

TECHNICAL AND PROCEDURAL ASPECTS RELATING TO THE REGISTRATION OF CERTIFICATION AND COLLECTIVE MARKS IN VIETNAM:

According to IP Law of Vietnam, “*Certification mark* is a mark licensed by its owner to other organizations, individuals to use for their goods or services in order to certify characteristics in respect of origin, materials, raw materials and methods of goods production or methods of services supply, quality, accuracy, safety or other characteristics of such goods or services” and “*Collective mark* is a mark used to distinguish goods or services of members from those of non-members of an organization that is the owner of the mark”.

1. Right to registration of a certification mark and a collective mark:

- An organization with the function to control and certify the quality, characteristics, origin or other relevant criteria of goods or services shall have the right to registration of a certification mark provided that such organization is not engaged in the production or trade of such goods or services.
- A collective organization legally established shall have the right to registration of a collective mark to be used by its members in accordance with the rules on using collective mark. With regard to a sign indicating the geographical origin of goods or services, the organization that has the right to registration shall be the collective of organizations or individuals engaged in the production or trade of goods or services in the relevant locality.

2. General requirements for a certification/ collective mark registration applications:

- Declaration for registration;
- Documents, samples, information identifying the industrial property object claimed for protection (the mark specimens and list of goods or services bearing the mark).
- Power of attorneys, if the application is filed through a representative;
- Documents evidencing the right to registration, if acquired by the applicant from another person;
- Documents evidencing the priority right, if claimed;
- Regulations on the use of certification mark/ collective mark;
- Explanation of particular characteristics and quality of the product bearing the mark (if the to-be-registered mark is a collective mark used for a product with unique characteristics or a mark for certification of the quality of a product or a mark for certification of geographical origin)
- Map showing the indicated territory (if the to-be registered mark is a mark for certification of the geographical origin of a product).

+ The mark specimens shall be described in order to clarify elements of the mark and the comprehensive meaning of the mark (if any); where the mark consists of words or phrases of hieroglyphic languages, they shall be transliterated; where the mark consists of words or phrases in foreign languages, they shall be translated into Vietnamese.

+ Goods or services listed in a mark registration application shall be classified in accordance with the Classification List under the Nice Agreement on International Classification of Goods and Services, published by the State administrative authority of industrial property rights.

+ Regulations on the use of certification mark shall have the following essential contents:

- 1) The organization or individual who is the mark owner;
- 2) Conditions for using the mark;
- 3) Characteristics of goods and services certified by the mark;
- 4) Methods of evaluation of the characteristics of goods and services and methods of supervision of the use of the mark;
- 5) Expenses payable by the mark user for the certification and protection of the mark, if any.

+ Regulations on the use of collective mark shall consist of the following essential contents:

- 1) Designation, address, grounds of establishment and operations of the collective organization that is the owner of the mark;
- 2) Conditions to become a member of the collective organization;
- 3) List of organizations and individuals permitted to use the mark.
- 4) Conditions for using the mark;
- 5) Remedies applicable to acts violating the rules on using the collective mark;

+ Requirements of application:

- For a certification mark, the applicant shall clearly indicate in the written declaration the certification purpose, content and method (certify what: certification of quality, origin, geographical origin or combination thereof; certification content: specific conditions on the entity, goods or services; how to certify: order and procedures for grant of certification licenses, method of inspection and maintenance of the certification purpose and content).
- Requirements for regulations on the use of certification marks and collective marks: A regulation on use of a certification mark and a regulation on use of a collective mark must clarify the following matters:
 - 1) Brief information on the mark, the mark proprietor and goods and services bearing the mark;
 - 2) Conditions for the person registering to license the mark and conditions for termination of the right to use the mark;

- 3) Obligations of the mark user (assuring the particular quality and characteristics of a good or service bearing the mark, submitting to the control of the mark registrant, paying the mark management charge, etc.);
 - 4) Rights of the mark registrant (controlling compliance with the regulations on the use of the mark, collecting the mark management charge, suspending the mark use right of a person who fails to satisfy the conditions specified in the mark use regulation, etc.);
 - 5) Mechanism of licensing, control and inspection of use of the mark and assurance of the quality and reputation of goods and services bearing the mark);
 - 6) Dispute settlement mechanism.
- Requirements on documents certifying the permission for registration and use of marks certifying geographical origins:
- 1) For a mark certifying a geographical origin, in addition to the mark use regulation and necessary documents evidencing the right of mark registration, the application must also be enclosed with the local administrations's permission for the applicant to register a certification mark containing signs indicating a geographical origin (geographical name, symbol or map of the area or locality) for goods and services bearing the mark.
 - 2) If the area or locality bearing the geographical origin indication cannot be identified based on the administrative boundaries and the local administration's permission mentioned above, the National Office of Intellectual Property of Vietnam (NOIP) shall request the applicant to supply a geographical map clearly indicating the area or locality bearing the geographical origin indication of goods and services with the concerned local administration's certification.

This document gives only special matters relating to technical and procedural aspects relating to registration of certification and collective marks in Vietnam. Others in general are provided in Intellectual Property Law of Vietnam and the Circular 01/01/2007/TT-BKHHCN (Section 5 - procedures for registration of marks).