



Guidelines for Examination and trial of Trademark



01

overview

***Guidelines
for
trademark
Examination
and Trial***

Part I : Formalities
examination and
Clerical works

Part II :
Examination and
Trial

Completely new

**2016
Standards
for
Trademark
Examination
and Trial**

Part I :
Examination

Part II : Trial



02

Summary of Revising Content

2.1

New Part 1

**Part I :
Formalities
examination
and Clerical
works
(5 sections,
25 chapters)**

Section I : Formalities Examination for
Trademark Application

Section II : Classes for goods and Services,
and Trademark Search elements

Section III : Other Trademark Transaction
Examination

Section IV : Madrid
International trademark Examination

Section V : Trademark Application matter
Processing

2.2

New Part II

Completely new

Chapter 1 General comments

Chapter 2 Examination and Trial on Malicious Applications of trademark that is not intended for use

Chapter 3 Examination and Trial on Words or Devices Not Used as Trademarks

Chapter 4 Examination and Trial on Distinctive Characteristics of Trademark

Chapter 5 Examination and Trial on Identical or Similar Trademark

Chapter 6 Examination and Trial on Three-dimensional Symbol Trademark

Chapter 7 Examination and Trial on Colour Combination Trademark

Chapter 8 Examination and Trial on Sound Trademark

Chapter 9 Examination and Trial on Collective Mark or Certification Mark

Chapter 10 Examination and Trial on Reproduction, Imitation, or Translation of a Third-party's Famous Trademark

**Part II,
Examination and Trial
(19
Chapters)**

Revise and enrich contents in each chapter of Part II: Examination and Trial

- Chapter 11 Examination and Trial on Registering Trademark Owned by the Principal without Authorization
- Chapter 12 Examination and Trial on Forestalling to Register Trademark that is in Use by Others by Defined Affiliates
- Chapter 13 Examination and Trial on Applying Registration Trademark by Trademark Agencies
- Chapter 14 Examination and Trial on Tort of Prior Rights of Others
- Chapter 15 Examination and Trial on Forestalling to Register Trademark that is in Use by Others and Plays Some Role
- Chapter 16 Examination and Trial on Trademark Registration by Means of Fraud and Other Unfair Means
- Chapter 17 Examination and Trial on Cases of the Cancellation of the Registered Trademark
- Chapter 18 Examination and Trial on Article 50 in the Trademark Law
- Chapter 19 The Notice of Examination Opinion

Embed guiding cases, and update and add Figure illustrations

guiding cases:

案例一：“十万个为什么 100000 WHYS 及图” 商标驳回复审案

(1) 商标信息。



指定服务：书籍出版、在线电子书籍和杂志的出版等

(2) 审理要点。

商标的主要功能是区分商品或者服务的来源，描述商品或者服务特点的标志本身不具备商标应有的显著性，但可以通过使用取得显著特征，从而具备区分商品或者服务来源的功能。本案中，商标注册申请人提交了有关《十万个为什么》书籍的印刷数量统计、获奖资料、宣传报道、审计报告及其他使用证据材料，上述证据能够证明申请商标在指定使用的书籍出版等服务上经申请人使用已为中国相关公众知晓，并取得商标的显著特征，属于《商标法》第十一条第二款所指的可以作为商标注册的标志。

Figure illustrations

纯净

C hunjing

指定商品：食用油

（“纯净”仅直接表示指定商品食用油的质量）

Goods and Services

explanations

2.3

Examination and Trial on Malicious Applications of trademark that is not intended for use (Part II, Chapter 2)

Trademark Law, Article 4 : Any natural person, legal person, or other organization desirous of acquiring the exclusive right to use a trademark for the goods produced, or services and activities offered by it or him shall file an application for the registration of the goods or service mark with the Trademark Office. The malicious trademark registration applications not for the purpose of use shall be rejected.

Definition and Scope

malicious application for registration of trademark that is not intended for use

generally refers to the applicant's behaviors of submitting a large number of applications for trademark registration that are not based on the requirements of production and operation activities and lacks true use intention, improperly occupying trademark resources, and disturbing the order of trademark registration.

not intended for use

The act of applying for registration of trademark "that is not intended for use" means that when applying for trademark registration, the applicant has neither the purpose of actually using the trademark nor the act of preparing to use the trademark, or it can be reasonably inferred that there is no possibility of actually using the trademark .

Circumstances

10
Circumstances



2 Exceptions

...

(1) The applicant applies for a trademark identical with or similar to its registered trademark for defensive purposes.

(2) The applicant applies for an appropriate number of trademarks in advance based on realistic expectations in proportion to the scope of his future business.

thanks
thanks

