

47.101.10

Members of the Collectives Connected to Regional Collective Trademarks

In order to register a filed trademark, the applicant and members thereof are required to use the trademark (Article 7-2 of the Trademark Act), and after examiners decide to register the trademark, the members have the right to use the registered trademark according to the rules stipulated by the associations or the like, which are right holders, to which the members belong (Article 31-2(1) of the Trademark Act), and they are regarded as right holders of non-exclusive use in specific cases, such as a trial for cancellation of a registered trademark not in use (Article 31-2(3) of the Trademark Act). Meanwhile, some applications for a regional collective trademark are filed by National Federation of Agricultural Cooperative Associations (hereinafter called “ZEN-NOH”) as an applicant, and some point out that the members of ZEN-NOH are composed of unit agricultural cooperatives found in respective local governments and, as a result, farmers who are members of such unit agricultural cooperatives may not be considered to be members of ZEN-NOH.

However, in the process of examining a regional collective trademark, the members of ZEN-NOH shall include farmers based on the following basic concepts.

In addition, these concepts shall also be applied to the collectives having the same background as ZEN-NOH.

Basic concepts

1. A regional collective trademark is a trademark which the collective has the members use to show a common character shared in goods or services connected to the business of the collective or the members thereof.
2. In the process of conducting the business, the members of ZEN-NOH include the members of unit agricultural cooperatives who are indirect members as well as the unit agricultural cooperatives or the like which are direct members (Article 10 of the Agricultural Cooperatives Act). Regarding these indirect members, “as for the Federation, the members who are farmers and indirect members of the Federation, in the process of conducting the business, shall be considered to be equivalent to the members who are direct members of the Federation” (“Complete Interpretation of the Act of Agriculture and Forestry” from Committee for Researching the Act of Agriculture and Forestry, Ministry of Agriculture, Forestry and Fisheries).
3. These farmers are included in the members of ZEN-NOH when they are involved in certain business, such as instructing agricultural management and techniques for the improvement thereof, providing supplies required for the business of the members, jointly running farm operations, and carrying, processing, storing, or selling supplies the members produce. Such

business has a close relationship with the purpose of a regional collective trademark, that is, to control and secure the quality of goods shared thoroughly within the collective and have the members use the trademark for the goods. Based on this concept, it is considered that ZEN-NOH does involve farmers as its members in terms of their business.

4. Consequently, the member of ZEN-NOH are assumed to include famers who are the members of unit agricultural cooperatives as indirect members of ZEN-NOH as well as unit agricultural cooperatives which are direct members of ZEN-NOH.

Reference 1: Excerpts from the Agricultural Cooperatives Act

Article 10

The Cooperative may conduct, in part or in whole, the following business:

1. Instructing agricultural management and techniques for the improvement thereof for the members, who, for federations of agricultural cooperative associations, directly or indirectly compose the federations (hereinafter the same shall apply in this section, excluding Articles 2 and 4 and Article 11-31(3) and (5);
2. Funding loans to members for their business or living;
3. Accepting deposits or fixed deposits from the members;
4. Providing supplies required for the business or living of members;
5. Installing common facilities required for the business or living of members, excluding those for medical care or for welfare for the aged;
6. Facilities for jointly running farm operations or for facilitating the efficiency of other agricultural work;
7. Developing, enriching, or managing land served for agriculture, selling, funding, exchanging land served for agriculture, or installing or managing facilities for farm irrigation;
8. Carrying, processing, storing or selling supplies produced by the members;
9. Facilities for rural industry;
10. Facilities for mutual-aid;
11. Facilities for medical care;
12. Facilities for welfare for the aged;
13. Facilities for improving living and culture in farming communities;
14. Executing a collective agreement for improving economical status of the members;
15. Supplementary business for those prescribed in the preceding items.

Reference 2: Excerpts from “Complete Interpretation of the Act of Agriculture and Forestry”

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“For a long time, the Federation has provided services to the members of the

agricultural cooperatives who are also members of the Federation, considering the services as supplementary business of the business conducted by the agricultural cooperatives as members of the Federation. The Revised Act of 2001 provides reforms, such as establishing a system in which the Federation collectively orders production materials and directly supplies them to members, which is part of the economical business reform, and it also stipulates that as for the Federation, in the process of conducting the business, members who are farmers, and indirect members of the Federation, shall be considered to be equivalent to members who are direct member of the Federation.”

Click below to see the Examination Guidelines for Trademarks

Examination Guidelines for Trademarks:

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