

Finland

Protection of Country Names

Practice of the National Board of Patents and Registration in Finland (hereafter "NBPR") concerning the protection of country names in the field of registration of trademarks.

NBPR applies Finnish Trademarks Act relating to the protection of country names in the field of the registration of trademarks. As part of the examination of an application NBPR examines ex officio if the trademark consists of or contains a name of a country. According to the practice of NBPR the principal rule is that the protection is granted for the official name of the country. The protection for variations of the country names such as common names, adjectives or abbreviations are considered on a case-by-case basis.

Under the practice of NBPR the country names are

- excluded from registration as trademark for goods/services if they could be considered descriptive of the geographical origin of the goods/services in respect of which registration is sought or if they otherwise lack any distinctive character.

Article 13 of the Finnish Trademarks Act

To be eligible for registration, a trademark must be capable of distinguishing its proprietor's goods from those of others. A mark that denotes either alone or with only few alterations or additions, the kind, quality, quantity, use, price or place or time of manufacture of the goods shall not, as such, be regarded as distinctive. Neither shall a mark be regarded as distinctive, if it is solely composed of a form that is characteristic of the goods, necessary for achieving a technical result or that substantially increases the value of the goods. In assessing whether a trademark possesses distinguishing power, all the factual circumstances shall be borne in mind, particularly the length of time and extent to which the mark has been used.

- excluded from registration as trademark for goods/services if the name of the country could be considered to be misleading as to the origin of the goods/services in respect of which registration is sought or if they can be considered incorrect as to the origin of the products for which registration is sought.

Article 14 paragraph 1 item 2 of the Finnish Trademarks Act

A trademark shall not be registered: (2) if it is liable to mislead the public.

If a trademark solely consists of the official name of a country, it would be considered as a descriptive of the geographical origin and therefore it would be devoid of any distinctive character.

As a part of a distinctive trademark entity the name of a country can be used without any special authorization to describe the origin of the goods and/or services, but this requires that the applicant/holder of the trademark is from that country.

For instance a trademark can contain a name of a country 'Finland' or an adjective 'Finnish', as a part of the trademark but this requires that the applicant/holder of the trademark is Finnish otherwise it would be considered to be misleading as to the origin of the goods/services.

Normally the name of the country is raised ex officio, but it could also be raised by third parties in opposition procedures or by third parties in post registration invalidation procedures.