



国家知识产权局商标局

TRADEMARK OFFICE OF NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION

China's Trademark Registration System

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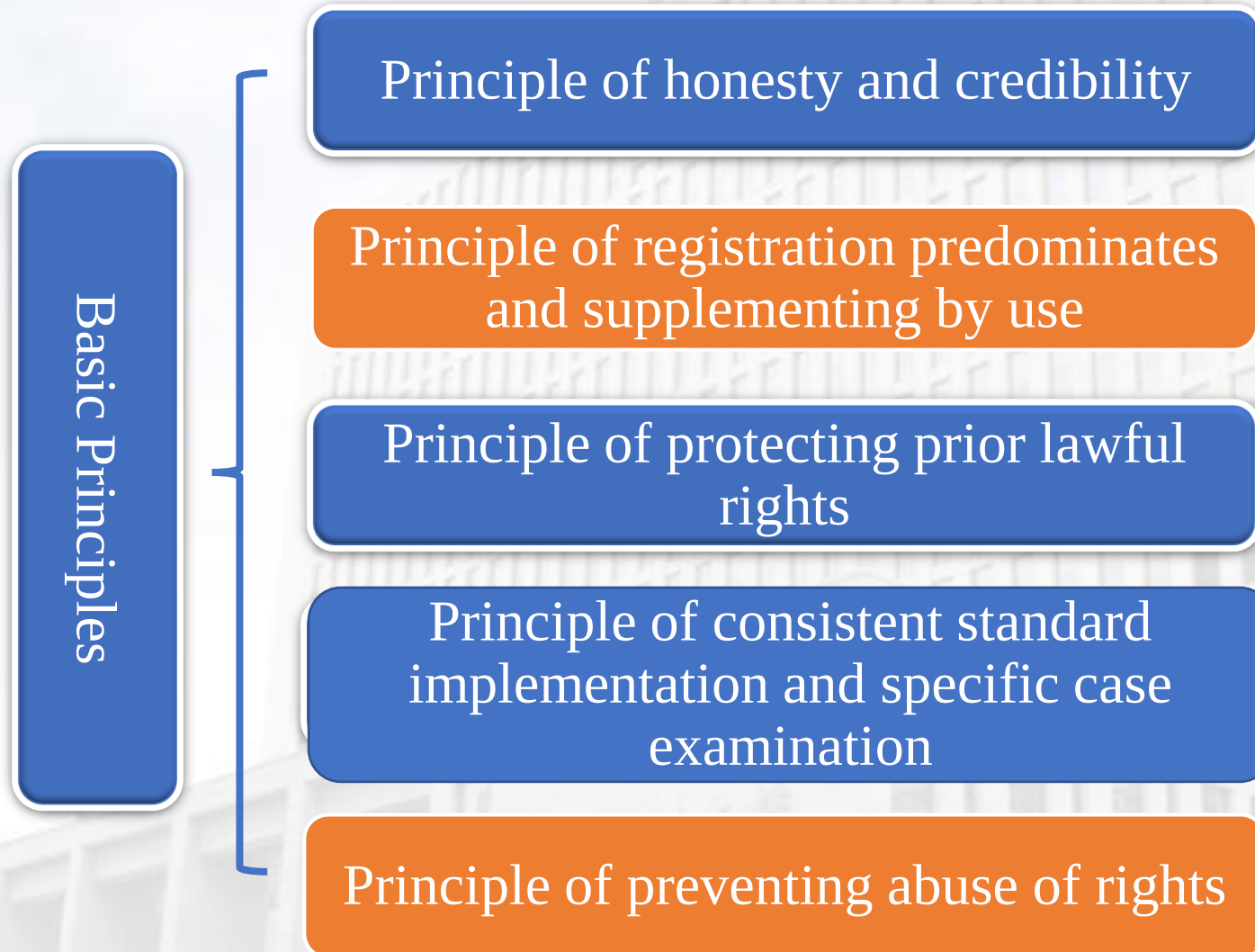


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Part 1 Basic Principles of China's Trademark Registration





Part 1 Basic Principles of China's Trademark Registration

Principle of registration predominates and supplementing by use

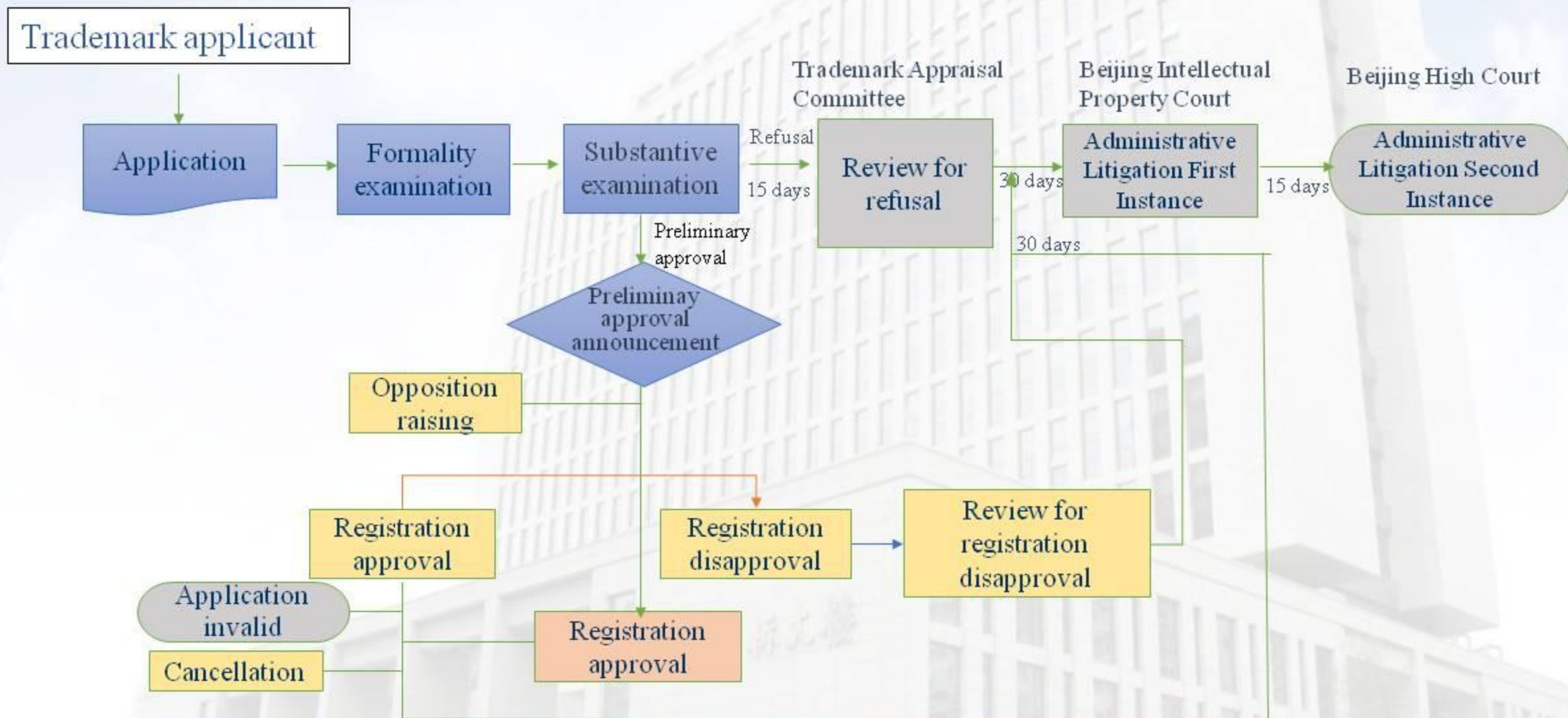
The legal procedure for obtaining the exclusive right to use a trademark is to apply for the trademark registration. In general, whether to apply for the trademark registration is up to the trademark user to make the decision based on the actual demand, and there is no legally compulsory requirement.



In order to make trademark application and registration return to its original purpose of use, make up for the unfair consequences that may be caused by the strict implementation of the registration principle, make it compatible with the principle of use, and strengthen the use requirements for applying for trademark registration, certain protection is provided for the unregistered trademarks that have been used previously according to law.



Part 2 China's Trademark Application and Registration Procedures





Part 2 China's Trademark Application and Registration Procedures

Examination cycle continuously shortened

Examination for trademark registration takes **4 months** on average

3 months for the announcement period

The general trademark registration cycle has been compressed to 7 months





Part 3 China's Trademark Registration Examination

Trademark Examination, Review and Adjudication Guidelines

- Adhere to strict protection and safeguarding of legislative purposes of the *Trademark Law*;
- Improve trademark examination polices targeted to strengthen protection;
- Resolutely crack down on illegal behaviors such as bad-faith registration, hoarding registration, among others;
- Strengthen the control over trademarks with adverse effects;
- Emphasize the fundamental requirements for the distinctiveness and identifiability of trademarks.

Guide applicants to abide the principle of honesty and credibility, submit trademark registration applications reasonably, protect trademark resources, safeguard the effective and healthy operation of the trademark system, and promote the high-quality creation of trademark intellectual property rights.



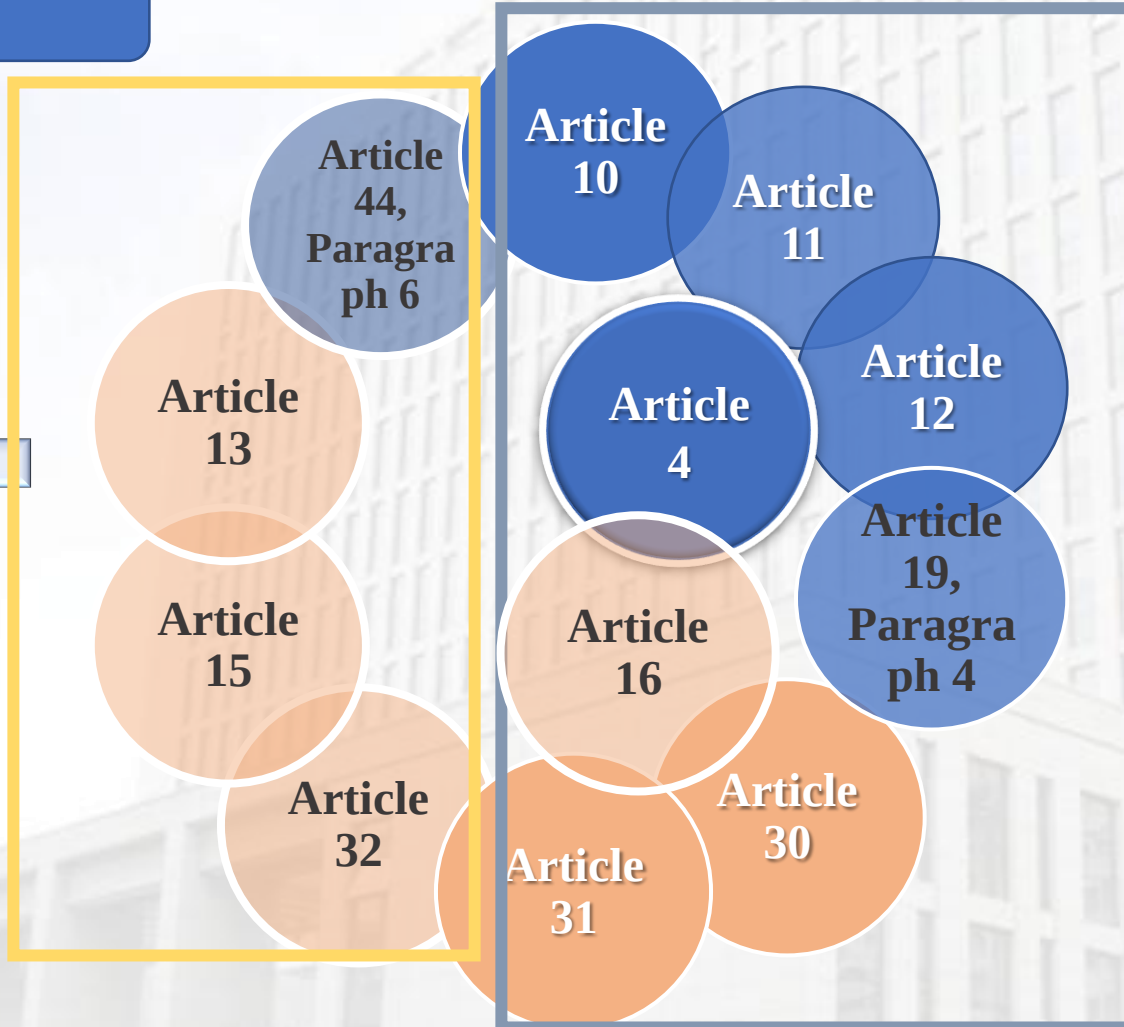
Part 3 China's Trademark Registration Examination

Scope of Examination and Review
and Adjudication

**Absolute
Grounds**

Only applicable to
opposition,
invalidation
announcement and
other subsequent
procedures

**Relative
Grounds**



The terms applicable
to the trademark
registration
examination stage are
also applicable to all
subsequent
procedures.



Part 3 China's Trademark Registration Examination – Article 4 of the *Trademark Law*

Article 4 of the *Trademark Law*

Applicable Requirements

Not intended for use

- When applying for trademark registration, the applicant has no actual purpose of using the trademark, or has the act of preparing to use the trademark, and there is no possibility of actually using the trademark based on reasonable inferences.

Bad-faith

- Two conditions are excluded
- In order to prevent others from preregistering trademarks, the applicant applies for the same or similar trademarks for defensive purposes;
- The applicant applies for a trademark in advance for future business with realistic expectations.



Part 3 China's Trademark Registration Examination – Article 4 of the *Trademark Law*

Article 4 of the *Trademark Law*

9 typical conditions:

Precisely crack down on bad-faith and hoarding trademark registrations

- Apply for and register a large number of trademarks, which obviously exceeds the demand of normal business activities, lacks the real intention of use, and disrupts the order of trademark registration;
- Massively copy, imitate, or plagiarize trademarks that already have a certain reputation or strong distinctiveness of multiple entities, and disrupt the order of trademark registration;
- Repeatedly apply for and register a specific trademark with a certain reputation or strong distinctiveness of the same entity, and disrupt the order of trademark registration;
- Massively apply for and register symbols identical or similar to other people's commercial signs, including business names, business name abbreviations, E-commerce names, domain names, commodity names, packaging, decorations that have a certain influence, advertisement slogans and appearance designs being recognized by the public, and so on;
- Massively apply for and register symbols identical or similar to public cultural resources such as the names of well-known figures, well-known works or characters, and others' well-known and recognized art works;
- Massively apply for and register symbols identical or similar to the names of administrative divisions, mountains and rivers, scenic spots, buildings, etc.;
- Massively apply for and register indistinctive symbols of specific goods or services, such as their common names, industry terms, and signs that directly indicate the quality, main raw materials, functions, uses, weight, and quantity and so on;
- Submit a large number of trademark registration applications, and transfer a large number of trademarks to relatively scattered people, thus disrupting the order of trademark registration;
- Massively sell trademarks or force previous user of trademarks or others to cooperate, ask for high transfer fees, licensing fees, or infringement compensations so as to seek improper benefits;
- Other circumstances that can be identified as behaviors of bad-faith trademark registration.

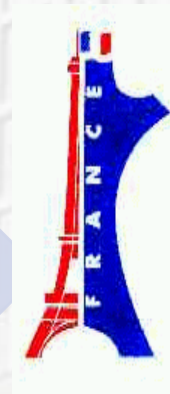


Part 3 China's Trademark Registration Examination

Article 10 of the *Trademark Law*

Symbols identical or similar to names, national flags, national emblems, military flags of foreign countries, among others

Signs not allowed to be used as trademarks: country names, national flags and national emblems; names, flags, emblems and other signs of international organizations; official signs, inspection marks; red cross, red crescent; signs related with ethnic discrimination; signs leading to misidentification; signs with other adverse effects.



Exceptions

日本ペイント

(Note: If the applicant has submitted a notarized copy and translated version of the domestic trademark registration certificate in Japan, it can be deemed that the registration of the applied symbol on relevant commodities has been approved by the Japanese government.)



Part 3 China's Trademark Registration Examination

Article 10 of the *Trademark Law*

Examination provisions for distinguishing marks related with names of "celebrities" are applicable

Trademarks applied for registration identical or similar to names of natural persons with certain reputation

Famous people/celebrities in specific industries and regions

沃伦巴菲特

葛优

Missleading Clause in Article 10, Paragraph 7 (This clause does not apply if the celebrity voluntarily authorizes the application)

Trademarks identical or similar to names of political/economic/cultural/ethnic/religious celebrities (historical celebrities)

孔子

鲁迅

Having undesirable influences as per Article 10, Paragraph 8



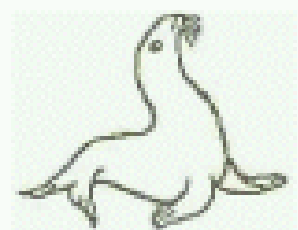
Part 3 China's Trademark Registration Examination – Article 11 of the *Trademark Law*

Article 11 of the *Trademark Law*

Major modification: distinctiveness judgment of a sign comprised of words without distinctive features and other elements

- Sign not allowed to be registered as trademarks: generic names, graphs or models; sign directly indicating goods' quality, main raw materials, functions, use, weight, quantity and other characteristics.
- Obtaining distinctive features through use

If a trademark is comprised of independent words and other independent elements, and the word part does not have distinctive features, the trademark shall be deemed to lack distinctive features as a whole.



纳

米





Part 3 China's Trademark Registration Examination – Article 12 of the Trademark Law

Article 12 of the *Trademark Law*

The three-dimensional sign is only composed of the three-dimensional shape of the goods that is needed so as to obtain relevant technical effects, that is, the three-dimensional shape is a must for the goods to realize their specific function, or to realize their inherent function more easily, so the three-dimensional sign is directly related with the function.



Designated goods: Shaver heads



Designated goods: Toothbrushes



Part 3 China's Trademark Registration Examination – Article 30 and 31 of the *Trademark Law*

Article 30 and 31 of the *Trademark Law*

A trademark shall be deemed as a similar trademark if it completely contains or imitates others' previous word trademark with high popularity or strong distinctiveness, thus likely to cause relevant public to think that it belongs to a series of trademarks and confuse the origin of relevant goods or services.

华为海思

华为

Designated services:
Recorded computer
programs

嘿内思
HEINEIKEN



Designated goods: Beer

A trademark shall be deemed as a similar trademark if it contains a figurative sign that already has a high popularity or strong distinctiveness, thus likely to cause relevant public to think that it belongs to a series of trademarks and confuse the origin of relevant goods or services.



指定商品：服装

Designated goods: Clothes



指定商品：服装

Designated goods: Clothes



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Thank you for your time.

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