



# How to Conduct a Trade Mark Search

## 1. Trade marks in China

Every company, no matter how big or small, has some intellectual property. The most common type of intellectual property right (IPR) is a trade mark. A trade mark is essential to all kinds of companies, whether you are a producer, distributor or service provider, as it allows clients to distinguish you from your competitors and builds the image and reputation of your brand.

International laws, including Chinese laws, grant legal protection to trade marks providing they comply with a few basic requirements: the mark must be distinctive; must not have previously been used by others in the same market; and must not describe the product, e.g. you cannot register 'apple' as a trade mark for apples.

Trade marks are territorial in nature and therefore must be registered in every country. A trade mark registered in Spain, for example, is not automatically valid in China. If you want to obtain protection in China you must register with the China Trade Mark Office (CTMO) either by directly filing a domestic application or by filing an international extension through the Madrid System.

More information on registering and enforcing your trade mark in China including information on bad-faith registrations and the first-to-file system can be found in the China IPR SME Helpdesk publication, 'Guide to Trade Mark Protection in China'.

## 2. Why conduct a trade mark search?

Before you apply to register your trade mark in China you should check that it is available and has not been previously registered by another company (known as a 'bad-faith' registration), or is too similar to any other registered trade mark. This step will prevent you spending resources on an application which will be rejected and could delay your business operations in China.

Trade mark agents can conduct a trade mark search on your behalf but you can conduct an initial search by yourself on the CTMO online database which records all trade marks applied for and registered in China. The database is available in English and is free to use. Please note that there may be a delay between some applications being filed and appearing on the CTMO database.

## 3. Step by step guide

The CTMO online database can be used to search for all trade marks registered or currently in the application process in China. The database is available in both [Chinese](#) and [English](#). The CTMO recommends using Internet Explorer 6.0 to conduct the search as other browsers do not display the information correctly.

Before you begin please accept the disclaimer in order to continue with the search. As the disclaimer

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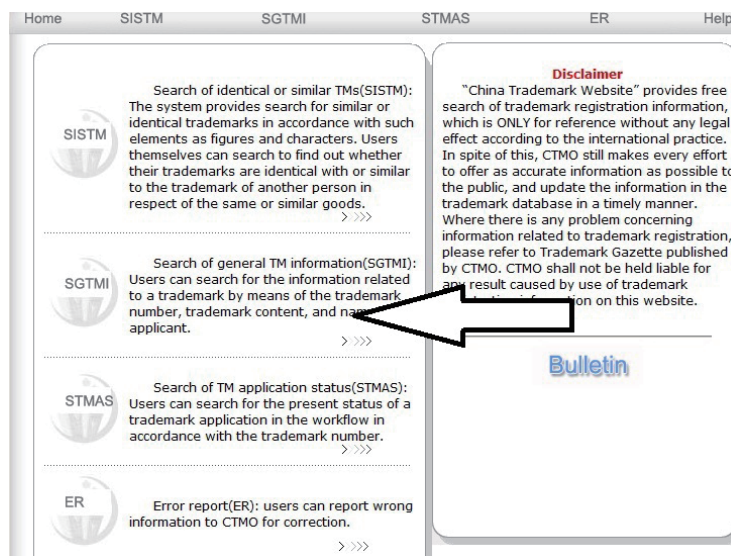
states, the information available on the database may not be 100% up to date and therefore can only be considered a **preliminary search**.

To begin you need to choose one database:

- o For a basic search - SGTM
- o For an advanced search for identical or similar trade marks - SISTM
- o For trade mark application status - STMAS

### Basic search for identical trade marks

The SGTM database allows you to make a basic trade mark search to show whether any identical or almost identical trade mark has already been registered in China. This search is particularly useful to check for 'bad-faith' registrations in China.



► Screen shot 1. List of CTMO databases and disclaimer

Search of General Trademark Information	
International Classification No.	<input type="text"/> <a href="#">Help on Goods Classification</a>
Registration No./Application No.	<input type="text"/>
Trademark Name	<input type="text"/> Begins with ▼
Name of Registrant(Chinese)	<input type="text"/> Begins with ▼
Name of Registrant(English)	<input type="text"/> Begins with ▼
<input type="button" value="Search"/> <input type="button" value="Reset"/>	
Please enter relevant content and then submit the search, and the search cannot be done by only entering the Classification No..	

► Screen shot 2. Basic trade mark search using SGTM database

The SGTM is a simple search engine which allows browsing by entering information into one or more fields. No field is compulsory but the more information you provide the better the results:

- International Classification no. – please see the text box for further details.
- Chinese trade mark registration or application number – this search term can only be used if you know the trade mark number which has already been registered in China.
- Trade mark name - includes the possibility to search for trade marks which are identical to the search term, which begin with certain letters, or

which include the searched term. The selection of searching alternatives may be particularly useful for different types of marks, for example:

- o Use the 'begins with' search field for trade marks where the first element is the most distinguishing and the other elements are generic, e.g. Apple Inc., Dell Inc., Google Inc.
- o You can use the search for 'identical' marks if the name is short.
- o The 'includes' field may be useful in order to find all the marks which contain some popular prefix or suffix e.g. -ex, -extra, - natural.
- Name of registrant - name of the right holder either in Chinese or in English if known.

## International Classification of Goods and Services

China uses the 10th edition of the International Classification of Goods and Services (Nice Classification) which is also used by most EU countries. For example class 25 covers clothing, footwear and headgear.

China further divides trade marks into sub-classes. For example class 25 subclass 01 covers clothing, class 25 subclass 09 covers socks, class 25 subclass 10 covers gloves. The full classification with the division to classes and sub-classes is available [here](#) in Chinese only.

However, for the purpose of a simple trade mark search, it is sufficient to know whether the classes are the same. A brief description of the groups of items included in each class is included on Office Harmonisation for International Markets' (OHIM) [website](#) in every European language.

### EXAMPLE

Let's try to look for the name "European Chamber" used by the European Union Chamber of Commerce in China, which is one of the partners in the China IPR SME Helpdesk project.

If we put the term "European Chamber" in the "Trademark Name" and set the optional drop down box to "begins with" or "includes" we will obtain the following results:

The result shows that in the CTMO database there are two trade marks including the words "European Chamber". By clicking the first result "European Chamber", the following window with two results opens, showing that the mark was filed in two classes (Classification No.), i.e. 35 and 41:

Search Result(2record found)(Click Registration No./Application No. or Classification No.to get detail information)				
Search Content:				
Number of Results	Registration No./ Application NO.	Classification No.	Trademark	Registrant
1	8758425	41	EUROPEAN CHAMBER	中国欧盟商会
2	8758426	35	EUROPEAN CHAMBER	中国欧盟商会
This is for reference without any legal effect and shall be used after verification.				
<input type="button" value="Print"/> <input type="button" value="Close"/>				

► Screen shot 3. Example of basic trade mark search list of results

By clicking on the first result we can see the full trade mark information:

Search Result(Click the trademark to get detail information)	
Search Content: Trademark name is: European Chamber;Type is: Begins with	
Result Page(s): 1 1	
Current Page1 First Page Previous Page Next Page Last Page	
Number of Results	Trademark
1	EUROPEAN CHAMBER
2	中国欧盟商会 EUROPEAN CHAMBER
Result Page: 1页 1	
Current Page1 First Page Previous Page Next Page Last Page	
This is for reference only without any legal effect and shall be used after verification	
<input type="button" value="Print"/> <input type="button" value="Close"/>	

► Screen shot 4. Example of basic trade mark search listing



The trade mark information contains the following data:

1. **Registration no./application no.** – every mark in each class of goods in China has a separate number. For example, the trade mark 'European Chamber' is registered as two separate trademarks, 8758425 in class 41 and 8758426 in class 35.

This differs from most European countries where a trade mark is registered only once and the same registration can cover a number of classes. Numbers starting with the letter 'G', indicate that the trademark was first registered in another country and has been extended to China.

2. **International classification number** – every trade mark must be registered in one of the 45 classes of goods and services.
3. **Application date** – this refers to the date on which the CTMO received the trade mark application.
4. **Name and address of the registrant** – in English and/or Chinese.
5. **Representation of the mark** – the image may sometimes appear upside down due to a technical problem.
6. **List of goods and services** – lists all the goods and services covered by the trade mark. Information in this field is only available in Chinese.
7. **Similar group** – includes the International Classification number and the subclass number, e.g. 4101 indicates international class 41 and subclass 01.


8. **Trademark Gazette Publication** – the Trademark Gazette is an official publication of CTMO including all trade mark related matters including preliminary approval, approval, renewal, modification etc. In addition to the printed Gazette it is [available online](#) in Chinese only. The date of Preliminary Publication and Registration Publication are important if you find your trade mark has been registered in bad-faith by another company.

- a. Preliminary publication – following preliminary publication an opposition can be filed with the CTMO within three months. This may mean you can prevent a potential bad faith registration.
- b. Publication of registration – this date indicates that the trade mark has been successfully registered by the CTMO.

9. **Effective Period of Exclusive Right** – trade marks can be perpetual but must be renewed every ten years in China.

### 10. Other information including:

- a. Date of subsequent designation – relevant for international registrations.
- b. International registration date – relevant for international registrations.
- c. Priority date – the date of the first filing abroad.
- d. Agent name – name of the legal representative if applicable.

1	Registration No./ Application No.	8758425	2	International Classification No.	41	3	Application Date	2010-10-20
4	Name of Registrant(Chinese)	中国欧盟商会		Address of Registrant(Chinese)			北京市朝阳区亮马桥路50号燕莎中心写字楼C-412室	
	Name of Registrant(English)			Address of Registrant(English)				
	Trademark Image	5		List of Goods/Services	6		Similar Group	7
								
8	No. of Preliminary Publication Trademark Gazette	1273		No. of Registration Publication Trademark Gazette			1285	
9	Date of Preliminary Publication	2011-07-27		Date of Registration Publication			2011-10-28	
	Effective Period of Exclusive Right	10/28/2011 - 10/27/2021					Year	
10	Date of Subsequent Designation			International Registration Date				
	Priority Date	无		Agent Name			北京捷昂知识产权代理有限公司	
	Color Claimed			TrademarkType			普通商标	
	Jointly Owned Trademark	否		Remark				

► Screen shot 5. Example of full trade mark information

If the trade mark remains under examination, i.e. it is still in the application process and has not yet been published in the Trademark Gazette, most fields will be empty and will contain the following information on the examination process:

No. of Preliminary Publication Trademark Gazette		No. of Registration Publication Trademark Gazette	
Date of Preliminary Publication		Date of Registration Publication	
Effective Period of Exclusive Right	//		Year
Date of Subsequent Designation		International Registration Date	
Priority Date	无	Agent Name	北京捷鼎知识产权代理有限公司
Color Claimed		TrademarkType	普通商标
Jointly Owned Trademark	否	Remark	
Trademark Process	驳回复审		

► Screen shot 6. Example of information for a trade mark under examination

The 'Trademark Process' field indicates the current stage of the registration process. This field may include no information or the following in Chinese only. Click on the field to link to the next page which contains more detailed information in Chinese:

驳回 = refusal

变更 = modification

争议 = dispute

领土延伸 = territory extension

异议 = opposition

续展 = renewal

期满未续展 = no renewal after expiration

驳回复审 = refusal and review

转让 = transfer

## Advanced search for similar trade marks

If you want to search for trade marks which may be considered similar to your trade mark, you can use the SISTM database. This is recommended because trade marks which are too similar to existing trade marks will not be granted by the CTMO. Please see the text box on 'How Similar is Too Similar?'.

The process is similar to the basic search, but you must input the International Class No. and a minimum of one other search term.

Search of Identical or Similar Trademarks	
International Classification No.	35 <a href="#">Help on Classification of Goods</a> Please enter a class number between 1 and 45(e.g.,please enter 9 for searching the Class 9 goods.)
Similar Group No.	<input type="text"/> Optional Please enter semicolon to separate Similar Group Nos.of Goods(e.g.,0901;0908).
Search Mode	English letters <input type="text"/> Six modes are available:Chinese character,Chinese pinyin,English character,number,acronym and graphic.
Search Type	<input checked="" type="checkbox"/> Change order <input checked="" type="checkbox"/> Identical <input checked="" type="checkbox"/> Reduce letters <input checked="" type="checkbox"/> Partially Identical <input checked="" type="checkbox"/> Change letters <input type="checkbox"/> Pronunciation approximate <input checked="" type="checkbox"/> 20% similar <input checked="" type="checkbox"/> Add lettrers at any position <small>Please enter 3 or more English letters into Search Content(symbols such as "&amp;","_" or decimal point are also acceptable).For Search Content with less than 3 English letters please search by acronym.</small>
Search Content	European Chamber <a href="#">Help on Graphic Coding</a>
<input type="button" value="Automatic Search"/> <input type="button" value="Selective Search"/> <input type="button" value="Reset"/>	
<small>Automatic Search:Retrieval will be done by all search types according to system's default, but the approximate pronunciation option is not included in the English search type. Selective search:Retrieval will be done by the search type(s) selected by uesrs.</small>	

## EXAMPLE

Using the same example as above, 'European Chamber':

First input the International Class No. which is 35 or 41.

Next input the similar classes numbers if known

The database can search marks in Chinese characters, Chinese pinyin, English letters, numbers, and acronyms, and by graphic elements.

Check the 'Search Type' boxes as per the screen shot to the left.

► Screen shot 7. Advanced trade mark search using SISTM

Classification No. is: 35; Search content is:European Chamber; Search mode is:English; Search type is:Adding letters in random position;Reducing letters;Changeing letters;Changing order;Identical;Partially Identical;20% similar  
Search result 50 record found

Select All <input type="checkbox"/>	Number of Results	Registration No./ Application No.	Classification No.	Trademark	Goods/Service
<input type="checkbox"/>	1	1671650	35	EUROPEAN	<a href="#">查看</a>
<input type="checkbox"/>	2	3635259	35	欧洲印象;EUROPE IMPRESSION	<a href="#">查看</a>
<input type="checkbox"/>	3	3845644	35	EUROPEAN STAR	<a href="#">查看</a>
<input type="checkbox"/>	4	3898202	35	M;EUROPE	<a href="#">查看</a>
<input type="checkbox"/>	5	4547206	35	EUROPEAASIA	<a href="#">查看</a>
<input type="checkbox"/>	6	4840726	35	欧洲科技园;EUROPEAN BUSINESS PARK	<a href="#">查看</a>
<input type="checkbox"/>	7	4840728	35	欧洲工业园;EUROPEAN BUSINESS PARK	<a href="#">查看</a>
<input type="checkbox"/>	8	5001148	35	欧亚斯诺;EUROPE-ASIA SNOW MANAGEMENT CONSULTANTS LTD;2003	<a href="#">查看</a>
<input type="checkbox"/>	9	5312895	35	广东省商业联合会;GENGERAL;CHAMBER;OF;COVVERCE	<a href="#">查看</a>
<input type="checkbox"/>	10	5318689	35	欧洲尚;EUROPE CLASSICAL	<a href="#">查看</a>
<input type="checkbox"/>	11	5362003	35	杭州泉州商会;QUANZHOU CHAMBER;OF;COMMERCEHANGZHOU	<a href="#">查看</a>
<input type="checkbox"/>	12	5518644	35	欧亚华都;EUROPE ASIA HUA DU	<a href="#">查看</a>
<input type="checkbox"/>	13	6594644	35	欧洲坊;EUROPE WATCH COMPANY	<a href="#">查看</a>
<input type="checkbox"/>	14	6594646	35	欧洲坊;EUROPE WATCH COMPANY	<a href="#">查看</a>
<input type="checkbox"/>	15	6618480	35	欧洲风尚;EUROPEAN STYLE	<a href="#">查看</a>

This search mode will usually generate many records, for example, a search for 'European Chamber' in class 35 returned 50 records.

In this example we can see a number of other chambers of commerce and companies using 'European' in the titles, but none which closely resemble 'European Chamber'. However, this type of search can highlight if a trade mark which is similar to your own has already been registered. If this is the case, you need to determine the level of similarity before proceeding.

► Screen shot 8. Example of advanced trade mark search list of results

### How Similar is Too Similar?

If you try to register a trade mark which is too similar to a previously registered trade mark the application may be refused on grounds of 'similarity', as it will confuse consumers. To avoid wasting time on a rejected application, use the following guidelines to determine the level of similarity.

The first determination is whether the goods/services are in the same class. In principle, items in the same class will be considered 'similar' because the target market is the same and items will likely to be sold through the same sales channels.

Items in different classes are usually not considered similar but in certain cases may be. For example, the trade mark 'Y-3' of Adidas filed for 'shoes and clothing' was not determined similar to 'Y3' filed under 'swim suits'. The court rejected an appeal and held that the goods were dissimilar as the function, usage, key materials, and targeted consumer groups were different.

If the products/services are similar then you must compare the appearance of the trade marks. You should consider:

- Word elements
- Meaning of the marks
- Pronunciation
- Graphic elements

#### 4. After the search: next steps

##### If your trade mark is not in the database:

This probably means that your trade mark is available and therefore we advise you to begin the process of registration with CTMO as soon as possible. If you do not have residency or a place of business in China you must apply through a local trade mark agent. A list of qualified trade mark agents can be found on the [CTMO website](#). If you are planning to register the trade mark in Europe you can extend the registration to China through the Madrid Protocol. For more detailed information on trade mark registration please see the China IPR SME Helpdesk publication 'Guide to Trade Mark Protection in China'.

Please note that it is possible that a trade mark application has been filed but the information is not yet available online as per the disclaimer mentioned above.

##### If your trade mark is in the database:

This may mean that your trade mark has been registered in 'bad-faith' and is now effectively owned in China by someone else. At this point your options include:

- During the three month period between the bad-faith registration of your trade mark being published in the Trademark Gazette and the trade mark being granted, you can file an opposition with CTMO.
- If the trade mark has already been registered, you may be able to have the registration invalidated by filing a case with the Trade Mark Review and Adjudication Board (TRAB). The chance of success will depend on the specifics of the case.
- It may be possible to buy the trade mark through an online 'supermarket' or by negotiating directly with the trade mark owner, or through an intermediary such as a lawyer or trade mark agent.

For more information please see the China IPR SME Helpdesk publication 'Guide to Trade Mark Protection in China'.

#### Useful Links: Helpdesk Resources

China IPR SME Helpdesk guide on trade marks: [http://www.china-iprhelpdesk.eu/docs/publications/China\\_IPR\\_SME\\_Helpdesk\\_Patent\\_and\\_Trademark\\_Protection\\_in\\_China.pdf](http://www.china-iprhelpdesk.eu/docs/publications/China_IPR_SME_Helpdesk_Patent_and_Trademark_Protection_in_China.pdf)

#### Useful Links: External Resources

**Madrid System:** <http://www.wipo.int/madrid/en/>

**CTMO database in Chinese:** <http://sbj.saic.gov.cn/sbcx/>

**CTMO database in English:** [http://www.saic.gov.cn/sbjEnglish/sbcx\\_1/](http://www.saic.gov.cn/sbjEnglish/sbcx_1/)

**Trade mark Gazette:** <http://www.ctmo.gov.cn/sbgg/#xiangshang>

**China's classes and subclasses:** <http://www.ctmo.gov.cn/sbsq/spfl/OHIM> **classes in English:** <http://oami.europa.eu/ec2/term/showClassHeadings>



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**For more information please contact the Helpdesk:**

Room 900, Beijing Sunflower Tower No. 37 Maizidian Street  
Chaoyang District Beijing 100125, P.R. China  
Tel: +86 (10) 8527 6922  
Fax: +86 (10) 8527 6923

[www.china-iprhelpdesk.eu](http://www.china-iprhelpdesk.eu)

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