

Contribution from Japan
concerning technical and procedural aspects relating to
the registration of certification and collective marks

Japan's contribution concerning technical and procedural aspects relating to the registration of certification and collective marks is based on paragraph 12 of document SCT/20/4 adopted by the 20th Session of the SCT.

There are two collective trademark registration systems in Japan. One is for collective trademarks, and the other is for regionally-based collective trademarks. There is no certification mark system in Japan.

1. Collective trademark system (Section 7 of Trademark Act)

Where an incorporated association, or other association that has juridical personality,, or any other association established pursuant to a special Act including business cooperatives (except those which do not have juridical personality), or a foreign juridical person equivalent allows its members the use of its trademark, the trademark can be regarded as registrable as a collective trademark. Basically, a Japanese collective trademark can be obtained through the same processes as a regular trademark, and the registration requirements are the same as those of a regular trademark. However, when a person files an application for the registration of a collective trademark, the applicant shall submit the certificate for the requirement regarding the main body of the applicant, i.e., the certificate that the applicant is incorporated association or other association which have juridical personality..

Section 7 provides as follows:

Section 7: Collective trademarks

(1) Any incorporated association or other association (except those which do not have juridical personality, and companies), or any other association established pursuant to a special Act including business cooperative except those which do not have juridical personality), or a foreign juridical person equivalent thereto shall be entitled to obtain a collective trademark registration with respect to a trademark to be used by their members.

(2) For the purpose of the application of Article 3(1), in the case of the preceding paragraph, "applicant" in the said paragraph shall read "applicant or its members."

(3) Any person who desires to register a collective trademark pursuant to paragraph (1) shall, at the time of filing of an application for trademark registration pursuant to Article 5 (1) , submit to the Commissioner of the Patent Office a document certifying that the applicant for trademark registration is a juridical person that falls under paragraph (1) .

2. Regionally-based collective trademark system (Section 7-2 of Trademark Act)

The regionally-based collective trademark system allows a trademark consisting solely of a region name and a product (service) name to be registered as a regionally-based collective trademark. This applies if the trademark has become known to a certain extent as a mark used by an association or a member of the association, such as a business cooperative or an agricultural cooperative, through being applied to products that are closely related to the region (e.g., the production area) by the association.

In order to provide thorough protection for regional brands that combine the region name and the product (service) name, the Trademark Act was partially amended in 2005, and this system was introduced in April 2006.

This system has been introduced aiming at such an effect that in regional efforts to stimulate local economies, local trade associations will actively use this system, which leads to the sustainable stimulation of local economies.

Section 7-2 provide as follows:

Section 7-2: Regional collective trademarks

(1) Any association established by a special Act, including a business cooperative (those which do not have juridical personality are excluded, and limited to those which are established by a special Act providing, without a just cause, that the association shall not refuse the enrollment of any person who is eligible to become a member or that the association shall not impose on any of its prospective members any condition that is heavier than those imposed on its existing members) or a foreign juridical person equivalent thereto (hereinafter referred to as an "Association, etc.") shall be entitled to obtain a regional collective trademark registration with respect of any of the following, provided that the trademark is used by its members and, as a result of the use of the said trademark, the said trademark is well known among consumers as indicating the goods or services pertaining to the business of the applicant or its members, notwithstanding the provision of Article 3 (except a case falling under item (i) or (ii) of Article 3 (1))

(i) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members;

(ii) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the name customarily used as a name indicating the goods or services pertaining to the business of the applicant or its members; or

(iii) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members or the name customarily used as a name indicating thereof, and characters customarily added in indicating, in a common manner, the place of origin of the goods or the location of provision of the services.

(2) The term "name of the region" as used in the preceding paragraph means, even prior to the filing of the said application, the name of the place of origin of the goods, the location of provision of services, or the name of the region which is considered to have a close relationship with the said goods or services to the equivalent extent, for which the trademark pertaining to the said application has been used by the applicant or its members, or abbreviation thereof.

(3) For the purpose of the application of Article 3 (1) (limited to the part pertaining to items (i) and (ii)) in the case of paragraph (1), "applicant" in the said paragraph shall read "applicant or its members."

(4) Any person who desires to register a regional collective trademark pursuant to paragraph (1) shall, at the time of filing of an application for trademark registration pursuant to Article 5 (1), submit to the Commissioner of the Patent Office a document certifying that the applicant for trademark registration is an Association, etc. and documents necessary to prove that the trademark for which the registration is sought contains the name of a region as provided in paragraph (2).