



REGERINGSKANSLIET

Submission

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Ministry of Justice

*Division for Intellectual Property and
Transport Law*

To the International Bureau,
World Intellectual Property Organization

**Submission from Sweden regarding technical and procedural aspects
relating to the registration of certification and collective marks**

As agreed by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) at its twentieth session Sweden hereby submits information relating to the registration of collective marks in Sweden.

According to Article 1 of the Collective Marks Act, an association of tradesmen¹ may, in the same manner as provided for in the Trademarks Act for individual natural or legal persons, through registration or use in trade acquire the sole right in a trademark or other trade symbol. The right so acquired is to be used by members of the association in respect of goods or services which they offer for sale in their course of trade. Public authorities, foundations or other corporate bodies exercising control of goods or services may also acquire the sole right in a trademark or other trade symbol for use in respect of goods and services which are the subject of control. Trademarks covered by the provision are called collective marks.

Article 2 of the Collective Marks Act stipulates that the appropriate sections of the Trademarks Act relating to trademarks and other trade symbols shall apply in respect of collective marks, except where otherwise stipulated.

One difference to be noted between trademarks and collective marks is that an application for registration of a collective mark shall, in addition

¹ "Förening av näringsidkare". The notion of "näringsidkare" is broad and probably covers an association of manufacturers, producers, suppliers of services, or traders (see e.g. Article 64.1 of the Council Regulation (EC) No 40/94 of 20 December on the Community trade mark).

to the particulars required under Article 17 of the Trademarks Act², contain particulars of the rules under which the mark may be used (Article 3 of the Collective Marks Act). If the application is granted, said particulars shall be entered into the trademark register. If the rules under which the mark may be used subsequently are amended the owner of the mark has to notify the register of the new wording.

Another difference is that a collective mark may be revoked on more grounds than a trademark. According to Article 5 of the Collective Marks Act a collective mark may, in addition to the grounds stated in the Trademarks Act, also be revoked if the particulars of the rules under which the mark may be used have been amended but not notified. A collective mark may, furthermore, be revoked if the mark in consequence of the use made of it is liable to mislead the public

The Government intends to propose a new Trademarks Act this year. The plan is to repeal the Collective Marks Act and to amend and transfer the present provisions concerning collective marks to the new Trademarks Act. Sweden will of course inform the International Bureau of the contents of the new Trademarks Act once it is decided.

The only technical or procedural aspect we want to point out concerning collective marks is the question of entitlement. As described above an association of tradesmen may through registration acquire the sole right in a collective mark. According to our registration office there has been some discussion regarding what is meant by the notion "an association of tradesmen". We have learnt that the Swedish registration office makes a broad interpretation of the notion and accepts all legal persons as applicants. We would welcome if the issue was brought up in the SCT for discussion and analysis.

² Article 17 of the Trademarks Act states that a trademark application shall contain the applicant's name or trade name, a list of the goods or services in respect of which the registration is requested and a classification of the goods or services. Furthermore the application shall contain a clear representation of the mark.