

Consolidated Guidelines
on the Handling of Intellectual
Property Rights

Eiken Foundation of Japan

Introduction

For over 60 years, Eiken Foundation of Japan ("Foundation/we/our/us") has contributed to the promotion of the cultivation of practical English proficiency and lifelong learning in Japan through creation, rating, implementation and operation of the Test in Practical English Proficiency ("EIKEN") with the recognition that it is our social mission to contribute to the learning and spreading of practical English necessary for everyday social life. This mission of ours will never change.

When we look at the environment surrounding EIKEN, there are currently numerous cram schools, publications and apps to help prepare for EIKEN (hereinafter, those businesses providing the foregoing shall be referred to as "Business Operators"). We are happy to see English learners choose from these numerous tools and content those that suit their needs and use them to improve their English proficiency, and are truly thankful for the assistance of beneficial Business Operators.

On the other hand, we also receive information that there are a lot of teaching methods and products the quality or accuracy of which is not sufficiently guaranteed, and we feel that the number of such feedback received increases every year.

Further, we see individuals and Business Operators that take advantage of the trust and value of EIKEN as a public welfare undertaking that the Foundation and many other Business Operators have spread over the years to seek their own interests using various means to create products and supply them to the market excessively without careful consideration not only by copying or using our intellectual properties including unauthorized use of past EIKEN tests, but also through reverse-engineering using AI and machine learning, etc. We cannot overlook this situation.

We believe that this situation is not necessarily beneficial for English learners and might impair the public interests that EIKEN offers.

Based on the aforesaid situation, from the perspective of providing good-quality learning opportunities to English learners, and from the perspective of the public interests offered by EIKEN, we intend to take appropriate measures against those individuals and Business Operators who take advantage of the trust and value of EIKEN to seek private interests.

These guidelines provide the rules on how our copyrighted work, including past EIKEN tests, our knowhow, and the trademarks of EIKEN can be used, as well as the scope of permitted use, with the aim of protecting the long-accumulated trust and value of EIKEN which benefit public interests, and creating a desirable environment for English learners. Compliance with these guidelines is necessary for the use the aforesaid properties of the Foundation. Please submit an application to use our intellectual properties and/or all other rights in accordance with our prescribed procedures after fully understanding these guidelines.

Article 1. Scope of Application

1. These guidelines apply to any and all intellectual property rights and all other rights, including all the content, registered trademarks of EIKEN, and the knowhow that belong to the Foundation. If you wish to use these, you must read and consent to these guidelines before doing so.
2. The Brand Policy (guidelines on the use of EIKEN trademarks) shall be replaced with these guidelines once these guidelines are disclosed to the public.
3. The Foundation may amend these guidelines.

Article 2. Content including Past Tests

1. Attribution of the rights to the content of the Foundation

- (1) Copyrights (including the rights listed in Articles 27 and 28 of the Copyright Act, the same shall apply hereinafter.) and other intellectual property rights in the statements, illustrations and layout of questions included in the Test in Practical English Proficiency and other certification tests (including, but not limited to those that have been or are currently published on our website, those distributed to test takers, and those sold with our permission; collectively "Certification Tests"), as well as symbols, logos, illustrations, photos, drawings, text, videos and all other content (collectively, "Foundation Content") belong to the Foundation.
- (2) The knowhow* that we have ("Foundation Knowhow") belongs to the Foundation. Foundation Knowhow is protected by patent application and other means.

* Method of implementing and operating Certification Tests (including special measures for test takers who need special care when taking tests)

- Method of creating test questions and scoring tests;

- Display of online Certification Tests, interview cards, illustrations, mark sheets, and transcripts, etc.;
- Life-long learning account and other items are included without limitation.

2. Prohibition of unauthorized use for profit

- (1) It is prohibited to use Foundation Content or Foundation Knowhow for profit, or make preparation therefor without the prior written or electronic permission of the Foundation. If you wish to use Foundation Content or Foundation Knowhow, you need to apply therefor following the procedures prescribed in these guidelines or designated by the Foundation.
- (2) Notwithstanding the provisions of Section 2(1) above, such application procedures are not required for use of Foundation Content by persons teaching at schools and other educational institutions (excluding those established for profit, but including schools run by an operating company under the Act on Special Districts for Structural Reform) for educational purpose; provided, however, that Foundation Content must be used in accordance with Article 35 of the Copyright Act and any other applicable laws and regulations.

3. Prohibition of use beyond the scope of private use

It is prohibited to transcribe or copy any Foundation Content including past tests beyond the scope of private use without authorization. Copying for profit or commercial purpose, or for distribution to many and unspecified users is considered exceeding the scope of private use. Please refrain from posting copyrighted work including past tests on private blogs or social media even in part, including not-for-profit or private use, as such act is also not permitted under the Copyright Act. We do not permit such act individually.

4. Prohibition of machine learning, etc.

It is prohibited to use any Foundation Content including past tests for information analysis by machine learning, reverse engineering of contents, or any other means. We do not permit such act individually.

Article 3. EIKEN Trademarks

1. Attribution, etc. of the rights in EIKEN trademarks

Trademarks, marks, logo marks, and trade name, etc. of the Foundation and EIKEN belong to the Foundation, and are protected under the Trademark Act, Unfair Competition Prevention Act, Commercial Code and other laws. The use of EIKEN trademarks (referring to EIKEN,

EIKEN Jr., EIKEN IBA, 英検, 英検 Jr., 英検 IBA and any and all other trademark registrations held by the Foundation; the same shall apply hereinafter), requires application therefor following the procedures prescribed in these guidelines or designated by the Foundation.

2. Prohibition of unauthorized use of EIKEN trademarks

- (1) Other than as set out in Section 4 below, it is prohibited to use EIKEN trademarks without the permission of the Foundation.
- (2) Permission to use EIKEN trademarks shall be granted or not granted by the Foundation, the right holder, based on the purpose of these guidelines, taking into consideration the content of the application for permission and any other circumstances in each case.
- (3) If you were granted permission to use EIKEN trademarks in the past, and wish to continue using the same after the expiration of the usage period, an application must be filed again. In such case, the Foundation shall determine whether or not to grant permission with every application submission. Therefore, even if you had permission to use in the past, it is not guaranteed that you will be granted permission again in subsequent applications.
- (4) Use of EIKEN trademarks listed below cannot be, as a rule, permitted even if you apply therefor (however, the reasons why the Foundation decides to deny an application are not limited to these). In addition, even if the Foundation has granted permission to use EIKEN trademarks, it is prohibited, as a rule, to use the same in any of the following manners. If it is found that you have used any EIKEN trademarks in any of the following manners after being granted permission for use, the Foundation may immediately withdraw such permission even during the usage period, including the permission for use in any manner other than the following manners.
 - (1) Use of EIKEN as the name or as part of the name for a Certification Test or examination other than our Test in Practical English Proficiency;
 - (2) Use of EIKEN as the name or as part of the name for an organization (including one that is run by an individual) including a company (trade name) or a Business Operator;
 - (3) Use of EIKEN as the name or a part of the name for a social media account;
 - (4) Application for trademark registration of EIKEN or a trademark containing EIKEN;
 - (5) Authorizing a third party's use of EIKEN trademarks in a manner that has been permitted by the Foundation (reauthorization);
 - (6) Use of EIKEN trademarks in a manner other than as designated by the Foundation;
 - (7) Running a campaign (including cashback of test fees and discount on your own services) for your own services using EIKEN trademarks;
 - (8) Creation and sale of banners, flyers and other advertising matters displaying EIKEN

trademarks; or

- (9) Any of the following acts that unfairly uses or dilutes the value of EIKEN trademarks:
- ① any act that may give a false impression that a certain product and service are those of the Foundation;
 - ② any act that may give a false impression that a certain product and service are officially recognized or recommended by the Foundation;
 - ③ any act that may give a false impression that EIKEN is a general noun; or
 - ④ any act that the Foundation considers to be equivalent to any of the acts listed in ① through ③ above.

3. Rules on the use of EIKEN trademarks with the permission of the Foundation

When you use EIKEN trademarks with the permission of the Foundation, you must:

- (1) add "R" in a circle (®) as shown in the following examples, regardless of the medium used, to indicate that EIKEN is a registered trademark:

Example 1: **EIKEN®**

Example 2:

EIKEN
®

- (2) indicate the attribution statement shown below in the medium in which EIKEN is displayed not too far from the place where EIKEN is displayed in a size fully visible:

EIKEN® is a registered trademark of Eiken Foundation of Japan.

- (3) include the following language in the medium in which EIKEN is displayed in an appropriate size in order to show that the product or service in question is not supported or advocated by the Foundation:

This content is not approved, advocated or otherwise under consideration by Eiken Foundation of Japan.

- (4) not use EIKEN in the following manner:

- ① Using EIKEN logos (shown below) or similar logos:



- ② Displaying EIKEN most prominently in a medium in which EIKEN is displayed. Instead, display EIKEN in a size equal to or smaller than other elements such as the name of the provider or brand of the product or service in question;
- ③ Creating a logo or design that consists of the letters of EIKEN;
- ④ Indicating EIKEN in white letters against red background; or
- ⑤ Otherwise using in a manner that gives a false impression that the product or service in question is provided, or officially recognized or advocated by the Foundation.

4. Use of EIKEN trademarks not requiring the permission of the Foundation

If you use EIKEN trademarks for any of the following purposes, application procedures are not required; provided, however, that even in this case, you must comply with laws and regulations as well as the provisions of Section 3(1), (2) and (4) above:

- (1) Using EIKEN trademarks in an interview article or stories about your experience, except where the same is intended to be posted on a website designed to explain certain product or service, or content to be provided on websites, apps, social media or promotional materials;
- (2) Using EIKEN trademarks in the explanation of the trends for university entrance exams;
- (3) Using EIKEN trademarks in the description of schools or private- tutoring schools, and the conditions for admission; or
- (4) Using EIKEN trademarks to indicate that a place is a quasi-test site, except where EIKEN is used for the purpose described in Section 2(1) above.

Article 4. Application Procedures

1. Submission of application form

- (1) If you wish to use Foundation Content, Foundation Knowhow or EIKEN trademarks, you are requested to send an e-mail to that effect to the following e-mail address, and we will send an application form and other documents.
E-mail address for the Foundation's intellectual properties: chitekizaisan@eiken.or.jp
- (2) In response to your application, we may approve conditionally, or decline your use at our discretion based on strict examination. In addition, such permission shall be, as a rule, subject to payment of royalties prescribed by the Foundation (however, use may be permitted for free when the Foundation determine that such use is highly beneficial for the public considering the business purpose and descriptions, and

other matters stated in the application form). Such determination shall be relied entirely upon the absolute discretion of the Foundation.

2. Prohibited matters related to application

- (1) If you wish to change the purpose of use to a purpose other than the purpose permitted by the Foundation, or add to the purposes of use, then you must submit an application again. It is prohibited to continue using Foundation Content, Foundation Knowhow or EIKEN trademarks for any purpose other than the purpose permitted by the Foundation without making an application again.
- (2) When making an application, you must:
 - ① not make false statements in the application form such as stating false purpose of use;
 - ② promptly notify the Foundation if a change occurs in any facts stated in the application form after making an application to the Foundation; and
 - ③ comply with any other matters set forth in the application form and these guidelines.

Article 5. Measures against Breach of these Guidelines

1. If you breach these guidelines, or we determine that your use of Foundation Content, Foundation Knowhow or EIKEN trademarks is inappropriate, we may request that you stop the use or correct the manner of use, or pay royalties. Further, if we determine that your use is especially malicious, we will consider our course of action including taking legal measures.
2. If an applicant breaches any provisions of these guidelines, the Foundation may withdraw the acceptance of the application, and request such applicant to pay prescribed penalties.
3. If you find any act of a third party in breach of these guidelines, please inform us.