



Trademark Opposition Proceeding in Viet Nam

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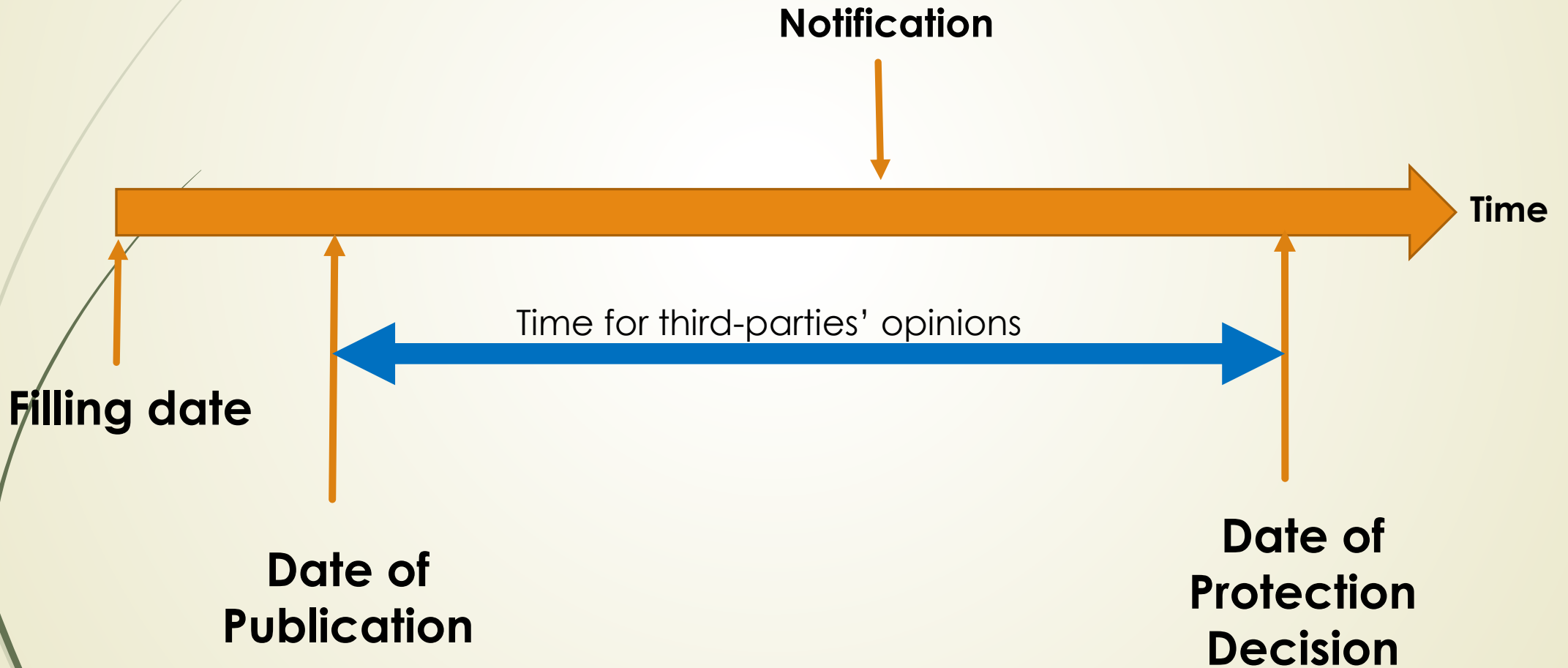
Trademark Examination Center

Intellectual Property Office of Viet Nam (IPVN)

Article 112. IP Law: Third parties' opinions on the grant of Protection Titles

- ▶ As from the date an industrial property registration application is published in the Official Gazette of Industrial Property till prior to the date of issuance of a decision on grant of a protection title, any third party shall have the right to express opinions to the concerned state management agency in charge of industrial property rights on the grant or refusal to grant a protection title in respect of such application.
- ▶ Such opinions must be made in writing and be accompanied by documents or must quote the source of information.

Time line:



Article 6 CIRCULAR No.01: Handling of the third party's opinions before issuing decisions on the grant

- ▶ From the date an application is published to the date prior to the issuance of a decision on the grant, any organization/individual may send to the IPVN its/his/her written opinions on the registration right, the right of priority, protection conditions and other issues related to the industrial property registration application.
- ▶ Opponents of granting protection titles must pay charges for handling their oppositions to registration of industrial property as provided.
- ▶ The written opinion of third parties must be regarded as a source for reference in the course of processing industrial property applications. .

Article 6 CIRCULAR No.01

When the opinion of the third party is considered as grounded:

- ▶ IPVN shall notify such opinion to applicants and set a time limit of 1 month from the notification date for them to respond in writing.
- ▶ After receiving the applicant's response, IPVN shall notify it to the third party, if necessary and set a time limit of one month from the notification date for them to have opinion in writing on that response.
- ▶ After those provided time limit, IPVN shall handle opinions of the applicant and the third parties based on proofs, arguments furnished, and documents in the applications.
- ▶ The third party shall be notified of the result of substantive examination of those applications.

Article 6 CIRCULAR No.01

When considering opinions of the third party groundless:

- IPVN is not required to notify those opinions to the applicant but shall notify the third party of its refusal to consider the opinions, clearly stating the reason for refusal.


Article 6 CIRCULAR No.01

If opinions of the third party are related to the registration right:

- ▶ When finding it impossible to determine whether or not such opinions are grounded, the IPVN shall notify such to the third party so that the latter can file a petition with a court for handling.
- ▶ Within 1 month after the IPVN issues the notice, if the third party fails to notify the IPVN of the filing of a petition with a court for handling, the IPVN shall regard the third party as having withdrawn its opinions.
- ▶ If the IPVN is notified by the third party within the above time limit, it shall suspend the application processing until the results of dispute settlement by the court are obtained.
- ▶ After the results of dispute settlement by the court are obtained, the application processing shall be resumed in accordance with those results.



Article 6 CIRCULAR No.01

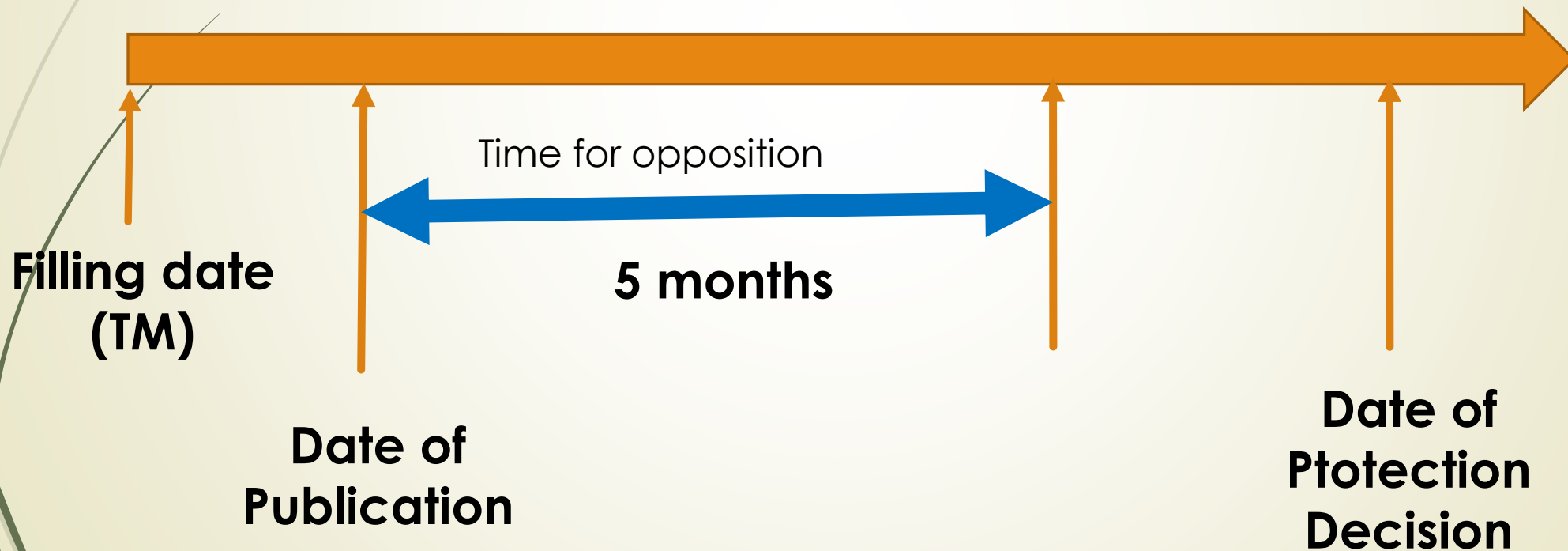
- ▶ When necessary and upon the request of both parties, NOIP shall organize hearings between the third party and the applicant to further clarify matters challenged by opponents.
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Some amendments under the new Law (effective from 01/01/2023)

- ▶ Clearly distinguish two actions: Third parties' opinions and opposition proceeding
- ▶ Limiting time for opposition procedure:
 - ▶ Trademark: During 5 months since the application is published.

Time line of Trademark opposition: (effective from 01/01/2023)



Example



Trademarks of the Opponent
(T.C. Pharmaceutical Industries Co., Ltd)

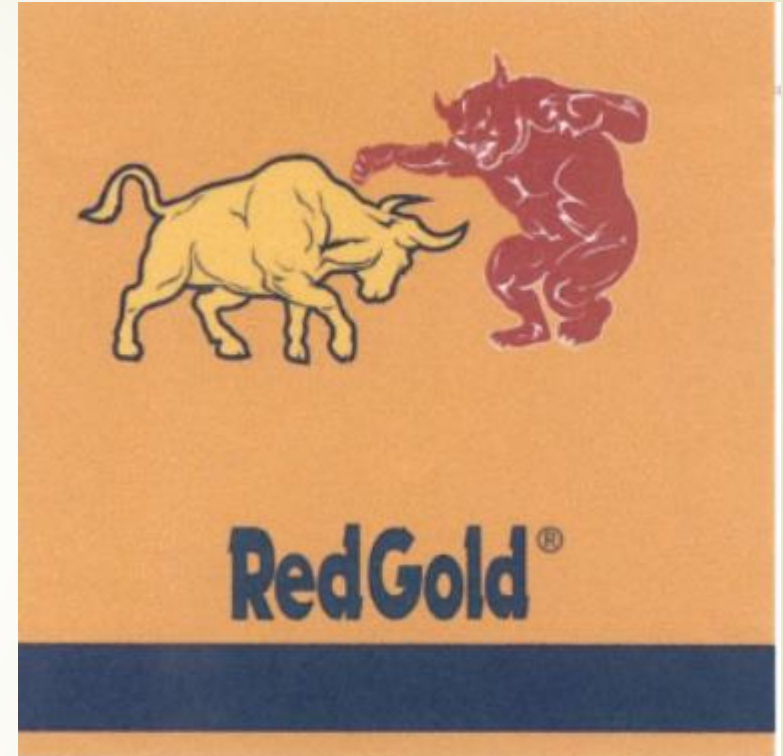


Trademark of the Applicant

Example



**Trademarks of the Opponent
(T.C. Pharmaceutical Industries Co., Ltd)**



Trademark of the Applicant

Example



Class 30: Tea, Coffee, cereal

Trademark of the Applicant



Class 09, 16, 20, 25, 28, 41

**Trademarks of the Opponent
(LEGO JURIS A/S)**

Example

InSea²

InSea2

Trademarks of the Applicant

InSea²

Trademarks of the Opponent
(Innovactiv Inc.)



Thank you !