

I. Collective and certification trademarks

Collective trademarks may be registered at the IPO CZ, however, this means of a registration is used quite seldom only. (The number of registered collective trademarks in the Czech Republic is 66.) The conditions on a registration of a collective trademark are stipulated in Sections 35-40 Act No. 441/2003 Coll., on Trademarks.

A collective trademark is a trademark which has been described as such already when the trademark is applied for and is capable of distinguishing the goods and services of the members or shareholders of a legal person or of the members of an association from the goods and services of other persons.

The conditions of use of the collective trademark including the sanctions for the breach of the conditions shall be laid down in a written agreement on use of the collective trademark concluded among all members or shareholders of the legal person or among all members of the association (hereinafter referred to as "the agreement on use").

Application for registration of a collective trademark shall be made in writing to the Office. Besides the requirements mentioned in Section 19 of the act on Trade Marks, the application for a collective trademark has to contain information on the identity of the members, shareholders or members of the applicant who may use the trademark. The agreement on use has to be enclosed to the application for a collective trademark, together with the agreement on incorporation of the association or other document proving the legal subjectivity of the applicant.

The examination of the application of a collective trademark is performed likewise to standard examination on individual trademark providing that fulfillment of the condition laid down under Section 4 b) will be considered with regard to ability of a collective trade mark to distinct the goods or services of members or shareholders of a legal person or of the members of an association from the goods and services of other persons.

The members or the shareholders of the legal person or the members of the association registered in the register. The exclusive right to affix a collective trademark to goods or services covered by a collective trademark or to use a trademark in relation to the goods or services covered by a collective trademark only have the members or the shareholders of the legal person or the members of the association registered in the register.

The collective trademark may not be a subject to a license contract, it may not be transferred to other person and it may not be granted as a security.

Apart from collective trademarks, the legal institute of certification trademarks does not exist in our legislation. Such a kind of a mark may be registered as an individual trademark the use of which by other subject on the market is enabled on the basis of license contract. The distinctiveness of such a trademark is then based particularly on unique characteristics or quality of the goods or services than on determination of their origin.