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I. New Administrative Procedure for the Recognition of Well-Known Marks

フィリピン知的財産庁（IPOPHL）は、2025年4月28日より著名商標の認定及び登録に関する新たな規則を施行した。一般的に、商標権は登録した指定商品・役務の範囲内でのみ独占権が認められるが、著名商標に該当する場合にはそのブランド力の高さからより強力な保護が与えられる。今回の新規則の導入により、商標権者は従来の侵害訴訟などを経ることなく、独立した行政手続を通じて自社商標の著名性を直接申請することが可能となり、より効率的な商標の保護が可能となることが期待される。

Background

The Intellectual Property Office of the Philippines (“IPOPHL”) issued Memorandum Circular No. 2025-009, or the Rules and Regulations for the Declaration and Creation of the Register of Well-Known Marks (the “Rules”), which took effect on 28 April 2025. The Rules introduce an independent administrative process through which trademark owners may apply for a declaration that their marks are well-known, subject to the criteria set out therein.

This mechanism complements existing protection under the Intellectual Property Code (the “IP Code”). Section 123.1(e) of the IP Code bars the registration of a mark that is identical or confusingly similar to one already determined by a competent authority to be well-known when used for identical or similar goods or services, even if the well-known mark is not registered in the Philippines. Section 123.1(f) further protects well-known marks that are registered in the Philippines by also prohibiting the registration of identical or confusingly similar marks for unrelated goods or services where such use would likely create a false impression of a connection with the owner of the well-known mark and is likely to cause damage to such

owner's interests.

By establishing a dedicated administrative route for seeking well-known mark status, the Rules give trademark owners a more direct means of securing such recognition, thereby reducing dependence on determinations issued in adversarial intellectual property proceedings (e.g., infringement or unfair-competition cases), which previously served as the primary avenue for obtaining a finding that a mark is well-known.

Practical Highlights

1) **Criteria to be satisfied**

To determine whether a mark qualifies as well-known, the Rules provide that the assessment focuses on the knowledge of the relevant sector of the public (not the public at large), including knowledge in the Philippines which was developed through marketing and promotion of the mark.

Under the Rules, there are 4 mandatory elements that must be established, namely: (a) the duration, extent and geographical area the mark has been used and promoted, (b) the market share of the goods or services to which the mark applies in the Philippines and internationally, (c) the degree of the inherent or acquired distinctiveness of the mark, and (d) the quality, image or reputation that the mark has developed.

In addition to these core elements, an applicant may further support their claim by presenting supplementary indicators, such as: (a) evidence of registrations in other jurisdictions, (b) exclusivity of registration attained in other jurisdictions, (c) extent the mark has been used globally, (d) demonstrations of the mark's commercial value, (e) records of successful protection of the mark, and (f) outcome of litigations addressing the issue of whether the mark is well-known.

2) **Procedure For Registration**

The applicable procedures differ depending on whether a trademark has already been declared a well-known mark by a competent authority. For purposes of the Rules, "competent authority" refers to the IPOPHL's Director General, the Bureau of Legal Affairs, the Director of Trademarks (the "Trademarks Director"), or any court with appropriate jurisdiction.

A. Without previous declaration as a well-known mark

Where a mark has not yet been declared well-known by a competent authority, the process involves the following principal stages:

(i) Ex-parte application and review

A well-known mark application begins as an *ex-parte* process, meaning it proceeds without an opposing party. The trademark examiner reviews the notarized application and supporting evidence and may issue an office action if further information or clarification is required. An applicant must respond to an office action within the prescribed periods; otherwise, the application is deemed abandoned, subject to revival on permissible grounds within a limited timeframe.

If the trademark examiner finds the application to be compliant, it will be endorsed to the Trademarks Director for further evaluation.

(ii) Initial Decision and Potential Third Party Observation

If the Trademarks Director issues an initial decision declaring the mark well-known, the decision is published in the IPOPHL's electronic publication, the E-Gazette. Publication in the E-Gazette triggers a 30-day period for any interested party who may be damaged by the declaration to file a Notice of Third-Party Observation, and a subsequent 30-day period for submitting a verified Third-Party Observation ("TPO").

An applicant is given an opportunity to comment on the TPO. A consultative committee constituted within the IPOPHL then evaluates both submissions and issues a recommendation, on which the Trademarks Director issues its decision. Generally, the Trademarks Director's decision may be appealed to the Director General, and subsequently to the Court of Appeals.

(iii) *Declaration and Registration of Well-Known Mark*

If a TPO is filed, the mark is formally declared well-known only upon finality of the decision upholding the declaration. Otherwise, if no TPO is filed, the mark is declared as well-known on the 31st day after publication in the E-Gazette. Thereafter, the Bureau of Trademarks issues a certificate of well-known mark status and enters the mark in the Register of Well-Known Marks ("Register").

B. With previous declaration as a well-known mark

If a mark has already been declared well-known by a competent authority but is not yet included in the Register, the trademark owner or their authorized representative may file a Manifestation with the Bureau of Trademarks. The Manifestation must include supporting evidence (such as certified copies of the decision and the entry of judgment) and be accompanied by the required fees. If the submission is compliant and satisfactory, the mark will be included in the Register.

3) Effect and Duration of Declaration and Registration

A declaration that a mark is well-known serves as *prima facie* evidence of its well-known status for the goods or services covered. It also results in the mark's inclusion in the Register, which trademark examiners must consider in relation to Section 123.1(e) and (f) of the IP Code when evaluating new trademark registration applications.

The declaration remains valid for 10 years and may be renewed for successive 10-year periods. To maintain the declaration, trademark owners must demonstrate the mark's continued well-known status (such as through advertisements, certificates of registration, or financial statements) within 1 year from the 5th anniversary of the declaration and at every renewal. This requirement applies regardless of whether or not the well-known mark is registered in the Philippines.

For unregistered well-known marks, the trademark owner must also demonstrate continuous commercial use, such as by submitting labels, signages, or photographs of goods bearing the mark. For registered well-known marks, proof-of-actual-use requirements are governed by the trademark registration regulations.

4) Revocation of Declaration and Registration

A declaration that a mark is well-known may be revoked by the IPOPHL *motu proprio* (on its own initiative), if the trademark owner fails to (a) renew the declaration within 6 months before its expiry, or within 6 months after expiry subject to payment of the applicable surcharge, or (b) submit the required proof of continuous commercial use, as discussed above.

Separately, a party may file a petition with the Bureau of Trademarks to revoke a declaration on the ground that the mark no longer maintains its well-known status, as supported by substantial evidence.

Conclusion

Trademark owners, particularly those operating across multiple jurisdictions including the Philippines, should periodically assess whether their mark's reputation and commercial footprint satisfy the criteria under the Rules. Where these criteria are met, pursuing an administrative declaration may be advisable, as it provides a proactive and efficient means of formalizing the well-known status that the mark has already earned in the marketplace.

A well-known mark declaration also affords stronger protection by extending coverage against later uses or applications that may take advantage of or interfere with the mark's goodwill. Overall, this measure helps preserve the mark's commercial value and supports enforcement efforts by placing the owner in a stronger position when addressing trademark challenges.

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II. Vietnam's Legal Framework on Government Access to Personal Data

ベトナムでは、2026年1月1日に施行されたベトナム個人情報保護法（PDPL）を含め、個人情報保護に関する法令は主に公安省が所管している。このような体制は、民間部門が保有する個人情報に対する政府によるアクセス（いわゆるガバメント・アクセス）に関する考え方にも影響を及ぼしているように見受けられる。本稿では、PDPLを含む複数の法令におけるベトナムでのガバメント・アクセスの法的枠組みを概説する。

Background

In December 2022, Ministers and high-level representatives of OECD Members and the European Union adopted the Declaration on Government Access to Personal Data Held by Private Sector Entities, which sets out high-level principles for trustworthy government access to personal data (the “PPC Principles”). Since then, these principles have increasingly been used as a reference benchmark in cross-border data protection assessments, particularly in the context of international data transfers and vendor due diligence.

Against this background, Vietnam's Personal Data Protection Law No. 91/2025/QH15 (“PDPL”) coming into force on 1 January 2026 has prompted renewed scrutiny of how Vietnamese law regulates government access to personal data held or controlled by the private sector. A common question is whether the PDPL fundamentally alters, restricts, or “blocks” such access.

This newsletter provides a structured overview of Vietnam's current legal framework on government access to personal data, and highlights matters in practice for companies operating in Vietnam.

Scope and definition of “government access”

For the purposes of this analysis, “government access” is understood in a narrow and functional sense, consistent with the PPC Principles. It refers to situations where Vietnamese public authorities access, request, or compel the provision of personal data held or managed by private-sector entities, primarily for national security or public order purposes, criminal investigation and prosecution, cybersecurity prevention and incident response, or administrative inspection and supervision.

Overview of the legal framework

Vietnamese law does not regulate government access to personal data through a single, consolidated statute. Instead, such access is grounded in multiple sector-specific laws, each reflecting a particular regulatory objective. In practice, the most representative instruments include: (1) the PDPL, as the overarching personal data governance framework; (2) the Law on Data, which establishes the national framework for data governance, data sharing, and provision of data to State authorities; (3) the Law on Cybersecurity, governing access in cybersecurity-related contexts; (4) the Law on National Security, providing broad authority to protect national security interests; (5) the Criminal Procedure Code, regulating investigative access to information and evidence; and (6) the Law on Inspection, governing administrative inspections and supervisory activities.

The role of the PDPL: The PDPL represents a significant step forward in Vietnam's data protection regime by articulating comprehensive principles for personal data processing by private entities and reinforcing data subject rights as a general rule. The law affirms that personal data processing must pursue lawful purposes and comply with statutory principles, while expressly allowing data subject rights to be restricted where necessary to protect public interests such as national security, public order, and criminal law enforcement. It also contemplates cooperation obligations for data controllers and processors when acting

upon lawful requests from competent authorities. However, the PDPL does not introduce a single, centralized control framework for government access. It neither exhaustively defines the categories of data subject to access, nor imposes uniform temporal limits, nor codifies a universally applicable proportionality test. As a result, constraints on government access continue to operate through sector-specific statutes, rather than being consolidated within the PDPL itself.

Purpose limitation and indirect constraints: Across the representative laws, Vietnam relies primarily on indirect constraints to limit government access. These constraints do not usually appear as explicit numerical thresholds or detailed access matrices, but operate through legal structure. Common features include: purpose limitation, whereby access is permitted only to pursue legally defined objectives (e.g., national security, criminal investigation, inspection scope); competence limitation, under which only authorities expressly empowered by law may request or obtain information, within their assigned remit; and relevance and necessity logic, which, while not always articulated as a formal proportionality test, underpins the expectation that access must relate to the stated purpose. In this respect, Vietnam's approach differs from systems that rely on a single, codified proportionality rule, but nonetheless embeds substantive limits through authority design and purpose-based reasoning.

Authorization and procedural controls: Vietnamese law does not generally require uniform external pre-authorization (such as court warrants) for all government access to personal data. However, procedural safeguards vary by context. The most clearly articulated procedural controls are found in the criminal procedure framework, where certain investigative measures, particularly those involving coercive elements, are subject to defined procedural requirements and oversight, including the involvement of the procuracy. Outside criminal procedure, such as in administrative inspection, cybersecurity and data governance contexts, the legal framework relies more heavily on statutory authority and internal decision-making, rather than on explicit judicial authorization.

Transparency and notification: From a transparency perspective, Vietnamese law adopts a relatively restrained approach. There is no general obligation to notify data subjects of government access to their personal data, nor is there a statutory requirement for authorities to publish periodic statistics on access requests. Although Vietnam has an access-to-information regime, information classified as state secrets (a category that frequently intersects with national security matters) falls outside disclosure obligations. Certain sector-specific statutes, including the Law on Data, provide for limited procedural requirements vis-à-vis data providers, without establishing a general transparency or notification right for data subjects. Companies should therefore not expect government access activities to be accompanied by public reporting or individual notification mechanisms.

Oversight and remedies: Oversight mechanisms in Vietnam are similarly fragmented rather than unified. The clearest form of institutional oversight arises in the criminal procedure context, where the procuracy exercises supervisory authority over investigative activities. By contrast, Vietnamese law does not establish a data-specific redress mechanism for unlawful government access. Affected individuals must instead rely on general avenues such as administrative complaints, administrative litigation, or state compensation for unlawful acts causing damage. While these remedies are legally grounded, they are not designed around personal data protection as a distinct interest, and their practical effectiveness may be limited where considerations of national security confidentiality are involved.

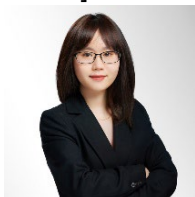
Concluding observations

The PDPL represents a material strengthening of Vietnam's personal data governance framework. It does not, however, fundamentally recalibrate the legal architecture governing State access to data. Government access remains grounded in multiple sector-specific statutes, structured by purpose limitation, allocation

of authority, and procedural design, with the clearest forms of external oversight arising in the context of criminal procedure.

For businesses, the principal challenge is therefore not the absence of regulation, but the need to respond to lawful government requests in a disciplined, well-documented, and proportionate manner. In the Vietnamese legal environment, a compliance approach anchored in procedural clarity and careful legal reasoning remains the most reliable means of managing government-access risk, particularly in cross-border data protection assessments.

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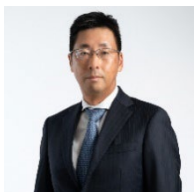
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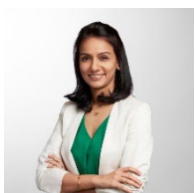
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