

47.101.09

Approach for Determining the Likelihood of Confusion over the Source of Goods and Services Connected to the Business between the Applicant and Another Person

A registered regional collective trademark should be a trademark well-known among consumers, which is a requirement for being entitled to be registered. The requirement “well-known among consumers,” however, may sometimes cause confusion among customers over the source of goods or services connected to the business between the applicant and another person, setting aside the identicalness or similarity between the trademarks or goods (services).

Notably, the purpose of introducing the regional collective trademark system in Japan was to exclude third parties from taking advantage of using a trademark in the process of becoming known throughout Japan. Therefore, when a filed regional collective trademark may possibly cause confusion over the source of goods or services between a filed trademark and another person’s trademark, examiners shall consider applying Article 4(1)(xv) of the Trademark Act to the filed trademark even though it seems difficult to apply Article 4(1)(xi) of the Trademark Act to the filed trademark.

For example, examiners may apply Article 4(1)(xv) of the Trademark Act to a later-filed regional collective trademark when:

The later-filed trademark provides goods or services which are not similar to those of the registered regional collective trademark but are composed of character identical in part to those of the registered trademark, having a certain relationship with the registered trademark with respect to the designated goods, such as the relationship between raw materials and products made of the materials.

Examples

- 1) A registered regional collective trademark “東京みかん” (Tokyo oranges) for designated goods “oranges produced in Tokyo”; a later-filed trademark “東京みかん入り” (containing Tokyo oranges) for designated goods “orange juice,” in which the characters “東京みかん” are contained.
- 2) A registered regional collective trademark “東京ビール” (Tokyo beer) for designated goods “beer produced in Tokyo”; a later-filed trademark AAA for designated services “providing food and drink,” in which the characters “東京ビール” are contained.

Click below to see the Examination Guidelines for Trademarks

Examination Guidelines for Trademarks:

[Article 4\(1\)\(xv\) \(Confusion over the Source of Goods and Services\)](#)

[Article 7-2 \(Regionally based collective trademarks\)](#)