

47.101.11**Requirements Concerning Eligibility for Trademark Registration Applications re.
Regional Collective Trademarks under the Regional Future Investment
Promotion Act**

Act on Strengthening a Framework for Regional Growth and Development by
Promoting Regional Economy Advancement Projects

(Approval of Regional Economy Advancement Project Plan)

Article 13 A person intending to implement a Regional Economy Advancement Project in the Area for Promotion may, solely or jointly with others, formulate a plan on a Regional Economy Advancement Project (hereinafter referred to as a "Regional Economy Advancement Project Plan") and apply for an approval by a prefectural governor having jurisdiction over the relevant Area for Promotion (in the case where persons intending to implement a Regional Economy Advancement Project also include a local government, the competent minister; hereinafter the same applies in this paragraph, paragraphs (1) and (2) of the following Article, Article 22, paragraphs (3) through (6) and Article 36, paragraph (1)), pursuant to the provisions of order of the competent ministry. In this case, if persons intending to implement a Regional Economy Advancement Project jointly formulated a Regional Economy Advancement Project Plan, they must designate a representative and submit it to the prefectural governor from which the approval is to be obtained, pursuant to the

provisions of order of the competent ministry.

2. The Regional Economy Advancement Project Plan must provide for the following matters:

- (i) the details of the Regional Economy Advancement Project and the time of its implementation;
- (ii) the amount of funds necessary for the Regional Economy Advancement Project and the procurement method thereof; and
- (iii) economic effects of the implementation of the Regional Economy Advancement Project.

3. The Regional Economy Advancement Project Plan may provide for the following matters:

- (i) through (iii) (Omitted)
- (iv) the following matters, in case where the provisions of Article 23, paragraph (1) or (2) are applied to a general incorporated association for the implementation of a Regional Economy Advancement Project:
 - (a) the name and location of the general incorporated association;
 - (b) the provisions of articles of incorporation of the general incorporated association relating to qualifications of its members (limited to provisions which prohibit the association from refusing membership of a person who is qualified as a member, or imposing conditions for membership on the person which are stricter than those imposed on the incumbent members when they became members, without any justifiable ground);

(c) goods or services pertaining to the trademark for which the association seeks application of the provisions of Article 23, paragraph (1) or (2); and

(v) (Omitted)

4. If a prefectural governor receives an application under paragraph (1) and determines the Regional Economy Advancement Project Plan to be in conformity with the Consented Basic Plan, the prefectural governor is to grant an approval.

5. (Omitted)

6. When the prefectural governor has granted approval under paragraph (4), the prefectural governor must notify the heads of the relevant Municipalities to that effect, without delay.

7. If a competent minister receives an application under paragraph (1) and determines that the Regional Economy Advancement Project Plan is in conformity with the Basic Plan and that it would contribute to the achievement of the Consented Basic Plan, the competent minister is to grant an approval.

8. through 9. (Omitted)

10. When the competent minister has granted approval under paragraph (7), the competent minister is to notify the heads of the relevant municipalities and the prefectural governor to that effect, without delay.

(Special Provisions Concerning the Trademark Act)

Article 23 If Approved Regional Economy Advancement Project Operators include a general incorporated association (limited to ones whose articles of

incorporation have the provisions which prohibit the association from refusing membership of a person who is qualified as a member, or imposing conditions for membership on the person which are stricter than those imposed on the incumbent members when they became members, without any justifiable ground), and if that general incorporated association intends to obtain a trademark registration of a regionally based collective trademark (meaning registration of a regionally based collective trademark prescribed in Article 7-2, paragraph (1) of the [Trademark Act](#) (Act No. 127 of 1959); hereinafter the same applies in this Article and the following Article) for the goods or services set forth in Article 13, paragraph (3), item (iv), (c) (hereinafter referred to as "goods and services for the approved regional economy advancement project" in this Article), the provisions of the [Trademark Act](#) apply to the trademark registration of the regionally-based collective trademark, deeming the general incorporated association as a partnership, etc. prescribed in Article 7-2, paragraph (1) of the same Act, limited to the implementation period of the Approved Regional Economy Advancement Project Plan pertaining to the goods and services for the approved regional economy advancement project.

2. If a general incorporated association that is deemed as a partnership, etc. pursuant to the provisions of the preceding paragraph obtains a trademark registration for a regionally-based collective trademark pertaining to the goods and services for the approved regional economy advancement project, and where the association obtains an approval under Article 13, paragraph (4) or (7) within the implementation period for the Approved Regional Economy Advancement Project Plan pertaining to the

goods and services for the approved regional economy advancement project (hereinafter referred to as a "current plan" in this paragraph) for any other Regional Economy Advancement Project Plan pertaining to the goods and services for the approved regional economy advancement project (limited to a plan for which the date of commencement of the implementation period is on or before the day immediately subsequent to the termination date of the implementation period for the current plan), the provisions of the [Trademark Act](#) apply to the trademark registration of the regionally-based collective trademark, deeming the general incorporated association as a partnership, etc. prescribed in Article 7-2, paragraph (1) of the same Act, limited to the period from the date subsequent to the termination date of the implementation period of the current plan to the termination date of the implementation period of the other Approved Regional Economy Advancement Project Plan.

3. through 6. (Omitted)

1. Determination of applicant eligibility requirements

A general incorporated association is not included in the “association, etc.” provided in Article 7-2, paragraph (1) of the Trademark Act. However, only where the special measures under the Act on Strengthening a Framework for Regional Growth and Development by Promoting Regional Economy Advancement Projects (commonly known as the “Regional Future Investment Promotion Act”) apply (Article 23, paragraph (1) or paragraph (2) of that Act), will such association be deemed as one of the above-mentioned associations, etc., and may qualify as an eligible registrant of a regional

collective trademark.

Where an application for trademark registration of a regional collective trademark is filed by a general incorporated association, the following matters (1) through (5) shall be confirmed from the copies submitted at the time of filing of: (A) the written application for approval of a plan for regional economy advancement projects under the Act on Strengthening a Framework for Regional Growth and Development by Promoting Regional Economy Advancement Projects (Form 1 of the Ministerial Order Concerning Approved Regional economy advancement projects prescribed in Article 17 of the Act on Strengthening a Framework for Regional Growth and Development by Promoting Regional Economy Advancement Projects); and (B) the notice concerning approval of the plan for regional economy advancement projects (a document proving that the project plan has been approved by the prefectural governor, etc.).

If even one of these matters cannot be confirmed, it shall be determined that the requirements for registration under Article 7-2 of the Trademark Act (applicant eligibility requirements) are not satisfied, because the above special measures do not apply.

It should be noted that confirmation of whether the above (A) and (B) have been submitted is a matter for formality examination.

(1) That the project plan is one approved by the prefectural governor, etc.¹

¹ Where the persons intending to conduct the regional economy advancement projects include a local public

- (2) That, at the time of the examiner's decision, the implementation period of the project plan is current (limited to an implementation period to which Article 23, paragraph (1) or paragraph (2) of the Regional Future Investment Promotion Act may apply)
- (3) That the applicant and the general incorporated association stated in the project plan are identical (Article 13, paragraph (3), item (iv), (a) of the Regional Future Investment Promotion Act)
- (4) That the provisions of the articles of incorporation concerning eligibility for membership of the general incorporated association stated in the project plan provide for the principle of open admission (that is, a provision to the effect that persons who are eligible for membership must not be refused admission without justifiable grounds, and that, with respect to their admission, conditions more difficult than those imposed on existing members when they joined must not be attached) (Article 13, paragraph (3), item (iv), (b) of the Regional Future Investment Promotion Act).

However, where the provisions of the articles of incorporation are not stated

entity, approval is to be sought from the competent minister. (Article 13, paragraph (1) of the Regional Future Investment Promotion Act)

in the project plan, the above principle of admission must be provided for in the articles of incorporation attached to the project plan.

- (5) That the designated goods or designated services stated in the application coincide with the goods or services stated in the project plan (Article 13, paragraph (3), item (iv), (c) of the Regional Future Investment Promotion Act)

Whether they coincide shall be determined based on whether the designated goods or designated services stated in the application are substantially included within the scope of the goods or services stated in the project plan.

(a) Cases deemed to coincide:

- (1) Where the contents of the designated goods or designated services stated in the application and the goods or services stated in the project plan are found to coincide

(Designated goods/services stated in the application — goods/services stated in the project plan)

(Example) apples produced in Aomori Prefecture = apples produced in Aomori Prefecture

(Example) apples produced in Hirosaki City = apples produced in Hirosaki City, Aomori Prefecture

(Example) apples produced in the Aomori Prefecture area = apples produced in Aomori Prefecture

(Example) udon noodles made from wheat produced in Aomori Prefecture;

provision of udon made from wheat produced in Aomori Prefecture
 = udon noodles using wheat produced in Aomori Prefecture;
 provision of udon using wheat produced in Aomori Prefecture

(2) Where the designated goods or designated services stated in the application are found to be included in the goods or services stated in the project plan

(Designated goods/services stated in the application — goods/services stated in the project plan)

(Example) apples produced in Hirosaki City, Aomori Prefecture < apples produced in Aomori Prefecture

(Example) apples produced in Aomori City, Aomori Prefecture and the surrounding area < apples produced in Aomori Prefecture

(Example) apples produced in Hirosaki City, Aomori Prefecture < apples produced in Aomori City, Aomori Prefecture and the surrounding area

(Example) apples produced in Aomori City, Aomori Prefecture and its vicinity < apples produced in Aomori Prefecture

(3) Where the contents of the designated goods or designated services stated in the application and the goods or services stated in the project plan were not found to coincide, but came to fall under (1) or (2) above through amendment

(Designated goods/services stated in the application — goods/services stated in the project plan)

(Example) apples produced in Aomori Prefecture > apples produced in Aomori

City, Aomori Prefecture

⇒ designated goods amended to “apples produced in Aomori City, Aomori Prefecture” (falls under (1) above)

⇒ designated goods amended to “apples produced in ○○, Aomori City, Aomori Prefecture” (falls under (2) above)

(b) Cases deemed not to coincide

(1) Where the contents of the designated goods or designated services stated in the application and the goods or services stated in the project plan do not coincide, and amendment is not possible because it would constitute a change in the outline thereof

(Designated goods/services stated in the application — goods/services stated in the project plan)

(Example) apples produced in Yamagata Prefecture ≠ apples produced in Aomori Prefecture

⇒ Amendment of the designated goods to “apples produced in Aomori Prefecture” is not permissible.

(Example) apples produced in Hirosaki City, Aomori Prefecture ≠ apples produced in Aomori City, Aomori Prefecture

⇒ Amendment of the designated goods to “apples produced in Aomori City, Aomori Prefecture” is not permissible.

(Example) cherries produced in Aomori Prefecture ≠ apples produced in Aomori Prefecture

⇒ Amendment of the designated goods to “apples produced in Aomori Prefecture” is not permissible.

(Example) provision of udon made from wheat produced in Aomori Prefecture (services) ≠ udon noodles using wheat produced in Aomori Prefecture (goods)

⇒ Amendment of the designated services to “udon noodles using wheat produced in Aomori Prefecture” (goods) is not permissible.

2. Requirements other than the above

As to requirements other than the above, the handling shall follow the Examination Guidelines, etc. relating to regional collective trademarks.

(Note) You can view the Trademark Examination Guidelines by clicking below.

- [Examination Guidelines for “Article 7-2 \(Regional Collective Trademarks\)”](#)