

## Rules and Procedure on Trademark Substantial Examination

### Part One Rules and Procedure on Trademark Substantial Examination

#### I. The flowchart for trademark substantial examination

#### II. The flowchart of substantial examination on trademarks applied on the same day

#### III. Matters to be noticed

##### 1. The examination on trademarks of Chinese characters

- (1) If a trademark is consisted of Chinese character(s) and Pinyin, and the Pinyin corresponds to the pronunciation of the Chinese, the trademark shall be searched through Chinese and the Pinyin separately. For example, trademark “雨森 YU SEN” shall be searched by Chinese “雨森” and Pinyin “YU SEN” separately.

If the Pinyin does not correspond to the pronunciation of the Chinese, the trademark shall be searched through Chinese, Pinyin and English separately. For example, trademark “唐钟 TANGZONG” shall be searched by Chinese “唐钟”, “TANG ZHONG; TANG ZONG”, and English “TANGZONG” separately.

If the Pinyin does not correspond to the pronunciation of the Chinese, and there are more than one ways to spell and to read, the Pinyin shall be divided into syllables. For example, “超鹰 CAOYIN” shall be searched by Chinese “超鹰”, English “CAOYIN”, and Pinyin “CHAO YING; CAO YIN; CA O YIN” separately.

- (2) If a trademark is consisted of Chinese character(s) written in li, cao, zhuan calligraphy, or in the original complex form, the trademark shall be searched by the corresponding simplified Chinese. If the character(s) of a trademark is/are in an artistic or a graphic form, but the Chinese can still be recognized, the trademark shall be searched by Chinese character and Pinyin separately.
- (3) If a trademark consists a wrongly-written or new-designed character which does not obey the Standard Spoken and Written Chinese Language Law of the People’s Republic of China, the trademark application shall be overruled by Item 8 of Article 10.1 of the Trademark Law of the People’s Republic of China (See *The Meeting Minute on Work of Trademark Examination*, No.18, 2002).

##### 2. Examination on the trademark of Pinyin

If a trademark is consisted of Pinyin, the trademark shall be searched by Pinyin and English separately. For example, trademark “YU SEN” shall be divided into English “YU SEN”, Pinyin “YU SEN”; trademark “CAOYIN” shall be divided into English “CAOYIN”, Pinyin “CAO YIN; CA O YIN”.

### 3. Examination on the trademark of foreign language

- (1) A trademark in English shall be confirmed whether it has meaning. A trademark with meaning shall be translated into Chinese, and be searched by Chinese character and Pinyin separately; a trademark with several meanings shall be translated into Chinese in the main and common meaning, and be searched by Chinese and Pinyin separately.
- (2) When a trademark that is consisted of several common-use foreign words with meaning, if the combination of words has definite meaning, the trademark shall be translated into Chinese, and be searched by Chinese and Pinyin separately. For example, trademark “redrain” shall be translated as “红(red)雨(rain)”, and shall be searched by Chinese “红雨” and Pinyin “hong yu” separately. If the combination of words does not have definite meaning, the trademark shall be searched by English. For example, trademark “ableparkpart” can only searched by “ableparkpart”.
- (3) When a trademark can be spelled and read in Pinyin, no matter whether it has meaning, the trademark shall be searched by English and Pinyin separately. For example, trademark “geride” shall be searched by Pinyin “ge ri de” and English “geride” separately; trademark “panda” shall be translated into Chinese “熊猫”(means panda), and be searched by Chinese “熊猫”, Pinyin “xiong mao; pan da”, and English “panda”.
- (4) If a trademark in foreign language can be expressed with English letters, the trademark shall be searched in English; if it cannot be expressed with English letters, the trademark shall be searched by graphic trademark.

### 4. Examination on digital trademark

A trademark is consisted, or partly consisted of Arabic numbers shall be searched by the Arabic numbers, the corresponding Chinese and Pinyin separately. For example, trademark “153” shall be searched by “153”, Chinese “一五三”, and Pinyin “YI WU SAN”.

### 5. Examination on graphic trademark

- (1) When examining a graphic trademark, if the device of the trademark is blurred even if it is looked through the program “See the device”, the trademark application shall be returned to formal examination.
- (2) When examining a graphic trademark, it shall be searched in the registration library and standard dictionary library.
- (3) When examining a graphic trademark, if the examiner thinks it necessary, he/she may search with the element of device additionally.

### 6. Examination on trademarks applied on the same day

A report shall be made to division chief when an examiner finds that there are trademarks applying for registration on the identical or similar goods on the same day. The chief is in charge of coordinating work to ensure the relevant notification can be delivered to all the applicants of the trademark at the same time.

See and perform the specific rules in *Rules and Procedure for Substantial Examination on the Trademarks Applied on the Same Day*.

7. Cross-search on similar goods

Due to the several times revision of *Table for Distinguishing Similar Goods and Services* and other historical reasons, the subclass numbers of some goods and services are different from those in the current Table. Such subclasses shall be deleted before the examination on goods and services to avoid any omission or mistake in search.

For the information of the similar goods of cross-subclass, please refer to *The Cross Retrieval Form for Similar goods*.

8. Priority date and status of international registered trademarks

(1) The priority date of an international registered trademark can be checked by clicking the number of priority documents (in red) to confirm whether there is any notes of priority. If there is no note, the priority may be applicable on all the goods or services in all classes; if there is notes of the priority, the priority may only be applicable on the goods or services that the notes have mentioned.

(2) The date of application of international registration that displays on the examination interface is the date that the Trademark Office receives the documents, other than the registered date of the international trademark, which shall not be the foundation to claim the priority. During the examination, the date of the priority of an international trademark shall be confirmed by the following steps: a. the date of priority; b. the date that appointed to; c. the date of international registration. Except obeying the rules mentioned above, other specific conditions shall be take into consideration to confirm the priority date during the examination when it happens that part of classes or subclasses of goods are overruled, or one international trademark application have been appointed to China for several times (for example, a trademark is appointed to China, and is re-appointed to China later).

(3) As an international registered trademark is a multi-class trademark, it happens that the inconsistency exists between the displayed status of right and the actual status. For instance, in terms of an international registered trademark applied under multi-class, when a certain class of it internationally canceled, other classes under the same registration number which are not applied for cancelation will be displayed as is cancelled,

too. For example, No. G820767 trademark is only applied for cancelation of the goods/services under Class 9, but the goods/services of the trademark in Class 42 will also be displayed as international cancelation at the review interface. The similar situations also exist in rejection or partly rejection, international delete, and review on trademark rejection. When those situations happen, comprehensive information should be checked to confirm the right state of the trademark. If there is problem to confirm the right state, please contact international registration office.

9. The examination of non-dedicated part in trademark

- (1) If a trademark contains non-exclusive part, the trademark shall be searched not only as a whole, but also the exclusive part. For example, trademark “喜龙技术经营”, should be searched by Chinese “喜龙技术经营; 喜龙”, and by Pinyin “xi long ji shu jing ying; xi long”.
- (2) When editing the explanation of giving up exclusive rights, it should be conducted as follows:
  - a. In the column of editing the exclusive rights to be abandoned, deleting the description of the applicant’s design, and retaining the part to be abandoned.
  - b. Selecting the deleted parts and deleting them with “Delete” or “Back space” key. Do not use the “Space” key. Using the single-byte double quotes, and do not leave any punctuation at the end.
  - c. Clicking “ok” to save.

10. Examination on the trademarks with “the name of the administrative division at the county level or above” or “foreign place name known to public”

- (1) If the pending trademark is the name of administrative division at the county level or above, the prompt of “protected character has been searched” will pop up in the process of examination. Click the “envelope” icon at lower right corner and confirm whether the trademark has other meanings.
- (2) When the pending trademark is Chinese and the examiner thinks the trademark may be the Chinese translation of foreign place name, use “Kingsoft” to confirm.
- (3) If the pending trademark is the foreign place names which have been discussed by the Conference of Business Review of Trademark Office, the screen will pop up the prompt of “protected character has been searched”, then click on the “envelope” icon at the lower right corner and the results of meeting summary on whether the pending trademark is the foreign place names known to public or not will be displayed.
- (4) If the pending trademark is the name of administrative divisions at the county level or above or foreign place names which have not been discussed at the Conference of Business Review of Trademark Office, it should be reported to the conference for discussion.

11. The problems that should be paid attention to when the trademark is rejected or partly rejected

- (1) The notification on Rejected or Partly Rejected Trademark shall accurately apply the relevant legal provisions.
- (2) When a pending trademark is rejected partly due to absolute reason, and partly due to relative reason, a search to define whether the trademark enjoys priority shall be made for the part that is rejected due to absolute reasons.
- (3) When a pending trademark is rejected on part of the goods/services by an absolute reason, a search to define whether the trademark enjoys priority on the other goods/services shall be made. If there is a prior similar trademark, the pending trademark should be rejected by relative reason. For example, trademark "雪山胃宝" on the drug, and trademark "天龙纳米" on clothing were rejected not only due to the cited prior trademark "雪山", "天龙", but also due to that "胃宝" and "纳米" are forbidden terms.
- (4) When a pending trademark is to be rejected by an absolute reason, a retrieve shall be made on the identical trademark in all the classes of goods/service. Except for considering the particularity of various goods/services, standard of examination shall be unified when an identical trademark is examined in different classes.
- (5) When a pending trademark is rejected or partly rejected by a relative reason, the following points should be paid attention to:
  - a. Confirming rights status of the cited trademark. If the cited trademark is of priority, renewal, change, transformation, cancellation and other information, the details should be checked.
  - b. A rejection notice should clearly indicate the concrete similar parts between the pending trademark and cited trademark.
  - c. If the rejection requires more than two cited trademarks on the same critical element of a trademark, similar products need to be indicated.

12. Correcting error information

If trademark information errors (for example applicant name, trademark name, product name, product similarity group) are found during examining, a *Notice on Erroneous Trademark Data Correction* should be promptly filled in after details checking, and be handed over to the department of calculator for correction. When the erroneous data is found that the responsibility of correcting does not belong to that department, the error should be submitted to a liable department promptly in writing.

For the concrete operation, please follow the *Rules and Procedure on Trademark Substantial Examination and Correction of Erroneous Trademark Data*.

<b>Classes</b>	<b>Similar Subclasses</b>	<b>Crossing Subclasses</b>	<b>The Original Subclasses</b>
1	0101	0601	0102
16 9, 17, 30 31	2-6	0202   0401	0101 0109 0104 0108 0114 0106
	0104	0301   0503   0205 0206	0114 0102 0108 0106 0104
	0105	0505	0109 0113 0109
	0106		0104 0102
	0107	0923   1602	
	0108		0102 0104
	0109	3103   0505	0105 0102 0113
	0113	3003   0505	0109 0105
	0114	0401	0104 0102
	0115	1702	
2	0201		0202 0205
19 1, 3 17,	0202	0102	0201 0205
	0205	0104 0302 1705 1912	0201 0202 0207
	0206	0104	
	0207		0205
3	0301	0501 0503 0104	0306 0302 0303
1, 2 4, 5	0302	0503 0205	0301
	0303	0404 0401	0301
	0306	2110 1603 0501	0301

16, 21			
4	0401	0303 0114 0102	
1, 3	0402		0403
	0403		0402
	0404	0303	
5	0501	3002 1001 0301 0306 3005	0502 0503 0505 0507 0504
1, 3  16  25, 29  30, 31	0502	3005 2907	0501
	0503	0302 0301 0104	0501 0505
	0504	3108 0309	0501 0505
	0505	0105 0109 0113	0504 0503 0501
	0506	1603 2501 1004 1008	
6	0601	0101	0603 0604
1, 7  9,  11  12,  19  20,  21	0602	1108 0749	
	0603	1909	0601 0608 0615
	0604		0601
	0608	2103	0603 0609
	0609		0608
	0610	0920	
	0611	2001	
0612	0750		

	0613	0736		
	0615		0603	
	0617	0734 1210		
	0618	2010		
7	0701	0803 1108		
11 16	6, 8	0703	0742	
	9,	0705	1618	0742
		0706		0707
	12,	0707		0712 0706
		0709		0721
	16	0712		0707
		0721		0709
		0723		0753
		0733	0603	0753
		0734	0808 0617 1210	
		0735		0742 0743
		0736	0613	
		0737	1107	
		0738	1202	0748
		0742	0801	0703 0735 0743 0705
	0743		0735 0742	
0748	1204 1202 1203	0738 0750 0738		
0749	0602 1202			
0750	0612 1202			



	0751	0917		
	0752	1609		
	0753		0723 0733	
8	0801	0742		
12	7,9	0803	0701	
	10-	0806	0924 1106	
		0808	1204 0734	
		0810	2101 1001	
	21	0812	2101	
9	0901		0908 0911	
6-8  12  16, 21  28	1,	0902	2106	
		0903		0907
	10-	0905	1616	
		0907		0903 0913
		0908	2801	0901 0911 0913
	16,	0911		0901 0908
	21	0913	1101	0907 0908
	25, 28	0917	0751	
		0919	2504 1004	0921
		0920	1202 0610	
0921			0919	
0923		0107		
	0924	0806 1106		
10	1001	1109 2805 0501 0810	1002 1003	

5, 8    16	1002		1001
	1003	1111	1001
	1004	2106 0506 1603 2001	
	1007	2604	
	1008	0506	
11, 20, 21, 26, 28			
11	1101	1202	
6-10    12 21	1104	2111	1109 1110
	1106	0806 0924	
	1107	0737	1108
	1108	0602 0701	1107 1109
	1109	1001	1104 1108
	1110		1104
	1111	1003	
12	1201		1202-1204 1209 1210
6-9    11, 20, 28	1202	0920 1101	1201 1203 1204 1209 1210
	1203		1201 1202 1204 1209 1210
	1204	0748 0808	1201-1203 1209 1210
	1206	2001	
	1209	2807	1201-1204 1209 1210
	1210	0734 0617	1201-1204 1209 1210
14	1402		1403

	1403		1402	
16	1601		1602-1605 1609	
10 21	1, 3	1602	0107 1601 1605	
	5, 7	1603	0506 1004 0306 2101 1601	
		1604		1601
	9,	1605		1601 1611 1614 1606 1602 1607
	18,	1606		1605 1607
		1607		1605 1606
	1609	0752	1601	
	1610		1611	
	1611	1802	1605 1610 1612-1616	
	1612		1611 1614	
	1613		1611	
	1614	2107	1611 1605 1612	
	1615		1611	
1616	0905	1611		
1618	0705	1611		
17	1702	0115		
19	1, 2	1703	1909 1704	
		1704	1703	
		1705	0205	
18	1801		1803	
	1802	1611 2407 2406 2013		

20	16,	1803		1801	
	24				
	19	1901		1909	
21	2, 6	1902		1906	
	17,	1905		1909	
		1906		1902	
		1909	1703 0603	1901 1905	
		1911	2113		
	1912	0205			
20	2001	1206 1004 0611			
10	6,	2002	2101	2005	
	12,	2005		2002 2006	
		2006		2005	
		2009	2114		
	18	2010	0618		
		21,	2013	2406 1802 2407	
		24	2014	2103	
21	2101	1603 0812 2002 0810	2102 2105 2106 2111 2103		
10; 11	3, 6	2102		2101 2103 2105	
	8,	2103	2014 0608	2101 2102 2105	
		2105		2101 2102 2103	
		2106	1004 2002	2101	
		2107	1614		

19	16,	2110	0306	2112
		2111	1104	
	20,	2112	2408	2110
	24	2113	1911	
		31	2114	2009 3110
22	2202	2112		
23	2301		2302	
		2302		2301
24	2403	2701 2704		
20	18,	2405		2406
		2406	2013 1802	2405
	21,	2407	1802 2013	
		27	2408	2112
25	2501	0506	2502	
26	5, 9	2502		2501
		2504	0919	
		2506		2507
		2507		2506
		2512	2603	
26	2601		2602	
25	10;	2602		2601
		2603	2512	
		2604	1007	

27	2701	2403	
	2704	2403	
28	2801	0908	2802
10	9,	2802	0911 1603
		2803	1608
	12,	2805	1001
	16	2807	1209
			2801 2807
			2807
			2805 2802
29	2901	3016	2905
30	5,	2902	3005
		2904	3103 3010
	31,	2905	3016
	32	2907	3001 3202 3013 0502
		2910	3004
		2913	3011
30	3001	2907	
32	1, 5	3002	0501 3202
	29,	3003	0113
		3004	2910
		3005	2902 0502 3203 0501
		3006	
		3007	
		3008	
		3009	
		3010	2904
			3004
			3003
			3008
			3009
			3006
			3007

	3011	2913	
	3013	2907 3202	
	3014		3015 3016
	3015		3014 3016
	3016	2905 2901	3014 3015
	3018	3203	
31	3103	2904	
21	5, 3108	0504	
	29 3110	2114	
32	3202	2907 3013 3002	
29, 30	3203	3005 3018	
35	3504	4203 3605	
39	36, 3505	3901	
	3507	3602	
	42 3508	4227	
36	3601		3605
35	3602	3507	3605 3604
	3604		3602
	3609		3605
37	3713	4002	
40	3716	4010	
38	3801		3802

	3802		3801	
39	3901	3505 3605	3902 3903-3905 3912	
36	35,	3902	3605	
		3903		
	41		3904	
			3905	
			3907	4105
			3912	
			3901	
40	4002	3713		
42	37,	4010	3716 4227	
		4011	4215	
		4012	4225	
41	4101	4221 4227		
42	39,	4104		
		4105	4222 4223 4219; 3907	
42	4209		4217 4214	
45		4214		
		4217		
		4218	4503	
43	4301	4201		
42	41	4302	4202	
		4303	4401 4203	
	44		4304	4101 4221
			4305	4403 4205



	4306	4227	
44	4401	4303 4402 4203	
43 42	4402	4401 4204	
	4403	4305 4205	
	4404	4226 4206	
	4405	4227	
45	4501	4208	
42	4502	4221	
	4503	4218	
	4504	4226	
	4505	4227	

Translation supplied to IP Key by HFG - Law Firm & IP Practice

[www.hfgip.com](http://www.hfgip.com)

[www.ipkey.org](http://www.ipkey.org)

IP Key does not take responsibility for any errors in translation



The logo for IPKey, featuring the letters 'IPKey' in a blue, serif font. The 'I' and 'P' are in a larger, bold font, while 'Key' is in a smaller font size.