

National Board of Patents and Registration of Finland

TRADEMARK OPPOSITION PROCEDURE IN FINLAND

Post-registration opposition

Finland moved over to post registration opposition procedure in year 1995. Before that we had pre-registration opposition procedure. The reasons we moved over were among others as follows:

- We could speed up the procedure of the handling of applications. Previously after the examination of formal registration requirements, absolute grounds and relative grounds for refusal, the application was published in the Trademark Journal for an eventual opposition. The period to lodge an opposition was two months. Nowadays after the above mentioned examination ex officio we register the trademark and publish it for an eventual opposition. The opposition period after that is **two months**. In spite of the opposition period the decision of the registration can be sent to the applicant at once. In those cases where the opposition is filed the registration can be revoked because of the opposition. A public notice will be given thereof.
- In post registration system we have to publish the application/the registration only once. In the earlier pre-registration system, when there was no opposition against the published application the trademark was registered and then the registration was again published in the Trademark Journal. In our present system we can save time, money and work.

Grounds for opposition

In Finland the grounds for oppositions can be the same as the grounds for refusing an application. They can be formal registration requirements, absolute grounds and relative grounds. In the articles 13 and 14 below are the absolute and relative grounds for refusal.

Article 13

To be eligible for registration, a trademark must be capable of distinguishing its proprietor's goods from those of others. A mark that denotes either alone or with only few alterations or additions, the kind, quality, quantity, use, price or place or time of manufacture of the goods shall not, as such, be regarded as distinctive. Neither shall a mark be regarded as distinctive, if it is solely composed of a form that is characteristic of the goods, necessary for achieving a technical result or that substantially increases the value of the goods. In assessing whether a trademark possesses distinguishing power, all the factual circumstances shall be borne in mind, particularly the length of time and extent to which the mark has been used.

Article 14

A trademark shall not be registered:

(1) if it is contrary to law and order, or to morality;(2) if it is liable to mislead the public;(3) if, without proper permission, it incorporates national armorial bearings, a national flag or other emblem, a sign or hallmark indicating control and warranty used by the State for goods of the same type as those for which the trademark is sought or a similar type, the armorial bearings of a Finnish commune, or the flag, armorial bearings or other emblem, name or abbreviated name of an international organization or any device or emblem, name or abbreviated name liable to be confused with the symbols or emblems, marks, names or abbreviations referred to in this item;(4) if it is composed of or contains anything likely to give the impression of being the protected trade name of another or the auxiliary trade name or secondary symbol of another as referred to in the third paragraph of Article 3, or of being the name or likeness of another person, unless such name or likeness plainly relates to a person long dead;(5) if it is composed of or contains anything likely to give the impression of being the title of another's protected literary or artistic work, such title being original in character, or if it constitutes an infringement of another's copyright in such a work or of his rights in a photographic illustration or a protected design;(6) if it is liable to be confused with the name or protected trade name of another trader, with an auxiliary trade name or secondary symbol of the kind referred to in the third paragraph

of Article 3, with the trademark of another which has been registered on the basis of an earlier application or with the trade symbol of another party that is already established when registration is sought;(7) if it is liable to be confused with a trade symbol being used by another party for his goods at the time of the application, and if the applicant was aware of that use at the time of his application and had not used his own mark before the other trade symbol came into use;(8) if it is liable to be confused with a trademark protected by an international registration valid in Finland or the European Community that on the basis of this registration enjoys an earlier right in Finland or the European Community;(9) if it is liable to be confused with a Community trade mark within the meaning of Article 57 that has been registered on the basis of an earlier application or that has seniority from Finland under Article 34 or 35 of the Council Regulation referred to in Article 57;10) if it is liable to be confused with a registered name of a plant variety; or11) if there is an obstacle to registration within the meaning of Council Regulation (EEC) No. 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.