

Chapter 3: Article 4(1)(ii), (iii) and (v) (State coat of arms and other emblems)

(ii) A trademark being identical with, or similar to, the coats of arms or any other State emblems (except national flags of any country of the Union to the Paris Convention, member of the World Trade Organization or Contracting Party to the Trademark Law Treaty) of a country of the Union to the Paris Convention (refers to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at the Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958 and at Stockholm on July 14, 1967; the same shall apply hereinafter), a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty designated by the Minister of Economy, Trade and Industry;

(iii) A trademark being identical with, or similar to, a mark indicating the United Nations or any other international organization (referred to as "international organization" in (b)) which has been designated by the Minister of Economy, Trade and Industry (excluding those listed in the following);

(a) A trademark being identical with, or similar to, a trademark which is well known among consumers as that indicating goods or services in connection with the applicant's business, if such a trademark is used in connection with such goods or services or goods or services similar thereto; and

(b) A trademark being identical with, or similar to, a mark indicating abbreviation of any international organization, which has been used for goods or services that is not likely to mislead as to connection to the international organization;

(v) A trademark comprised of a mark identical with, or similar to, an official hallmark or sign indicating control or warranty by the national or a local government of Japan, a country of the Union to the Paris Convention, a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty which has been designated by the Minister of Economy, Trade and Industry, if such a trademark is used in connection with goods or services identical with, or similar to, the goods or services in connection with which the hallmark or sign is used;

1. Regarding marks "which have been designated by the Minister of Economy, Trade and Industry"

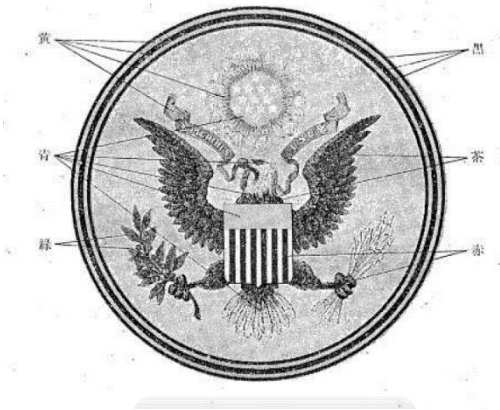
Marks "which have been designated by the Minister of Economy, Trade and Industry" are all published in the official bulletin together with the number and date of the notification as the Notification of the Ministry of Economy, Trade and Industry.

For example, these marks including the following.

(1) Item (ii)

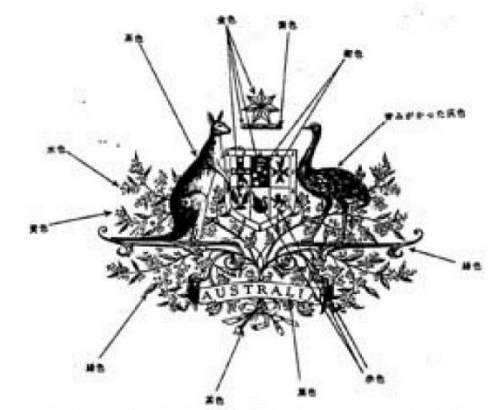
(Example 1) Emblem of the United States of America

(Notification No. 356 of the Ministry of International Trade and Industry of 1976; Notification of August 6, 1976)



(Example 2) Coats of arms of the Commonwealth of Australia

(Notification No. 74 of the Ministry of International Trade and Industry of 1994, Notification of February 16, 1994)



(2) Item (iii)

(Example 1) Mark of the United Nations

(Notification No. 253 of the Ministry of International Trade and Industry of 1994, Notification of April 26, 1994)



(Example 2) Mark of the World Intellectual Property Organization

(Notification No. 275 of the Ministry of International Trade and Industry of 1994, Notification of April 26, 1994)



(3) Item (v)

(Example 1) An official hallmark or sign indicating control or warranty by Malaysia

(Notification No. 196 of the Ministry of Economy, Trade and Industry of 2014, Notification of September 26, 2014, Goods or services: Transportation, meat, fish and others)



(Example 2) An official hallmark or sign indicating control or warranty by the Republic of Korea

(Notification No. 241 of the Ministry of Economy, Trade and Industry of 2014, Notification of December 12, 2014, Goods or services: Wood products)



2. Regarding item (ii)

(1) Regarding the expression the "trademark is identical with, or similar to"

The similarity of trademarks under this item is judged based on whether the trademarks as a whole are confused with the state coats of arms, etc. from the standpoint of protecting public interest by maintaining the dignity of states, etc.

For example, if the trademark as applied has a part conspicuously showing state coats of arms, etc., the trademark as a whole is judged to fall under this item.

3. Regarding item (iii)

(1) Regarding the expression "is identical with, or similar to"

The similarity of trademarks under this item is judged based on whether the trademarks as a whole are confused with the mark indicating these international organizations from the standpoint of protecting public interest by maintaining the dignity of international organizations.

For example, if the trademark as applied has a part conspicuously showing the mark indicating the international organization, the trademark as a whole is judged to fall under this item.

(2) Regarding the expression "well known among consumers" as prescribed in sub-item (a) of this item

(a) The scope of consumers not only includes the case where the trademark in question is well known by ultimate consumers but also the case where the trademark in question is well known among traders.

(b) Part II, Item 2(2) and (3) (Article 3(2)) of the Guidelines apply mutatis mutandis to the matters to be taken into consideration and the method of evidence in determining whether or not the trademark in question is "well known among consumers."

(3) Regarding the expression a trademark "is identical with, or similar to, a trademark which is well known among consumers" as prescribed in sub-item (a) of this item

In the judgment on the similarity under sub-item (a) of this item, trademarks that are well known among consumers and thus would not mislead as to connection to international organizations are excluded from the scope of application of this item and each element such as the appearance, sound and concept of the relevant trademark must be taken into consideration in a comprehensive manner from the standpoint of protecting the trademark.

(4) Regarding the expression "goods or services that are not likely to mislead as to connection to the international organization" as prescribed in sub-item (b) of this item

The judgment on whether or not the trademark "is not likely to mislead" is made by taking into consideration the relationship between the services provided by the international organization and the designated goods or designated services of the trademark as applied.

(Example) Case where the trademark in question is not likely to mislead

The case where the service provided by the international organization is related to food, while the designated goods of the trademark as applied are automobiles.

4. Regarding item (v)

(1) Regarding the expression a trademark "is comprised of a mark identical with, or similar to"

The similarity of trademarks under this item is judged based on whether the trademark as applied is, in whole or in part, comprised of a mark that causes confusion with an official hallmark, etc. indicating control of a state, from the standpoint of preventing misleading as to the quality of goods or services and maintaining the authority of the control or warranty office.

(2) Regarding the expression "goods or services identical with, or similar to"

Part III, Chapter 10, Item 11(1) to (3) (Article 4(1)(xi)) of the Guidelines apply *mutatis mutandis* to the judgment on similarity of goods under this item.

(Note) The contents of the notification stated herein are those as of the time when the Guidelines were created.