



CLARIFICATIONS REGARDING THE EXAMINATION PROCESS OF COLLECTIVE MARKS BY THE INTELLECTUAL PROPERTY OFFICE OF SINGAPORE

Background

The Intellectual Property Office of Singapore (“**IPOS**”) had on 13 April 2017 published Trade Mark Circular No. 5/2017, and announced that it has since revised and added new chapters to its Trade Marks Work Manual.

The purpose of these revisions and additions are to provide more clarity and guidance to trade mark applicants who intend to file Collective Marks in Singapore, amongst others, especially in relation to the Singapore Trade Marks Registry’s examination practices for the same.

What is a Collective Mark?

A Collective Mark is defined in Section 60(1) of Singapore’s Trade Marks Act (Cap. 332, 2005 Rev. Ed.) (the “**Trade Marks Act**”) as:

*“...a sign used, or intended to be used, in relation to goods or services dealt with or provided in the course of trade **by members of an association** to distinguish those goods or services from goods or services so dealt with or provided by persons who are not members of the association”.*

Difference between a Collective Mark and an Ordinary Trade Mark

From Section 60 of the Trade Marks Act it is clear that the main characteristic of a Collective Mark is that it is to serve as a badge of originⁱ, to notify the public (i.e. consumers of its goods and/or services) that the applicant’s goods and/or services originate from members of a particular association.

Further a Collective Mark is often used by an association to promote products which share some common feature shared by the goods and/or services of the association’s members. For example the geographical origin, material / nature or mode of manufacture / delivery of such goods and/or services.

An ordinary trade mark does also serve as a badge of origin, however it is in large meant to distinguish the applicant’s goods and/or services from other traders that may also offer similar or identical goods and/or services. An ordinary Trade Mark does not therefore identify whether or not the applicant is a member of any association or other similar group of traders (such as a public institution or a cooperativeⁱⁱ).

A Collective Mark is therefore also usually used by companies (i.e. members of the association) alongside their own trade marks to indicate their membership within that particular association.

Examination of Collective Marks by the IPOS

For a Collective Mark to be allowed to proceed to registration, it must satisfy certain requirements, amongst other criteria, such as:

1. The Collective Mark must be distinctive (and not merely descriptive of the goods and/or services to be provided in the course of trade of the association's members);
2. The Collective Mark must not be contrary to public policy or morality (such as containing morally reprehensive or offensive words or graphics);
3. The Collective Mark must not be of such a nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or services);
4. The Collective Mark must not be prohibited under any law in the Republic of Singapore (for example in Singapore, pursuant to Section 24 of the Singapore Tourism Board Act, it is an offence to use the "Merlion" symbol, without the prior permission of the Singapore Tourism Board);
5. The Collective Mark must not have been applied for in bad faith (an example of a "bad faith" registration would be one that is intended to usurp the reputation and/or goodwill in another applicant's trade mark by registering an identical and/or confusingly similar mark); and
6. The Collective Mark must not be the subject of a national emblem protected under Sections 56 and 57 of the Trade Marks Act in Singapore (for example the Collective Mark must not contain the emblems of the signatory countries or international organisations of the Paris Convention).

Other Clarifications Pertaining to Collective Marks

Further to the above and as with ordinary trade marks, a Collective Mark must be filed in respect of the specific goods and/or services (i.e. the Specifications) in the relevant classes under the international classification of goods and services of the Nice Classification (established under the Nice Agreement, 1957), as well as the approved list of goods and services maintained by the IPOS.

Again, with reference to Section 60(1) of the Trade Marks Act (as extracted above), the applicant / proprietor of a Collective Mark must also be an association (such as an association of manufacturers, producers, suppliers of services or traders, amongst others).

The applicant / proprietor must therefore also be duly registered and/or recognised as an association under the terms of the relevant laws governing it, and the association must also have the legal capacity to hold property (including the various forms of intellectual property) under its own name.

This article is intended to highlight the relevant clarifications and announcements published by the IPOS in its recent Trade Mark Circular No. 5/2017. This article is therefore not intended to be comprehensive nor should it be construed as legal advice. This article is updated as of April 2017.



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ⁱ “*Collective Marks*”, Intellectual Property Office of Singapore, Work Manual, Version 3 (April 2017), Paragraph 3, Page 9.

ⁱⁱ Please refer to WIPO’s website at the following URL:

http://www.wipo.int/sme/en/ip_business/collective_marks/collective_marks.htm