

## Technical and procedural aspects relating to the registration of Community collective marks

### Legal basis

The principal provisions are contained in Articles 64 to 69 CTMR and Rule 43 CTMIR<sup>1</sup>. The full text is as follows:

#### **Article 64**

1. A Community collective mark shall be a Community trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of the association which is the proprietor of the mark from those of other undertakings. Associations of manufacturers, producers, suppliers of services, or traders which, under the terms of the law governing them, have the capacity in their own name to have rights and obligations of all kinds, to make contracts or accomplish other legal acts and to sue and be sued, as well as legal persons governed by public law, may apply for Community collective marks.

#### **Article 65**

An applicant for a Community collective mark must submit regulations governing its use within the period prescribed.

2. The regulations governing use shall specify the persons authorized to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark including sanctions. The regulations governing use of a mark referred to in Article 64 (2) must authorize any person whose goods or services originate in the geographical area concerned to become a member of the association which is the proprietor of the mark.

#### **Article 66**

1. In addition to the grounds for refusal of a Community trade mark application provided for in Articles 36 and 38, an application for a Community collective mark shall be refused where the provisions of Article 64 or 65 are not satisfied, or where the regulations governing use are contrary to public policy or to accepted principles of morality.

2. An application for a Community collective mark shall also be refused if the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be something other than a collective mark.

3. An application shall not be refused if the applicant, as a result of amendment of the regulations governing use, meets the requirements of paragraphs 1 and 2.

#### **Article 68**

Use of a Community collective mark by any person who has authority to use it shall satisfy the requirements of this Regulation, provided that the other conditions which this Regulation imposes with regard to the use of Community trade marks are fulfilled.

#### **Article 69**

The proprietor of a Community collective mark must submit to the Office any amended regulations governing use.

2. The amendment shall not be mentioned in the Register if the amended regulations do not satisfy the requirements of Article 65 or involve one of the grounds for refusal referred to in Article 66.

3. Article 67 shall apply to amended regulations governing use.

4. For the purposes of applying this Regulation, amendments to the regulations governing use shall take effect only from the date of entry of the mention of the amendment in the Register.

#### **Rule 43**

(1) Where the application for a Community collective trade mark does not contain the regulations governing its use pursuant to Article 65 of the Regulation, those regulations shall be submitted to the Office within a period of two months after the date of filing.

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<sup>1</sup> Community Trade Mark Implementing Regulation (Commission Regulation (EC) no2868/95 of 13 December 1995 implementing the CTMR

- (2) The regulations governing Community collective marks shall specify:
- (a) the name of the applicant and his office address;
  - (b) the object of the association or the object for which the legal person governed by public law is constituted;
  - (c) the bodies authorized to represent the association or the said legal person;
  - (d) the conditions for membership;
  - (e) the persons authorized to use the mark;
  - (f) where appropriate, the conditions governing use of the mark, including sanctions;
  - (g) where appropriate, the authorization referred to in the second sentence of Article 65 (2) of the Regulation.

### 3. Detailed Implementation

The detailed application of these legal provisions is set out in the OHIM Manual of Trade Mark Practice, Part B Examination, Section 10.