

Collective and Certification Trademarks in the European Union

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Abstract

This white paper tackles the concepts of collective and certification trademarks including definition, examples, filing options and associated costs, examination particularities, and advantages of obtaining a collective/certification trademark instead of a regular trademark. Also discussed are eligibility criteria and requirements for successfully filing collective and certification trademarks.

About the author



Anna Falter is Head of Trademarks Germany at Dennemeyer & Associates, an international law firm headquartered in Luxemburg, active in the area of IP management and legal services. Anna is experienced in international trademark law and her practice encompasses areas linked to trademark prosecution for multinational companies, as well as German and international medium-sized businesses. She is active in the area of intellectual property law since 2009.



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Introduction

As we all know, we have heard of the common types of trademarks used today such as word or device trademarks. Further, we know the widely discussed 3D trademarks, e.g. Coca Cola's bottle and we cannot forget sound trademarks that are used in TV advertisements for example.

However, in the European Union most people have not heard of collective or certification trademarks, or are unsure of what to make of such trademarks.

Collective trademarks

Let's start with a simple definition of a **collective trademark**: a collective trademark is owned by an association or a legal person of public law and it is used to distinguish goods and services of members from those of non-members. The proprietor of a Community collective trademark can therefore only be an association of manufacturers, producers, suppliers of services, or traders and legal persons governed by public law.

The special advantage of the collective trademark is the possibility of being an indication to designate the geographical origin of the goods and services. This is in contrast to the regular, individual trademark which prevents an indication to a geographical origin, since this would be held as being descriptive.

It is possible to file a Community collective trademark with the Office of Harmonization in the Internal Market (OHIM) via electronic or paper filing. The official fees amount to EUR 1800, regardless how the mark is filed. If however the application comprises of more than three classes, further fees of EUR 300 for every additional class are due.

The Community collective trademark will undergo the same examination as an individual mark, including the classification of goods and services and the existence of absolute grounds. However, for the Community collective trademark the applicant is obliged to submit with his application details governing its use. If the applicant fails to do so, the application will be rejected.

Another advantage of a collective mark is that the rights holders can determine the quality level of the protected goods or services. Others who wish to participate have to meet the quality standards and rules required by the association. This is because consumers will associate the sign with a certain standard of quality, safety or hygiene.

Examples of collective trademarks are “Nürnberger Lebkuchen” (Nuremberg Gingerbread) and “Dresdner Christstollen” (Dresden Stollen).





“The certification mark is owned by the certifying agency and not by an individual or an association of person.”

| Certification marks

The collective mark may only be used by the particular members of the organization which owns them. In contrast, there is the **certification mark** which may be used by anyone meeting the standards laid down by the owner of the certification mark. The certification mark is owned by the certifying agency and not by an individual or an association of persons. The certifying agency only certifies that goods and services meet certain standards concerning characteristics such as material, origin, quality, etc.

A certification mark is a symbol, or name, or a device which conveys an assurance as to the quality, standard and accuracy of the goods and /or services.

A very good example is the International Organization for Standardization (ISO). This organization sets worldwide standards in industry and commerce and these standards sometimes become law through treaties or national standards.

Another example is Microsoft's Windows logo which is granted to software which is compatible with the Windows system.

The Community Trade Mark Regulation (CTMR), however, does not recognize guarantee or certification marks.

