

Certification Trade Marks

A certification trade mark is a specialised form of trade mark that indicates that goods or services comply with certain standards, for example, quality, content, manufacturing method, or geographic origin. A certification trade mark can be owned by individuals, companies, and other incorporated entities. Unlike standard trade marks, certification trade marks must be registered under the *Trade Marks Act 1995* to receive protection in Australia.

Examples

Commonly encountered examples of certification trade marks include:

- The 'Australian Made®' logo:



- The 'Woolmark®' logo:



- The 'Low GI Certified®' mark:



Certification trade marks may be claimed for names of geographical regions, indicating that the goods produced under that mark have certain qualities attributable to their geographical origin. For example, the place name 'Stilton' is a certification trade mark in Australia for cheese produced according to a specific production method in Derbyshire, Nottinghamshire, and Leicestershire counties of the UK.

Who can own a certification trade mark?

Certification marks are normally registered and owned by an independent body or organisation that does not itself trade in the goods or services that bear the mark. Rather, the owner of the certification mark will grant permission to approved traders to use the mark to market the goods and/or services for which it is registered.

Procedure for obtaining a certification mark

The procedure for obtaining a certification trade mark is more onerous than for a standard mark. In addition to complying with most of the substantive requirements that apply to standard trade marks, applications for certification trade marks must also be accompanied by a set of rules that prescribe when and how the mark may be used by authorised users. The rules should also indicate how disputes governing use of the mark will be settled. After reviewing the application, IP Australia will send the proposed rules to the Australian Competition and Consumer Commission (ACCC), which must approve the application and the rules. The ACCC will review these materials to assess their consistency with the parts of the *Trade Practices Act 1974* that deal with anti-

competitive conduct, unconscionable conduct, and consumer protection.

The ongoing role of the ACCC

Once registered, the rules governing the use of a certification trade mark can only be changed with the consent of the ACCC. In addition, permission from the ACCC is required before a registered certification trade mark can be assigned to a third party.

Collective trade marks

A collective mark is a mark that members of an association use to distinguish their goods or services from those of others who are not members of the association. For example, the name 'Mystique Mandarin' is a registered collective trade mark that is owned by the Western Australian Citrus Improvement Group and can be used only by that association or its members to distinguish the Group's mandarins from those of other traders.

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This fact sheet is only for information purposes, and to assist you in understanding your legal rights and obligations in a general sense. It is not tailored to any particular fact, situation or specific requirements, and must not be relied on as legal advice.