

47.101.01

A Trademark Filed for Registering a Regional Collective Trademark Which is Entitled to be Registered

1. 1) The applicant should be any association established by a special Act, including a business cooperative, which has juridical personality:

i. The term “a business cooperative” in the main paragraph of Article 7-2(1) of the Trademark Act means a business cooperative defined in the Small and Medium-Sized Enterprise Cooperatives Act; and

ii. The term “any association established by a special Act” in the main paragraph of Article 7-2(1) of the Trademark Act means agricultural cooperative associations defined in the Agricultural Co-operatives Act and fisheries cooperatives associations defined in the Fisheries Cooperatives Act, and the like.

2) The Act for Establishing an Association should provide any provision that the association shall not refuse the enrollment of any person who is eligible to become a member.

3) All the applicants should satisfy the requirement of being an applicant entitled to register when they collectively file an application for registering a regional collective trademark.

2. 1) According to the requirement of Article 7-2(1) of the Trademark Act, the applicant should submit “a document certifying that the applicant for trademark registration is an Association, etc.” when it files an application for registering a regional collective trademark. The required documents are: [a] the certificate of registered matters of the association, etc. and [b] a copy of the Act for Establishing an Association showing that any person can become a member of the association (Article 7-2(4) of the Trademark Act).

In addition, all the applicants should submit these documents when they collectively file an application for registering a regional collective trademark.

Furthermore, the application would be rejected if the applicant does not submit these documents.

2) The applicant is able to describe a provision corresponding to the Act for Establishing an Association or other required points in a section of the application instead of submitting the “copy of the Act for Establishing an Association” (Article 2, Note 2 of Form 3-2 of the Enforcement Ordinance of the Trademark Act).

3) The trademark entitled to be registered as a regional collective trademark is examined in the process of the formality check and may be refused in the process of the substantive examination.

3. Persons who are not entitled to register regional collective trademarks

According to the requirement of entitlement stipulated in Article 7-2(1) of the Trademark Act, persons who are not entitled to register regional collective trademarks include: individuals, local governments, general incorporated associations, general incorporated foundations, stock companies, specified non-profit juridical persons (NPOs), limited liability

partnerships (LLPs), franchise chains, and chambers of commerce and industry.

These persons are excluded from applicants to be entitled to register regional collective trademarks or possible right holders of such trademarks, but they are able to use the regional collective trademarks under license from the right holders of the regional collective trademarks (Article 31 of the Trademark Act) or use such trademarks as a member of the collective after enrolling in the collective (Article 31-2 of the Trademark Act).

4. The term “a foreign juridical person equivalent thereto”

The term “a foreign juridical person equivalent thereto” provided in Article 7-2(1) of the Trademark Act means “a foreign collective which has juridical personality, whose members are business operators manufacturing the goods or providing the services as a business, and which guarantees the freedom of enrollment stipulated in the Act for Establishing an Association.”

It should be noted that a foreign juridical person should submit the following certifying documents, etc. when it files an application to register a regional collective trademark:

- i. A document certifying that the applicant has juridical personality;
- ii. A document explicitly describing the Act for Establishing an Association; and
- iii. A copy of the section describing that “the association shall not refuse the enrollment of any person who is eligible to become a member,” which is stipulated in the Act for Establishing an Association.

It should be noted for analyzing these applications that current measures taken in the legislative systems abroad may be different from those in Japan.

(Note) Click below to see the Examination Guidelines for Trademarks

Examination Guidelines for Trademarks:

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