

Consumer awareness and the power of certification trade marks

By [Pamela Maluleke](#)

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Ordinary trade marks are the "popular kid" of the intellectual property industry; however, businesses often overlook the potential competitive advantage of certification trade marks. Unlike a regular trade mark, a certification trade mark does not indicate the commercial origin of a branded product, instead, a certification trade mark serves to indicate that a product is of a certain quality, accuracy, geographical origin, source, manufacturing process or possesses other characteristics.



Image source: Getty Images

In the last decade, there has been a shift in consumer interest around the quality, traceability and manufacturing processes for food, beauty and other products. There is an increased awareness and need by consumers to be informed not only on the origin of goods, but also regarding the characteristics of the goods. Consumers are continuously inundated with various products in stores and online, as such, certification trade marks may serve as a great way to differentiate products in a crowded market. For example, consumers are more aware of the negative impact some industries may have on the environment, and may elect to buy products that are certified in respect of sustainable agricultural practices and water resources, among other regulations.

When a certification mark is filed, it has to have a range of rules outlining the process that a person and/or business needs to meet to be able to use the certification mark e.g., if the certification mark relates to the quality of the product the mark would state that a particular shirt is made of 100% wool. This information instantly informs the potential consumer that this product meets the required standards that they are looking for, and this may strongly influence the consumer's decision to select the shirt bearing the certification trade mark over the same shirt belong to a different brand.



In terms of the filing of an application for a certification trade mark in South Africa, a certification trade mark may not be registered in the name of a person / entity who carries on a trade in similar goods or services in respect of which the certification trade mark is applied. This is to ensure transparency and credibility in the certification process of goods.

Upon examination, the rules governing the use of the trade mark applied for, as well as a statement of case and evidence (in the form of an affidavit), must be filed with the Trade Marks Registry.

The following information must be included:

- The applicant must state that they do not carry on business in similar goods and services;
- Conditions for use of the certification trade mark;
- The circumstances in which the proprietor will certify the goods/services;
- The characteristics the goods or services must comply with in order to be so certified; and
- A sanction clause against abuse or misuse.

Similar to a regular trade mark, once registered, the certification trade mark may be renewed every 10 years.

With increased consumer awareness regarding the quality, standards and/or geographical origin of a product, certification trade marks will have a significant influence on consumer spending habits. Therefore, businesses need to start taking note of this “smart kid” in the class, to bolster their IP portfolio.

ABOUT THE AUTHOR

Pamela Maluleke - Senior Associate & Trade mark attorney at KISCHIP

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