



QUESTION 72

Protection of collective and certification marks

Yearbook 1981, page 145
31st Congress of Buenos Aires, November 16 - 21, 1980

Q72

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Protection of Collective and Certification Marks

Resolution

The IAPIP

approves the general lines of the Summary Report and the Report presented by its Committee to the Congress of Buenos Aires;

takes account of the observations made in the debate and

refers the question back to the Executive Committee for adopting, in its definitive form, a doctrine of the IAPIP on the establishment of a system for the protection of collective and certification marks.

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Yearbook 1982/III, pages 107 - 108

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Executive Committee and Council of Presidents of Moscow, April 19 - 24, 1982

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Protection of Collective and Certification Marks

Resolution

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Considering that pursuant to Art. 7 bis of the Convention, countries of the Union have undertaken to accept for filing and to protect collective marks belonging to associations, subject to the conditions referred to therein, but considering that the Convention does not provide a precise meaning for the expression "collective marks",

The IAPIP

I. believes it to mean, or include, two types of marks, intended for use by a plurality of natural or juristic persons, designated and defined as:

a) "certification marks" are marks which are used to indicate that the goods or services so identified are certified to possess certain characteristics or qualities, and

b) "collective marks" strictly speaking are marks which are used to indicate that the goods or services so identified have been produced, distributed or performed by members of a certain group of persons

without limiting the generality of the foregoing definition of a certification mark, the certain characteristics or qualities possessed by the goods or services may relate to such things as their nature, properties, compositions, method of manufacture, mode of performance and so on.

It is recognized that, in certain circumstances, a mark may have the properties of both a certification mark and a collective mark;

II. appreciates that, quite apart from the provisions of Art. 7 bis, marks exist of the kind described and are of increasing economic and social importance.

III. is of the opinion that:

the right to register and the protection afforded to certification marks and collective marks should be organized within the general framework of trademark law subject to the special considerations noted:

1. As has been implied, the system should provide for and encourage the registration of certification marks and collective marks but whatever protection may be afforded to such marks by national laws otherwise than by way of registration, should not be diminished or eliminated.

In the case of a registered certification mark, the nature of the characteristics or qualities certified by such mark and any conditions or restrictions imposed on the use of such mark shall be made available for public inspection.

2. To be entitled to registration and to be afforded protection, certification marks and collective marks must be distinctive to the degree necessary for the effective performance of their functions.

3. The owner of a certification mark must be a person:

a) who has the authority and the capacity for establishing and supervising the conditions of use of the certification mark,

b) who is not entitled to use, and will not use, such mark in association with goods or services produced, distributed or performed by him.

4. If goods or services have the certified characteristics or qualities, the producer, distributor or performer of these goods or services is entitled to use the certification mark to identify such goods or services.

5. The owner of a collective mark may use such mark and, at any given time, it must be possible to ascertain all other persons entitled to use such mark.

IV. decides:

to reserve the question of the application of the system of certification marks and collective marks to the protection of geographical names.

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