

Chapter 2: Article 7-2(1)(i),(ii) and(iii) (Registerable trademark)

- (i) A trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members;
- (ii) A trademark consisting solely of characters indicating, in a common manner, the name of the region and the name customarily used as a name indicating the goods or services pertaining to the business of the applicant or its members; or
- (iii) A trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members or the name customarily used as a name indicating thereof, and characters customarily added in indicating, in a common manner, the place of origin of the goods or the location of provision of the services.

1. Regarding "the name of the region"

Refer to Part VII, Chapter 3, Items 1 to 4 of the Guidelines (Article 7-2(2), (3) and (4)) for "the name of the region"

"The name of the region" includes not only geographical names for units of area under current administration, but also the geographical names such as former geographical names, former country names, names of rivers, names of mountains, names of sea areas, etc..

2. Part I, Chapter 3, Item 1 (Article 3(1)(i)) of the Guidelines apply mutatis mutandis to judgment as to the "common name" of goods or services.

3. Regarding "the name customarily used as a name indicating the goods or services"

(1) For example, the following falls under such name.

(i) Name "織" (woven) or "紬" (spun) in respect of goods "silk fabric" or "kimono sashes"

(ii) Name "焼" (pottery) in respect of goods "rice bowls" or "teacups"

(iii) Name "塗" (lacquered) in respect of goods "chopsticks"

(iv) Name "彫" (carved) in respect of goods "trays"

(v) Name "細工" (craft work) in respect of goods "baskets" or "trunks"

(vi) Name "豚" (pig) or "ポーク" in respect of goods "pork"

(vii) Name "温泉" (hot spring) in respect of services "providing of hot spring facility" or "providing of temporary accommodation having hot spring facilities"

(viii) Name "中華街" (China town) in respect of services "providing Chinese cuisine"

(2) A name which comprises characters indicating the quality of goods or services and common names

When it is found that the trademark is recognized among consumers as indicating particular goods or services, such trademark is judged to fall under "the name customarily used as a name indicating the goods or services."

(Example)

"天然あゆ" (Natural sweetfish)

"完熟トマト" (Ripe tomatoes)

4. "Characters customarily added in indicating the place of origin of the goods or the location of provision of the services"

(1) For example, the following characters are determined to fall under the abovementioned characters.

(Example) Characters added in indicating the place of origin

"特産" (indigenous product), "名産" (local specialty), "名物" (specialty)

(Example) Characters added in indicating the locations of provision

"本場" (original place)

(2) Characters which are not recognized as those to be added in indicating the place of origin of the goods or the location of provision of the services are judged not fall under this item, even if they are customarily used in regard to goods or services, such as those below.

(Example)

"特選" (choice quality), "元祖" (original), "本家" (originator),
"特級" (high quality), "高級" (high-class)

5. Marks "indicating in a common manner"

(1) Marks of which font used for indication or total composition is unique beyond the scope which is customarily used by traders are not deemed as those "indicating in a common manner" by giving due consideration to the actual state of transaction of the goods or services.

(Example 1) Marks judged as "indicating in a common manner"

Marks indicated in a font or composition commonly used by traders

(Example 2) Marks judged not as "indicating in a common manner"

Marks indicated by applying special lettering beyond the scope which is customarily

used by traders or in unique composition

(2) Methods of indicating characters

(a) The common names of goods or services indicated in Roman characters or kana characters are judged as "indicating in a common manner."

(b) The common names of goods or services indicated in Chinese characters (phonetic equivalent) which are not commonly used by traders are not judged as "indicating in a common manner."

6. Example of trademarks which are not recognized as regional collective marks

The following trademarks will not fall under the provisions of items (i) to (iii) and thus they are determined not to fall under trademarks that can be registered as regional collective marks.

(1) A trademark comprising only "the name of the region" or those not including "the name of the region"

(2) A trademark comprising only "the common name of the goods or services" or those comprising "the name customarily used as a name indicating the goods or services"

(3) A trademark including neither "the common name of the goods or services" nor "the name customarily used as a name indicating the goods or services"

(4) A trademark including characters other than those provided for in items (i) to (iii) (e.g. those falling under Item 4(2) above), signs or figures

(5) A trademark comprising characters that are designed to the extent capable of distinctiveness