



Guide to searching the Chinese trade marks register

September 2017

Disclaimer: This guide should not be interpreted as legal advice. The accuracy of third party websites and databases, including the Chinese Trademark Office's online database cannot be guaranteed. Users should be aware that due to the large volume of trade marks being filed and opposed in China, there is often a delay of between three to six months in updating the information on the database.



Protect your brand by registering a Chinese trade mark

A trade mark is the intellectual property right used to protect a brand. Under China's first to file Trademark Law, your brand generally cannot be protected until you have registered your trade mark in China. This is why it's important to apply for a Chinese trade mark registration as early as possible.

For further reading on trade marks in China see IP Australia's guide to [Protecting your IP in China](#).

Why search the Chinese trade marks register?

With over 13 million registered Chinese trade marks in force, it's important to check if someone else has already registered a mark identical or similar to your own.

These may be bad faith filings for a foreign brand by unrelated companies or individuals, or competing filings by legitimate competitors. Weet-Bix, for example, had to rebrand as Nutri-Brex in China because it allegedly infringed UK company Weetabix's existing trade mark. Spotting conflicts from the outset can reduce your risk of infringing other trade marks and save you wasting time and money on applications likely to be rejected.

A preliminary trade mark search can be a useful tool when preparing to enter the Chinese market. However, be aware that a self-search has limitations and is not a substitute for a professional search by a trade marks attorney. There is a delay of around 3-6 months before latest filings and status changes are updated in the database and it's easy to miss relevant marks when searching.

Chinese Trademark Office website

The Chinese Trademark Office provides a free online search tool at <http://wsjs.saic.gov.cn/> - click the ['English' link](#) at the upper right of the page.

The website can be slow to access from Australia, and service outages are common. If you can't get onto the site, try again.

The screenshot shows the homepage of the Chinese Trademark Office website. The header includes the URL www.ctmo.gov.cn and wsjs.saic.gov.cn, along with language options (中文, English), a Help Instruction link, and a data update time of (2017/07/15). The main navigation bar features links for Home, SISTM, SGTMI, STMAS, STMG, Error report, and Goods/Services. The main content area is divided into four search tool boxes: SISTM (Search for identical or similar TMs), SGTMI (Search for general TM information), STMAS (Search of TM application status), and STMG (Search of TM Gazette). A red dashed circle highlights the SISTM box. On the right side, there are two informational boxes: a Disclaimer and a Bulletin. The Disclaimer states that the system's data is not for real-time update and is only for reference without legal effect. The Bulletin mentions a new online search system trial starting on May 5, 2017.

Search 1 - Searching for identical or similar trademarks (SISTM) in a single class

The 'SISTM' search tool allows you to search for identical or similar trademarks within a single class of goods or services. This is generally the most useful search tool.

The screenshot shows the 'Selective Search' interface. At the top, there are two tabs: 'Automatic Search' and 'Selective Search' (which is active). Below the tabs, there are several input fields and checkboxes:

- International Classification:** A text input field with the placeholder text 'Please enter a class number between 1 to 45(e.g.please enter 9 for the Class 9 goods.)' and a search icon.
- Similar group:** A text input field with the placeholder text 'Please enter international classification number first,no more than 5 items can be selected' and a search icon.
- Search mode:** A radio button selection with options: Chinese character (selected), Chinese pinyin, English, Numeral, Acronym, and Graph. There is an information icon next to the Graph option.
- Search Type:** A group of checkboxes for refining the search:
 - Select all/Remove all
 - Identical
 - Partial identical
 - Add characters
 - Change characters
 - Reduce characters
 - Be contained in other trademarks
 - Contain other trademarks
 - Change order
 - Inverted order
 - Same pronunciation
- Trademark content:** A text input field with the placeholder text 'please entering 1-20 characters.'

At the bottom of the form, there are two buttons: 'Reset' and 'Search'.

There are two search types – an 'Automatic Search' that uses default search settings and a 'Selective Search' that allows you to customise your search criteria. Choose 'Selective Search'.

International Classification: Same as Australia, China divides trade marks goods and services into 45 classes. A trade mark gives exclusive rights only in connection with the goods or services for which it is registered. For example, a trade mark registration for wine (which falls into class 33) would not provide protection for bar services (which falls in class 43). Consider registering defensively with respect to any goods or services you want to prevent others from using. Note however that a trade mark is vulnerable to cancellation for non-use if it is not used for a period of three years since registration.

If you have a mark registered in Australia, you may already know which classes are relevant to the goods and services you are interested in. If you are uncertain, you can use the [Trade Marks Classification Search](#). If you want to learn more, read [further guidance from IP Australia](#) and watch a [video introduction to goods and services](#).

Similar group: Unlike Australia, China further divides trade marks into subclasses. 'Similar Group' indicates the Chinese subclass of the trade mark. This is discussed further later. Leave this field blank for your search.

Search mode: Select the appropriate option. You'll usually be searching an English word.

Search type: It's best to first search broadly by selecting all search types. If you get too many irrelevant results, you can refine your search by removing certain search types (such as 'Inverted order').

Trade mark content: Enter your search word(s), in English or Chinese. It doesn't matter if the text is upper or lower case (i.e. timtam and TIMTAM are treated the same).

To illustrate, let's try searching TIMTAM using the selective search option. We're interested in marks for biscuits and chocolate biscuits, which both fall into international classification class 30. Select the Search mode 'English', then click 'Select all' within the Search type box.

The screenshot shows the 'Selective Search' interface with the following settings:

- Automatic Search** (selected)
- International Classification**: 30
- Similar group**: Please enter international classification number first, no more than 5 items can be selected
- Search mode**: English (selected)
- Search Type**:
 - Select all/Remove all
 - Identical
 - Partial identical
 - Add letters
 - Change letters
 - Reduce letters
 - Be contained in other trademarks
 - Contain other trademarks
 - Change order
 - Inverted order
 - 20% similar
 - Same pronunciation
- Trademark content**: TIMTAM


Buttons: **Reset**, **Search**

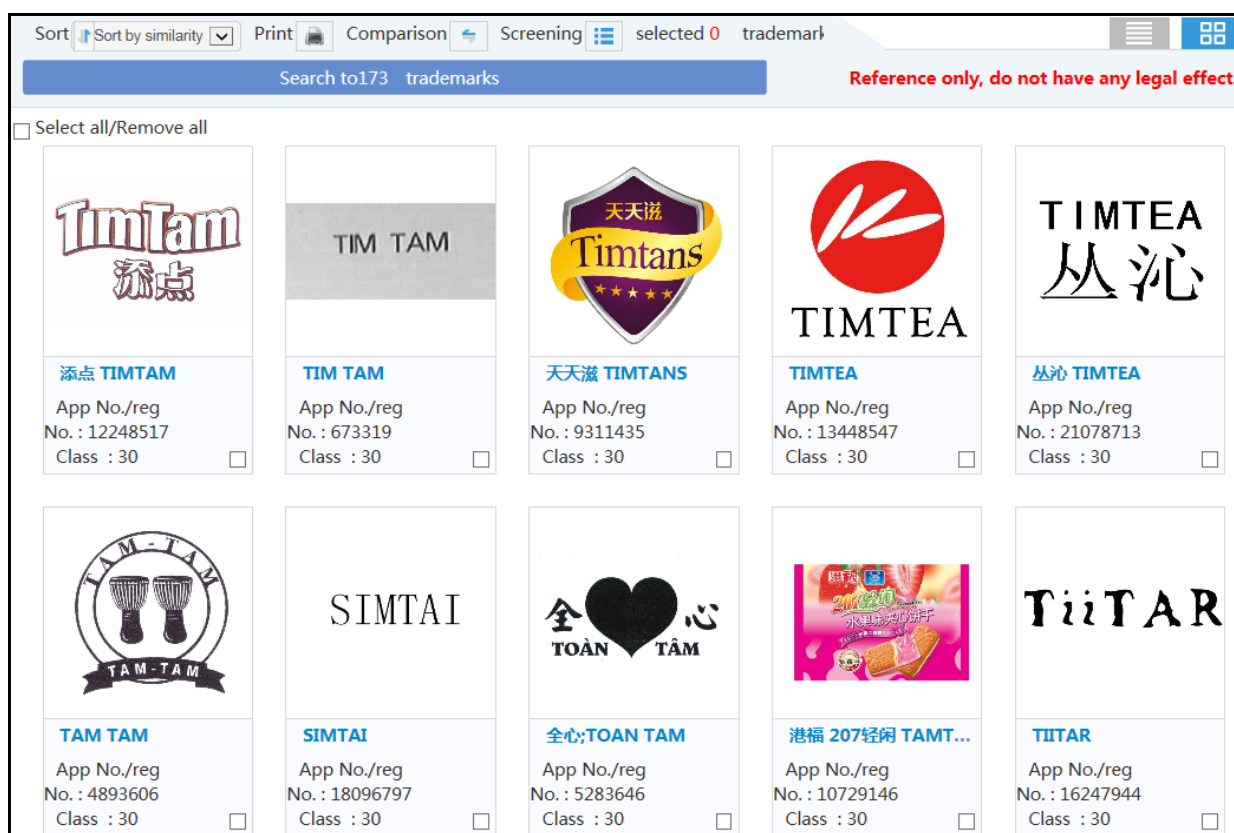
Hit 'Search' and a new window will open displaying a list of identical and similar trade marks. The blue bar on top ([Search to 173 trademarks](#)) shows the total number of results.

Sort Print Screening

Search to 173 trademarks Reference only, do not have any legal effect.

<input type="checkbox"/>	Serial number	Application No./registration No.	Date of application	Trademark content	Name of applicant
<input type="checkbox"/>	1	12248517	2013年03月12日	添点 TIMTAM	金宝汤公司
<input type="checkbox"/>	2	673319	1992年10月20日	TIM TAM	金宝汤公司
<input type="checkbox"/>	3	9311435	2011年04月07日	天天滋 TIMTANS	深圳市天天滋生物科技有限公司
<input type="checkbox"/>	4	13448547	2013年10月29日	TIMTEA	深圳市益健康茶业有限公司
<input type="checkbox"/>	5	21078713	2016年08月23日	丛沁 TIMTEA	广州丛沁茶叶有限公司
<input type="checkbox"/>	6	4893606	2005年09月13日	TAM TAM	傅柏华
<input type="checkbox"/>	7	18096797	2015年10月19日	SIMTAI	深圳市星态茶业有限公司
<input type="checkbox"/>	8	5283646	2006年04月13日	全心;TOAN TAM	刘海0

On the results page, you can also switch to a thumbnail view by clicking . This allows you to view the appearance of the trade mark as it appears on the registry, including stylised text and logos, without having to view marks individually. This is important because the overall appearance of a mark, not just the words used, is taken into account when considering whether two marks are similar.



Clicking on any trade mark name (in either list or thumbnail view) will open a new window with details of the trade mark, including the goods/services for protection and the application/registration status. An example of a detailed trade mark entry for TIM TAM is shown on the next page.

Search 2 - Searching multiple classes, applicant's name, trade mark and trade mark number

If you want to search across multiple classes, or search by applicant's name, trade mark or trade mark number, you should use the Search of General Trade Mark Information (SGTMI). You can search on the basis of any of the following five search criteria: International Classification, Application Number/Registration Number, Trademark Content (word), and Name of applicant in Chinese or English.

Unlike the SISTM search we used earlier, the SGTMI search only finds marks identical with or beginning with your search word. This means, for example, searching TIMTAM (with no space in between) will not find results for TIM TAM.

Trade mark details

☰ trademark details
☰ Trademark procedure

TIM TAM

2 Goods/services 饼干; 小甜饼; 薄脆饼干; 蛋糕; 面包; 谷类制品; 糖果; [show details](#)
(Biscuits, cracker, cakes, bread, grain products, sweets)

6 Similar group 3004;3006;3008;

3 Application No./registration No. 673319

4 Date of application 1992/10/20

5 International Classification 30

Name of applicant (Chinese) 金宝汤公司

Name of applicant (English) CAMPBELL SOUP COMPANY

Applicant address (Chinese) 美国新泽西州08103-1799坎登市坎培尔广场

Applicant address (English) CAMPBELL PLACE CAMDEN, NEW JERSEY 08103-1799, UNITED STATES OF AMERICA

Public announcement number of first trial 419

Public announcement number of registration 431

Community marks No

7 Public announcement Date of first trial 1993/10/14

8 Public announcement Date of registration 1994/01/14

9 Type of trademark 一股

10 Exclusive right duration 2014/01/14 to 2024/01/13

Date of International Registration

Date of late formulation

Date of priority

Agents name 北京铸成联合知识产权代理有限公司

12 Trademark procedure [Click to view](#)

11 Trademark status icon

LIVE/REGISTRATION/Issued and Active

注册

Reference only, do not have any legal effect.

13 [Print](#)

[Error report](#)

The detailed trade mark information contains the following:

- 1. Trade mark image:** The trade mark itself, consisting of words, graphics or both.
- 2. Goods/services:** Shows a description of the goods or services covered by the trade mark. Currently the description is only available in Chinese.
- 3. Application No./registration No.:** Either the filing of each mark in each international class of goods or services is assigned a unique number.
- 4. Date of application:** China has a first-to-file trade mark system. When there is a conflicting mark, the mark with the earlier application date (or priority date, if claimed) will have priority over the later filed mark.
- 5. International Classification:** In our example, TIM TAM is registered with respect to biscuits, cookies, crackers, cakes, bread, grain preparations, and sweets, which fall within class 30.
- 6. Similar Group:** Unlike Australia, China further divides trademarks into subclasses, listed unofficially here: <http://www.hfgip.com/xclass>*. 'Similar Group' indicates the Chinese subclass of the trade mark, with the first two digits representing the international classification. In our example, TIM TAM is registered with respect to biscuits, cookies, crackers, cakes, bread, grain preparations, and sweets, which fall within Chinese subclasses 3004 (Sweets, *nantang*, sugar) 3006 (Bread, pastry and confectionery) and 3008 (Rice, flour (including cereals)).
In China, a registration in one subclass may not prevent a registration in a similar subclass. This TIM TAM registration is unlikely to prevent other registrations in subclasses 3001 (coffee) or 3009 (noodles), for example.
- 7. Public announcement, date of first trial:** The date on which an application was accepted and published. This begins a three-month opposition period before the accepted trade mark is registered.
- 8. Public announcement, date of registration:** The date on which a trade mark was registered. If no opposition is filed within three months of acceptance of an application, or the opposition is unsuccessful, the accepted trade mark application is registered.
- 9. Type of trade mark:** Regular trade mark (一般), collective mark (集体) or certification mark (证明).
Collective marks are used in relation to goods or services provided by members of an association, for example SCOTCH WHISKY. Certification marks are used to certify goods or services are of a particular origin, material, quality or other characteristic, for example TEQUILA. All types of trade mark can act as a barrier to registration for a similar mark with respect to similar goods and services.
- 10. Exclusive right duration:** A trade mark is registered for 10 years from the registration date, and can be renewed indefinitely.
- 11. Trade mark status:** The trade marks register shows pending applications as well as registered, lapsed and invalidated trade marks. The possible trade mark statuses are shown below:
It's important to check the status. A registered or pending trade mark (LIVE trade mark) may present a problem, while a lapsed or invalidated trade mark (DEAD trade mark) generally will not. Remember there is a delay of around 3-6 months for the registry to be updated, and note that international registration status data can be unreliable.
- 12. Trade mark procedure:** Displays the full timeline of the registration procedure. This content is in Chinese only.
- 13. Print:** You can print the detailed entry, but be aware it will only be a snapshot of the database at a point in time.

*Indicates a link to third party content, over which the Australian government has no control. Link is provided for information only and its content is not endorsed by the Australian government.

What next?

If you don't find any conflicting marks, that's a good sign, but bear in mind the limitations of this search. There is a delay of around 3-6 months between an application being filed and appearing in the database - there may be relevant applications filed you just can't see yet. Furthermore, a trade mark search is difficult, and it's easy to miss relevant marks. Consider filing for your trade mark as soon as possible, and consult a trade marks attorney.

If you find an existing registration for an identical or similar trade mark with respect to similar goods or services, you have several options. If you believe the mark has not been used for a period of three years since registration, you could file an action to have the mark cancelled for non-use. If you have strong evidence, you could oppose the application within the three-month opposition period following acceptance, or file to invalidate the registered trade mark (noting in both cases that it's very hard to succeed in establishing grounds of bad faith). You may be able to negotiate an acceptable price to buy the mark from the owner or obtain a Letter of Consent from the owner under certain conditions- this is sometimes the most pragmatic choice. Finally, you could develop a different brand for the Chinese market. A trade marks attorney can advise you further.

Consult a trade marks attorney

Whether or not there's a conflicting mark, your next step should be to consult with an Australian trade marks attorney, who can work with Chinese associates to secure your trade mark in China. You could also go directly to a Chinese trade marks attorney. Whether filing directly with the Chinese Trademark Office, or via a Madrid registration designating China, it's virtually essential to use a trade marks attorney in order to get a good outcome. Treat attorney fees as a necessary part of obtaining trade mark protection. Consider the cost of obtaining trade mark registration as a form of insurance – you'll spend some money up front, but this can save you hundreds of thousands of dollars later.

Further information

IP Australia's Beijing-based Counsellor provides IP guidance and support for Australian businesses in China. For more information or to discuss your specific situation, contact david.bennett@ipaustrialia.gov.au.

