

FINLAND

Act on Collective Marks

No. 795 of December 5 1980, as amended by Act No. 108 of January 31
2013

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Section 1

A collective body may, by means of registration in accordance with the Trademarks Act (7/64) or use, obtain the exclusive right to a trademark intended to be used by the members of the body in their professional activities (association mark). The aforementioned exclusive right may also be obtained with regard to other special symbols used as association marks through the establishing of the mark by means of use.

An authority, association or institution whose duty it is to check or supervise goods or services or to issue directions regarding them may, by means of registration, obtain the exclusive right to a special mark to be used on goods or services subject to control or supervision (control mark). The marks referred to in this Act shall be called collective marks.

Section 2

Unless otherwise provided by the provisions of this Act, the provisions of the Trademarks Act shall apply mutatis mutandis.

Section 3

An application for the registration of a collective mark shall include an excerpt from the association, trade or institution register or from some other report on the applicant's field of activities, along with the association's bylaws and stipulations regarding the use of the mark.

Amendments to the stipulations for use referred to in paragraph 1 shall be reported to the registering authorities.

Section 4

Assignment of collective marks shall be registered on application therefor, unless the mark, in the hands of the assignee, is liable to mislead the public.

If the registration of a control mark has expired, the mark may be registered only for a party entitled to own such a mark.

Section 5

In addition to the cases referred to in the Trademarks Act (section 26, paragraphs 1 to 3), the registration of a collective mark may also be cancelled if the owner of the mark has ceased his activities, if the owner permits use of the mark in a manner contrary to the stipulations mentioned in section 3, or if amendments to the

aforementioned stipulations have not been reported to the registering authorities.

Anyone aggrieved by the registration may bring legal action to cancel the registration. Legal action may also be brought by a prosecutor, an authority appointed by the Ministry of Employment and the Economy or by a body entrusted with the task of looking after the interests of the trade and industry concerned or of consumers.

Section 6

In cases concerning infringement of collective mark rights, only the owner of the mark may be considered as a complainant. He may sue for compensation for damages, including damages that have been caused to another party entitled to use the collective mark.

Section 6a

Disputes and application cases under this Act are heard by the Market Court.

The provisions of the Act on the Judicial Proceedings at the Market Court (100/2013) apply to the hearing of disputes and application cases by the Market Court.

Section 6b

Charges of an intellectual property offence, as referred to in Chapter 49, section 2, of the Criminal Code of Finland, which infringes the right to a trade symbol; and charges of violation, as referred to in section 39(1) of the Trademarks Act, are heard by the Helsinki District Court.

Claims for compensation under section 38(2) and (3) of the Trademarks Act or claims under section 41 of the same Act, arising from an offence referred to in the charge, may be heard in connection with a charge referred to in subsection 1 above, notwithstanding the provisions of section 6 a of this Act.

The court remains competent to examine a claim referred to in subsection 2 even if the circumstances on which its competence is based change after the claim is being made.

Section 6c

The provisions of Chapter 4, section 22, of the Act on the Judicial Proceedings at the Market Court, on the right of the Market Court to request a statement, apply to the right of the court hearing a case referred to in section 6b above, to request a statement from the

registering authority.

Section 6d

When hearing a case referred to in section 6b, the District Court may be assisted by a maximum of two expert members referred to in section 7(2) of the Market Court Act (99/2013).

The experts must give their statement in writing on the matters submitted to them by the District Court. The experts are entitled to question the parties and the witnesses. The District Court must reserve the parties an opportunity to state their views on the expert's statement before decision in the case.

The provisions of section 37 of the Market Court Act on the fees of expert members, apply to the entitlement of the experts to a fee.

Section 6e

The provisions of Chapter 4, section 23, of the Act on the Judicial Proceedings at the Market Court, on the obligation of the Market Court to notify of its decisions, apply to the obligation of the court hearing a case referred to in section 6b above, to notify the registering authority of a decision.

Section 7

More detailed provisions concerning the implementation of this Act shall be provided by decree when required.

Section 8

This Act shall take effect on March 1, 1981. This Act replaces Chapter 10 of the Trademarks Act issued on January 10, 1964.