

## Vietnam

### Protection of Country Names

#### Laws:

There is no specific provision directly regulating on the protection of a country name, but it is generally provided for in Article 72 of the Vietnam's Intellectual Property Law. Accordingly, a trademark shall be protected if it is : (i) a visible sign in the form of letters, words, pictures, images, including three-dimensional shape or a combination of these elements that is represented by one or more colors; and (ii) capable of distinguishing goods or services of the trademark owner with goods or services of other entities.

A country name (official name, regular name, abbreviation, adjective, ect..) is regularly presented in words or letters so in principle they may be protected as a trademark or as components of a trademark, provided that they are:

- not fallen in excluded subject matters to be protected as a trademark as specified in paragraph 5 Article 73 of Intellectual Property Law (signs mislead, confuse or deceive consumers about the origin ... of goods and services).

- indistinctive according to the provisions in paragraph 2(c) Article 74 of the Intellectual Property Law (signs indicate the time, place, method of production, type, quantity, quality, characteristics, ingredients, uses, value or other descriptive characteristics of goods or services, except that signs have gained the distinctiveness through use before the filing date of that trademark application).

- indistinctive according to the provisions in paragraph 2(dd) Article 74 of Intellectual Property Law (signs indicate the geographical origin of goods or services, except for a sign that has been widely used and recognized as a trademark or registered as a collective mark or a certification mark as prescribed by this Law).

#### **Practical application of Vietnam's trademark provisions on the protection of a country names as a trademark:**

i) a sign which is a country name applying for a trademark shall be refused if it applies for a normal trademark (as provided for in Article 74.2(c) of Intellectual Property Law). This sign may only be registered if it is widely recognized as a trademark or registered as a collective mark/certification mark (Article 74.2(d) of the Intellectual Property Law) provided that requirements for a trademark are satisfied.

ii) A country name may be used as components of a trademark where it applies for a normal trademark in combination with one or more other components having the distinctiveness, and the use of the country name in a trademark does not mislead, confuse or deceive consumers as to the origin of goods and services. In this case, the country name is not protected and the trademark is protected in the overall form.

iii) A country name applying for a trademark or components of a trademark may be the official name, regular name or its adjective. The abbreviation of a country name may also be considered for protection where it seeks the protection as a certification mark or a collective mark in each specific case, for example, it is a commonly used abbreviation based on that consumers can easily identify the abbreviation of its country. Additionally, the abbreviation shall also ensure distinctiveness in the capacity of a trademark that means it must include at least three letters or more, or is pronounceable as a word, etc.