

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Forty-Ninth Session
Geneva, March 30 to April 2, 2026

PROPOSAL BY THE DELEGATION OF THE UNITED STATES OF AMERICA

Document prepared by the Secretariat

In a communication dated February 18, 2026, the Delegation of the United States of America transmitted to the International Bureau of the World Intellectual Property Organization (WIPO) the proposal contained in the Annex to the present document.

[Annex follows]

**Standing Committee on the Law of Trademarks, Industrial Designs and
Geographical Indications
Forty-ninth Session
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**PROPOSAL FOR A QUESTIONNAIRE ON THE LEGAL, ADMINISTRATIVE, AND
PROCEDURAL ASPECTS OF EXAMINATION AND REGISTRATION OF
CERTIFICATION MARKS**

prepared by the Delegation of the United States of America

PROPOSAL SUMMARY

The United States of America proposes distribution of a questionnaire on the legal, administrative, and procedural aspects of examination, registration, and enforcement of certification marks, to update and expand the information compiled previously by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

BACKGROUND

Previous work of the SCT on certification and collective marks culminated in a document entitled “Technical and Procedural Aspects Relating to the Registration of Certification and Collective Marks” (document [WIPO/STrad/INF/6](#)), which was published in 2010. This document provided an overview of general trends in examination and registration of certification marks and noted the value of the Committee’s work, stating in part, “promoting a better understanding of ... certification marks in different jurisdictions may contribute to greater efficiencies in the use of those intellectual property rights, as well as increased access to protection and registration systems across the world.”

**CONTEXT REGARDING THE NEED FOR AN UPDATED QUESTIONNAIRE:
DIFFICULTIES FOR CERTIFYING BODIES**

Owners of certification marks often encounter problems and inconsistencies when seeking to register and enforce their certification marks. One issue is that certification marks are ineligible for registration and protection in some countries. Thus, in order for a certifying body to obtain protection, they are sometimes forced to apply for a trademark registration for testing services, despite not using the certification mark in connection with those services. Alternatively, a certifying body may be forced to apply for a trademark registration

for each good or service it certifies, even though it does not produce or sell the certified good or service, possibly subjecting the registration to a non-use cancellation. Both scenarios result in the certifying function being unprotected or unenforceable.

In addition, certification marks have been subject to inconsistent examination where the certification standards are rejected or modified by examiners who have no expertise in the goods or services the mark is certifying. In view of the wide variety of practices and procedures that have developed regarding registration of certification marks over the past fifteen years, an updated study should promote a better understanding of protection in different jurisdictions and contribute to greater efficiencies.

PURPOSE AND PROPOSED STRUCTURE OF THE QUESTIONNAIRE

The purpose of the questionnaire is to collect current information regarding specific national practices of SCT member states on legal, administrative, and procedural aspects of examination and registration practices in order to: identify problems that may be addressed at both the international and national levels; simplify the administration and operations of national intellectual property (IP) offices; provide clarity for certification mark applicants, as well as certifying bodies and their representatives; and minimize uncertainty and difficulties for certifying bodies in obtaining adequate protection for their certification marks.

The proposed questionnaire is attached as an Annex and is comprised of five sections that address: (1) definitions, (2) requirements for registration, (3) ownership and control, (4) certification marks indicating regional origin and geographical indications, and (5) examples. Member states are also asked to submit examples of certification marks that are registered and protected in their respective jurisdictions.

ANNEX

DRAFT QUESTIONNAIRE FOR CONSIDERATION BY THE STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

With a view toward updating and expanding on previously compiled materials applicable to certification marks, SCT member states are invited to provide responses to the following questions on the legal, administrative, and procedural requirements relating to the examination, registration, protection, and enforcement of certification marks.

I. Definitions

This section is intended to determine how certification marks are defined under the laws of each SCT member, including whether “certification marks” are referred to by another term, e.g., “guarantee marks.”

- 1. Do your laws provide for the registration of certification marks, or marks identified otherwise (e.g., “guarantee marks”) that are used by authorized users to show consumers that particular goods or services, or the providers of those goods or services, have met certain standards set by a certifying organization?**

Yes No N/A

- a. If the answer to question 1 is “yes,” please (i) indicate what these marks are called in your jurisdiction and (ii) identify the specific laws or regulations that permit registration of these types of marks.**

- b. If the answer to question 1 is “yes,” please state whether your jurisdiction has a specific definition of this type of mark and set out the definition in the space provided below, along with the specific statute, law, rule or regulation number for the definition.**

2. If the answer to question 1 is “yes,” please state the name of the administrative authority that registers certification marks or similar marks as identified in your jurisdiction (hereinafter all referred to as “certification marks”).

3. If the answer to question 1 is “no,” please identify what type of application, if any, that may be filed by a certifying entity to protect a mark used to indicate that the goods or services of another meet certain standards.

4. Is registration a requirement to protect a certification mark? Yes No N/A

5. If your laws do not provide for registration of certification marks, please explain why, (e.g., too difficult to implement, faced industry opposition, legislative hurdles, etc.).

6. If the answer to question 1 is “yes,” what characteristics or features of a product or service can the certifying entity certify? (please check all that apply)

- a. The material comprising all of the goods meets certain standards Yes No N/A
- b. The material comprising part of the goods meets certain standards Yes No N/A
- c. The mode of manufacture of the goods Yes No N/A
- d. The mode of performance of the services Yes No N/A
- e. The quality of the goods or services Yes No N/A
- f. The characteristics of the goods or services Yes No N/A
- g. That the work or labor on the goods or services was performed by members of a union or other organization Yes No N/A

h. The geographic origin of the goods or services Yes No N/A

i. Other (Please specify):

II. Requirements for Registration

This section is intended to determine the requirements for filing and registration of certification marks.

7. What requirements must be satisfied to receive a filing date for an application to register a certification mark?

a. Name of applicant/owner Yes No N/A

b. Applicant/owner's business address Yes No N/A

c. Owner's entity type (individual, partnership, corporation, other) Yes No N/A

d. Citizenship of individual owner or country in which owner entity
is incorporated or otherwise formed Yes No N/A

e. Prescribed fee Yes No N/A

f. Identification of the goods or services to be certified Yes No N/A

g. Classification of the goods or services to be certified Yes No N/A

h. Statement that application is for registration of a certification mark Yes No N/A

i. Statement of what the mark certifies Yes No N/A

j. A copy of the certification standards Yes No N/A

k. A representation or drawing of the mark Yes No N/A

l. Specimen showing use of the mark Yes No N/A

m. Declaration of use or intent to use the mark Yes No N/A

n. Signature of the applicant/owner Yes No N/A

o. Email address Yes No N/A

p. Local counsel Yes No N/A

q. Other additional requirements (Please specify):

8. For certification marks indicating regional origin, what additional requirements must be fulfilled for the application to be approved for registration?

- | | |
|---|---|
| a. Certification statement identifying what goods will be certified | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| b. Regional demarcation of where products are produced | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| c. Copy of the standards of review used to certify the goods | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| d. Protection in the country of origin | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| e. Authority to control the use of the geographic term | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| f. Map of production area | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| g. Specimen of use (e.g., a label on a certified product or documentation for services showing that the certification mark has certification significance in the marketplace) | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| h. List of names of authorized users | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| i. Statement that applicant will not certify its own goods or services | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| j. Statement of non-production of goods to be certified | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| k. Disclaimer of any common names | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| l. Other additional requirements that must be fulfilled before the application can be approved for registration of the mark (Please specify): | |

9. Are the requirements for a complete application (i.e., being in order for acceptance and registration) the same as those required to receive a filing date?

Yes No N/A

10. If the answer to question 9 is "no," please identify below what additional requirements must be fulfilled before the application can be approved for registration of the mark?

11. If the application contains incorrect information, can the application be amended or must the application be refiled with loss of the original filing date? (Please explain)

12. If the applicant is required to submit a copy of the standards that govern the use of its certification mark, are the standards presumed valid?

Yes No N/A

a. If the answer to question 12 is "yes," is any documentation required to show that the certifying body has expertise or appropriate knowledge necessary to certify goods or services?

Yes No N/A

b. If documentation is required, please identify the types of documents that can be submitted to demonstrate the certifying body's expertise:

13. If the standards are not presumed valid "on their face," what information is required?

(Please check all that apply)

a. Information demonstrating that the certifier is required to take reasonable steps to prevent the public from being misled. Yes No N/A

b. Information detailing how the owner authorizes/controls/monitors the use of the mark. Yes No N/A

c. Governmental substantiation of the standards Yes No N/A

d. Inspection by a government body required Yes No N/A

e. May standards be promulgated by private research or industry? Yes No N/A

f. Other additional information (Please specify):

14. If the certification standards are not presumed valid "on their face," will an extension of time be granted to allow the applicant to submit amended standards or additional supporting information?

Yes No N/A

15. Will any other government agency be consulted to determine registrability of the certification mark?

Yes No N/A

16. On what basis can certification marks be refused? (Please check all that apply)

a. Likelihood of confusion Yes No N/A

b. Immoral/scandalous Yes No N/A

c. Functional Yes No N/A

d. Lacking distinctive character Yes No N/A

- e. Deceptive Yes No N/A
 - f. Standards appear discriminatory against certain producers Yes No N/A
 - g. Applicant does not appear to be capable of exercising control over the mark and the certification standards Yes No N/A
 - h. Applicant appears to be engaged in the production or marketing of goods or services to which the mark is applied (rather than being an impartial certifier) Yes No N/A
 - i. Evidence of lack of control of use of the mark by the applicant certifying party Yes No N/A
 - j. Potential for public confusion to be misled regarding nature or significance of the mark Yes No N/A
 - k. Other grounds (Please specify):
-
-

17. Is the test for a refusal based on lack of distinctive character the same test that is applied to trademarks? Yes No N/A

18. If the answer to 17 is "no," what factors may be taken into account in assessing whether a mark has or lacks distinctive character:

- a. The inherent nature of the mark itself Yes No N/A
 - b. The standards used to certify goods Yes No N/A
 - c. The goods or services Yes No N/A
 - d. Other factors (Please specify):
-
-

19. Can a refusal based on lacking distinctive character be overcome with evidence of acquired distinctiveness? Yes No N/A

20. Will your IP office consider any of the following sources as evidence that the certification mark has or does not have distinctive character?

- a. Dictionaries Yes No N/A
- b. Newspapers or other publications Yes No N/A
- c. Relevant websites Yes No N/A
- d. Marketing materials showing how device is used and sold in the territory Yes No N/A

e. Other factors (Please specify):

21. In the case of a mark that certifies regional origin, what factors other than those in question 20 are considered in determining whether the term has or does not have distinctive character? (Please check all applicable)

- a. If the term sought to be registered is used within your member state to refer to the same type of goods or services Yes No N/A
- b. Whether the term is used in relevant international standards to refer to a type or class of goods, such as Codex Alimentarius Yes No N/A
- c. Whether the goods named by the term sought to be registered are imported into your territory from any other territories other than that identified in the application Yes No N/A
- d. Whether the goods named by the term sought to be registered are manufactured or produced in any territories other than that identified in the application Yes No N/A
- e. Whether persons or entities other than the applicant use the term to name the type of product identified in the application Yes No N/A

22. Is the decision to grant registration published? Yes No N/A

23. Is the decision to deny registration published? Yes No N/A

24. May the decision to refuse registration be appealed? Yes No N/A

25. If the answer to 24 is "yes," is there a specific time period during which the applicant may appeal the decision to deny registration? Yes No N/A

26. If there is a limited time period for appeal, please specify below: (i) the length of the time period; and (ii) when it begins and ends.

27. May a decision to register be opposed? Yes No N/A

28. If there is a limited time period during which the approval of certification marks may be opposed, please specify below: (i) the length of the time period; and (ii) when it begins and ends.

29. Will the opposition notice include a disclaimer of common terms?

Yes No N/A

30. Are the factors for determining infringement for certification marks the same as the factors for trademark infringement?

Yes No N/A

31. If the answer to question 30 is “no,” please explain how the tests for infringement are not the same.

32. Will the database and certificate of registration include any disclaimers?

Yes No N/A

III. Ownership and Control

The following section is intended to determine what type of entity is eligible to own, control and apply to register certification marks.

32. What type of entity is authorized to register certification marks?

- a. An individual or entity, i.e., the certifier, that is not engaged in the use of the mark for its own goods or services Yes No N/A
- b. An individual or entity that is using the mark in connection with its own goods or services, i.e., a producer Yes No N/A

33. The certifying entity may be:

- a. An individual Yes No N/A
- b. A partnership Yes No N/A
- c. A corporation Yes No N/A
- d. A joint venture Yes No N/A
- e. An association Yes No N/A
- f. A collective Yes No N/A

- g. A government entity Yes No N/A
- h. Any entity recognized by a foreign applicant's state/country of domicile Yes No N/A
- i. Other (Please specify):
-
-

34. If the applicant is not a governmental entity, is the applicant required to demonstrate they have been granted authority either from the national government or other governmental authority to operate a certification program?

Yes No N/A

35. If the answer to question 34 is "yes," what documentation or evidence is necessary to demonstrate that the certifying entity has been authorized to certify goods or services?

36. If the certifying applicant is not "authorized" by its national government or other relevant authority, but shows that such authorization is not required under its country's law, will your IP Office make an allowance permitting the mark to be registered?

Yes No N/A

37. Once registered, is the owner authorized to use the mark for purposes other than to certify, e.g., on its own goods or services, or goods promoting the mark?

Yes No N/A

38. Can certification marks be assigned?

Yes No N/A

39. If the answer to question 38 is "yes," is the approval of the IP office required for an assignment to be valid?

Yes No N/A

40. If the answer to 38 is "yes," are there any other conditions that must be fulfilled prior to an assignment?

41. Are certification types of marks subject to cancellation?

Yes No N/A

42. If certification types of marks subject to cancellation, what are the grounds? (Please check all that apply)

- a. The owner is not exercising legitimate control over the use of the mark.

Yes No N/A

- b. The applicant is engaged in, or will be engaged in, the production or marketing of any goods or services to which the mark is applied. Yes No N/A
- c. The applicant has failed to observe the certifying standards. Yes No N/A
- d. The owner permits use of the mark for purposes other than to certify. Yes No N/A
- e. The owner discriminately refuses to certify, e.g., if a party seeks to use the mark on its goods that meet the certifier's standards, but the certifier refuses the party's use Yes No N/A
- f. Other grounds for cancellation (Please specify):

- 43. Can a licensee challenge ownership of the certification mark?** Yes No N/A
- 44. Is the registration term the same as trademark registrations?** Yes No N/A
- 45. Is it possible to renew the registration?** Yes No N/A
- 46. If the answer to question 45 is "yes," please specify the conditions required to renew registration.**

- 47. Is renewal required for continued protection?** Yes No N/A
- 48. Do your courts enforce the IP rights granted through registration of certification marks?** Yes No N/A
- a. If the answer to question 48 is "no," please explain why:**

IV. Certification Marks Indicating Regional Origin and Geographical Indications (GIs)

The following section is intended to determine the connection between certification marks and GIs.

- 49. Are GIs eligible for registration as certification marks?** Yes No N/A

50. If your IP laws provide for registration and protection of both certification marks and GIs, is it possible to apply to register the same mark as both a certification mark and as a GI? Yes No N/A

51. Is there a benefit to applying for registration of both? (Please explain)

52. Is there a benefit for applying for GI protection instead of a certification mark? (Please explain)

V. Examples

53. Please provide examples of certification marks for goods, certification marks for services, and regional certification marks currently protected in your jurisdictions.

[End of Annex and document]