

Estonian Patent Office

Submission regarding technical and procedural aspects relating to the registration of certification and collective marks

The registration and specification of legal protection of certification and collective marks is regulated by the Estonian Trade Marks Act and the Regulation on Trade Marks.

According to the Estonian Trade Marks Act the definitions of the collective and certification marks are the following.

A collective mark is a trade mark which belongs to an association of persons with active legal capacity and which is used by members of the association to designate their goods and services under the conditions and pursuant to the procedure provided for in the regulations of the collective mark.

A guarantee mark is a trade mark used to designate the goods and services of different persons in order to guarantee a common quality, common geographic origin or method of production or another common feature of such goods and services.

The applicant has to indicate in the application form that the applied trademark is the collective or guarantee mark. An application for the registration shall include the regulations of the collective mark or guarantee mark. The application fee for collective or guarantee marks is 3000 Estonian kroons (ca 192 euros), the application fee for trademark is 2200 Estonian kroons (ca 141 euros).

A collective mark or guarantee mark shall be registered if there are no circumstances which preclude legal protection and:

- 1) the regulations are not contrary to public policy or accepted principles of morality;
- 2) in the case of a guarantee mark, the regulations include a list of the required common features of goods and services designated with the guarantee mark which can be used as the basis for quality control;
- 3) in the case of a collective mark, the regulations have a list of members of the association whose goods and services are designated with the collective mark attached thereto and the regulations include the conditions of and procedure for becoming a member of the association.

Specifications of legal protection of collective marks and guarantee marks

The use of a collective mark or guarantee mark by an unauthorized person is prohibited.

A guarantee mark may be used by any person whose goods or services have features provided for in the regulations provided that such person pays a fee to the proprietor of the guarantee mark.

A guarantee mark may indicate the geographical origin of the goods or services designated with the guarantee mark.

The use of a collective mark by at least one member of the association which is the proprietor of the collective mark and the use of a guarantee mark, with the permission of the proprietor of the guarantee mark, by at least one person whose goods or services have features provided for in the regulations constitute use of a trade mark.

Additional grounds for declaration of invalidity of exclusive right of proprietor of collective mark or guarantee mark or declaration of such exclusive right extinguished

If regulations cannot be applied and the proprietor of the trade mark fails to eliminate deficiencies in the regulations during the term set by a court on the basis of an action filed by an interested person, the exclusive right of the proprietor of the collective mark or guarantee mark shall be declared invalid.

If regulations cannot be applied due to amendments made thereto or changed circumstances and the proprietor of the trade mark fails to eliminate deficiencies in the regulations during the term set by a court on the basis of an action filed by an interested person, the exclusive right of the proprietor of the collective mark or guarantee mark shall be declared extinguished.

If the proprietor of a collective mark or guarantee mark allows use of the collective mark or guarantee mark in conflict with law or the regulations and fails to eliminate deficiencies during the term set by a court, exclusive right of the proprietor of the collective mark or guarantee mark shall be declared extinguished based on the action of an interested person.

Specifications of protection of exclusive right to collective marks and guarantee marks

The user of a collective mark or guarantee mark may file an action for the protection of trade mark rights only with the permission of the proprietor of the trade mark. The user of a collective mark or a guarantee mark may file an action without the permission of the proprietor of the trade mark after giving notice of an infringement of the exclusive right to the proprietor of the trade mark if the proprietor of the trade mark fails to file an action within a reasonable period of time.

The user of a collective mark or guarantee mark is entitled to enter a proceeding initiated on the basis of an action filed by the proprietor of the trade mark in order to claim compensation for damage suffered.