

All Things IP




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WHAT IS COLLECTIVE TRADEMARK AND HOW DIFFERENT IS IT FROM CERTIFICATION TRADEMARK

As suggested by its name, a collective trademark belongs to a collective group or association of persons, used by its members to identify themselves with a level of quality or accuracy, geographical origin, or other characteristics set forth by the organization. The basic purpose of a collective mark is that it effectively differentiates the characteristic features of the products or services offered by a

particular organisation. E.g. the Collective Trademark '' belongs to the Institute of Company Secretaries of India and a member of the said Institute can use the collective mark 'CS' to indicate his affiliation to the collective Company Secretarial professional fraternity. A collective mark is primarily intended to highlight the quality of the product or service which in turn helps build brand reputation, identity and goodwill. One other interesting feature of a collective mark is that it belongs to and can be used by persons belonging to a particular collective professional group or business fraternity rather than only a single proprietor, which is contrary to the general rule of trademark laws viz., identifying a trademark with a single source.

The Indian Trademarks Act, 1999 and the Trademarks Rules, 2017 (the "Act") provides for specific provisions and procedures for registration of Certification Trademarks in India. The provisions contained in sections 61 to 68 of the Act deal with the registration of Collective Trademarks.

The Application for registration of a collective mark can be filed through Form TM A along with the statement of case signifying the grounds on which the Applicant places reliance in support of his application, followed by draft Regulations governing the use of such collective mark which may inter-alia contain the following information:

- the name of the association of persons and their respective office addresses
- the object of the association
- the details of members
- the conditions of membership and relation of each member with the group
- the persons authorized to use the trademark and the nature of control the applicant exercise over the use of the collective trademark
- Conditions of use of the mark including sanctions
- Procedure for dealing with appeals against the use of collective trademark
- Such other relevant particulars

It is to be noted that any amendment of the regulations will not be effective unless and until it is filed with the Registrar and the same is accepted and published by the Registrar in the Journal.

A collective trademark is valid for a period of 10 years from the date of its application and renewable in perpetuity for a block of ten years each.

One must be aware that the registration of a collective trademark may be removed from the register for the following reasons:

- If it misleads the public or;
- Proprietor has failed to observe or to secure the observance of the regulations governing the use of the mark or;
- The registration of trademark is not renewed or restored within the stipulated time period.

Collective marks and certification marks- how different are they from one another?

While Certification Marks and Collective have certain similarities with regard to their registration and



in the aspect of usage by more than one person who are not the owners or registered proprietor of the trademarks, they are different in many aspects. While usage of a Collective trademark indicates that the person using the same belongs to a particular business fraternity or a professional association, the Certification trademark on the other hand indicates that the goods and services in respect of which the mark has been used, have met certain standards or quality for which it has been certified. Further, a Collective Trademark is used by an organisation or its members