publication of the trademark.
- đ At the end of the objection stage, if the trademark does not receive any objection from the third party or the opposition is rejected, EUIPO will grant the single registration certificate of the trademark to the applicant.
- đ The applicant may request EUIPO to proceed under the “Fast Track” system if the application meets certain conditions, more details at: <https://euipo.europa.eu/ohimportal/en/fast-track-conditions>

d) Validity of the trademark protection title

EU trademark is valid for 10 years since the filing date and can be renewed for successive 10-year periods an indefinite number of times. The proprietor of the trademark may request the renewal of the term during a six-month period prior to expiry date of trademark protection. An application for renewal may be filed after expiry of legal protection of the trademark within a six-month grace period upon payment of surcharge.

e) Types of trademark protection

- đ Common mark;

- ‡ Collective trademark, Certification trademark (may include the geographical name of place).
- ‡ Geographical Indication (registered at the Agricultural Commission of EU)

f) Registration fees

- ‡ The reference fee (for a one-class trademark, excluding search fee): €2,700 (around VND 65,000,000), including:
 - + Basic fee (for the first class of good and/or service): €850 for online filing, €1,000 for paper application at the EUIPO.
 - + Basic fee for a collective trademark or certification trademark: €1,800 for paper filing; €1,500 for online filing.
 - + Fee for application for a mark in 2 classes: an extra of €50.
 - + Fee for each additional class thereafter: an extra of €150

For example: an application for three-class trademark will be €1,050 for online filing, €1,200 for paper filing.

g) Notes

- ‡ The list of goods and services is described in accordance with EUIPO regulations;
- ‡ EUTM accepts any marks can be represented in any form with the application of technology, on condition that those marks are shown in clear and precise representation. For example, sound mark, motion mark, multimedia mark and other untraditional marks.
- ‡ It is necessary to monitor similar trademarks of others filed later to oppose;
- ‡ The trademark owner should provide proofs of trademark use within 5 years from the filing or priority date;
- ‡ Comparative advertisements may be considered a trademark infringement;
- ‡ EU trademark owner can prevent all third parties from bringing goods into EU, even if the goods are only in transit through EU member countries destined to countries outside the EU.

5.4.2. Trademark registration in the United States

Website: <https://www.uspto.gov/>

a) General Information

The United States Patent and Trademark Office (USPTO) is the federal agency that receives patent and trademark applications and grants US patents and registering trademarks in the country.

USPTO applies the principle of “first to use” and has some mandatory requirements as follows:

- ☐ Trademark has been already in use in the US; or
- ☐ Applicant intend to use the trademark in the US;
- ☐ The trademark has been filed for registration in a country that is a party to the Paris Convention, or a country that is a party to an International Trademark Agreement recognized by the United States; or the trademark has been registered in the Applicant’s country of origin (Vietnam).

USPTO requires the trademark holder to submit the Declaration and Proof of Use in the US twice (2 times): in the 5th and 9th years from the date of granting the trademark certificate. This requirement also applies to subsequent life cycles of rights protection (every successive 10 years).

b) Application dossier includes:

- ☐ Engagement Letter with an US Representative (available form)
- ☐ Representation of trademark (specimen of no bigger than 8cm x 8cm)
- ☐ List of goods and/or services

c) Duration of registraton procedure

Registering an US trademark (in case of absence of objection or rejection) usually takes around 12 to 18 months.

Notes:

- ☐ After the end of the examination stage, the trademark application will be published for the third parties to make objections (if any) within 1 months.
- ☐ Upon specific cases of the use of the trademark or the status of the trademark

registration, USPTO will notify the applicant (after the objection period) of further procedures to complete the trademark registration, specifically as follows:

- đ If the trademark is registered based on “already in use” basis, or based on a basic application (Vietnam), the USPTO will officially grant a protection title.
- đ If a trademark is registered based on “intent to use” basis, the USPTO will notify the applicant to submit following additional documents within 6 months: (1) Statement of use of mark, or (2) A 6-month extension request to file a Statement of use of mark. These documents will also subject to examination by the USPTO to decide whether to grant a protection title to the applicant.
- đ Any delay in response to USPTO’s Notification (including registration, post-registration, and maintenance) will result in the cancellation actions.

d) Validity of trademark protection title

US trademark is valid for 10 years since the date of granting the registration certificate and can be renewed for successive 10-year periods an indefinite number of times.

In addition to the renewal procedure, the trademark holders need to pay attention to the maintenance of the marks and the actual use of the trademark in the territory of the United States.

e) Types of trademark protection

- đ Common trademark;
- đ Collective trademark; Certification trademark (it may include the geographical name of place).

f) Registrtion fees

Fees associated with filing US trademark application (for a one-class of good and/or service, exclude trademark search fee): USD 2,200 (approximately VND 51,000,000).

5.4.3. Trademark registration in Australia

Website: <https://www.ipaustralia.gov.au/>

a) General information

IP Office of Australia (IP Australia) is the Australian Government agency that administers IP rights and legislation relating to patents, trademarks, designs and plant breeder’s rights.

In Australia, the principle of “first-to-file” is applied.

b) Application dossier include:

- đ Trademark representation (specimen of not bigger than 8cm x 8cm)
- đ List of goods and/or services to be registered

c) Duration of registration procedure

Registering an trademark in Australia (for straightforward cases, without objection or rejection) usually takes around 15 to 18 months.

Notes:

- đ IP Australia provides online public service “TM Headstart” to assist applicants in a preliminary assessment of the mark before filing an official application. More details at: <https://www.ipaustralia.gov.au/trade-marks/applying-for-a-trade-mark/how-to-apply-for-a-trade-mark/tm-headstart>.
- đ After the examination stage, the trademark application will be published for the third parties to make objections (if any) within 2 months. At the end of this stage, if there is no objection, the trademark will be granted a protection title.
- đ In the event that the trademark does not meet the requirements for protection, the applicant will receive a Notification from IP Australia and have 15 months to respond. The applicant has the right to request an extension of 15 months to respond.
- đ The applicant may request the IP Australia to carry out an accelerated examination after 7 months from the filing date of application, provided that the reasons given are reasonable and well-founded.

d) Validity of trademark protection title

Proteted trademark is valid in Australia for 10 years since the filing date and can be renewed for successive 10-year periods. The proprietor of the trademark may request a renewal of the term during a one-year period prior to expiry date of trademark protection.

e) Types of trademark protection

- đ Common trademark;

- đ Collective trademark/ Certification trademark (may include the name of place of origin);
- đ Geographical indication

f) Registration fees

Fees associated with filing trademark application in Australia (for a one-class of goods and/or services, exclude trademark search fees) is USD 1,800 (approximately VND 42,000,000).

5.4.4. Trademark registration in Japan

Website: <https://www.jpo.go.jp/e/index.html>

a) General information

The current law that provides the principles of establishing and enforcing IP rights regarding trademarks is the Japanese Trademark Act dated 13 April 1959, through many amendments and supplements, the latest edition being in 2020.

Japan Patent Office (JPO) is the agency that receives applications and grants trademark registration certificates in the country.

Japan has its own laws and policies for GI, which are administered and enforced by the Japan's Food Industry Affairs Bureau (FIAB) - Ministry of Agriculture, Forestry and Fisheries (MAFF).

Japan applies both the International Classification of goods/services under the Nice Agreement and Japan's National classification system.

In Japan, the principle of "first-to-file" is applied.

The filing of a trademark application in Japan can be done through a Japanese IP lawyer or representative agency or the applicant can file in person. However, filing through a lawyer or representative will have more beneficial because with their professional expertise and experiences, they can advise on problems that may be encountered in the application or in the trademark, make the application smooth and more convenient, monitor the status of the application and notify the applicant promptly of the status of the trademark application.

b) Application dossier includes:

- ☐ Name and address/domicile of the Applicant;
- ☐ 20 specimens of trademark (representation of not bigger than 8cm x 8cm);
- ☐ List of goods and/or services to be registered.

c) Duration for registration procedure

Registering trademark in Japan takes from 10 to 15 months.

Notes:

- ☐ In case the trademark has been used in the territory of Japan, the applicant can use this information to request the JPO to carry out an Accelerated Examination. The time for JPO to issue the first Notification of substantive examination's result will be within 1.5 to 2 months from the date of request for Accelerated Examination.
- ☐ The applicant can request the JPO to carry out the "Fast Track" examination procedure if the application meets certain conditions (see https://www.jpo.go.jp/e/system/trademark/shinsa/shohyo_fast_e.html)
- ☐ After the end of the examination stage, the trademark application will be published for the third parties to make objections (if any) within 2 months. At the end of this stage, if there is no objection, the trademark will be granted a protection title.

d) Validity of trademark protection title

Trademark protection in Japan is valid for 10 years since the filing date and can be renewed for successive 10-year periods

e) Types of trademark protection title

- ☐ Common trademark;
- ☐ Collective trademark (may include the geographical name of place);
- ☐ Geographical Indication (registered at MAFF).

f) Registration fees

The fees to be paid to the JPO is ¥12,000 for the 01 first class of one application, ¥8,600 for each subsequent class in the same application.

Fees associated to the trademark registration (for a one-classe trademark application,

excluding search fee): USD 2,000 (approximately 46,000,000).

5.4.5. Trademark resgistration in the Republic of Korea

Website: <https://www.kipo.go.kr/en/MainApp?c=1000>

a) General information

The current law that provides the principles of establishing and enforcing IP rights regarding trademarks is the Korean Trademark Act dated January 13, 1990, through many amendments and supplements, the latest edition being in 2011.

The Korean Intellectual Property Office (KIPO) is the agency that receives applications and grants trademark registration certificates in this country.

In the Republic of Korea, the principle of “first-to-file” is applied.

b) Application dossier includes

- ☐ Power of Attorney (POA) signed and sealed by the applicant. For legal entities, the person signing the POA must be the legal representative or authorized by the legal representative in accordance with the law;
- ☐ Trademark specimen (representation of high-resolution);
- ☐ List of goods and/or services to be registered according to the Nice Classification.

Notes:

- ☐ The official language of trademark applications in the Republic of Korea is Korean.
- ☐ An application for a trademark registration in the Republic of Korea must contain at least the following content.
 - + Representation of the trademark;
 - + Details of the applicant;
 - + The goods and/or services and the designated type(s) of the trademark.
- ☐ A certified copy of the Priority Document along with a Korean translation must be filed within 3 months of filing the trademark application. This period is not extended.
- ☐ Scanned copy of POA submitted at the same time as the trademark application in Korea. If it is not filed at the time of application, KIPO will issue a notice of filing

and specify the time period for submitting the POA.

c) Duration of registration procedure

Registering trademark (for straightforward cases) in the Republic of Korea often takes from 12 to 14 months.

Notes:

- đ The applicant has the rights to request KIPO to carry out the accelerated examination procedure immediately after filing the application if certain conditions are met such as: the trademark has been used or is intended to use in the near future in the Republic of Korea; the mark has been searched by professional designated by KIPO, or the trademark is being used by a third party. Examination results will be notified within 2 months (instead of 8-10 months as of normal examination).
- đ After the examination stage, the trademark application will be published for the third parties to make objections (if any) within 2 months. At the end of this stage, if there is no objection, the trademark will be granted a protection title.

d) Validity of trademark protection title

Protected trademark in the Republic of Korea is valid for 10 years since the filing date and can be renewed for successive 10-year periods. The proprietor of the trademark may request the renewal of the term during a one-year period prior to expiry date of trademark protection. An application for renewal may be filed after expiry of legal protection of the trademark within a six-month grace period.

e) Types of trademark protection

- đ Common trademark
- đ Collective trademark;
- đ Certification trademark (may include the geographical name of place)

f) Registration fees

Fees associated to the trademark registration (for a one-class trademark registration, excluding search fee): USD 1,200 USD (approximately VND 8,000,000).

Registration fees must be paid within 2 months from the date of receipt of the Fees Notice.

g) Requirement for use

The validity of a trademark registered in the Republic of Korea may be revoked through a court hearing if it is found that the mark has not been used for 3 consecutive years prior to the filing date of the judicial proceedings.

5.4.6. Trademark registration in China

Website: <https://english.cnipa.gov.cn/>

a) General information

China has been a party to the Paris Convention since March 19, 1985, and a member of WIPO since June 3, 1980.

The current law that provides the principles of establishing and enforcing IP rights regarding trademarks is the Trademark Law of China dated August 23, 1982, coming into effect as from March 01, 1983; and through many amendments and supplements, the latest version being in 2019. The establishment and enforcement of IP rights for trademarks is applied throughout the territory of the People's Republic of China, excluding Taiwan and Hong Kong.

China National Intellectual Property Administration (CNIPA) is the agency that receives applications and grants trademark registration certificates in the country.

The China Trademark and Patern Office (CTMO) only accept the list of goods and services as stipulated in the Nice classification.

In China, the principle of “first-to-file” is applied.

b) Application dossier includes

¶ Original Power of Attorney: as available form, signed by the Applicant;

The Power of Attorney is simply signed by an individual who is the legal representative of the applicant authorizing a selected IP agency in China. There is no need for notarization or consular legalization.

¶ Trademark specimen (representation of not bigger than 8cm x 8cm);

¶ A list of goods and/or services to be registered;

¶ A copy and translation of business registration certificate (for organization applicant);

¶ A copy of ID card/passport (for individual applicant);

- ¶ Certified copies of priority documents if priority shall be claimed.

Notes:

- ¶ A multiple-class application is possible under the new China Trademark Law effective as from May 1st, 2014.
- ¶ However, filing a multiple-class trademark application is not recommended in China because of the registration practices in China and the following legal reasons:
 - + First, trademark transfer simultaneously cover all classes under the initial application. Currently, division of a trademark application occurs only when a trademark application is partially denied, then the applicant can choose to split the trademark application to have partial registration endorsed and then proceed a new trademark application, while the rejected parts are subject to appeals process or are simply abandoned. Application division is generally not possible in other situations.
 - + Second, the application for multiple classes does not save the application costs. The registration fees are still calculated on the basis of the number of classes and there don't have any discount for any additional classes for the same application.

c) Duration for registration procedure

Registering trademark in China (for straightforward cases without opposition nor rejection) takes from 18 to 24 months.

Notes:

- ¶ China is the country with the largest number of trademarks in the world. In addition, trademark appropriation is a common phenomenon in China, therefore, applicants are recommended to conduct a trademark search prior to filing an trademark application in China.
- ¶ The trademark database in China is not made available to the public and can only be searched through an IP representative in China.
- ¶ The “Fast Track” examination is applied on a trial basis from the beginning of 2022.

d) Validity of trademark protection title

Protected trademark in China is valid for 10 years since the date of granting the registration certificate and can be renewed for successive 10-year periods. The proprietor of the trademark may request the renewal of the term during a six-month period prior to expiry date of trademark protection. An application for renewal may be filed after expiry of legal protection of the trademark within a six-month grace period upon payment of surcharge.

e) Types of trademark protection

- ☐ Common trademark;
- ☐ Collective trademark (may including the geographical name of place);
- ☐ Certification trademark (may including the geographical name of place);
- ☐ Geographical Indication.

f) Registration fees

Registration fees for reference (a one-class trademark registration, excluding search fees): USD 600 (approximately VND 14,000,000).

g) Requirement for use

Any registered trademark which is not used for three consecutive years after the date of registration, shall be subject to cancellation actions of non-use.

Table 3: Advantages and disadvantages of direct route

Advantage	Disadvantage
Short time of application processing in developed countries. Work directly with IP Offices in each country. Take advantage of the separate support systems ("Fast Track"; "TM Headstart") of national IP Offices in the country of interest	If an applicant files applications in multiple countries at the same time, varied registration process may challenge the application management (manage different registration numbers, renewal dates and procedures) Application fees vary among IP Offices. Additional costs for translation and the use of local representatives would be incurred when filing national or regional applications.

5.5. INTERNATIONAL TRADEMARK REGISTRATION VIA THE MADRID SYSTEM

5.5.1. What is the Madrid System?

Website: <https://www.wipo.int/madrid/en/>

The Madrid System is a system of the international trademark registration administered by the International Bureau of the World Intellectual Property Organization (WIPO) to facilitate the simultaneous registration of trademark worldwide. This system is governed by two treaties:

- i) the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement (Marks)), concluded at Madrid on 4th April 1892, and revised at Brussels (1900), at Washington (1911), at The Hague (1925), at London (1934), at Nice (1957) and at Stockholm (1967), and amended on 28th September 1979. Currently, there are 55 States party to the Madrid Agreement (updated on 09th June 2022 on WIPO website), and
- ii) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol), concluded on 27th June 1989 in Madrid, and then amended in 2006 and 2007. Currently, there are 112 members to the Madrid Protocol (updated on 09th June 2022 on WIPO website).

The fundamental difference between the Madrid Protocol and the Madrid Agreement is the applicant may base their international application on a registration or an application filed with the IP Office of origin.

The Madrid Protocol was created, existing in parallel with the Madrid Agreement, to overcome the limitations of the Madrid Agreement and bring more flexibility to the Madrid System. All members of the Madrid Agreement have become Contracting Parties to the Madrid Protocol, and under the provisions of the Madrid Agreement, the international trademark registration basically follows the Madrid Protocol (with the exception of some terms relating to fees, issues relating to old international registrations... still bound by the Madrid Agreement).

States and organizations party to the Madrid System are collectively referred to as Contracting Parties. By 9th June 2022, the Madrid System has currently 112 members,

covering 128 countries and territories and accounting for more than 80% of world trade⁷.

Vietnam is party to the Madrid Agreement (1949) and the Madrid Protocol (2006), so Vietnamese businesses can proceed trademark registration to countries and territories that are parties to the Madrid System.

5.5.2. Brief description of the Madrid System

Table 4: Key contents of the Madrid system

Dimension	Content
Objectives and benefits of application via Madrid system	The Madrid system simplifies the administrative aspect and offers a convenient and cost-effective way for trademark owners to obtain and maintain trademark protection: - Application filed at one place to seek a protection of trademark in multiple markets. - Application made in one language, be subject to payment of one set of fees (with exceptions, e.g. two sets of fees in Japan...) in one currency; - Simple and convenient post-registration management (modification, transfer of rights, cancellation, additional registration in other countries...)
Characteristics of Madrid application	An application for international registration under the Madrid System (referred to as an international application or a Madrid application) must be based on a basic application or registration (the basic mark, i.e., before filing an international application, the person or entity must have already filed or registered the same mark in the IP Office of origin).
Who may use the system	- Any natural person or legal entity with a real and effective industrial or commercial establishment in a Contracting Party; or - is domiciled in a Contracting Party; or - is a national of a Contracting Party For example: - <i>If you are a citizen or have business activities in Australia, you have connection to Australia (a member of the Madrid System) and you shall file an international application through the IP Australia</i> - <i>If you have connections to several Contracting Parties (for example, you may be a Vietnamese national living in the United States), you can choose any of these Contracting Parties (Vietnam or the USA) to apply for the trademark registration.</i>

⁷ Updated at https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/madrid_marks.pdf

Dimension	Content
To whom the application is filed?	An application shall be filed to the International Bureau of WIPO through the local IP Office of the Contracting Party for trademark registration. In Vietnam, IPVN is the focal point.
Validity of international registration	An international registration is valid for 10 years, counted from the date of the international registration and may be renewed every 10 years, by payment of the prescribed fees.
Independence of international registration on basic application	International registration shall be subject to national registration (base application) for 5 years after registration. If the basic application or registration is invalidated (in whole or in part) for any reason, the international registration will be invalidated accordingly. In this case, the applicant may convert the international application into a national applications (submitted to the Contracting Parties designated by the initial international registration) and enjoy the filing date as same as the date of filing international registration or later specified date (even priority date, if applicable). After the above 5-year period, the international registration is independent of the basic of application or registration.
Trilingual Regime	English, French, Spanish (in Vietnam, only English and French are accepted)
Priority rights	An international application shall enjoy the right of priority according to the principle of priority as provided for in the Article 4 of the Paris Convention for the Protection of Industrial Property. <i>For example, if an international application is filed within six months from the date of filing of the base application, priority can be claimed for the international application as the date of filing of the base application</i>
Process of registration under the Madrid system	1. Apply in the country of origin. The local IP Office apprais the application and transfer to the International Bureau of WIPO; 2. The International Bureau examines the formal requirements of the application, publishes the application in the IP Gazette, and forwards the application to the designated Contracting Parties; 3. Designated Contracting Parties shall examine the application and notify the results (protection accepted or rejected) to the International Bureau of WIPO. 4. The International Bureau of WIPO notifies the applicant of the result. (For details, see Figure 4)

Dimension	Content
Registration fees	International registration is subject to following fee schedule: ₫ Basic fee; ₫ Supplementary fee for each class of goods and services beyond three classes; ₫ Complementary fee for each designated Contracting Party or individual fee for each designated Contracting (depending on the specific case); ₫ Additional fees for each class of good or service exceeding three classes; For applications originated from Vietnam, an additional processing fee must be paid at the IPVN). For detailed information on the schedule of fees see is available at: https://www.wipo.int/madrid/en/fees/sched.html https://www.wipo.int/madrid/en/fees/ind_taxes.html
Representative of the Applicant before the International Office	The applicant or holder may appoint a representative to act on their behalf (to file or manage an international registration) before the International Bureau. With regard to who may be appointed as a representative before the International Bureau, the Madrid System does not provide requirements as to professional qualification, nationality, residence or domicile. The applicant or holder may appoint a representative in an international application or in a separate official form (form MM12) or by a letter of appointment submitted to the International Bureau. The representative can declare the scope of empowerment to act on behalf of the applicant in the subsequent designation and/or other documents (change of name, of address...) or other papers signed by the applicant and submitted through the IP Office of origin.
Subsequent designation (extension of scope of protection)	A subsequent designation to request for extending the scope of protection of international registration can be filed after the international application is granted and registered by the International Bureau (granting an international registration number) by submitting a request (form MM4) and paying fees.

Dimension	Content
What actions can the applicant can perform under the Madrid system?	The applicant may perform following actions: - đ File a request for international registration (the form MM2); - đ Request extension of geographical scope of international registration (the form MM4); - đ Renew an international registration (the form MM11); - đ Cancel an international registration (the form MM7, MM8); ... The applicant can manage different aspects of international registration using 22 MM forms downloadable at: https://www.wipo.int/madrid/en/forms/

5.5.3. Procedure of filing and processing international registration under the Madrid System

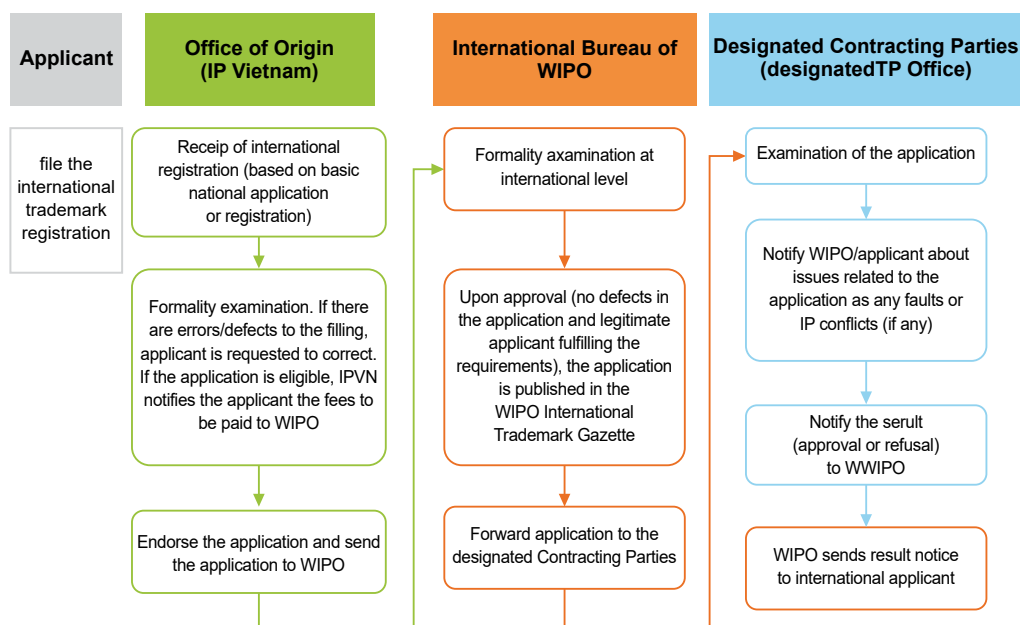
Based on a basic mark, an international application must be presented to the International Bureau through the Office of origin. The international application indicates the countries of interest for trademark protection.

Applications of international trademark registration of individuals or companies domiciled in Vietnam shall be made in English and submitted at the office of IPVN.

Addresses for filing the international registration: Head Office of IPVN in Hanoi, and Representative Offices of IPVN in Da Nang and Ho Chi Minh City.

The applications then will be processed and handled at the Center for Examination of Geographical Indications and International Trademarks under the IPVN.

Figure 4: Procedure for international trademark registration



5.5.4. Application documents according to the Madrid System

Table 5: List of documents to be submitted under the Madrid System

No	Name of the document	Quantity	Note
1	Vietnamese declaration for international registration of goods/ services of Vietnamese origin Application form: Declaration 06-DKQT; Another application (designated later, extended): Declaration 08/SDK	2 copies	Form No: 06-DKQT Appendix C of Circular No. 01/2007/TT-BKHCN
2	Form MM2 (in English)	2 copies	https://www.wipo.int/madrid/en/forms/
3	Basic mark (basic registration or basic application in Vietnam)	1 copy	For basic registration: registration number, date of registration For basic application: application number, date of filing
4	Trademark representation	5 specimens	Trademark specimens must be identical with the application or registration license in Vietnam

No	Name of the document	Quantity	Note
5	Payment invoice for the fees for international registration at IPVN	1 copy	VND 2,000,000
6	Power of Attorney	1 copy	Applicable in case of filing through an IP Representative domiciled in Vietnam
7	Declaration of trademark use in the United States (Declaration MM18)	3 copies	Applicable in the case of filing and designating the United States

The classification of goods and services according to the latest International Classification of Goods and Services (NICE Classification - Nice Classification). For grouping, the Madrid Goods & Services Manager can be used (Madrid Goods & Services Manager).

Note: An applicant cannot add or expand a list of goods and services after an international application has been filed, or even expand a category that includes goods and services mentioned in the base trademark. Any request for expanding trademark portfolio after submitting the form MM2, the applicant needs to file a new international application.

5.5.5. Schedule of fees

- The fees for international trademark registration payable at the IPVN include
 - New registration application (application for establishing rights): VND 2,000,000;
 - Other types of applications (such as extension of protection territory, renewal of registration, cancellation of registration...): VND 1,000,000;
- The fees for international application or registration (to be paid directly to the International Bureau - <https://madrid.wipo.int/feecalapp/>). IPVN will notify the applicant about the amount of fees to be paid directly to the International Bureau via bank transfer.
- Schedule of fees prescribed by the Regulations under the Madrid Protocol includes basic fee, supplementary fee for each class of goods and services beyond three classes; individual fee for each designated Contracting Party in respect of which an individual fee is payable and complementary fee, and surcharge (if any).
- The applicant can calculate fees and charges by using the online tool provided by WIPO at <https://www.wipo.int/madrid/en/fees/calculator.jsp>

5.5.6. Effects of an international registration

Trademark international registration is valid for 10 years and can be renewed for a successive 10 years. The applicant can directly request for a renewal at the end of the 10-year validity period and the validity extension is effect in all designated Contracting Party. A letter reminding the extension shall be sent by WIPO to the trademark owner and/or their legal representative within 6 months before the expiry of the trademark protection.

The Madrid e-Renewal Service allows trademark owners to submit a request to renew an international registration within 3 months before its validity expires until the end of the 6-month grace period after the expiry date of validity and pay fees via their account at WIPO or credit cards.

5.5.7. Considerations when registering trademarks under the Madrid System

- **Pre-filing searches:** This is a general rule when implementing trademark registration, even in Vietnam. The purpose of the search is to check in advance whether there is already a similar mark in the country of registration, so that the applicant can (1) decide whether to file an application, or (2) minimize the possibility of rejection when filing an application, or (3) provide evidences to assess the possibility of protection.

- **Optimizing the benefits of the system:** Basic registration fees can be saved when the applicant designates more countries in single application.

Table 6: Costs comparison of trademark registration via the Madrid route and direct route in the EU, Japan, Korea, Australia, China and the US

	EU	Japan	ROK	Australia	China	US	Total (VND)
Direct Route	US \$ 2.800	US \$ 2.000	US \$ 1.200	US \$ 1.800	US \$ 600	US \$ 2.200	≈ 244.000.000
Madrid Route	≈ VND 120.000.000						≈ 120.000.000
	Difference						≈124.000.000

- **Date of international registration:** First-to-file is the most important rule in trademark registration. For an international application, the applicant has two (02) months to obtain the filing date in Vietnam.

For example: The date of filing an international registration application at the IPVN

is **January 1, 2022**, if the application meets all basic conditions (information in the application, full payment of fees), IPVN will certify and transfer the application to the IPVN. WIPO before **March 1, 2022**, the filing date is counted as **January 1, 2022**. If the application is flawed and the applicant is slow to supplement it, leading to the IPVN transferring the application to WIPO after March 1, 2022, WIPO will record the filing date **from the date of receipt of the application from the IPVN** (Example: March 2, 2022). During this process, if another application (similar mark) is filed on **February 1, 2022** and meets all basic conditions, is certified by the IPVN and forwards the application to WIPO, the original applicant **pre-application date will be forfeited**.

- **Technical terms:** In the trademark description and product classification, the use of technical terms should be done or consulted by professionals to avoid errors and prolonging examination.

- **Application tracking and management:** It is advised to regularly check the status of the application on Madrid Monitor platform to promptly handle WIPO's notices or arising problems (<https://www.wipo.int/madrid/monitor/en/index.jsp>).

- **Dependency rule:** According to the "central attack" rule under the Madrid System, an international registration remains dependent on the basic mark for a period of five years from the date of the international registration. If the basic mark ceases to have effect for any reason, either partially or totally, for example, it is refused, withdrawn, cancelled or not renewed, within this five-year period, the international registration will be cancelled to the same extent. After the expiry of this five-year period, the international registration becomes independent of the basic mark.

- **Converting an international registration into a national application if the international registration is invalidated:** In order to minimize the negative impact of the "central attack" rule, the Madrid System allows the applicant to convert the cancelled international application into multiple national or regional applications (designated Contracting Parties to the international application) within 3 months from the date of WIPO's official notice of cancellation provided that additional conversion fees are charged according to the laws of each Party. National applications for such countries or regions are still entitled to the filing date of the international registration or a later designated date (even a priority date).

- **Use of trademark:** The Madrid System deals with only a trademark registration, while other regulations for maintaining trademarks in a specific country and territory are

different. In particular, the actual use of the trademark in some countries such as the United States and Singapore is a mandatory condition to maintain the validity of the trademark.

- **Transfer of trademark:** the owner of the mark under international registration is only allowed to transfer the mark to an individual or legal person having the nationality of Contracting Parties to Madrid. This means that it is not possible to transfer part or all of the international registration to another whose nationality is not a member of the Madrid System.

Box 6: Some notes when proceeding international trademark registration under the Madrid System

- ☐ The more countries the applicant designates in the international application, the more they can save the base registration fees;
- ☐ Name and addresses of the applicant are made in bilingual;
- ☐ It takes two months to get the filing date in Vietnam;
- ☐ Dependency period under the “central attack” rule is 5 years;
- ☐ The transfer of trademark to entities outside the parties of the Madrid System is not allowed;
- ☐ Terminology related to the goods and services shall follow the WIPO rules.
- ☐ It should pay attention to the use of the trademark during the examination period;
- ☐ Regular check the status of trademark application at the WIPO digital platforms to promptly and timely handle possible and potential problems;
- ☐ In the case of collective mark or certification mark, it is necessary to contact the designated countries to submit relevant documents required;
- ☐ Check in advance whether there are similar or identical trademarks in the country to be designated;
- ☐ If the documents are in other languages than English, clear translation is needed.

5.5.8. Advantages of the Madrid System

The overall advantage of the Madrid System is that it simplifies the administrative aspect of seeking protection of a trademark in multiple territories. With just one application through the Madrid System, trademark owners/holders can simultaneously file applications in countries of interest among 128 members party to the Madrid System instead of filing multiple national or regional applications with different IP Offices

Once the trademark is registered through the Madrid System, the trademark owner/holder can add further territories to their existing international registration by way

of subsequent designation. This gives the trademark owner/holder the flexibility to expand the scope of protection in line with their evolving business strategy and financial situation.

Despite the number of countries or territories designated in the international registration, under the Madrid System, there is only one expiration date. The trademark then can be renewed with one simple procedure.

Table 7: Overview of the Madrid international trademark registration system

Advantages	Disadvantages
- đ Application is filed at a country or a territory, the trademark can be protected in many countries and territories - đ One registration form is done for application to many countries at the same time. - đ Only one application in one language (English, French, or Spanish) and paying one set of fees in one currency (Swiss francs) - đ Applications and protection titles are managed on one platform, with real-time status updates. - đ Save time and costs significantly; - đ Registration management (modification, transfer, cancellation...) is easily proceeded. - đ Application processing time is well-defined (12 to 18 months) in accordance with each country's commitment to WIPO.	- đ International registration must be based on an national application or an national registration. - đ All forms and information are not available in Vietnamese; and all exchanges must not be made in Vietnamese. - đ It is necessary to hire an IP representative in the country of interest to ensure the smooth application process and avoid potential refusal.

PART VI

**EXPERIENCES IN
MANAGEMENT AND
DEVELOPMENT OF
AGRICULTURAL
BRANDS OF
SOME COUNTRIES**

6.1. EXPERIENCES OF FRANCE ON GEOGRAPHICAL INDICATION

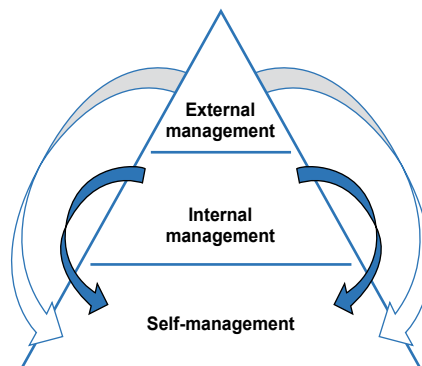
France has a well-built GI management system and has much impact on EU's policies on GI. French GI management system is organized in a 3-level control structure.

Self-management: Self-management is carried out by the production households. Producers and manufacturers are required to fully respect the Code of Practice for GI. Even when all rules in the Code of Practice are met, the product quality varies among producers. Self-management at producer level ensures not only the overall reputation of GI but also the reputation of each producer, creating a competitive advantage of the product bearing GI compared to other products in the region.

Internal management: The internal management is done by the collective organizations of local manufacturers (association, union, etc.). These organizations have the following tasks: conducting inspections on the origin of raw materials; developing rules for inspection and supervision of production, processing and product quality; issuing certification for products bearing GI; supervising the compliance with regulations in production and processing; taking control over the transfer of use rights between producers and processors, and traders. Licensing the use of GI for producers is important and done as soon as preparing the application for GI.

External management: External management activities focus on the circulation and commercialization of products bearing GI in order to detect counterfeit goods or goods which do not meet quality requirements. External management is normally carried out by public institutions, such as the National Institute of Origin and Quality (INAO) (which is key actor assuming all external management functions for GI as licensing GIs and deciding on the feasibility of GIs), Customs (management of quantities and foreign trade statistics), Department of Competition, Consumer and Trade Fraud (assuming functions of checking the true origin of goods if a violation is found, checking the compliance with the production process required, checking the use of registered labels), the Ministry of Agriculture (Department of Production and Trade, Production Inspection and

Figure 5: Three-level GI management system in France



International Relations, Department of Foreign Relations (in charge of relations with the European Community), etc. Since 2006, France has allowed private sector to participate in external management process provided that these private organizations are certified by INAO to be competent to carry out external management.

Principles of GI management associated with quality control are implemented in France and Europe as follows:

- ☐ The formation and development of products bearing GI must be associated with community ownership, exploiting specific attributes of products based on geographical advantages.
- ☐ Producers actively participate in the process of building, protecting, promoting and developing as well as exploiting products and product brands.
- ☐ The quality control system is independently conducted and is not confused with other administrative control mechanisms of the agencies (agricultural management, veterinary medicine, social welfare, ...).
- ☐ Organizations performing the inspection function must be competent and qualified to ensure objectivity and fairness to all producers and processors in the controlled geographical area.
- ☐ The inspection scope only covers the specific and unique aspects and determines the specific quality of the product.

The role of collective organizations in the exploitation of GIs: Organizations established by manufacturers and traders of products bearing GI represent their members. They are open, professional, democratic, and non-politicized organizations. For example, the Cognac Confederation, the Bordeaux Wine Producers Association, the Comté Cheese Producers and Traders Association, etc. These collective organizations are organized and operate in order to exploit GIs. These organizations have effective management system which doesn't create administratively and additional burdens on users of GI. The State has incentives to support collective organizations in trade, market access development and finance, etc.

6.2. EXPERIENCES OF PROMOTING GI OF EUROPEAN COUNTRIES

EU is the origin region and pioneer in having policies on certification of origin for indigenous and traditional products. The European Commission has issued three general

regulations covering the Protected Appellations of Origin (PDO), protected geographical indications (PGI) and guaranteed traditional specialties (TGS) to protect the names of quality agricultural products.

The quality management and control system for local specialties bearing GI is well organized and serves as an important foundation for countries in the region to implement strategies to effectively promote local specialties abroad. Products bearing the European GI are particularly popular with and appreciated by consumers around the world.

Collective organizations of specialty producers and traders play a key role in implementing branding process, product management and promotion activities. Promotion activities are conducted in a systematic and professional manner in various forms, such as: building brand development strategies; strengthening sale systems; developing strategies for commercialization, marketing and expansion of domestic and foreign markets; conducting researches, and applying scientific achievements and research results in maintaining and improving product quality, increasing output, etc. to meet daily needs the higher the consumer.

Box 7: Some promotion activities of GIs: “Maca de Alcobaca” apples and “Rocha” pears (Portugal)

Designing the logo of the association of producers to have uniform use during operation, attached on the means of promotion, communication, packaging, and product labels.

Designing leaflets to promote and introduce GIs, which clearly states the specific attributes of GIs, the local specific natural conditions creating the unique quality of GIs.

Designing packaging, labels which met all requirements of efficiency communication, advertisement, and marketing.

Delivering technical supports to producers to ensure stable and uniform quality of products; apply scientific and technical advances to improve productivity, quality and output.

Organizing trade promotion activities and events at home and abroad to communicate and widely promote product images to consumers.

Operating the quality control and certification system, including: control over producing and processing areas; control over the storage and preservation; control over packaging, stamping and labeling of products; control over distribution, etc.

6.3. EXPERIENCES OF BUILDING NATIONAL BRANDS OF NEW ZEALAND

One of the solutions to develop specialty products is to “attach” a national brand to the products in order to increase the product’s identification among consumers. The government of New Zealand has worked to improve the quality of lamb and do trade promotion to create an image of lamb of quality in the eyes of consumers.



Companies still trade products under their own labels, but the national mark of “high quality New Zealand lamb” is widely recognized in the minds of consumers. To create this image of a high-quality lamb product, the New Zealand government first promoted lamb quality through genetic improvements, a farmer payment system, a quality audit system, and improved processing technology. The Government established the New Zealand Meat Commission, which is responsible for maintaining industry relations between producers, processors and exporters in addition to marketing duties, price management, pricing, trade promotion and research. This agency was later merged with the SheepCo for unified management of both meat and wool made from fleece. The missions of the alliance is to support the consumption of meat and wool in the world market, to raise demand both domestically and abroad, to provide services such as economic analysis and training programmes. Taxes on these two products are used for trade promotion in the world market by helping export companies build and brand “New Zealand lamb” as a high-quality product.

In trade promotion, New Zealand has tried to attach the image of a country with “a fresh environment, lush vegetation, no pollution and clean water” on agricultural products in the world market. New Zealand exporters aim to valorize the images of free-grazing sheep which are ethically treated, growth-hormone-free, chemicals-free, of excellent processing quality, low fat and being cut in standard sizes or in pieces required by consumer. Quality stability is ensured in both production and processing.

6.4. EXPERIENCES IN BUILDING NATIONAL BRAND OF “CAFÉ DE COLUMBIA”

“Café de Colombia” is the Colombia’s national brand for coffee products, which embodies the product’s values of origin, quality and traditional processes. “Café de Colombia” brand is a quality guarantee provided by the Colombian state to consumers around the world.

Colombia has developed solutions and policies to develop “Café de Colombia” brands:

- “Café de Colombia” is under IP protection in the form of GI and certification marks, built on the foundation of traditional quality values and the origin of the product.
- The state is the owner and assigns to the Colombian Coffee Growers Union, established in 1927, to manage, control and promotion of the brand “Café de Colombia” with following policies: i) management of investment fund for infrastructure, technology, production development; ii) publicity and trade promotion for branded products; iii) solutions to regulate the domestic market and to create competition and the best selling price for farmers on the basis of international prices.



6.5. EXPERIENCES OF BUILDING INDIAN BRAND “DARJEELING TEA”

Darjeeling tea is the first GI in India. The process of building the GI of Darjeeling tea shows many experiences in the process of selecting and completing protection form for the product. With a history of production on 150 years, Darjeeling tea is a product of exceptional quality, of natural flavor formed by the combination of production and climatic conditions, thus known to consumers all over the world. Darjeeling tea products are seriously violated in domestic and foreign markets because of the problem of



tea mixture. Therefore, the Indian Tea Board has proceeded trademark protection of tea products in the domestic and international markets. Form of protection is chosen flexibly, in accordance with the target markets and national regulations of countries of interest.

- Building GI are intended to: i) prevent misuse of the word “Darjeeling” for other types of tea sold world-wide; (ii) deliver authentic products to the consumer; iii) enable of the commercial benefit of the equity of the brand to reach all actors in the industry; iv) achieve international status both in term of brand equity and governance/administration.
- Promoting protection of GI in India and EU by: i) establishing a quality and origin control system pursuant to the Federal law; ii) building a production and quality management system according to Council Regulation (EEC) 2081/92 on the protection of GI and designation of origin for agricultural products and foodstuffs; iii) promoting the process of developing GI law in accordance with EU regulations and GI registration in EU.
- Developing a strategy for protecting the brand of “Darjeeling tea” in markets that do not cover the protection of GIs such as the US, Canada, Australia,...through both direct route and international route (the Madrid system).

Table 8: International Registration of Darjeeling Tea

Protection form	Year of Registration
Collective Mark	Japan (1989), Germany, Australia, Lebanon (2005); Benelux (1997)
Certification Mark	Canada (1989), United Kingdom (2001), United States (2002)
Trade Mark	Egypt (1999), Russia (2003)
Geographical Indication	India (2004), EU (2007)
International registration (Madrid)	Germany, Austria, Spain, France, Portugal, Italy, Switzerland and former Yugoslavia (1997)

Source: Rajendra Kumar and Vasundhara Naik, K&S Partners, New Delhi, India

6.6. EXPERIENCES OF THAILAND TO PROMOTE BRANDING FOR AGRICULTURAL PRODUCTS

6.6.1. Program “One Tampon One Product” (OTOP)

Since 2001, the Thai Government has launched the program One Tambon, One Product (OTOP), inspired by a Japan’s mouvement named “One Village One Product” (OVOP). Thai Prime Minister Thaksin Shinawatra raised the program to encourage local SMEs during the 2001-2006 period with the same slogan and principles of development at the grassroots level as Japan. The objective of OTOP is to support local businesses in applying science and technology to production and promoting products at home and abroad by means of mass media. Local businesses use local resources (capital and human resources, traditional know-how and local culture) to produce goods for consumption and export. The OTOP program encourages villages to improve the quality of local products, to do marketing a unique product bearing the village’s brand, and to set a timeline for making that product meet domestic and export requiements. OTOP products include handicrafts, silk and cotton fabrics, ceramics, home appliances and foodstuffs.



Lessons learn from policies and actions of Thailand’s OTOP Program:

- Identify under-utilized local resources and use resources creatively to meet the needs of the market. It is acknowledged that all advantages are identified and most of the available resources are exploited for local development. Physical and intangible resources include means of production, production techniques, environmental landscapes, clean water sources, and cultural values of the community.
- Shift to a more market-oriented production through focusing on production for export, and trade promotion activities (trade fairs in provinces and cities); Provide support for export-oriented products (under the management of Trade Promotion Department); Design the logo of OTOP products; Build an e-commerce system; Organize contest of product champion, etc.

6.6.2. Advertising and promoting GIs and specialty products to the world

Thailand is one of the Asian countries that run effective campaigns to promote local specialties abroad, especially agricultural products. Activities to promote local specialties are carried out with the support of State management agencies on trade promotion and IP. Department of Intellectual Property of Thailand (DIP) is a unit under the Ministry of Commerce of Thailand, so the campaigns to promote local specialties associated with IP rights abroad are conducted quite smoothly on a large scale.

With the goal of becoming “the world’s kitchen”, Thailand always puts the improvement of good quality and brand development on its high policy agenda. Currently, Thai is an important supplier of seafood in the global market. Thai rice is of high grade and quality, and accepted by many high-end markets. Fruits are loved and chosen by consumers world-wide.

In recent years, in order to promote the export of processed agricultural products, Thailand has actively penetrated the neighbouring markets such as Vietnam, China, Laos, Cambodia... Geographical proximity gives Thailand certain advantages over other countries. In Asia, there are many markets to import processed agricultural products from Thailand such as Indonesia, Malaysia, Singapore, Japan, Korea, etc. Besides, Thailand also pay much attention to expanding markets to EU and American countries. These are countries with strict requirements in terms of product quality as well as standards such as origin, GI.

Solutions for management and development of products bearing GI:

- Thailand prioritizes, in their policies, the development of a GI protection system for local specialties. The goal is to have at least one GI per province. As of December 2020, among ASEAN countries, Thailand is the country with the most protected GIs (137 GIs in 76 provinces/cities). Thailand has developed a national GI logo for uniform use for products bearing GI.
- DIP organizes annual GI Market where provinces, businesses and organizations introduce and promote their products. In addition, DIP cooperates with the Department of International Trade of Thailand to organize the International Trade Exhibition (THAIFEX) inviting foreign importers to visit and listen to introduction about local PGIs.
- DIP organizes seminars for businesses producing and trading local specialties,

in which invited speakers who are experts and foreign businessmen to talk and share experiences.

- DIP works with major supermarkets in Thailand to open up new and stable consumption channels for products bearing PGIs.
- To improve the effectiveness of promoting local specialties abroad, Thailand pays special attention to investing in designing, printing stamps, labels, product packaging and a system of promotional tools (flyers, books, newspapers, advertising programs...). These brochures are compiled and distributed in English.

6.7. EXPERIENCES OF GI REGISTRATION AT THE JAPAN MARKET - CASES OF BINH THUAN DRAGON FRUIT AND LUC NGAN LYCHEE

6.7.1. General information

Binh Thuan dragon fruit and Luc Ngan lychee are the first two products of Vietnam to be protected as GIs in Japan, within the framework of the cooperation program between the IPVN and Food Industry Affairs Bureau (FIAB, Japan).



- Before being protected as GIs, Binh Thuan dragon fruit and Luc Ngan lychee were registered for trademark protection in many countries world-wide. However, the regulations on verifying the conditions for PGI in Japan must comply with the regulations of Japan:
- The criteria of quality, production process, quality control in Vietnam (GIs protected in Vietnam) shall be subject to the direct check of Japanese experts who come to Vietnam and verify whether all points stipulated in the Description of Specification are fully respected.

- Japan pays much attention to controlling and maintaining the product quality after being granted a protection title. The trademark owner (Association) must submit annual control report to the Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF); keep these reports for at least five (5) years. MAFF will come to Vietnam to carry out on-site check over all the content reported at the 3rd or 5th year and clearly impose a fine for any mis-conduction or guaranteed and maintained.

Reference to the list of international trademark of Binh Thuan dragon fruit and Luc Ngan lychee in the Appendix 4

6.7.2. Experiences of GI registration in Japan

- *Choosing the right product to register:* GI registration in Japan is a difficult, complex and costly process. Therefore, GI registration is only suitable for the product that has an outstanding reputation, characteristics, and quality; of which reputation, nature and specific attributes are able to be proved by specific scientific evidences (e.g. documents proving that manufacturing techniques stable for at least 25 years, proving that the regulations governing the production process effective, proving that manufacturers are member party to a professional organization, etc.); and that has good commercial potentials in the Japanese market.
- *Identifying the owner:* Given differences in regulations on GI owners and management organizations (in Vietnam, GIs belong to the State; in Japan, a collective of producers is GI owner), localities should consider giving registration and management right to local collective organizations (association, cooperative, etc.) as soon as selecting the product to be registered as GI.
- *Reasonable, suitable and feasible criteria:* Up to now, Buon Ma Thuot coffee is still in the process of amending the Specification Description to meet the control requirements. The biggest problem in this case is that the product quality criteria are too high, unrealistic, and the Japanese authorities realize that if using this set of criteria to control GI, almost no manufacturers can meet the conditions for the use of GI
- *Study on documents and costs to be incurred:* After selecting the product to register, identifying the owner, and collecting all documents and records of GIs originally registered in Vietnam, it should study these records in detail and

compare with the regulations of Japan to identify the missing issues, and required additional research. On that basis, it needs to determine necessary costs for the whole registration process in Japan, avoiding any seeking for additional budget during the implementation process, as well the termination of or pending of the registration project due to insufficient funding.

- *Recruitment of IP representative:* In Japan, IP registration as well as GI registration must be done through an IP representative organization. For the sake of a successful and cost-effective GI registration, it is necessary to choose an experienced and professional representative organization in Japan (preferably have experience in registering foreign GIs to Japan) to have effective support.
- *Receiving Japanese experts:* This is an optional activity, according to Japanese regulations, the examiners can visit the field for checking and inspection or the representative of the GI owner shall be invited to Japan for explanation if necessary. In reality, for all products protected in Japan, Japan sends examiners to the field to conduct inspection and check. Therefore, it is said to organize the examination during the right crop season. Japanese are very meticulous and careful, so it is necessary to well prepare informative and specific documents, especially documents related to manufacturing techniques, production process, management, etc.
- *Updating figures and reporting:* Unlike Vietnam, GIs registered in Japan shall be regularly updated with the latest figures and events. Any changes to the product bearing the GI, management organization/person must be reported to MAFF. The reporting deadline is March 31 of each year. If the GI owner does not report it after the above time limit, a fine of 300,000 yen (equivalent to 70 million VND) will be imposed.

6.7.3. Other considerations

- Overall, regulations on registration and protection of GIs aim to protect and promote the value of local and regional products. However, each country has its own characteristics and different levels of development, it is necessary to understand the differences in national regulations before proceed GI registration.
- For all kinds of community trademarks (including collective mark, certification mark and GI), trademark protection registered in Vietnam is a mandatory condition

before international registration. The Binh Thuan Dragon Fruit Association is a good example of exploiting the benefits of the Madrid System. This trademark has been filed since 2013 in 7 countries and territories including: the Benelux, China, Germany, France, Great Britain, Japan, Korea, Singapore and is now protected in all of the above countries and territories.

- The content described on product quality is not only to meet legal requirements but also needs to be controlled. The granting of a protection title is only the first step to building a brand and maintaining a sustainable reputation. During the exploitation of GIs, documents and operation books should always be recorded to ensure that the system is run effectively.
- The mark, or the logo, should be registered in Vietnam and in some key export markets in the form of a common trademark (such as Luc Ngan lychee) to ensure that this mark can be used to register as community mark.

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Legal documents on intellectual property of Vietnam and some countries (EU, USA, Japan, South Korea, Australia, China)

APPENDIX

Appendix 1: List of websites and portais to manage trademark registration

National Office of Intellectual Property of Vietnam	https://www.ipvietnam.gov.vn/
WIPO Global Brand Database	https://branddb.wipo.int/branddb/en/
International Classification of Goods and Services (NLC)	Nice Classification (wipo.int)
List of States party to the Madrid System	https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/madrid_marks.pdf
Madrid System forms (downloadable)	http://www.wipo.int/madrid/en/forms/
Madrid Goods and Services Manager	http://www.wipo.int/mgs/
Schedule of Fees (Madrid system)	https://www.wipo.int/madrid/en/fees/sched.html
Fee calculator (Madrid system)	http://www.wipo.int/madrid/en/fees/calculator.jsp?
Monitoring the registration (Madrid System)	https://www.wipo.int/madrid/monitor/en/index.jsp
European Trademark Search engine (TMView)	https://www.tmdn.org/tmview/#/tmview
European Intellectual Property Office	https://euipo.europa.eu/ohimportal/en/home
US Patent and Trademark Office	https://www.uspto.gov/
Intellectual Property Office of Australia	https://www.ipaustralia.gov.au/
Cơ quan đăng ký sáng chế Nhật Bản	https://www.jpo.go.jp/e/index.html
GI Registration in Japan (Ministry of Agriculture, Forestry and Fisheries)	https://www.maff.go.jp/e/policies/intel/gi_act/index.html
Korean Intellectual Property Office	https://www.kipo.go.kr/en/MainApp?c=1000
China National Intellectual Property Administration	https://english.cnipa.gov.cn/
China Trademark Office	https://www.chinatrado.com/

Appendix 2: Criteria to assess the product eligibles for Vietnam Value title

Pursuant to the Appendix 2 of the Circular 25/2021/TT-BCT dated December 12, 2021 of the Minister of Industry and Trade on amending, supplementing some articles and provisions of the Circular 33/2019/TT-BCT.

No	Criteria	Description	Maximum point	Total maximum point of each criteria
1	Criteria 1: Quality			300
1.1	Apply and maintain quality control system of ISO 9001	Duration of application	60	
1.2	Apply and maintain advanced management systems (ISO 14001, ISO 22000, ISO 17025, SA 8000, OHSAS 18001, HACCP, GMP, VietGap, Global Gap... or equivalent)	Number of application Duration of application	60	
1.3	Publication of product quality as regulated by law	The adequacy of the publication of applicable standards/announcement of conformity/certification of standard conformance/certification of conformity of the registered product	60	
1.4	Investment to sustain product quality	The ratio of investment to total profit before tax is higher than that of enterprises in the same industry in the selection period for at least 2 years before the assessment round.	60	
1.5	Awards and prized on quality	Number and rank of quality awards and prizes at home and abroad	60	
2	Criteria 2: Innovation, Creativity			180
2.1	Policies encouraging innovations and creativity	Having policies encouraging innovations, creativity. These policies are clear, sufficient and have transparent and accountable procedure of evaluating and recognizing the results	40	

No	Criteria	Description	Maximum point	Total maximum point of each criteria
2.2	Innovative ideas and/or innovations are applied at the enterprise for consecutive 2 years prior to the assessment round	Number of innovations and/or innovative ideas applied and efficiency of those innovations; the results are clearly evaluated	20	
2.3	Research and Development	Having R&D division which has clear role and functions and the results of R&D division are listed and described	20	
2.4	Investment in R&D	The ratio of investment in R&D activities to total revenue is higher than that of enterprises in the same field in the assessment period. The enterprise has fund for a science and technology activities. All R&D activities applied at the enterprise for 2 consecutive years prior to the assessment round are listed	20	
2.5	Training and Capacity building	Content of training and capacity building is suitable for demand of the enterprise; number of training classes	20	
2.6	IP assets of the products registered for the assessment round.	Number of IP assets of the product to be registered for the assessment round	20	
2.7	Application of new technologies and solutions	Actively seek and apply new technologies, clean technologies that are safe for the environment; The results of these applications help: - increase productivity, save costs - enhance the efficiency of inspection and supervision management - create convenience for customers in the service process - standardize innovate process	20	
2.8	Awards and prizes for innovations	Number and rank of quality awards and prizes at home and abroad	20	

No	Criteria	Description	Maximum point	Total maximum point of each criteria
3	Criteria 3: Pioneering capacity			520
3.1	Corporate vision	The vision is clear, concise, easy to understand and practical. The vision is explained in line with the company's strategy and core values	20	
3.2	Corporate core value	Clear, easy-to-understand content is suitable for 3 groups: (1) customers, (2) characteristics of the industry and (3) characteristics of the business, and in line with the strategic vision of enterprise/business	20	
3.3	Business strategy of the enterprises	Clear and sufficient content which goes in line with the vision and core values of the enterprise/business	20	
3.4	Plan of human resources development	Having a good plan with specific goals and human resource development; have a transparent policy on awarding, recognition and remuneration	20	
3.5	Awards and Prizes achieved by the leaders of the company	Number and rank of quality awards and prizes at home and abroad	20	
3.6	Brand vision	The brand vision is clear, concise, easy to understand and practical. The brand vision is in line with the objectives, positioning strategy of the brand	20	
3.7	Brand promise	The brand promise is clear and specific, demonstrating a commitment to differentiating the brand in the long term, a commitment to success in a feasible manner	20	
3.8	Brand positioning	Clear and convincing brand positioning strategy which is suitable for market segments, and brand promise	20	
3.9	Brand protection	Protecting IP assets related to the brand synchronously and effectively; make full use of brand protection tools	20	

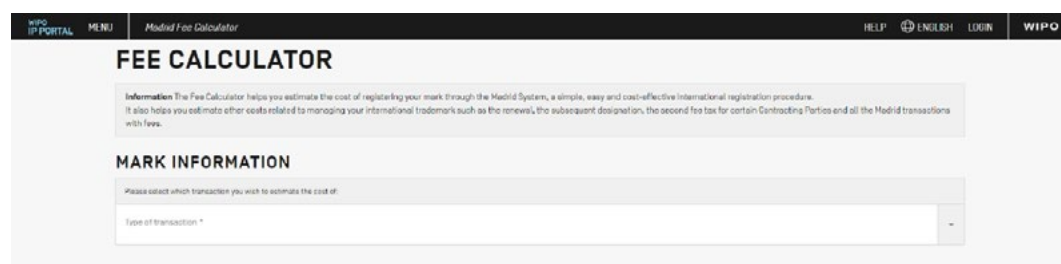
No	Criteria	Description	Maximum point	Total maximum point of each criteria
3.10	Internal Branding	Clear communication content, consistent with (1) brand vision, (2) brand promise, (3) brand positioning strategy; use communication tools	20	
3.11	External branding (marketing and communications regarding brands)	Clear communication content, consistent with (1) brand vision, (2) brand promise, (3) brand positioning strategy; suitable marketing and communication activities; having grounds for choosing marketing and communication tools; have a method to measure the effectiveness of marketing and communication activities	30	
3.12	Visibility of brand in the market	Awareness of consumers about the brand	100	
3.13	Credit rank	As per the ranking of the State Bank of Vietnam	100	
3.14	Financial evaluation	Turnover of the products to be registered for Vietnam Value Program	20	
		Sales of growth rate of the products to be registered for the program	10	
		Liabilities to total assets	10	
		Liabilities to equity	10	
		Long-term liabilities to equity	10	
		Total profit after tax on sales	10	
		Total after-tax profit to total assets	10	
		Total profit after tax on equity	10	

Appendix 3: Guide to calculate fees under the Madrid System

Step 1: Navigate <https://madrid.wipo.int/feecalculator/>

Step 2: Select Type of transaction - 4 options, including:

- ☐ New application
- ☐ Subsequent designation
- ☐ Second Part fee
- ☐ Renewal



Step 3: Select option “Submit a new application”, then choose in order

- ☐ Select “Office of origin” (as Vietnam);
- ☐ Choose “number of classes cover by the mark”
- ☐ Choose the type of trademark (collective mark, certification mark), if it doesn’t relate to common trademark
- ☐ Choose trademark with colors or trademark in black and white



Step 4: Select the countries where you intend to register, then Click “Calculate”

- ☐ There are a total of 111 countries/regions
- ☐ In this example, 6/111 countries/regions are elected including: European Union, China, Korea, Japan, Australia, United States.

Please select the contracting parties		Hide
Search contracting party		
☐ AE - United Arab Emirates ☐ AF - Afghanistan ☐ AG - Antigua and Barbuda ☐ AL - Albania ☐ AM - Armenia ☐ AT - Austria ☐ AU - Australia ☐ AZ - Azerbaijan ☐ BA - Bosnia and Herzegovina ☐ BG - Bulgaria ☐ BH - Bahrain ☐ BN - Brunei Darussalam ☐ BQ - Bonaire, Sint Eustatius and Saba ☐ BR - Brazil ☐ BT - Bhutan ☐ BW - Botswana ☐ BX - Benelux ☐ BY - Belarus ☐ CA - Canada ☐ CH - Switzerland ☒ CN - China ☐ CO - Colombia ☐ CU - Cuba ☐ CW - Curaçao ☐ CY - Cyprus ☐ CZ - Czech Republic ☐ DE - Germany ☐ DK - Denmark ☐ DZ - Algeria ☐ EE - Estonia ☐ EG - Egypt ☒ EM - European Union ☐ ES - Spain ☐ FI - Finland ☐ FR - France ☐ GB - United Kingdom ☐ GE - Georgia	☐ GG - Guernsey ☐ GH - Ghana ☐ GM - Gambia ☐ GR - Greece ☐ HR - Croatia ☐ HU - Hungary ☐ ID - Indonesia ☐ IE - Ireland ☐ IL - Israel ☐ IN - India ☐ IR - Islamic Republic of Iran ☐ IS - Iceland ☐ IT - Italy ☐ JM - Jamaica ☐ JP - Japan ☐ KE - Kenya ☐ KG - Kyrgyzstan ☐ KH - Cambodia ☐ KP - Democratic People's Republic of Korea ☐ KR - Republic of Korea ☐ KZ - Kazakhstan ☐ LA - Lao People's Democratic Republic ☐ LI - Liechtenstein ☐ LR - Liberia ☐ LS - Lesotho ☐ LT - Lithuania ☐ LV - Latvia ☐ MA - Morocco ☐ MC - Monaco ☐ MD - Republic of Moldova ☐ ME - Montenegro ☐ MG - Madagascar ☐ MK - The Republic of North Macedonia ☐ MN - Mongolia ☐ MW - Malawi ☐ MX - Mexico ☐ MY - Malaysia	☐ MZ - Mozambique ☐ NA - Namibia ☐ NO - Norway ☐ NZ - New Zealand ☐ OA - African Intellectual Property Organization (OAPI) ☐ OM - Oman ☐ PH - Philippines ☐ PK - Pakistan ☐ PL - Poland ☐ PT - Portugal ☐ RO - Romania ☐ RS - Serbia ☐ RU - Russian Federation ☐ RW - Rwanda ☐ SD - Sudan ☐ SE - Sweden ☐ SG - Singapore ☐ SI - Slovenia ☐ SK - Slovakia ☐ SL - Sierra Leone ☐ SM - San Marino ☐ ST - Sao Tome and Principe ☐ SX - Sint Maarten (Dutch part) ☐ SY - Syrian Arab Republic ☐ SZ - Eswatini ☐ TH - Thailand ☐ TJ - Tajikistan ☐ TM - Turkmenistan ☐ TN - Tunisia ☐ TR - Türkiye ☐ TT - Trinidad and Tobago ☐ UA - Ukraine ☐ US - United States of America ☐ UZ - Uzbekistan ☐ WS - Samoa ☐ ZM - Zambia ☐ ZW - Zimbabwe
Selected Contracting Parties 2 / 111		Select All Unselect All
		Reset Calculate

Step 5: Select “Calculate”

đ The displayed results include 3 types of fee: Basic fee; fees of contracting parties; complementary fees”.

đ Grand Total are in Swiss Francs (CHF)

đ When selecting “Details”, the specific fee of each country will be displayed

FEE DETAILS			
Basic fee	653.00	Details	
Fees of contracting parties	1,936.00	Details	
Grand Total (CHF)	2,589.00		
Contracting Party	Calculation	Classes	Amount
AU - Australia	(Individual fee [international application]: 263.00)	1	263.00
EM - European Union	(Individual fee [international application]: 897)	1	897.00
JP - Japan	(Individual fee [first part]: 92.00) This may be subject of the payment of a second part of the individual fee which can be estimated separately by clicking here	1	92.00
KR - Republic of Korea	(Individual fee [international application]: 224.00)	1	224.00
US - United States of America	(Individual fee [international application]: 480.00)	1	480.00
		Total (CHF)	1,936.00

Appendix 4: List of trademark of Binh Thuan Dragon Fruits and Luc Ngan lychee in the international market

Brand	Source	Status	Relevance	Origin	Holder	Holder country	Number	App. date	Image class	Nice CL	Image
VAI THIEU LYCHEE LUC NGAN	AU TM	Active	929	AU	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		1719967	2015-09-08		29,31	
VAI THIEU LYCHEE LUC NGAN	LATM	Active	929	LA	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		29446	2015-06-14		29	
VAI THIEU LYCHEE LUC NGAN	LATM	Active	929	LA	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		29447	2015-06-14		31	
VAI THIEU LYCHEE LUC NGAN	KHTM	Active	929	KH	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		KH/52037/13	2015-06-11		29	
VAI THIEU LYCHEE LUC NGAN	KHTM	Active	929	KH	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		KH/52038/13	2015-06-11		31	
VAI THIEU LYCHEE LUC NGAN	US TM	Active	82	US	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		86802234	2015-10-28		29	
VAI THIEU LYCHEE LUC NGAN	US TM	Active	82	US	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		86802240	2015-10-28		31	
VAI THIEU LYCHEE LUC NGAN	SG TM	Active	82	SG	HỘI SẢN XUẤT VÀ TIÊU THỤ VAI THIEU LỤC NGÂN		40201517831Q	2015-10-14		29,31	

1164622- Binh Thuận DRAGON FRUIT

Full details / English

Current Status

180 Expected expiration date of the registration/renewal
25.04.2019

181 Date of the registration
25.04.2013

270 Language of the application
English

732 Name and address of the holder of the registration
BINH THUAN DRAGON FRUIT ASSOCIATION
17 Thu Khoa Huan Street,
Phan Thiet City
BINH THUAN PROVINCE (VN)

812 Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment

VN

842 Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized
Association, Vietnam

740 Name and address of the representative
NAM VIET & ASSOCIATES CO., LTD. (VPOO)
Room 3-01, 3rd Fl.,
The Tower 3 Building
39-39B Ben Van Dong Street Ward 12,
District 4 Ho Chi Minh City
Ho Chi Minh City 700000 (VN)

840 Mark



550 Indication relating to the nature or kind of mark

Collective mark, certification mark or guarantee mark

560 Indication relating to the nature or kind of mark

The words contained in the mark have no meaning

531 International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(7)

05.07.21 / 27.08.10 / 28.01.14

591 Information concerning colors claimed

Red, green, dark green, yellow and white.

Red: the design of dragon fruit and the word "Dragon fruit"; green: the design of ear-shape leaves of dragon fruit and a curved stripe with rays; dark green: the word "Binh Thuan"; the design of ear-shape leaves of dragon fruit and a curved stripe with rays; yellow: a curved stripe with rays.

<https://www.eipo.org/markets/marks/visual-search/visual-search/1164622>

1/18

871 Description of the mark

The mark will be claimed for protection in the whole form, consists of the words Binh Thuan stylized in dark green which has no meaning in a foreign language, DRAGON FRUIT in black letters in red, a design of dragon fruit and its ear-shape leaves in red, dark green, green and white, which is above the words BINH THUAN, three curved stripes in dark green, green and yellow with rays extending from the yellow stripe, the stripes appear to the left of the dragon fruit design.

826 Disclaimer

The words "DRAGON FRUIT"

811 International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(10-2013)

31: Fresh dragon fruits.

803 Basic registration

VN, 13.01.2011, 159941

832 Designation(s) under the Madrid Protocol

GB - JP - KR - SG

834 Designation(s) under the Madrid Protocol by virtue of Article 8bis(1)

EX - CN - DE - FR

827 Indications regarding use requirements

GB - SG

Transaction History

expand

51

Registration : 2013/25 Gaz, 11.07.2013, BX, CN, DE, FR, GB, JP, KR, SG

450 Publication number and date

2013/25 Gaz, 11.07.2013

832 Designation(s) under the Madrid Protocol

GB - JP - KR - SG

834 Designation(s) under the Madrid Protocol by virtue of Article 8bis(1)

EX - CN - DE - FR

827 Indications regarding use requirements

GB - SG

581 Date of notification by the International Bureau to the designated Contracting Parties (from which the time limit to notify the refusal starts)
04.07.2013

Total provisional refusal of protection : 2013/36 Gaz, 26.09.2013, BX

BX

450 Publication number and date

2013/36 Gaz, 26.09.2013

580 Date of notification

03.09.2013

Date of receipt by the International Bureau

26.09.2013

Statement of grant of protection following a provisional refusal under Rule 18ter(2)(i) : 2016/46 Gaz, 24.11.2016, BX

BX

450 Publication number and date

2016/46 Gaz, 24.11.2016

580 Date of notification

10.11.2016

<https://www.eipo.org/markets/marks/visual-search/visual-search/1164622>

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