



Examination of Non-Traditional Marks



China Trademark Office



Defining Trademark

Any signs, including words, graphs, letters, numbers, **three-dimensional symbols, color combinations, sound** or any combination thereof, that are capable of distinguishing the goods of a natural person, legal person or other organization from those of others may be applied for registration as trademarks.



Acceptable Non-Traditional Trademarks

1. three-dimensional symbols

2. color combinations

3. sound





Part 1

Examination of 3D trademarks

1. A 3D trademark is a trademark consisting of only 3D symbols or of the combination of 3D symbols and other elements. A 3D trademark can be the shape of the product itself, the package of the goods, or other 3D symbols.



2. Format examination

- statement in the application**
- explaining the use of the trademark**
- submitting reproductions capable of determining the three-dimensional shape, which shall contain at least three views**

3. Substantive examination

➤ **Functional?**

➤ **Distinctive?**

➤ **Absolute grounds**

➤ **Relative grounds**

Functional?

No application for registration of a three-dimensional symbol as a trademark may be granted, where the sign merely indicates the shape inherent in the nature of the goods concerned, or it is only dictated by the need to achieve technical effects or the need to give the goods substantive value.



Goods: Tyres



Goods: Shavers

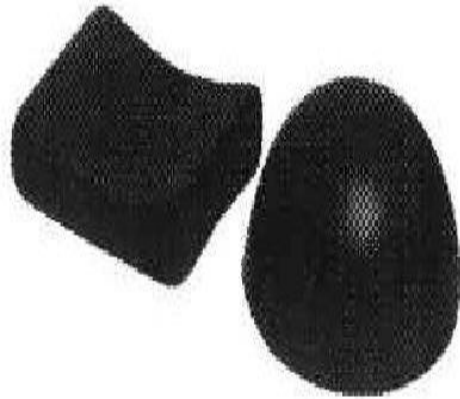


Goods: Porcelain

Distinctive?

None of marks may be registered as trademarks, where the signs lack any distinctive character.

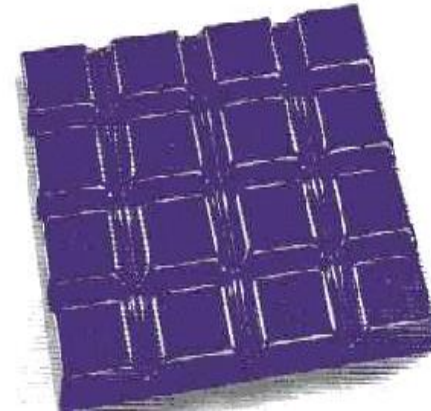
Indistinctive:



Goods: Clothes

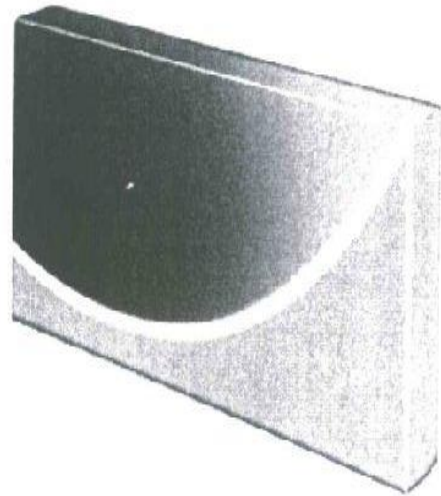


Services:
Restaurants



Goods:
Chocolates

Indistinctive:



Goods: Pills

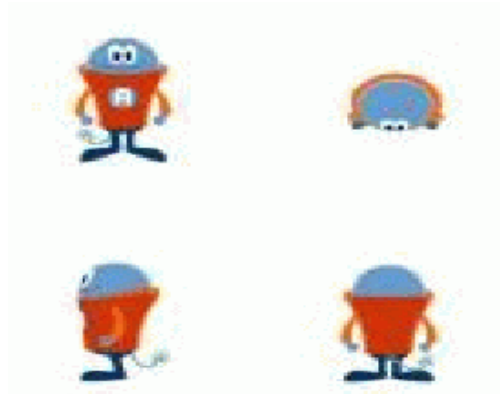


Goods: Jam

Distinctive:



Goods:
carbonated
beverages

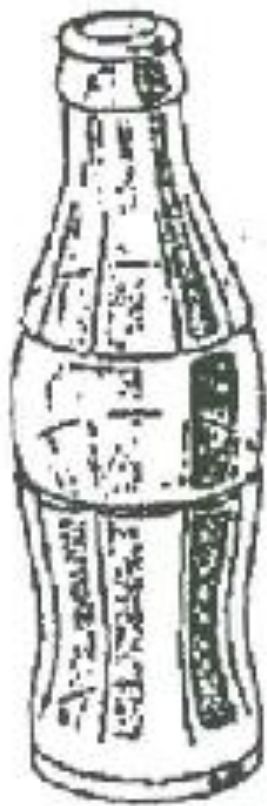


Services:
Restaurants



Goods: beer

Acquired distinctiveness



Goods: Coke

注册号	3032478 <small>复制</small>	国际分类	32	
商标类型	普通商标	申请日期	2001-12-06	
商标名称	图形	是否共有商标	否	
商标意译		颜色说明	否	
是否立体商标	是	是否颜色商标		
商标形式	图形	是否驰名商标		
申请人中文名称	可口可乐公司	无效宣告加注		
申请人中文地址	美国佐治亚州亚特兰大市可口可乐广场1	批复加注		
原申请人中文名称		原申请人英文名称		
原申请人中文地址		原申请人英文地址		
申请人英文名称	THE COCA-COLA COMPANY	国内接收人		
申请人英文地址	ONE COCA-COLA PLAZA,N.W.ATLAN	国内接收人地址		
代理人名称	中国专利代理(香港)有限公司	原有效期	2005-12-14至2015-12-13	
共有人名称		设计说明		
初审公告	期号	991	注册公告	
	日期	2005-09-14		期号
国际基础注册	基础注册日期		优先权	
	基础申请日期			有效信息
	国家			日期
	基础申请/注册号			国家
国际通知日期		协定/议定		
专用期始	2015-12-14	专用期止	2025-12-13	



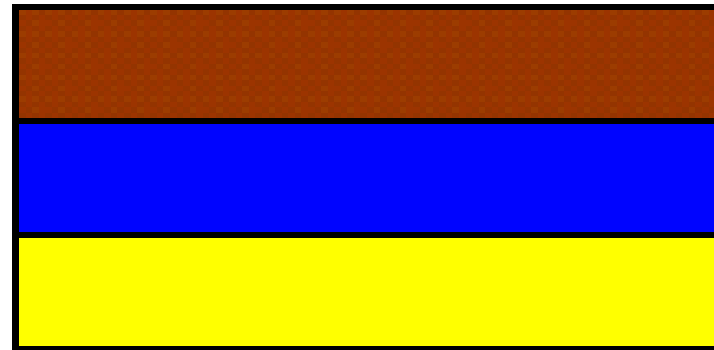
Part 2

Examination of Color combination trademarks

1. A color combination trademark is a trademark consisting of two or more colors. Single color trademarks are not accepted.



Not
registrable



Registrable

2. Format examination

- **Statement in the application**
- **Submitting a clear color graphic**
- **Description of the color name and color number**
- **Explaining the use of the trademark**

3. Substantive examination

- **Distinctive?**
- **Absolute grounds**
- **Relative grounds**

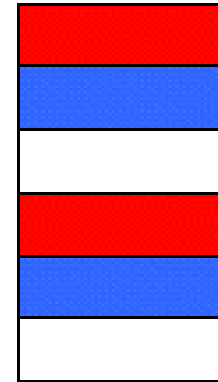
Indistinctive:

Consisting of only the natural colors of the product, or of only the common colors used in product itself or the packaging or the service locations, that can not distinguish sources of goods or services.



Goods: laundry

detergent tablets



Services:
Hairdressing

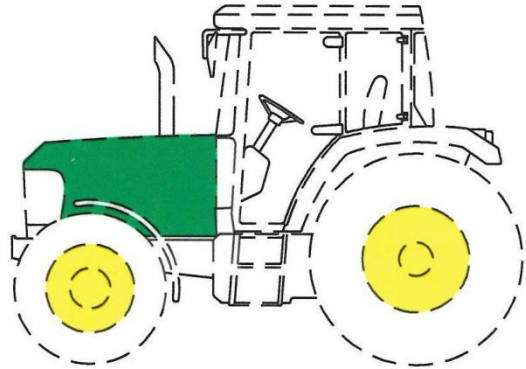
Acquired distinctiveness

In general, color combination trademarks need to be used for a long time to acquire distinctiveness. A review opinion is usually issued requesting the applicant to submit evidences of use and explain the distinctiveness of the trademark through use.

Color Mark Examples

Acquired distinctiveness

Goods: Tractors



Description of the Mark: The color(s) green and yellow is/are claimed as a feature of the mark. The mark consists of the color combination green and yellow in which green is applied to an exterior surface of the vehicle and yellow is applied to the wheels. The broken-line outlining is to show the position or placement of the mark on the goods. The outlining and the shape of the vehicle are not claimed as part of the mark.



Part 3

Examination of Sound trademarks

1. A sound trademark is a trademark that consists of the sound itself used to distinguish the source of goods or services.

A sound mark may consist of music-like sounds, such as a piece of music; may consist of non-musical sounds, such as natural sounds, human or animal sounds; and may also consist of sounds that are both musical and non-musical.

2. Format examination

- **Statement in the application**
- **Submitting sound sample in digital format**
- **Description of the sound (in words or by musical notation)**
- **Explaining the use of the trademark**

3. Substantive examination

- **Distinctive?**
- **Absolute grounds**
- **Relative grounds**

Indistinctive:

- 1) **Directly indicates the sound of the specified product or service, consumer, quality, features, usage, and other characteristics:**

The piano playing sound is used on "instruments"

Children's laughter is used on "baby milk"

- 2) **Others:**

Simple, ordinary tone or melody

music or sound commonly used in the industry

...

Acquired distinctiveness

A review opinion is usually issued requesting the applicant to submit evidences of use and explain the distinctiveness of the trademark through use.



Services: radio broadcasting, program production

The first sound trademark in China

Registered on February 13, 2016

The applicant is the only national radio of China broadcasting to the world, established in 1941.

This is the start song of the radio programme which was officially launched in 1998 and has continued to be used for 17 years.

The start song has acquired distinctiveness through **long-term continuous use. When the relevant public hears the song, they can realize that this is the service provided by the applicant **for radio broadcasting and program production.****

Thank you!