

## **CNIPA Guidance on signs prohibited from use as trade marks**

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The China National Intellectual Property Administration (CNIPA) issued Guidance on Signs Prohibited from Use as Trademarks on 19 January 2023 (available [here](#)). Shufang Zhang and Ling Zhao explain what it means and provide some examples of prohibited signs.

The Guidance is made in accordance with Article 10 of the China Trademark Law, which defines the “signs prohibited from use as trade marks”. The Guidance specifies the categories of “signs prohibited from use as trademarks” and the legal liabilities of registering and using such signs.

“Signs prohibited from use as trademarks” as defined in Article 10 of the Trademark Law are forbidden from both registration and use.

The purpose of this article is to forbid the registration and use of signs that are damaging to the dignity of the State, harmful to public interests or order, detrimental to national unity, discriminating against religion, or against socialist morality or customs, or having other unhealthy influences.

The first provision of Article 10 mainly provides protection for special signs, such as the State name, and national emblem, anthem and flag of China, military flags, emblems and songs, names and signs of state organs of China, names and emblems of foreign states, names and signs of international intergovernmental organizations, signs of official warrant or control, Red Cross and Red Crescent.

This provision prohibits the registration and use of signs that are detrimental to public interests. The Guidance stresses that such signs are strictly forbidden from being registered or used as trade marks.

Where signs have various meanings or connotations, if there is one meaning or connotation against this provision, the sign is considered as a “trade mark prohibited from use”.

The second provision of Article 10 defines limitations on registering and using geographical names as trade marks and the exceptions. The CNIPA has meanwhile issued Guidance on Registration and Using Trademarks Containing Geographical Names. The detailed information may refer to this Guidance.

The Guidance lists the categories of “signs prohibited from use as trademarks” defined in the first provision of Article 10. These are set out below

**1 Signs that are detrimental to the state dignity, public interests and/or public order of China**

- Signs that are identical with or similar to the State name, national flag, national emblem, national anthem, military flag, military emblem, military anthem, or decorations of the People's Republic of China: see the two examples pictured right.

	
Similar to "China"	Identical to military emblem of China

- Signs that are identical with the names or symbol of the State Organs of China, or with the name of the particular place, or with the names or images of the iconic building, where the State Organs of China sit, such as “紫光阁” (Tower of Violet Light (ZI GUANG GE), the place where Chinese government officials meet foreign guests.



**2 Signs that are detrimental to the state dignity, public interests and/or public order of foreign states**

- Signs identical with or similar to the state name of a foreign country, unless consent has been given by the government of the country.
- Signs identical with or similar to the national flag, national emblem or military flag of a foreign country, etc., unless consent has been given by the government of the country.


Contains "Mauritius" in Chinese

**3 Signs that are liable to mislead the public by association with international intergovernmental organisations**

- Signs identical with or similar to the name, abbreviation, flag or emblem of an international intergovernmental organisation unless consent has been given by the organisation or the

	
Similar to the US national flag	Similar to the Italy flag

- public is not likely to be misled by such use.

**4 Signs that are liable to mislead the public by association with a warrant of inspection or quality control**

	
Similar to UN	Similar to WTO



- Signs identical with or similar to an official sign or hallmark indicating official control and warrant, unless authorisation has been given.

Similar to the sign of China Compulsory Certification



**5 Signs that are identical or similar to the name or symbol of Red Cross, Red Crescent or Red Crystal**

**6 Signs that are liable to be associated with ethnic discrimination**

爱斯基摩

- **ESKIMO** For example, the sign pictured on the right, as Eskimo is often considered as an offensive term.

**7 Signs that are deceptive or misleading in respect of the characteristics or origin of goods/services**

- Signs referring to the quality, function, usage, raw material, content, weight, quantity, price, craft, technique etc of the goods/services.
- Signs with the place of production or origin of goods/services.
- Signs with other features that are misleading.



**8 Signs that are against socialist morality or customs or having other unhealthy influences**

- Signs against socialist morality or customs, including signs involving terror, violence, obscenity, gambling and feudal superstition.



**9 Signs with negative political influences**

- Signs with special political connotations, or containing the name of China, or containing words and graphics referring to but cannot represent China except for signs that simply

- describe objective existence, signs that refer to names of newspapers, periodicals, magazines and are in accordance with the name of the applicants, signs that refer to abbreviations of enterprises and institutions that are approved by State Council or authorised organs, and signs in



which the name of China is independent from other distinctive components in the mark while the state name just indicates the origin country.


- Signs identical with or similar to names, aliases, elegant names, nicknames etc of leaders of China, leaders of other countries, regions, or international political organizations,



- Signs identical with or similar to political theories, national strategies, policies, and conference names of the Party and of the Country, such as “一带一路” (the Belt and Road initiative).



- Signs identical with or similar to political events, locations, numbers etc such as “长征” (the Long March).;
- Signs identical or similar to names or symbols of terrorist organisations, religious cults, underworld organisations, or names of leaders of such organisations, such as “ISIS”.

- Signs with other negative political influences, such as that pictured: 

### 10 Signs that are liable to cause negative influences on the economy, culture,

nationalities, religion or society 

- Signs identical or similar to names or symbols of legal currencies (pictured right).
- Signs containing irregular Chinese characters or deformation of Chinese idioms.

**HONKY**

- Signs containing words or symbols that would harm the dignity and feelings of nationalities and races (e.g. HONKY).
- Signs containing words or symbols that would harm the religious feelings, religious beliefs and/or folk beliefs, such as “Matsu” and “MECCA”.
- Signs identical or similar to names, abbreviations, emblems of party and government authorities, army, police, military institutes, government organs, social groups of China.



- Signs identical or similar to names or symbols of state-level new areas, state-level development zones, key state projects, and major science and technology programs.
- Signs identical or similar to names of major natural disasters, severe accidents, public health incidents and social security events, such as “非典” (refers to SARS).
- Signs identical or similar to names, images, deeds, spirits or mottos of heroes and martyrs.
- Signs identical or similar to names of public figures in the fields of politics, economics, culture, nationality, religion etc, such as “孔子” (Confucius in Chinese).
- Signs containing words or symbols that are detrimental to the economy, culture, nationality, religion, public interests and public order of China or would cause unhealthy influences, such as “MY GOD SOFT”.

Similar to the customs emblem of China	“HZM BRIDGE” refers to the Hong Kong-Zhuhai-Macao Bridge
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### Legal consequences

“Signs prohibited from use as trade marks” will be rejected if they are applied for application and will be invalidated if they are registered. If such marks are filed in bad faith, the mark holders will face punishments of warnings and fines. The punishments will be published and put in the credit records of the mark holders.

Those using unregistered “signs prohibited from use as trademarks” will be stopped from using and ordered to make revisions. Warnings and punishments will also be imposed.

The Guidance stipulates the obligations on trade mark agencies to inform the entrusting parties of the consequences of registering and using “signs prohibited from use as trade marks”.

Trade mark agencies and attorneys that are aware that the entrusting parties are acting in bad faith yet still accept the commission to file “signs prohibited from use as trade marks” will face punishments such as warnings, making rectifications within required term, fines and suspension of trade mark businesses.

The punishments will be published and recorded in the National Enterprise Credit Information Publicity System.