(Translation)
Examination Guidelines on Certification Marks, Collective Trademarks and Collective Membership Marks
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Examination Guidelines on Certification Marks, Collective Trademarks and Collective Membership Marks

1. Preface

Trademarks protected under the Trademark Act are classified into trademarks, certification marks, collective trademarks and collective membership marks. Since a certification mark, a collective trademark and a collective membership mark are different from a trademark in terms of definition, nature and function, the applicant's qualifications, the required documents for the application and the examination procedures are also different from those of a trademark. This Guidelines provides the filing procedures and the examination procedures for certification marks, collective trademarks and collective membership marks.

2. Certification mark

2.1 Definition and nature

A certification mark is used to certify the characteristics, quality, precision, place of origin or other matters of one's goods or services. A certification mark, which is filed for registration by a juristic person, an organization or a government agency capable of certifying others' goods or services, is provided to any person meeting the articles governing use in connection with his/her goods or services, and can be used to distinguish one's goods or services from another's goods or services that are not certified. The provisions on certifying the place of origin are provided by referring to the explanatory notes to the amendment to Article 72-1 of the current Trademark Act, which states that the amendment aims to reinforce protection over geographical indications specified in Article 22 of TRIPs and to add legal basis for the application to register geographical certification marks. In line with the legislative intent of that article and the nature of a certification mark, a certification mark, which certifies certain goods or services coming from a particular geographical region, shall have a given quality, reputation or other characteristics.

A certification mark does not indicate a single business source, but instead, it is used by multiple people who comply with the labeling requirements in connection with
their respective goods or services. The owner of a certification mark shall not use the mark, but shall control the use of the mark, supervise the authorized users' use, and ensure that the certified goods or services meet the articles governing use. Where goods or services offered in trade by a person comply with the requirements for using a certification mark, he/she may apply to use the certification mark. The owner of the certification mark shall permit any person who complies with the requirements to apply for using the certification mark.

The certification mark may, according to the scope of certification, be classified into the general certification mark, which certifies the characteristics, quality, precision or other matters of one's goods or services, and the geographical certification mark, which certifies one's goods or services as originating in a given geographical region and having a particular quality, reputation or other characteristics. Some certification marks that were approved by TIPO are given as follows:

1. **General certification mark: certifying goods**

   (1) The certification mark, "防火標章" (Chinese equivalence of "Fire Safety Building"), registered by the Architecture & Building Research Institute of the Ministry of the Interiors, certifies buildings that comply with the "Operational Guidelines on Fireproof Logo for Public Areas of Buildings" established by the owner of the certification mark.

   (2) The certification mark, "節能標章" (Chinese equivalence of "energy saving logo"), registered by the Ministry of Economic Affairs, certifies appliances or
new equipment or products that are energy efficient.

2. General certification mark: certifies services

(1) The certification mark, "民宿專用標誌" (Chinese equivalence of "guest house logo"), registered by the Tourism Bureau of the Ministry of Transportation and Communications, certifies that the establishment, operational scale and equipment and facilities of a guest house comply with the "Statutes Governing Tourism Development" and "Guest House Management Regulations."

(2) The certification mark, "溫泉專用標誌" (Chinese equivalence of "hot spring logo"), registered by the Tourism Bureau of the Ministry of Transportation and Communications, certifies hot spring businesses whose hot spring facilities for tourism and recreational purposes complies with the "Hot Spring Act" and relevant regulations governing applications for the use of the hot spring mark.
3. Geographical certification mark

(1) The certification mark, "池上米" (Chinese characters of "Chi-Shang rice"), registered by Chi-Shang Township Office of Taitung County, certifies "rice" originating from the Chi-Shang Township of Taitung County, and its quality meets the "Criteria Governing Chi-Shang Rice qualify rice logo" established by the owner of the certification mark.

(2) The certification mark, "遷西板栗" (Chinese characters of "Cian-Si chestnut"), registered by the Forestry Association of Cian-Si County, P.R.C., certifies "fresh chestnuts" originating from 17 towns of Cian-Si County of Hebei Province, including Sing-Cheng Town, and the quality of the chestnuts meets the requirements established by the owner of the certification mark.

A certification mark is used to certify the characteristics, quality, precision, place of origin or other matters of one's goods or services. If a certification mark filed by the applicant is not meant to certify another's goods or services, or if a geographical certification mark seeking registration cannot
certify that one's goods or services come from a certain geographical region and have a particular quality, reputation or other characteristics, the mark violates Article 72-1 of the Trademark Act and shall be rejected. However, if the application form shows that the applicant actually wishes to use the mark to identify his/her own goods or services or to apply for registration of another type of trademark, a notice shall be given to the applicant for changing the application to the correct type of trademark; otherwise, a rejection decision shall be given when no corrective action is taken within the set time limit.

Certification marks that were rejected by the TIPO pursuant to Article 72-1 of the Trademark Act are given as follows:

(1) A city government applied to register a certification mark, in which it stated that if agency subordinate to the city government, or any organization or school of this city, or any private group, company and firm registered with this city, desired to promote tourism, it might apply to the city government for authorization to use the certification mark on any articles adopted in any tourism promotional campaigns. Because this mark was used by the government authorities to promote tourism, it was in fact policy promotion in nature, and had no requirement as to the quality or precision of the goods or services using the mark. Moreover, the submitted items for examination did not concern the quality of the goods or services. This situation hence did not meet the requirement that a certification mark must certify the characteristics, quality, precision, place of origin or other matters of one's goods or services. Hence, this certification mark application was rejected.

(2) A committee applied to register a certification mark, in which the application form read, "for conducting athletic competitions, award ceremonies, sports events, seminars, workshops, lectures, various academic and cultural competitions, screening and accreditation of
individual's skills and education." All such activities were deemed part of athletic competitions, rather than the certification of one's goods or services as having given characteristics or meeting certain established conditions or criteria. The nature of the mark disqualified it as a certification mark and therefore was rejected.

2.2 Application

Because a certification mark differs from other types of trademark in nature, in addition to general filing requirements such as payment of government fee and submission of a mark design, the application form shall specify the applicant, the certified goods or services and a statement of certification in order to show the applicant and the subject matters to be certified. In addition, the application shall be accompanied by documents proving the applicant's qualifications to do certification, a declaration that the applicant is not engaged in the manufacturing and marketing of the certified goods or in the provision of the certified services, and regulations governing the conditions and methods the applicant exercises control over the use of the certification mark. In the event that the required matters and the required documents are obviously incorrect, omitted or inadequate in the filing procedure, a notice shall be given to the applicant for making a correction within a set time limit. The application shall be rejected if no correction is made within the set time limit.

2.2.1 Applicant's qualifications

Article 72-2 of the Trademark Act prescribes that only a juristic person, an organization or a government agency capable of certifying ones' goods or services is eligible to apply for registration of a certification mark. In other words, the applicant of a certification mark must be capable of certifying others' goods or services, and can be only a juristic person, an organization or a government agency; a natural person may not become the applicant of a certification mark. In examining an application, the examiner shall review the documents proving the lawful registration of the applicant, the businesses recorded in the certificate of incorporation, the objective of incorporation and the regulations of incorporation in order to determine whether the applicant is qualified for or capable of performing certification. If necessary, the
business scope, duties, personnel and facility of an applicant shall be considered. If the applicant is not capable of performing inspections, he/she may commission a third party that is capable of inspection and certification to do certification under the supervision or control of the applicant. If certification is commissioned to a capable third party, the applicant shall provide a description stating how he/she will supervise the certification, and a photocopy of the document or contract proving the commission of certification. The qualifications or capability of the commissioned party may be determined by its business scope, duties, personnel and equipment. For instance, in examining the certification mark, "Taiwan Textile Federation Logo," it is clear from the "Introduction to Taiwan Textile Federation" submitted by the applicant that its businesses include quota management, market expansion, functional textile certification, and so forth; whether the applicant is qualified for or capable of performing certification may be determined by the enclosed "certification system rules," which stipulate the standards of certified quality, and the legal provision requiring that the party who desires to use the certification mark must designate or commission a selected institute to conduct the inspection or testing. The certification mark, "CAS," certifies the safety and management of agricultural products, which are within the purview of the Council of Agriculture of the Executive Yuan. Thus, the Council of Agriculture is qualified for being the applicant of the certification mark, "CAS," and it can commission the Food Industry R&D Institute, the Industrial Technology Research Institute, and so forth, which have been certified as the certification and inspection institutes for the certification mark, "CAS," and are responsible for certifying technologies relating to various products.

In applying to register a geographical certification mark, the applicant shall be qualified for or capable of certifying others' goods or services originate in a given geographical region. If any doubt arises from the qualifications or capability of the applicant, a notice shall be given to the applicant for explanation and a letter may be given to the competent authorities to request official opinions. If TIPO considers after examination that the applicant does not meet the requirements of applying for registering a certification mark, it shall inform the applicant of making corrections or providing an explanation. If no correction or explanation is made within the set time limit after the notice, or the correction or explanation is made but the applicant still
does not meet the requirements of applying for registering a certification mark, the mark shall be rejected pursuant to Article 72-2 of the Trademark Act. Where a foreign enterprise, group or organization applies to register a geographical certification mark and submits documentation proving that the geographical certification mark is protected under the law in the name of the applicant in the country where the applicant is located, it may be deemed a qualified applicant.

2.2.2 Applicant’s declaration that he/she is not engaged in the manufacturing and marketing of the certified goods or in the provision of the certified services

Article 72-3 of the Trademark Act prescribes that an applicant who is engaged in business in connection with the goods or services to be certified shall not apply to register the certification mark. The purpose of a certification mark registration is to certify the characteristics, quality, precision, place of origin or other matters of the goods or services of "others." The owner of a certification mark may not use this mark to certify his/her own goods or services. If the owner of a certification mark uses the mark in connection with the goods or services that he/she provides, the owner's fairness, impartiality and objectivity would be undermined. Therefore, in applying for registration of a certification mark, the applicant shall provide a declaration stating that he/she is not engaged in those goods or services. If the applicant has submitted such declaration, it may be presumed that the applicant does not deal in those goods or services in fact. However, if objective facts and evidence show that the applicant's business is related to those goods or services (e.g., the goods or services to be certified already carry a registered trademark), a notice shall still be given to the applicant for explanation.

2.2.3 Statement of certification

2.2.3.1 General certification mark

In applying for registering a certification mark, the application form shall clearly show the certified contents to the extent that anyone seeing what will be certified will know exactly what goods or services are certified and that these goods or services have certain characteristics, quality, precision or other matters. The certified goods or services in the certification may be depicted less specifically than in an application for a trademark or collective trademark. Instead, the certified goods or services may
cover generic goods or services, such as "shoe and leather products," "quality management system" and other foods, buildings, electrical appliances, insurance agency services and restaurant services. However, if specific goods or services need to be certified, then the description in the certification shall be more specific. For example, if the certified goods are "clothing," the certification shall specify "clothing" instead of "textiles," which has broader meanings.

Some certification marks that were approved for registration by TIPO have the following wording in their statements of certification:

(1) The statement of certification for the certification mark, "鞋類真皮標章" (Chinese equivalence of "Genuine Leather for Shoes Logo"), states, "This logo certifies the shoes and leather products manufactured and marketed hereunder meet the genuine leather specified in the Regulations Governing Logos of Taiwan Shoe (Leather) Products."

![Certification Mark](image)

(2) The statement of certification for the certification mark, "經濟部標準檢驗局 ISO 9001 驗證登錄標誌" (Chinese equivalence of "ISO 9001 Certification Logo recorded by the Bureau of Standards, Metrology and Inspection of the Ministry of Economic Affairs"), states, "This logo certifies that the quality management system established by manufacturers meets the ISO 9001 standards."
### 2.2.3.2 Geographical certification mark

Like a general certification mark, an application to register a geographical certification mark shall clearly indicate what will be certified such that anyone, when reading the statement of certification, will know exactly what goods or services are certified and what quality, reputation or other characteristics of these goods or services are attributable to its geographical environment. The statement of certification shall include the defined regional scope, the given quality, reputation or other characteristics of the goods or services and the connection between these goods or services and the given geographical region.

It is unnecessary for the products certified under a geographical certification mark to be wholly manufactured within the geographical region named in the mark. Where the part that is crucial for achieving the given quality, reputation or characteristics of those products is manufactured within the specified geographical region, the requirement is met. For instance, although all or part of the raw materials contained in certain products of a given geographical origin famous for processing or manufacturing technology originate in other regions, an application to register a geographical certification mark may still be filed. For example, Meinung paper umbrellas are famously made by hands using traditional methods, and the bamboo used for the umbrella frames mostly originate in Jhushan of Nantou County, but an application to register the Chinese characters "美濃" (pronounced "Meinung") as a geographical certification mark may be filed.

1. Defined regional scope

   If the region defined by a geographical certification mark happens to be the
jurisdiction of an administrative unit, the applicant may signify the regional scope by using in the mark the administrative unit such as county, city, village and township. For example, the region of source defined by the geographical certification mark, "嘉義縣政府阿里山高山茶標章" (meaning "Alishan Mountain Tea Logo by Jiayi County Government"), comprises six villages--Meishan Village, Jhuci Village, Fanlu Village, Alishan Village, Jhongpu Village and Dapu Village. If it is still difficult to define the region of source by using the jurisdiction of an administrative unit, the applicant can also create a geographical certification mark by using a geographical region other than an administrative unit in the mark.

2. Goods or services having given quality, reputation or other characteristics and its connection with the given geographical region

Goods or services certified under a geographical certification mark may include agricultural products, foods, wines, liquors and craftworks. A description of the connection between the goods or services and a particular geographical source must indicate that the goods or services in fact originate in the given geographical region and how the quality, reputation or other characteristics of the goods or services identified by the certification mark is/are linked to the natural or human factors of that given geographical region. For instance, there must be a statement or evidence explaining how the characteristics and quality of the goods are linked to the natural factors of a given geographical environment such as soil, climate, wind, water, altitude and humidity. In addition, if the goods themselves are linked to the human factors of a given geographical region such as the manufacturing process, production methods, and special manufacture skills that are traditionally accepted or recognized in the region, such fact shall also be stated.

Some geographical certification marks that were approved for registration by TIPO have the following description in their statements of certification.

(1) The statement of certification for the certification mark, "南投縣鹿谷鄉公所
凍頂烏龍認證標章" (Chinese equivalence of "Dongding Oolong Tea Logo by Luku Village Office of Nantou County"), certifies that the tea it produces or manufactures originates in Luku Village of Nantou County, which lies on a hill with an elevation of 600-1200 meters to the southwest of Nantou County. Due to the cool climate, abundant rainfall, rich soil and mild sunlight, as well as the ever-present clouds and mist, the Dongding tea produced in Luku Village is of excellent quality and meets the "Criteria Governing the Use of the Nantou County Luku Village Office Dongding Oolong Tea Certification Mark."

(2) The statement of certification for the certification mark, "嘉義縣政府阿里山高山茶標章" (Chinese equivalence of "Alishan Mountain Tea Logo by Jiayi County Government"), certifies that the tea products originate in the Alishan tea zone, which comprises six villages, i.e., Meishan Village, Jhuci Village, Fanlu Village, Alishan Village, Jhongpu Village and Dapu Village. The Alishan mountain tea zone, which is within 50 kilometers of the two sides of the Tropic of Cancer within Jhiayi County, covers the mountain area with an elevation of 1000-1500 meters shrouded in clouds and mist all year round. The mountain area is only briefly exposed to the sun, its soil is quite suitable for tea growth, its climate and water are excellent, the products grown there are of good quality, and the tea meets all regulations for agricultural chemicals established by the government.
2.3 Examination of articles governing use

The use of a certification mark is controlled by the owner thereof. A person can apply to use a certification mark only if he/she complies with the articles governing the use. The articles governing the use of a certification mark are the basis for controlling the use of the certification mark. In general, the articles governing use normally set forth the purposes for which the certification mark is to be used, the quality and characteristics of the certified goods or services, the requirements for using the certification mark, the procedures for applying to use the certification mark, the rights and obligations relevant to use of the certification mark, the consequences or penalties for violating the articles, the supervision system for controlling the use of the certification mark, and so forth. In applying for registration of a certification mark, the articles governing use shall include a detailed description of certification in order to prove that the applicant is capable of controlling the use of the certification mark. The articles governing the use of the certification mark shall, at least, include the certified contents, the requirements for labeling the certification mark, the methods of controlling the use of the certification mark, and other matters, if any. The certified contents shall refer to Article 2.2.3 of these Guidelines. In examining the articles governing use, the examiner shall, in principle, conduct a formality examination of the contents. In the case of any doubt arising from the examination, a notice may be given to the applicant for further explanation and a letter may also be sent to the competent authority for official opinions.

2.3.1 Articles governing the use of a general certification mark

2.3.1.1 Requirements for labeling a certification mark
The requirements for labeling a certification mark are the conditions under which a third party may request that the owner of the certification mark agrees to its use, for example, a requirement stipulating that products must comply with a given standard, quality and nature. The requirements for labeling a certification mark may be established by the applicant himself/herself or may be based on standards established by others. For instance, the certification mark, CAS, is an example of the former; while the CNS national standards, ISO standards or other inspection or certification standards established by relevant agencies are examples of the latter. After a certification mark is registered, any goods or services produced or provided by others that comply with the requirements for labeling the certification mark established by the owner shall be given consent to use the certification mark, and no discrimination shall be made.

2.3.1.2 Methods of controlling the use of a certification mark

The methods of controlling the use of a certification mark refer to the regulations monitoring the use of a certification mark and relevant operational procedures, for instance, supervision and regular or irregular inspection procedures, limitations on the period for making improvements, and penalties such as the owner's right to suspend the use of the mark if no correction is made within the set time limit. The above regulations are for the purpose of implementing control over the use of the certification mark. Where the methods of control are not put into effect by the owner of the certification mark, then the person responsible for the inspections or other procedures relevant to control of the use of the mark and how these procedures are to be performed shall be clearly stated.

2.3.1.3 Other matters

If there are other necessary matters, the articles governing the use of the certification mark shall also indicate the same. For instance, if there are regulations regarding the methods of using a certification mark, the place where the certification mark shall be affixed on the goods or on their packaging and the size of the certification mark shall be indicated. If additional fees are required for consenting to another person's use of the certification mark, fee related matters shall be indicated.
2.3.2 Articles governing the use of a geographical certification mark

The articles governing the use of a geographical certification mark shall include the matters required for a general certification mark as stipulated above. In addition, the requirements for labeling a geographical certification mark shall include the defined regional scope and the given quality, reputation or other characteristics of the certified goods or services attributable to the particular geographical region named in the certification mark.

2.3.2.1 Requirements for labeling a geographical certification mark

The articles governing the use of a geographical certification mark shall indicate the requirements for using the mark, including the defined regional scope and the given quality, reputation or other characteristics of the certified goods or services attributed to its geographical environment, such as the features of product appearance, specification and size, color, shape, special favor and sweetness, material, composition, manufacturing process, manufacturing method, and so forth.

2.3.2.2 Methods of controlling the use of a geographical certification mark

The articles governing the use of a geographical certification mark shall include the matters required for a general certification mark indicated previously, so as to exercise control over the use of the geographical certification mark. If there are other necessary matters, the articles governing use shall also state the same.

2.3.3 Amendments to articles governing use

If, after examination, the articles governing use need to be amended, a notice shall be given to the applicant requesting that the applicant supplements the articles or provides opinions. If a notice is given and no correction is made within the set time limit, the application shall be rejected. For example, if the requirements for labeling a geographical certification mark that shall be included in the articles governing use are missing, and no correction is made after a notice requiring correction is given, the application shall be rejected. Also, the applicant may apply to amend the articles governing use. In examining amendments to the articles governing use, factors such as the applicant's opinions, relevant evidential materials that have been submitted and opinions stated in a reply letter from the competent authority shall all be
considered.

2.4 Examination of mark

A certification mark may consist of any word, device, symbol, or any combination thereof. A geographical certification mark is primarily comprised of a geographical name. According to the degree of distinctiveness of a "geographical name," a geographical certification mark may consist of a simple geographical name alone, or "a geographical name and the names of goods/services," or a combination of a device or a word and a symbol. In examining a geographical certification mark application, the examiner shall first consider whether the mark is distinctive enough to serve as a certification mark, and then examine pursuant to Article 24 applicable mutatis mutandis to Article 80 whether the mark is non-distinctive or descriptive, or is identical or similar to the Chinese "Quality Standard" mark or equivalent to any local or foreign certification mark, thus being likely to mislead the public or likely to confuse consumers as specified in Article 23-1 or Article 59-4. If the application, after examination, is found to be legal, it shall be approved pursuant to Article 25; if the application, after examination, is to be rejected, it shall be rejected pursuant to relevant provisions and Article 24-1 applicable mutatis mutandis to Article 80.

According to Article 80 of the Trademark Act, the provisions regarding trademark shall be applicable mutatis mutandis to the examination of a certification mark.

2.4.1 Distinctiveness

2.4.1.1 Distinctiveness of a general certification mark

The distinctiveness of a general certification mark refers to the characteristics, quality, precision or other matters that is/are used to certify ones' goods or services; the use of which on the certified goods or services is sufficient to distinguish them from the goods or services that are not certified. If a certification mark is not distinctive, it shall be rejected pursuant to Article 23-1(1) of the Trademark Act. Like a trademark, the strength of the distinctiveness of a certification mark varies. The judgment concerning the distinctiveness of a certification mark shall consider factors such as connection between the applied mark and the certified goods or services, recognition of relevant consumers, actual trading situations and situations of general use by other
operators in the same trade to see if it is eligible to serve as a certification mark and to distinguish the certified goods or service from those that are not certified.

Some certification marks that were considered by TIPO to be distinctive and non-distinctive are given as follows:

1. The certification mark, "CAS logo," consisting of three stylized English letters, is used to certify the safety and excellence of the certified agricultural products and processed agricultural products. The mark is distinctive because it is capable of distinguishing certified goods from non-certified goods. Therefore, the logo was granted registration.

![CAS logo]

2. The Chinese characters "台灣生鮮豬肉" in the certification mark, "台灣生鮮豬肉" (Chinese equivalence of "Taiwan Raw and Fresh Pork"), describe the fresh quality of pork. The application to register these Chinese characters as a certification mark in connection with the goods to be certified cannot distinguish these goods from uncertified goods. Therefore, these Chinese characters do not possess the required distinctiveness of a certification mark. The mark was rejected in accordance with the law.

![Taiwan Raw and Fresh Pork]

2.4.1.2 Distinctiveness of a geographical certification mark

A "geographical certification mark" mainly comprises a geographical name and
differs from a generally descriptive "indication of source." A general "indication of source" only describes the place where the goods or services are manufactured, produced or provided, for instance, "台灣製造" (meaning "made in Taiwan") and "made in Taiwan." On the other hand, a "geographical certification mark" is used to certify that one's goods or services originate in a certain geographical region and the certified goods or services have a certain quality, reputation or other features attributed to the specific natural or human factors of its geographical environment. Hence, a geographical certification mark is meant to certify that the goods or services originating in a particular geographical region are of certain quality or characteristics. In other words, because the geographical name has garnered certain reputation due to its use over time, consumers would immediately associate the geographical name with the certified goods or services as soon as they encounter it; therefore, the geographical indication may be granted registration because of distinctiveness.

Judgment of the distinctiveness of a geographical certification mark shall include factors such as connection between the geographical region specified in the mark applied for and the certified goods or services, recognition by relevant consumers, actual trading situations and status of general use by other operators in the same trade to determine whether the mark is eligible to be a sign indicating the geographical source and distinguishing the certified goods or services from those that are not certified to originate in that geographical region. In examination, whether or not the applied geographical certification mark is distinctive may be judged upon the specimen of the mark, the statement of certification indicated in the application form and the enclosed articles governing use. In case of any doubt arising from distinctiveness, a notice shall be given to the applicant, requesting that he/she submits relevant evidential materials proving distinctiveness and explains how the geographical name included in the applied geographical certification mark is connected to the certified goods or services. If the geographical certification mark seeking registration cannot certify that one's goods or services originate in a given geographical region and have a given quality, reputation or other characteristics attributed to the specific natural or human factors of its geographical environment, it shall be rejected on the grounds that it not only violates Article 72-1 of the Trademark Act, but also possesses no requirement of distinctiveness for registering a
geographical certification mark.

A geographical certification mark mainly certifies a geographical origin. Therefore, it is not necessary to disclaim the exclusive use of the geographical name included in a geographical certification mark. However, the names of "goods/services" contained in a geographical certification mark shall be disclaimed for exclusive use.

For example: The certification mark, "嘉義縣政府阿里山高山茶標章" (Chinese equivalence of "Alishan Mountain Tea Logo by Jiayi County Government"), certifies that the tea leaves do originate in the Alishan tea zone, comprising six villages, i.e., Meishan Village, Jhuci Village, Fanlu Village, Alishan Village, Jhongpu Village and Dapu Village. The Alishan mountain tea zone, which is within 50 kilometers of the two sides of the Tropic of Cancer within the territory of Jiayi County, covers the mountain area with an elevation of 1,000-1,500 meters shrouded with clouds and mist all year around. The mountain area is exposed to brief periods of sunlight, its soil is quite suitable for tea growth, its climate and water are excellent, the products it grows are of good quality, and the tea grown there meets all regulations for agricultural chemicals established by the government.

2.4.2 Descriptiveness

If a certification mark is simply to describe the shape, quality, function or other aspects of the designated goods or services, it cannot cause consumers to recognize it as a sign that certifies the characteristics, quality, precision and place of origin of the certified goods or services and is distinguishable from general descriptive
devices/words that are not certified. Such an application shall thus be rejected pursuant to Article 23-1(2) of the Trademark Act. For instance, "100% 純棉" (meaning "100% cotton") is a general description that describes the ingredients of goods. An application to register this term as a certification mark cannot cause consumers to recognize it as a certification mark, nor can it be distinguishable from other general descriptive devices/wording that are not certified. Hence, the application shall be rejected.

Except for a geographical name included in a geographical certification mark, if a certification mark contains any descriptive or non-distinctive word or device that complies with the disclaimer of exclusive use specified in Article 19 of the Trademark Act, the element containing such descriptive or non-distinctive part shall be disclaimed in order to acquire the registration of the certification mark.

Examples:

1. The certification mark, "奈米標章" (Chinese equivalence of "Nano Logo"), certifies that the nano products comply with the "Enforcement Regulations Governing Nanometer Production Certification System," which are established by the owner of the certification mark. As the foreign letters "nano" are descriptive of the goods to be certified, the mark should not have been registered but was granted registration after the applicant declared the disclaimer of that part.

2. The certification mark, "休閒農場標章" (Chinese equivalence of "Recreational Farm Logo"), certifies that the recreational farm complies with the "Certification Standards for Quality Recreational Farms." The application should not have been granted registration because the descriptive terms "休閒農業 生態、生活、
2.4.3 Likelihood of misleading the public with respect to the nature, quality or place of origin of the certified goods or services

A certification mark that is likely to mislead the public with respect to the nature, quality or place of origin of the certified goods or services shall be rejected for registration pursuant to Article 23-1(11) of the Trademark Act. For example, if a domestic company applies to register a foreign geographical certification mark or a foreign geographical indication as a certification mark, which will mislead the public with respect to the origin of the certified goods or services, by law the application shall not be registered and shall be rejected.

2.4.4 Likelihood of confusing relevant consumers

If a certification mark is identical or similar to another person's prior-registered or prior-filed certification mark and the goods or services certified under the two certification marks are identical or similar, thus being likely to confuse relevant consumers, an examination shall be carried out with respect to whether the mark satisfies the ground of refusal specified in Article 23-1(13) of the Trademark Act. If a certification mark is identical or similar to another person's prior-registered or prior-filed trademark or collective trademark and the goods or services designated for the latter are deemed identical or similar, because of the use of the prior-registered trademark, the later-filed certification mark application will certainly confuse relevant consumers. Whether the application will confuse relevant consumers shall be subject to the "Examination Guidelines on Likelihood of Confusion" established by TIPO.
Example: The later-filed certification mark, "SGS and Device," to the left certifies that "the services and operation systems provided by the service providers, the manufacturing industry, the agro-industrial industry, the industrial industry, the maritime industry and the architecture industry using this certification mark are under the control of the applicant and comply with the national and international guidelines and standards for the operations of foods manufacturers and all kinds of manufacturers." A comparison between the above certification mark and the prior-registered trademark, "SGS tickmark logo," to the right, which is used on "provision of inspection and certification services for products and services in order to certify that these products and services comply with national and international regulations and standards and other governing certifications," shows that they share the same foreign lettering and are similar in design appearance, and further, the certified contents and the nature of the services are both related to "inspection and certification," thus being likely to confuse relevant consumers. The certification mark application was hence rejected pursuant to Article 23-1(13) of the Trademark Act.

Next, it shall be especially noted that if a trademark seeking registration is identical or similar to another person's registered certification mark, thus misleading the public with respect to the quality, nature, or place of origin of the goods or services identified under the trademark, the trademark shall not be registered and shall be rejected pursuant to Article 23-1(13) of the Trademark Act. For example, as an application to register "吉圃園 TEATIME" (Chinese characters of "Ji-Pu-Yuan") as a
general trademark in connection with tea leaves is identical or similar to the certification mark "吉園圃" (Chinese characters of "Ji-Yuan-Pu"), which is likely to mislead the public with respect to the quality of the goods using the certification mark, the application was rejected. Also, an application to register "ST TOYS design" as a general trademark in connection with toys was rejected because it is identical or similar to the "ST safe toys" certification mark, thus being likely to mislead the public with respect to the quality of the goods using the certification mark.

If, after a geographical certification mark is registered, any application to register the same "geographical name" as a trademark such that the goods or services identified under the geographical indication may mislead the public with respect to the quality, nature or place of origin, the application shall be rejected pursuant to Article 23-1(11) of the Trademark Act. For example, after "池上米" (Chinese characters of "Chi-Shang rice") is registered, another person's application to register the same geographical name as part of a trademark, which is likely to mislead the public with respect to the place of origin, shall be rejected. However, any registered trademark acquired prior to the registration of the corresponding geographical certification mark is not affected, and the owner of the geographical certification mark has no right to prohibit the owner of the trademark from using that geographical name in good faith and in a reasonable manner.

When the applicant simultaneously applies to register a trademark and a certification mark by using an identical device or similar devices, the matter set forth in Point 2.2.2 herein shall be considered, that is, whether the applicant is engaged in a business relating to the goods or services to be certified and has thus violated Article 72-3 of the Trademark Act. In addition, the examiner shall also consider whether the application falls under any unregistrable circumstances specified in Article 23-1 of the Trademark Act.

1. When the applicant first applies to register a trademark and then to register a certification mark by using an identical device or similar devices, the examiner shall consider whether the later-filed certification mark application is likely to confuse the public as to whether the subject of the application is a trademark or
Example: The disputed certification mark, "ABC and Device THE AUDIT BUREAU OF CIRCULATIONS. R.O.C. 本雜誌經發行公信會稽核" (Chinese equivalence of "The magazine is audited by the Audit Bureau of Circulations, R.O.C."), to the left certifies that "the volume of circulation audited by the bureau is correct." The mark is similar to the registered trademark, "ABC and Device," to the right in English letters and device. Moreover, the former is used to certify the volume of circulation magazines, and the latter is designated for use on publication of magazines. The two kinds of services are both related to magazines. If the certification mark is granted registration, it would confuse the general public and cause them to ask whether the applied mark is a service mark or a certification mark. Therefore, the certification mark application was rejected pursuant to Article 72-3 of the Trademark Act.

2. When the applicant first applies to register a certification mark and then to register a trademark by using an identical device or similar devices, the examiner shall consider whether the later-filed trademark application is likely to confuse the public with respect to the nature, quality or place of origin of the goods or services.

Example: The Tse-Xin Organic Agriculture Development Foundation has already acquired the registration of the certification mark ,"慈心有機
TOSAF Tse-Xin Organic and Device" (Chinese characters of "Tse-Xin organic"), which certifies that the organic agricultural products produced by the users of the certification mark comply with the "Tse-Xin Organic Certification Guidelines" established by the certifier. Therefore, an application to register "慈心有機" (Chinese characters of "Tse-Xin organic") for use on the design of magazine advertisements is likely to mislead the public with respect to the nature of the services, and was rejected pursuant to Article 23-1(11) of the Trademark Act.

2.4.5 Other grounds for refusal of registration

In addition to the aforesaid provisions, the examination of an application to register a certification mark shall also consider whether the certification mark violates other provisions of the articles herein. For instance, if a certification mark is identical or similar to the "CNS" sign or the "同" sign (pronounced as "Tong") or any local or foreign mark of the same nature, it shall not be registered pursuant to Article 23-1(9) of the Trademark Act.

2.5 Relevant issues after registration

2.5.1 Amendments to articles governing use

After a certification mark is registered, the certified contents as designated may not be changed; however, the owner of the certification mark may amend the contents within the scope of the articles governing use as originally approved. In examining an application, the examiner shall inspect whether the amendment damages the interests of another party or the public and whether the amendment violates relevant laws or is improper for reasons such as exceeding the contents of certification
originally granted. TIPO shall notify the owner of the certification mark of the approval of the amendment in writing and keep a record thereof. For example, the standards of functions of textile products vary depending on market demands. If any amendment or alteration is made to the "Standards for Anti-Wrinkle Textile Clothing and Accessories of Pure Cotton" listed in the "requirements for labeling the mark" enclosed with the original certification mark seeking registration, the owner of the certification mark may apply to amend the contents thereof within the scope of the articles governing use originally approved.

2.5.2 **Assignment and licensing of a certification mark**

According to Article 78 of the Trademark Act, after a certification mark is registered, in principle, the certification mark may not be assigned or licensed to another person for use; provided, however, that if such assignment or license to another person for use will not likely damage the interests of consumers and contravene fair competition, it may do so with approval from the competent authority. Henceforth, the assignment or licensing of a registered certification mark to another person must seek the approval from TIPO. In examining these applications, the qualifications and capability of the assignees or licensees of the certification marks to do certification and whether the assignment or licensing will damage the interests of consumers and violate the principle of fair competition shall be considered. For example, the certification mark, "台灣精品標誌" (Chinese equivalence of "Taiwan Quality Goods Logo"), was originally owned by the Taiwan External Trade Development Council, which was commissioned by the Ministry of Economic Affairs. The right in the certification mark was then assigned to the Ministry of Economic Affairs. After examination, TIPO approved the assignment on the ground that the assignee, as a government entity, is more credible and relatively just and impartial, compared to private entities. According to Article 78, the right in a certification mark, by its nature, may not be the subject of a pledge.

2.5.3 **Opposition, invalidation and revocation proceedings for a certification mark**

If the registration of a certification mark falls under any of unregistrable grounds specified in Article 23-1 or any registrable grounds after revocation of a trademark registration specified in Article 59-4, anyone may file opposition proceedings within
three (3) months from the date of publication of the registration of the certification mark (Article 40 applicable mutatis mutandis to Article 80 of the Trademark Act). An interested party or an examiner may file an application or request evaluation of the registration from the day the registration is published (Article 50 applicable mutatis mutandis to Article 80 of the Trademark Act).

After a certification mark is registered, any misuse thereof may result in revocation of the certification mark registration pursuant to Article 79 of the Trademark Act. This is how the competent authority supervises and manages certification marks. If a certification mark does not fall under any circumstances set forth in Article 79, the examiner shall determine whether the certification mark complies with any provisions of Article 57-1. The term "misuse of a certification mark" used in Article 79-2 of the Trademark Act refers to any of the following circumstances:

1. The use of a certification mark as a trademark, or the use of a certification mark on articles or documents relating to the goods or services of the owner of the certification mark: A certification mark is to certify the characteristics, quality, precision, and place or origin of the goods or services of "another person." No certification mark may be used or placed on articles or documents relating to the goods or services offered by the owner of the certification mark because such use obviously does not comply with the purposes and functions of a certification mark and the owner cannot act as the certified party and the certifier at the same time.

2. Any assignment, licensing or pledge that violates Article 78 of the Trademark Act: According to Article 78 of the Trademark Act, a certification mark may not be assigned, licensed or pledged, unless the assignment or licensing of the certification mark to another person does not impair consumers' interests or violate the principle of fair competition and the assignment or licensing is approved by the Registrar Office.

3. Violating articles governing use: All applications to register a certification mark will be subject to the articles governing the use of certification marks. Any use
violating the articles will be deemed a misuse. For example, in the case of certifying organic agricultural products, it will be considered a misuse if the owner of the certification mark fails to supervise and manage the certification mark pursuant to relevant control methods and requirements for labeling "有機農産品" (Chinese equivalence of "organic agricultural products") resulting in non-organic agricultural products being also affixed with the certification logo for organic agricultural products, hence misleading consumers. Thus, the registration of the certification mark shall be revoked by law.

4. Other misuses: This provision is a general regulation. In addition to the aforesaid facts and reasons, an examination shall be made with respect to whether this provision is applicable according to the asserted facts and evidence submitted by the applicant.

3. Collective trademark

3.1 Definition and nature

A collective mark filed by any business association, social organization or any other group that exists as a juristic person is provided to its members for use in connection with goods or services and for distinguishing these goods or services from those not offered by its members. A collective trademark is mainly used by the members of a collective group in order to identify the goods or services operated or offered by its members. A person uses a collective trademark to indicate that he/she is a member of a collective group and has the membership in the group, and the goods or services he/she provides meet the labeling requirements or standards established by the collective group. In addition to a general collective trademark, the applicant may apply to register a geographical name as a geographical collective trademark, which is jointly used by the members of a collective group incorporated within the defined geographical region to denote the source of goods or services they offer.

Like a general trademark, a collective trademark is used to indicate the business source of goods or services. However, the difference between them lies in that a general trademark is used by the trademark owner himself/herself if no license is
made, while a collective trademark is jointly used by the members of a group on the goods or services of the respective members, but the owner of the collective trademark may, for the purpose of launching advertising campaigns for its members, use the collective trademark to promote the goods or services offered by its members. No member of a collective group can own a collective trademark. Instead, the collective group shall own the collective trademark and control the use thereof in the best interests of all the members. Therefore, any party who applies to register a collective trademark must be capable of controlling the use of the collective trademark.

The major difference between a collective trademark and a certification mark is that the former is closed, that is, a collective trademark may be used by the members of a collective group, whereas the latter is open to the public, that is, anyone may request to use a certification mark if he/she complies with the articles governing use and the requirements for labeling the certification mark established by the owner of the certification mark. The owner of the certification mark shall permit anyone who meets relevant conditions to use the certification mark.

Some collective trademarks that were granted registration by TIPO are given below:

1. The collective trademark, "台北縣茶商業同業公會標章 茶 and Device TTTMA" (Chinese equivalence of "Taipei County Tea Merchants Association Logo, Chia and Device TTTMA"), which is designated for use on tea leaves, Bao-Jhong tea, Oolong tea, etc., was registered by the Taipei County Tea Merchants Association and provided to its members for use on their designated goods.
2. The collective trademark, "台北市液化氣體燃料商業同業公會 LPG Taipei Liquefied Petroleum Gas Association and Device," is used on fuel mixture consisting of propane gas and butane gas, liquefied petroleum gas, retail of fuel mixture consisting of propane gas and butane gas, and retail of liquefied petroleum gas. This collective trademark was registered by the Taipei Liquefied Petroleum Gas Association and provided to its members for use on their designated goods.

![LPG Trademark](image)

3. The collective trademark, "NTAIB," which is designated for use on "insurance brokers (insurance affairs)," was registered by the National Taiwan Association of Insurance Brokerage Companies and provided to its members for use on insurance brokers (insurance affairs).

![NTAIB Trademark](image)

A collective trademark is provided to the members of a collective group for use on their respective goods or services. If a collective trademark seeking to be registered is not provided to the members of a collective group or is not used to identify the origin of the goods or services of its members, it will be considered violation of Article 76 of the Trademark Act. If a notice is given and no correction is made within the set time limit, or if said violation still exists after correction is made,
the relevant application shall be rejected. However, if the application form shows that
the applicant in fact intends to apply for registering another type of trademark, a notice
shall be given to the applicant, requesting amendment to the application to reflect the
proper type of trademark; the application may be rejected if no amendment is made
within the set time limit.

3.2 Application

In applying to register a collective trademark, in addition to paying the required
government fees and submitting a specimen of the trademark, the application form
shall indicate the details of the applicant, and the class and names of the designated
goods or services in order to confirm the identity of the applicant and the scope of
right desired to acquire. In addition, documents proving the applicant's qualifications
to do certification and the articles governing the use of the collective trademark shall
also be submitted to prove that the applicant is qualified for or capable of controlling
the use of the collective trademark. As to any correction to defective filing procedures,
where required matters and required documents are obviously incorrect, omitted or
missing, the applicant shall be asked to make a correction, or the application shall be
rejected if no correction is made within the set time limit.

3.2.1 Applicant's qualifications

According to Article 76 of the Trademark Act, the applicant of a collective
trademark shall be a business association, social organization or any other group that
exists as a juristic person. In examining the application, the documents certifying the
applicant's qualifications as a juristic person shall be reviewed. For instance, if a
business association, social organization or any other group that is registered with a
central or local competent authority and is recorded as a juristic person with the
competent court, or any farmers' association, fishermen's association, cooperative or
business association that is incorporated pursuant to the Farmers Association Act, the
Fishermen Association Act, the Cooperative Act, the Business Group Act, or the
Industrial Group Act and has the qualifications of a juristic person under the law, it is
eligible to apply to register collective trademarks.
A collective trademark is provided to the members of a collective group for their use. Therefore, the applicant must be a business association, social organization or any other group that is a collective entity consisting of "persons," such as cooperatives, farmers' associations and business associations. A foundation is a collective entity of "property"; a natural person has legal rights, but he/she is not a "business association, social association or other group;" a company is a profit-seeking corporation, it is a single entity with no member. Thus, all the above three categories are not parties eligible to apply for registration of a collective trademark. An application filed by any of them will not meet the definition of a collective trademark, according to which a collective trademark must be used by the members of a collective entity only.

The applicant of a collective trademark must be capable of controlling the use of the collective trademark. In case of any doubt about the applicant's qualifications or capability, a notice may be given to the applicant requesting for explanation and a letter may be issued to the competent authority for official opinions. If two or more juristic groups apply to register the same geographical collective trademark, the competent authority in charge of the designated goods or services shall first negotiate with relevant parties in order to eventually have one of them apply for registration. If TIPO, after examination, considers the applicant not meeting the qualifications for registering a collective trademark, it shall request the applicant to provide additional documents or explanation. If no supplemental document or explanation is provided within the set time limit, or the supplemental document or explanation provided cannot prove the applicant's qualifications, the application shall be rejected pursuant to Article 76 of the Trademark Act. In the case where a foreign group or organization with juristic person qualification applies to register a geographical collective trademark, and has documents proving that the geographical collective trademark filed in the name of the applicant is protected under the law in its parent country, the applicant shall be deemed qualified for filing.
Some collective trademarks that were rejected by TIPO under Article 76 of the Trademark Act are given as follows:

1. XYZ Tourism Association applied to register a collective trademark. Although this association is a justice person, it is a collective entity of "property" with no member. Therefore, the collective trademark will not be provided to any member for use. Given this, said association was not a qualified applicant and the application it filed was rejected.

2. Cosmetics International Limited applied to register a collective trademark. It is an entity with the qualifications of a juristic person but no member. Therefore, the collective trademark will not be provided to any member for use. This association was not a qualified applicant and the application it filed was rejected.

3. As the applicant is a "production and sale unit" rather than a business association, social association or any other group that has the qualifications of a justice person specified in Article 74-1 of the Trademark Act, the application was rejected.

3.2.2. Designated goods or services

An application to register a collective trademark shall clearly indicate the classes or names of the designated goods or services. An application to register a geographical collective trademark shall also clearly indicate the defined geographical scope.

3.3 Examination of articles governing use

The use of a collective trademark is controlled by the owner thereof. Only members of a collective group who comply with the articles governing use may use the collective trademark. The articles governing use are the main basis for controlling
the use of the collective trademark. In general, the articles governing use normally indicate the objectives for which the collective trademark is used, the member's qualifications, the quality and characteristics of the designated goods or services, the procedure to apply for using the collective trademark, the rights and obligations of using the collective trademark, the consequences of or penalties for violating the articles governing use, the supervision system for controlling the use of the collective trademark, and so forth. An application to register a collective trademark shall indicate, in details, the contents of the articles governing use in order to prove that the applicant is capable of controlling the use of the collective trademark. The contents shall include, at least, the member's qualifications, the methods of controlling the use of the collective trademark and any other matters, if any. In examining the articles governing use, the examiner shall conduct a formality examination with respect to the contents. Any questions arising from the examination shall be referred to the applicant for explanation and a letter may be issued to the competent authority to seek official opinions.

3.3.1 Articles governing the use of a general collective trademark

3.3.1.1 Member's qualifications

The articles governing the use of a collective trademark shall indicate the member's qualifications in order to signify the composition of their collective group. An applicant may set out the qualifications or conditions for becoming its members. For instance, the applicant's residence, domicile or place of business or the applicant's business can be one of the conditions for becoming a member. The applicant may also establish the procedures for accession to the group. A member of a collective group mentioned before can be either a natural person or a juristic person. The articles of organization submitted by the applicant shall indicate the name, objectives, member and representative of the collective group and the place where the collective group is situated.

3.3.1.2 Methods of controlling the use of a collective trademark

The articles governing the use of a collective trademark shall include the methods controlling the use of the collective trademark, including the requirements for labeling the collective trademark, the supervision and management mechanism, and
penalties for violation of the articles governing use in order to prove that the applicant can effectively control the use of the collective trademark.

1. Requirements for labeling the collective trademark:
   In order to use a collective trademark, one must be a member of the collective group owning the trademark. In other words, only a member who has officially joined the collective group may use the collective trademark. The applicant may separately set the requirements for labeling the collective trademark according to the nature of the collective group, the objectives of its incorporation, and the purpose for filing the application. If any additional condition is added for labeling the collective trademark, a member of the collective group can use the collective trademark only if the goods or services he/she provides satisfy such additional condition.

2. Supervision and management mechanism
   In order to substantively control the use of a collective trademark, the articles governing use must provide relevant supervision and management mechanism, including regulations governing the supervision and inspection procedures of the use of the collective trademark, the certification standards, the time limit for improvement, and so forth.

3. Penalties for violation of the articles governing use
   A collective trademark is commonly used by the members of a collective group. The members enjoy the right to use the collective trademark but also have the obligation to abide by the articles governing use. The articles governing use shall specify the penalties for violating any of these articles. For example, the articles governing use may specify that if any member breaches the articles thereby damaging the interests of the collective group, he/she shall withdraw from the collective group or be suspended or expelled from the collective group. Those who have withdrawn or have been suspended or expelled from the group are not allowed to use the collective trademark, or any misuse of the collective trademark by a member or failure to make improvement within the set time limit, will be subject to penalties.
4. Other matters:

If a collective trademark applicant needs to fulfill any other requirements for using the collective trademark, such other requirements shall be expressly stated. For example, if there are requirements for labeling a collective trademark, descriptions about the location and size of the collective trademark appearing on the goods or their packaging shall be given. If any payment is required for accession to the collective group, payment terms shall also be specified.

3.3.2 Articles governing the use of a geographical collective trademark

The articles governing the use of a geographical collective trademark shall specify the matters required for a general collective trademark. In addition, the methods of controlling the use of the collective trademark shall include the defined regional scope and the particular quality, reputation or other characteristics of the designated goods or services attributable to its geographical environment.

3.3.2.1 Member's qualifications

A geographical collective trademark is used by a party who is a member of a collective group within that geographical region and complies with the articles governing the use of the geographical collective trademark (please refer to Article 3.3.1.1 for relevant matters).

3.3.2.2 Methods of controlling the use of a geographical collective trademark

The articles governing the use of a geographical collective trademark shall indicate the matters required by a general collective trademark. In addition, the methods that the applicant uses to control the use of the geographical collective trademark shall include the requirements for labeling the geographical collective trademark, the supervision and management mechanism, and penalties for violation of the articles governing use in order to examine whether the applicant can effectively control the use of the geographical collective trademark. The requirements for labeling the geographical collective trademark mainly include the defined regional scope and the given quality, reputation or other characteristics of the designated goods or services attributable to the particular geographical region named in the geographical environment.
collective trademark, such as the features of product appearance, specification and size, color, shape, special favor and sweetness, material, composition, manufacturing process, manufacturing method, and so forth. Any other matters that are required in the articles governing use should also be indicated in the requirements for labeling the geographical collective trademark.

3.3.3 Amendment to articles governing use

If the articles governing use, after examination, need amending, a notice requesting amendment or stating opinions shall be given to the applicant. If no correction is made after a notice is given, the application shall be rejected. The applicant may also apply to amend the articles governing use. When examining the amended articles governing use, the applicant's statements, relevant evidential materials and the opinions stated in the reply letter from the competent authority shall be taken into account.

3.4 Examination of mark

Like a general trademark, a collective trademark is used to identify the business source of goods or services, and may consist of any word, device, symbol or any combination thereof. A geographical collective trademark is primarily comprised of a geographical name. According to the degree of the distinctiveness of a "geographical name," a geographical collective trademark may consist of exclusively a geographical name, or "a geographical name and the names of goods/services," or a combination of a device or a word and a symbol. In examining a geographical collective trademark application, the examiner shall first consider whether the trademark is distinctive enough to serve as a collective trademark, and then examine, pursuant to Article 24 applicable mutatis mutandis to Article 80, whether the trademark is unregistrable on the grounds of descriptiveness, likelihood of misleading the public, or likelihood of confusion as specified in Article 23-1 and Article 59-4 of the Trademark Act. If the collective trademark application is found to be registrable, it shall be approved pursuant to Article 25 of the Trademark Act; if the application shall be rejected, it shall be rejected pursuant to relevant provisions and Article 24-1, which is applicable mutatis mutandis to Article 80.
According to Article 80 of the Trademark Act, the provisions relating to trademarks shall be applicable *mutatis mutandis* to the examination of a collective trademark specified hereinafter.

### 3.4.1 Distinctiveness

#### 3.4.1.1 Distinctiveness of a general collective trademark

A general collective trademark is deemed distinctive if it is able to distinguish the goods or services of the members of a collective group from those goods or services of non-member parties. If a collective trademark is not distinctive, it shall be rejected pursuant to Article 23-1(1) of the Trademark Act. Like a trademark, the distinctiveness of a collective trademark may vary. In deciding distinctiveness, the examiner shall consider the connection between the collective trademark seeking registration and the designated goods or services, the recognition of relevant consumers, the actual trading situations and the practices adopted by the operators in the same trade to see if the collective trademark is qualified and may distinguish the trademarked goods or services from those offered by parties who are not members of that collective group.

For example, the collective trademark, "金門區漁會標章" (Chinese equivalence of "Jinmen Fishermen's Association Logo"), consists of an abstract fish device. The collective trademark, which is provided to its members for use in connection with non-live aquatic products, products of fish paste, etc., can distinguish the trademarked goods or services from those offered by a party that is not a member of the collective group. Thus, the collective trademark was granted registration as it is distinctive.

#### 3.4.1.2 Distinctiveness of a geographical collective trademark

When an applicant applies to register a geographical collective trademark containing a geographical name, the geographical collective trademark shall not be
granted registration if the geographical name violates Article 23-1(2) of the Trademark Act for being descriptive of the designated goods or services themselves. However, the geographical collective trademark may be granted registration if it has become a sign identifying the applicant's goods or services and has acquired distinctiveness as specified in Article 23-4 of the Trademark Act. Unlike an "indications of source" with a general descriptive nature, a "geographical collective trademark" not only denotes the place where the goods or services are manufactured, produced or provided, but also signifies that the goods or services identified thereunder have certain quality, reputation or other characteristics attributable to the natural or human factors of that geographical region. Therefore, a geographical collective trademark identifies the goods or services originating in a particular geographical region that have certain quality or characteristics. In other words, as the geographical name has acquired certain reputation after a long-term use, consumers can immediately associate it with the designated goods or services. Such geographical collective trademark may be registered because it meets the distinctiveness requirements of a geographical collective trademark.

Judgment of the distinctiveness of a geographical collective trademark shall consider the connection between the specific geographical region named in the trademark and the designated goods or services, the recognition of relevant consumers, the actual trading situations and the practices adopted by operators in the same trade to see if the geographical collective trademark is capable of identifying the source of the goods or services. Whether or not the geographical collective trademark is distinctive can be determined by reviewing the specimen of the geographical collective trademark seeking registration, the goods or services indicated in the application form and the contents indicated in the articles governing use, for example, statements and evidence that the characteristics and quality of the products that is attributable to the natural factors of the geographical region such as soil, climate, wind, water, altitude and humidity. If the goods themselves are linked to the human factors of a given geographical region such as the manufacture process, production methods, and special manufacture skills that are traditionally accepted or recognized in the region, such fact shall also be stated. With respect to any question arising from the distinctiveness of a geographical collective trademark, a notice shall be given to the
applicant asking for relevant evidential materials proving distinctiveness and explaining how the geographical name included in the geographical collective trademark is connected with the claimed quality, reputation or characteristics of the designated goods or services attributable to the natural or human factors of that geographical region. If the geographical collective trademark seeking registration cannot denote that the goods or services have given quality, reputation or other characteristics because they originate in a particular geographical region and are connected with the natural or human factors of that geographical region, it does not meet the registration requirement of a geographical collective trademark, i.e., distinctiveness, and shall be rejected.

A geographical collective trademark mainly certifies a geographical origin. Therefore, no disclaimer of the exclusive use of the geographical name indicated in the geographical collective trademark is required. However, the names of "goods/services" in the geographical collective trademark shall be disclaimed for exclusive use.

3.4.2 Descriptiveness

If a collective trademark simply describes the shape, quality, functions or other descriptions of the goods or services, it cannot cause consumers to recognize it as a sign that distinguishes these goods or services from another's goods or services, and will affect other traders' right to describe their goods or services, as well as their reasonably use of the same descriptive wording or device in commerce, then collective trademark application shall be rejected pursuant to Article 23-1(2) of the Trademark Act. Except for the geographical name of a geographical collective trademark, a collective trademark that contains a descriptive or non-distinctive word or device and meets the requirement of disclaimer set forth in Article 19 of the Trademark Act must disclaim the exclusive use of the descriptive or non-distinctive part contained in the trademark in order to acquire the registration of the collective trademark.

Some collective trademarks that were rejected by TIPO or were granted registration after a disclaimer was made are given as follows:
1. The collective trademark, "火炎山鴨耕米" (meaning "Huo-Yan-Shan Duck Cultivated Rice" in English), is designated for use on rice, plumule-rice, wheat barns and polished glutinous rice. In the trademark, "火炎山" (Chinese characters of "Huo-Yan-Shan") refers to a place in Miaoli County, and "鴨耕米" (meaning "Duck Cultivated Rice" in English) refers to a production method under which ducks are raised in rice fields so that their excrement can be used as fertilizer and to rid the fields of pests. The use of the collective trademark, "火炎山鴨耕米," for the designated goods is descriptive of the place of origin of the goods and of the nature of the cultivation method, so the collective trademark application was rejected.

2. The applicant, the R.O.C. Goose Association, applied to register the collective trademark, "優質鵝及圖 優質、美味、健康" (meaning "Quality goose and Device, Quality, Delicious, Healthy" in English) for use on goose products. The trademark was granted registration after the applicant disclaimed the exclusive use of the expression "優質鵝肉, 優質、美味、健康" (meaning "Quality goose, Quality, Delicious, Healthy" in English) in the trademark, which is descriptive of the designated goods.

3.4.3. Likelihood of misleading the public with respect to the nature, quality or place of origin of the goods or services
If a collective trademark is likely to mislead the public with respect to the nature, quality or place of origin of the goods or services, it shall be rejected pursuant to Article 23-1(11) of the Trademark Act. For example, if a local company applies to register a foreign geographical certification mark or a foreign geographical indication as a geographical collective trademark that would likely mislead the public with respect to the place of origin of the designated goods or services, the application shall be rejected.

3.4.4. Likelihood of confusing relevant consumers

Where a collective trademark is identical or similar to another's prior-registered or prior-filed trademark or collective trademark and the two trademarks are used on the same or similar goods, thus being likely to confuse relevant consumers, an examination shall be made as to whether the application violates Article 23-1(13) of the Trademark Act. Whether there is a likelihood of confusing relevant consumers, TIPO's "Examination Guidelines on Likelihood of Confusion" shall apply.

If, after a geographical collective trademark is registered, another person applies to register the same "geographical name" as a trademark/collective trademark for use on the same or similar goods or services, thus being likely to confuse relevant consumers, the application shall be rejected pursuant to Article 23-1(13) of the Trademark Act. However, if that person has already used or registered a trademark incorporating the same geographical name before the geographical collective trademark is registered, to protect his/her prior use of the trademark incorporating the geographical name in good faith, the trademark may be continuously used or remain in full force.

3.4.5 Examination of other grounds for refusal of registration

In addition to the aforesaid provisions, an examination shall also be conducted with respect to whether the other provisions of the articles herein are violated.

3.5 Relevant issues after registration

3.5.1 Amendment to articles governing use

After a collective trademark is registered, the owner of the collective trademark
may apply to amend the articles governing use within the scope originally approved. An examination shall be made in respect of illegality or misuse such as whether the amended content damages the rights and interests of another party or the public, and whether the amended content exceeds the scope of the original articles governing use. TIPO shall notify the owner of the results of the examination in writing and keep a copy thereof on file.

3.5.2 Assignment and licensing of a collective trademark

According to Article 78 of the Trademark Act, after a collective trademark is registered, it may not be assigned or licensed to another person for use; provided, however, that if such assignment or licensing to another person for use will unlikely damage the interests of consumers and impede fair competition, then the collective trademark owner may do so with approval from TIPO. Henceforth, the assignment or licensing of a registered collective trademark to another person requires prior approval from TIPO. The examination of all assignment or licensing applications shall consider the qualifications and capability of the assignee or licensee of the collective trademark and whether the assignment or licensing will damage the interests of consumers and impede fair competition. According to the provisions of Article 78, the right to a collective trademark, by its nature, may not be the subject of a pledge.

3.5.3 Opposition, invalidation and revocation proceedings for a collective trademark

In case the registration of a collective trademark falls under any of the unregistrable circumstances specified in Article 23-1 or unregistrable circumstances after revocation of a collective trademark registration specified in Article 59-4, anyone may initiate opposition proceedings within three (3) months from the date of publication of the registration of the collective trademark (Article 40 applicable mutatis mutandis to Article 80 of the Trademark Act). An interested party or an examiner may file an application or request invalidation of the registration from the date the registration is published (Article 50 applicable mutatis mutandis to Article 80 of the Trademark Act).

After a collective trademark is registered, any misuse thereof may trigger the
revocation of the registered collective trademark under Article 79 of the Trademark Act. This is one of the ways the competent authority supervises and manages collective trademarks. For collective trademarks that do not fall under any circumstances set forth in Article 79, the examiner shall examine whether these collective trademarks are subject to the provisions of Article 57-1 of the Trademark Act on a case-by-case basis. The expression "misuse of a collective trademark" specified in Article 79-2 of the Trademark Act refers to any of the following circumstances:

1. The use of a collective trademark that misleads the public with respect to the nature of the collective group: The objective of the collective trademark system of the R.O.C. (Taiwan) is to identify the goods or services offered by the members of a collective group. Evidence of use must consist of the sales or advertising materials related to the goods or services carrying the collective trademark and offered by the members of the collective group. As the nature and objectives of each collective group may vary, if the use of a collective trademark misleads the public with respect to the nature of the collective group, it is deemed a misuse.

2. Any assignment, licensing or pledge that violates Article 78 of the Trademark Act: According to Article 78 of the Trademark Act, a collective trademark may not be assigned, licensed or pledged. However, this provision shall not be applicable if the assignment or licensing of the collective trademark to another person does not damage consumers' interests or impede fair competition and the assignment or licensing is approved by TIPO.

3. Any matter violating the articles governing the use of the collective trademark: In filing an application to register a collective trademark, the application must include the articles governing the use of the collective trademark. Any use violating any of the articles will be deemed a misuse, and the registered collective trademark may be revoked.

4. Other misuses: This provision is a general regulation. In addition to the aforesaid facts and reasons, an examination shall be made with respect to whether this provision is applicable according to the facts asserted and evidence submitted.
by the applicant.

4. **Collective membership mark**

4.1 **Definition and nature**

A collective membership mark that is registered by any business association, social organization or any other group existing as a juristic person is provided to its members for use in order to identify the collective organization or the membership of its members. The collective group or its members can put their own collective membership mark on relevant goods or documents to distinguish themselves from non-members or other collective groups. However, the objective of registering a collective membership mark is not to distinguish the source of any goods or services. Instead, it is to identify the members of the collective group.

Some collective membership mark that were allowed by TIPO are given as follows:

1. The collective membership mark, "TTVA and Device," which was registered by the Taiwan Industry Technology Assessment Association, identifies the organization of the Taiwan Industry Technology Assessment Association and the membership of its members.

![TTVA Logo](image)

2. The collective membership mark, "中華民國銀行商業同業公會全國聯合會標章" (Chinese equivalence of "Bankers Association of the Republic of China Logo"), which was registered by the Bankers Association of the Republic of China, identifies the Association and the membership of its members.
4.2 Application

A collective membership mark is used to identify the collective organization or the membership of its members. If a collective membership mark seeking registration is not used to identify the collective organization or the membership of its members, it does not meet the definition and nature of a collective membership mark and thus violates Article 74 of the Trademark Act. The application shall be rejected when no correction is made after a notice is given, or when the application still violates the aforesaid article even if a correction is made. For example, if an applicant applies to register a collective membership mark in connection with "promotion of culture and education and change of existing habits and customs, conducting of seminars on culture, spiritual purification, finance and economy, and philosophy, and training of professionals," which is not meant to identify the members of the collective group, the application shall be rejected. However, if the application form indicates that the applicant actually wishes to apply for registering another type of trademark, a notice shall be given to the applicant requesting changes be made to the application to the correct type of trademark within the set time limit; otherwise, the application will be rejected.

4.2.1 Applicant's qualifications

A collective membership mark is used to identify the organization of the collective group or the identity of its members. According to Article 74 of the Trademark Act, the applicant of a collective membership mark must be a business association, social organization or any other group that exists as a juristic person. The examiner shall examine the documentation certifying the applicant's qualifications as a juristic person. Any business association, social organization or a group that is registered with the central or local competent authority and is recorded as a juristic person with a competent court, can apply for registering a collective membership
Some collective membership marks that were rejected by TIPO pursuant to Article 74 are given as follows:

1. As XYZ Foundation is not a collective group consisting of "people," it cannot identify the identity of the members of the collective group. Thus, the application was rejected.

2. As XYZ Cultural Division is an administrative agency with no member, it is not a business association, social organization or any other group that exists as a juristic person as specified in Article 74-1 of the Trademark Act. Thus, the application was rejected.

3. As XYZ Graduate School of a national university is not a juristic person or a business association, social organization or any other group specified in Article 74-1 of the Trademark Act, the application was rejected.

4.2.2. Statement of identification

A collective membership mark is used to identify the organization of the collective group or the membership of its members. Some collective membership marks that were granted registration by TIPO are given as follows:

1. The collective membership mark, "CDA and Device," which was registered by the Taiwan Dental Association, is used to identify the Taiwan Dental Association and the membership of its members.
2. The collective membership mark, "中華民國商務仲裁協會及圖" (Chinese equivalence of "The Arbitration Association of the Republic of China and Device"), which was registered by the Arbitration Association of the Republic of China, is used to identify the Arbitration Association of the Republic of China and the membership of its members.

4.3 Examination of articles governing use

The owner of a collective membership mark controls its use; members of the collective group are eligible to use the collective membership mark. The articles governing the use of a collective membership mark are the main basis for controlling its use. In general, the articles governing use normally provide the objectives for which the collective membership mark is used, the member's qualifications, the procedure to apply for using the collective membership mark, the right and obligations of using the collective membership mark, the consequences of or penalties for violation of the articles governing use, the supervision system for controlling the use of the collective membership mark, and so forth. The articles governing use shall indicate the contents in details in order to control the use of the collective membership mark. The regulations are established by the applicant and shall include, at least, the member's qualifications and the methods of controlling the use of the collective membership mark, and any other matters, if any. When reviewing the articles governing use, the examiner shall conduct a formality examination of the member's qualifications and the methods of controlling the use of the collective membership mark. Any questions arising from the examination shall be referred to the applicant for explanation.

4.3.1 Articles governing the use of a collective membership mark
4.3.1.1 Member's qualifications

The articles governing the use of a collective membership mark shall specify the member's qualifications so that it is clear who the members of a collective group are. The applicant itself may stipulate any qualification or condition for becoming its members. For instance, the applicant's residence, domicile or place of business or the applicant's business can serve as one of the qualifications for becoming members of a collective group; the applicant may also stipulate the procedure for accession to the collective group and the procedure to acquire the membership through an application. Members of the collective group above-mentioned can be either natural persons or juristic persons. The articles of incorporation submitted by the applicant shall indicate the name, objectives, members and representative of the collective group and the place where the collective group is situated.

4.3.1.2 Methods of controlling the use of a collective membership mark

The articles governing the use of a collective membership mark shall specify the methods by which the applicant controls the use of the collective membership mark, including the requirements for labeling the collective membership mark, the supervision and management mechanism and the penalties for violation of the articles governing use. In examination, the examiner shall check whether the aforesaid matters are included in order to effectively control the use of the mark.

1. Requirements for labeling a collective membership mark:

The applicant usually adopts "the persons who are qualified to be members of the collective group" as one of the requirements for labeling the collective membership mark. The conditions for accession to the collective group are provided in the articles of incorporation.

2. Supervision and management mechanism and penalties for violation of the articles governing use:

A collective membership mark is put to use by all the members of the collective group, who jointly enjoy the right to use the collective membership mark and also undertake the obligation to abide by the articles governing use. Such articles governing the use of a collective membership mark shall specify
penalties for violating the articles. For example, the articles may specify that if any member contravenes the law, prejudicing the interests of the collective group, he/she shall withdraw from the collective group, or be suspended or be expelled; those who have withdrawn or have been suspended or expelled may not use the collective membership mark. The articles may also specify penalties where the collective membership mark has been misused and no correction action has been taken within the set time limit.

3. Other matters:

   If the applicant of a collective membership mark has additional requirements for using the collective membership mark, they shall also be stipulated. For example, if there are requirements for labeling a collective membership mark, how the collective membership mark should be labeled shall be described, such as where the collective membership mark should be affixed and the size of the mark. If any payment is required for accession to the collective group, payment terms shall also be specified.

4.3.2 Amendment to articles governing use

   If the articles governing the use of a collective membership mark, after examination, need to be amended, a notice shall be given to the applicant requesting correction or comments. If no correction is made after a notice is given, the application shall be rejected. The applicant may also apply to amend the articles governing use. The examination of the amended articles governing use shall take into account, among others, comments given by the applicant and relevant evidential materials submitted.

4.4 Examination of mark

   A collective membership mark may consist of a word, device, symbol or any combination thereof. The examination thereof shall consider whether the mark is distinctive enough to be a collective membership mark and whether the mark is unregistrable pursuant to Article 24 applicable mutatis mutandis to Article 80 of the Trademark Act for lack of distinctiveness or being descriptive, thus likely to confuse relevant consumers as set forth in Article 23-1 or Article 59-4 of the Trademark Act.
If the mark meets all legal requirements, it shall be granted registration pursuant to Article 25 of the Trademark Act; otherwise, it shall be refused registration pursuant to Article 24-1 applicable *mutatis mutandis* to Article 80 of the Trademark Act.

According to Article 80 of the Trademark Act, all trademark-related provisions shall apply *mutatis mutandis* to the examination of collective membership marks.

### 4.4.1 Distinctiveness

A collective membership mark is distinctive if it is capable of identifying the collective group or the membership of its members and distinguishing them from the members of other collective groups or non-members of the group. In deciding distinctiveness, the examiner shall, among others, consider the connection between the collective membership mark seeking registration and the statement of identification and prevailing social perceptions. If the collective membership mark is not distinctive, the application shall be rejected pursuant to Article 23-1(1) of the Trademark Act.

Some collective membership marks that are deemed distinctive or non-distinctive are given as follows:

1. The collective membership mark, "急難救助協會" (Chinese equivalence of "The Emergency Service and Rescue Association"), could not cause the public to recognize it as a sign that identifies the Association and distinguishes the Association from other collective groups, so the application was rejected. However, if the full name, "台北縣急難救助協會" (Chinese equivalence of "The Taipei County Emergency Service and Rescue Association"), is used instead, the application would be granted registration because the public can recognize the mark as a sign that identifies the Association and distinguishes it from other collective groups.

2. In the application to register "台灣童子軍 SCOUTS OF TAIWAN" as a collective membership mark, since the foreign and Chinese words refer to all scouts in Taiwan rather than identify the organization or the membership of its members,
the application was rejected because the public could not recognize it as a sign that identifies the applicant and distinguishes it from other collective groups.

4.4.2 Descriptiveness

A collective membership mark consisting of descriptions relating to a collective group that uses words or devices commonly used by other collective groups of the kind, and the registration of such mark will affect the rights and interests of other collective groups to use the mark, the application thereof shall be rejected pursuant to Article 23-1(2) of the Trademark Act. If a collective membership mark contains a descriptive or non-distinctive word, device, etc. and meets Article 19 of the Trademark Act regarding disclaimer of exclusive use, an application to register the collective membership mark may be approved after disclaimer of the descriptive part or non-distinctive part is made.

For example: The wording "南無阿彌陀佛 NAMOAMITABHA" contained in the collective membership mark, "中華華藏淨宗學會標章" (Chinese equivalence of the Hwazan Pureland Learning Center of the R.O.C.," is usually used by religious groups; the application thereof was approved after the applicant declared disclaimer of the exclusive use of that part.

4.4.3. Identical or similar to a mark used or medal or certificate awarded by a
government agency of the Republic of China or by an assembly in the nature of exhibition

If a collective membership mark is identical or similar to a mark used or medal or certificate awarded by a government agency of the Republic of China or by an assembly in the nature of exhibition, and thus is in violation of Article 23-1(7) of the Trademark Act, it shall not be registered and shall be rejected. For example, the collective membership mark, "台中縣義勇刑警協會標章" (Chinese equivalence of "The Taichung County Auxiliary Criminal Police Association logo"), is similar to the logo of the National Police Agency of the Ministry of Interiors, so an application to register the same as a collective membership mark was rejected on the grounds that it would mislead the public with respect to the nature of the collective group identified thereunder.

4.4.4. Likelihood of confusing relevant consumers

If a collective membership mark is identical or similar to another's prior-filed or prior-registered collective membership mark and the collective groups identified by the two marks are identical or similar in nature, thus being likely to confuse relevant consumers with respect to the organization or the membership of its members, it shall be rejected pursuant to Article 23-1(13) of the Trademark Act.

In a case where a collective membership mark is identical or similar to another's prior-filed or prior-registered trademark and the organization identified under the collective membership mark is deemed identical or similar to the goods or services designated for the prior-registered trademark (for example, the collective membership mark of a plastic association is identical or similar to another's registered trademark covering the same or similar goods including plastics), thus being likely to cause
relevant consumers to mistakenly identify the organization identified thereby with that prior-filed or prior-registered trademark, the application thereof shall be examined as to whether the collective membership mark violates Article 23-1(13) of the Trademark Act.

For example:

1. The device of two hands holding a heart included in the collective membership mark, "台灣省普門慈幼慈善會標章" (Chinese equivalence of "Taiwan Province Pumen Ci-You Charity Association logo"), on the lower left is similar to the device included in the collective membership mark, "中華民國愛心慈善協會標章" (Chinese equivalence of "ROC Aisin Charity Association logo"), on the lower right, and both marks identify a charity foundation. Although the applicant of the former disclaimed the exclusive use of the Chinese characters "愛心" (pronounced "Ai Sin) and "普門" (pronounced "Pumen"), as the entire trademark was still likely to make the public at large associate the collective group or its membership identified thereby with that of the latter such that confusion might occur, the former collective membership mark was rejected.

2. The collective membership mark, "精準 and M.A and Device" (精準 pronounced Jing-Jhun), on the lower left is identical to the collective membership mark, "精準 and M.A. and Device" (精準 pronounced Jing-Jhun), on the lower right. Moreover, one of the former applicant's missions is to promote mental arithmetic education, and its members include businesses or groups engaging in mental arithmetic-related services, which are similar to the services engaged by cram school businesses. Thus, the former collective membership mark used to identify the collective group or the membership of its members, would make relevant consumers to associate it with the latter trademark such that confusion might occur.
4.4.5 Other grounds for refusal of registration

In addition to the aforesaid provisions, an examination shall also be conducted with respect to whether the other provisions of the articles herein are violated.

4.5. Relevant issues after registration

4.5.1 Amendment to articles governing use

After a collective membership mark is granted registration, the owner of the collective membership mark may apply to amend the articles governing use within the scope originally approved. The examination shall be made in terms of illegality or misuse such as whether the amended content damages the rights and interests of another party or the public, and whether the amended content exceeds the scope of the original articles governing use. TIPO shall notify the owner of the results of the examination in writing and keep a copy thereof on file.

4.5.2 Assignment and licensing of a collective membership mark

According to Article 78 of the Trademark Act, after a collective membership mark is registered, it may not be assigned or licensed to another person; provided, however, that if such assignment or licensing to another person will unlikely damage the interests of consumers and impede fair competition, the collective membership mark owner may do so with approval from TIPO. Henceforth, the assignment or licensing of a registered collective membership mark to another person must apply with TIPO for approval. The examination of all assignment or licensing applications shall consider the qualifications of the assignee or licensee of the collective membership mark and whether the assignment or licensing will damage the interests of consumers and
impede fair competition. According to the provisions of Article 78, the right to a collective membership mark, by its nature, may not be the subject of a pledge.

4.5.3 Opposition, invalidation and revocation proceedings for a collective membership mark

In the event that the registration of a collective membership mark falls under any of unregistrable circumstances specified in Article 23-1 or any unregistrable circumstances after revocation of a collective membership mark registration specified in Article 59-4, anyone may file opposition proceedings within three (3) months from the date of the publication of the registration (Article 40 applicable mutatis mutandis to Article 80 of the Trademark Act). An interested party or a trademark examiner may file an application or request for invalidation of the mark from the day of the registration is published (Article 50 applicable mutatis mutandis to Article 80 of the Trademark Act).

After a collective membership mark is registered, any misuse thereof may trigger the revocation of the registered collective membership mark under Article 79 of the Trademark Act. This is one of the ways the competent authority supervises and manages collective membership marks. Collective membership marks that do not fall under any circumstances set forth in said Article 79, the competent authority shall examine whether these collective membership marks are subject to Article 57-1 of the Trademark Act on a case-by-case basis. The expression "misuse of a collective membership mark" specified in Article 79-2 of the Trademark Act refers to any of the following circumstances:

1. The use of a collective membership mark that misleads the public with respect to the nature of the collective group: The collective membership mark system in the R.O.C. (Taiwan) is meant to identify the organization of any business association, social organization or any other group that exists as a juristic person, or its membership. If the use of a collective membership mark will result in misleading the public with respect to the nature of the collective group, it is deemed a misuse.

2. Any assignment, licensing or pledge that violates Article 78 of the Trademark Act:
According to Article 78 of the Trademark Act, a collective membership mark may not be assigned, licensed or pledged. However, this provision shall not be applicable if the assignment or licensing of the collective membership mark to another person does not damage consumers' interests and impede fair competition and the assignment or licensing is approved by TIPO.

3. Any matter violating the articles governing the use of the collective membership mark: In filing an application to register a collective membership mark, the application must include the articles governing the use of the collective membership mark. Any use violating any of the articles will be deemed a misuse, and the registered collective membership mark may be revoked.

4. Other misuses: This provision is a general regulation. In addition to the aforesaid facts and reasons, an examination shall be made with respect to whether this provision is applicable according to the facts asserted and evidence submitted by the applicant.