

**COLLECTIVE BRANDS, CERTIFICATION OR GUARANTEE BRANDS,  
DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS**

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**ABSTRACT:**

The study of collective trademarks is of little harmony in the doctrine of trademarks, an equally important fact in the area of legislation that concerns them in the different legal systems, especially in the countries most quoted in legal science. In this sense, César Bessa Monteiro wrote: "The concept of collective trademark is, in my opinion, one of the most complex and difficult to define in the scope of Industrial Property", the author goes on to say that " , and American brands are clearly distinguished from the warranty or certification marks. In the UK, only the certification mark is regulated, and there is no process for the registration of collective marks. In addition, the diversity of treatment of the collective mark in the various laws corresponds to the diversity of treatment in the existing Doctrine in the various countries and is

perhaps a consequence thereof ". Inevitably, the study of collective marks calls for the certification or guarantee mark as well as the designations of origin and geographical indications. They are concepts that intercommunicate in theory and also in practice. This is the reason for the treatment in this article of these subjects. The objective is to bring to the fore the contours of the understandings that have at the level of the doctrine and national and foreign legislation on the matter, without leaving aside our humble perspective on the subject. We see that the incorporation of certification or guarantee marks and collective marks into the new Directive (EU) 2015/2436 of the European Parliament and of the European Council of 16 December 2015 seems to be able to minimize conceptual divergences first in the circle of countries members and second in the different countries of the world.

**Keywords:** Brand. Collective. Indication of provenance.

## **MARCAS COLETIVAS, CERTIFICAÇÃO OU GARANTIA MARCAS, DESIGNAÇÕES DE ORIGEM E INDICAÇÕES GEOGRÁFICAS**

### **RESUMO:**

O estudo das marcas coletivas é uma das menos harmoniosas na doutrina da marca registrada, fato igualmente conhecido no campo da legislação que lhe é aplicável nos diferentes sistemas jurídicos, especialmente nos países mais citados na ciência jurídica. Neste sentido, César Bessa Monteiro escreveu: "O conceito de marca coletiva é, na minha opinião, um dos mais complexos e difíceis de definir no âmbito da Propriedade Industrial", afirma o autor que ", e marcas americanas distinguem-se claramente das marcas de garantia ou certificação, no Reino Unido, apenas a marca de certificação é regulamentada, e não há processo para o registro de marcas coletivas. Além disso, a diversidade de tratamento da marca coletiva nas várias leis corresponde a diversidade de tratamento na Doutrina existente nos vários países e é, talvez, uma consequência disso ". Inevitavelmente, o estudo das marcas coletivas exige a certificação ou marca de garantia, bem como as denominações de origem e indicações geográficas. São conceitos que se intercomunram em teoria e também na prática. Esta é a razão para o tratamento neste artigo desses assuntos. O objetivo é trazer à tona os contornos dos entendimentos que têm no nível da doutrina e da legislação nacional e estrangeira sobre o assunto, sem deixar de lado nossa humilde

perspectiva sobre o assunto. Vemos que a incorporação de marcas de certificação ou garantia e marcas coletivas na nova Diretiva (UE) 2015/2436 do Parlamento Europeu e do Conselho Europeu de 16 de dezembro de 2015 parece ser capaz de minimizar as divergências conceituais primeiro no círculo de países membros e segundo nos diferentes países do mundo.

**Palavras chave:** Marca. Coletiva. Indicação de procedência.

## **MARQUES COLLECTIVES, MARQUES DE CERTIFICATION OU DE GARANTIE, DÉSIGNATIONS D'ORIGINE ET INDICATIONS GÉOGRAPHIQUES**

### **RÉSUMÉ:**

L'étude des marques collectives est l'une des moins harmonieuses doctrines, ce qui est tout aussi bien connu dans le domaine de la législation qui lui est applicable dans les différents systèmes juridiques, en particulier dans les pays les plus fréquemment cités en science juridique. En ce sens, César Bessa Monteiro a écrit: "Le concept de marque collective est, à mon avis, l'un des plus complexes et des plus difficiles à définir dans le cadre de la propriété industrielle", poursuit l'auteur, "et les marques américaines sont clairement distinguées des marques de garantie ou de certification. Au Royaume-Uni, seule la marque de certification est réglementée et il n'existe aucune procédure pour l'enregistrement de marques collectives. En outre, la diversité de traitement de la marque collective dans les différentes lois correspond la diversité des traitements dans la doctrine existante dans les différents pays et en est peut-être une conséquence ". Inévitablement, l'étude des marques collectives exige la certification ou la marque de garantie ainsi que les appellations d'origine et les indications géographiques. Ce sont des concepts qui communiquent entre eux en théorie et en pratique. C'est la raison du traitement dans cet article de ces sujets. L'objectif est de mettre en évidence les contours des interprétations qui se situent au niveau de la doctrine et de la législation nationale et étrangère en la matière, sans laisser de côté notre humble perspective sur le sujet. Nous constatons que l'incorporation de marques de certification ou de garantie et de marques collectives dans la nouvelle directive (UE) 2015/2436 du Parlement européen et du Conseil européen du 16 décembre 2015 semble être en mesure de

minimiser les divergences conceptuelles d'abord dans le cercle des pays. membres et deuxième dans les différents pays du monde.

**Mots clés:** Marque. Collectif. Indication de provenance.

## 1. INTRODUCTION

In some countries the collective brand is considered a brand of genre, which has as a species the certification mark, for some and / or, guarantee for others. But we understand that the certification marks and guarantee or have greater extent than the collective brands namely certification marks or guarantee are the Twins number and collective marks one of its kinds. This is because, also the collective marks aim to certify or guarantee the origin of the quality of the products or services of a certain collectivity. In this way, certification or guarantee marks could be specified in : *brand certification or collective guarantee* and *certification marks or guarantee strict sense* .

However, it is seen, in comparative law, that there is no terminological uniformity regarding the use of the term collective mark. For example, between European Union legislation and that of the various legal systems which form part of it, there was not until recently uniformity. Among the member states of the European Union, there were two terminological orientations with respect to collective bargaining. For example, in France, Portugal, Denmark and Ireland, this type of mark is provided for and protected under the name of certification mark. But in countries like Italy, Greece, Benelux and Spain, the terminology of warranty marks is adopted. And in the United Kingdom a guarantee brand name is used (certification mark) [3].

However, according to the new Brands Directive (EU) of the European Parliament and of the European Council of 16 December 2015 which approximates the laws of the Member States relating to trade marks (and establishing for the first time the certification and gives new developments to the collective brand) seems to be coming to an end the conceptual disagreements about this type of brands. Article 27 of this Directive defines distinctly guarantee or certification marks and collective marks. Thus, under Article 127 (a) of the "Guarantee or Certification Mark", a mark so designated at the time of submission of the application and capable of distinguishing the goods or services certified by the trade mark proprietor in respect of the material, manufacturing of goods or provision of services, quality, accuracy, or other characteristics of goods or services that are not certified in this way: b) "collective mark" a brand

so designated when assessing the application and capable of distinguishing the goods or services of the members of the association owned by the association of other undertakings.

## 2. WHERE IS THE PROBLEM FOR THESE TERMINOLOGICAL DIVERGENCES ON THE COLLECTIVE MARK?

What is the origin of the challenges strung around the concept of brands paste, is, first, as we have seen in the previous point, the concept marks paste face certifications and guarantees that they aim to advertise to consumers, according to , its delimitation vis-à-vis so-called "*geographical*" *collective marks and other geographical signs* [4]. In particular, indications of provenance, designations of origin, geographical indications. The discussion goes further but we will only see these aspects confronted with the collective mark.

DI CATALDO, VINCENZO [5], looking at the three historical brand types, wrote that the first type was the compulsory collective mark for all those who developed some art and who were part of the corporation, served to control the quality and the product and certified the technical aspect of the corporation. It was a brand in the interests of the corporation and functioned as a guarantee of quality. The second neighbor type of the first was the obligatory individual mark, used by the artisan individually but in the interest of the corporation, with the function of allowing the artisan's signal to be assigned to his product. In the case of defective production contrary to the prescriptions of the art, the artisan was punished or held liable, therefore, this type of mark could be called as a mark of responsibility. The third type is that of the optional individual mark used by a craftsman outside the interests of the corporation to enable the public to identify the product from its source. It was a private sign that served as an indication of provenance. The indication of benefit was an indirect but reliable guarantee of quality.

It may be difficult to understand why the collective marks must be considered as having been the first, since before, there were already the marks of the owners-artisans-individual, those that the owners-artisans, on their own initiative, and independent of the supervenient corporate conception , they had a stake in their products. This is due to the fact that corporate brands (it seems) were the first to benefit from legal protection through the owning corporation and therefore exercised control over its use.

Although it was with the medieval corporations that brands began to have a truly legal guardianship, before that marks as such already existed but lacked a legally relevant tut . It

should be pointed out that the fact that the sign does not benefit from legal protection does not deprive it of its character as a trade mark, that is to say, regardless of whether it is protected, whether the sign has the distinctive capacity to contradict goods or services.

### **3. FUNCTION AND GUARANTEE OF THE COLLECTIVE MARK IN THE PREMIUMS**

We will now describe the aspects that characterize the beginnings of collective and / or certification marks [6] - [7] in that its function and guardianship was concerned to examine them better in their different aspects.

What today are called marks on the paste, began as brands of corporations. It was owned by the respective corporation, however, the mark was used by its members. It should be noted that the members of the corporation did not use the corporate mark because they were joint owners, but only because they were members of said corporation. The ownership was one, (the corporation) and the use was various (of all that had the quality of members of the corporation), and is still so in our days as we shall see [8] .

NOGUEIRA SERENS [9] explains that corporate brands could be mandatory in two cases: When the corporation was the owner of a trademark, all its members were obliged to use it in their own products, for them the trademark was mandatory. In relation to the corporation itself, a trademark can only assume that character if its ownership did not reside in the will of the members of the corporation, rather it corresponded to an imposition of any political and administrative authority [10] . In other words, corporate branding could be mandated by the corporation to its members or by imposition of a political-administrative authority on the corporation.

Corporate brands were not only intended to distinguish or individualize products of one corporation vis-a-vis the other competitor, it also aimed, in accordance with corporate by-laws, to guarantee the quality , characteristics of the respective products. The regulations contained in the statutes , aimed at ensuring compliance with the pre-established qualities for the corporation's products. The powers of inspection, it was up to misters- jurors or guards craft; and for their proper exercise, they had the right to inspect the products of the different members of the color , traveling to the respective workshops to exercise the so-called right of view on the objects produced there. When, following that regular inspection , it was found that the products did not comply with the rules of the art , or , in other words, when it was found that there was an adverse effect on the production of the article in question, by the said guards of the trade, according to the seriousness of the infraction. The most common penalties were the

imposition of a fine and / or imprisonment and confiscation with the subsequent destruction of counterfeit goods. The most serious infractions, especially in case of recidivism, could be ordered the suspension or even expulsion of the concerned artisan from the respective corporation and at the limit, his *messa to the side* [11]. With this system of prevention against the placing on the market of defective products, the corporation mark could be called upon to perform a new function, although it continued to serve to distinguish the products of the members of the corporation concerned from counterfeit products, which came from the artisans who were not part of it, but, on top of that, guaranteed the quality-characteristics of the products that had it, that is why in their production the rules of art had been observed. On the other hand, the collective mark also assumed the character of a guarantee or certification mark, which would be reinforced by the fact that the right to affix the sign to the corporation itself [12].

This dual function was not rigid, it could happen that the products in whose production a particular city became particularly impoverished, it was often the respective municipal authorities, and later royal royalty, to impose the use of a brand other than the corporate brand. In these other cases, the function of guaranteeing the quality-characteristics of the products rested with that other brand, which did not belong to any particular corporation. The conditions for their use were therefore laid down by the public authorities and were, as a rule, also those which ensured that those conditions were met, thereby preventing the reputation of the city in the production of the relevant products from being jeopardized, consequence of the use of the mark in products that did not present the typical quality-characteristics. When the name of the city was constituted, as was often the case, that other brand was a true and proper certification mark, a mark with no other function than quality assurance-characteristics of the products bearing it, by transforming the geographical origin of the products into a decisive factor of their choice by consumers. [13] The brand paste simple, was a monopoly of defense instrument that enjoyed the holder corporation that mark because distinguish the legal products of the product. The collective mark allowed to control the flow of the supply of each of the artisans, since the products could not be placed in the trade without their being and bets on that mark and, the respective right of apposition belonged to the own corporation. place for a continuous "manipulation" of the law of supply and demand [14].

The certification mark, on the other hand, served as a disloyalty to competition, inasmuch as artisans who, because they were not installed in the area of the city whose name constituted the mark, were prevented from making use of that mark, to see their offer no longer because it did not have the quality-characteristics that the consumer wanted, but because some of their competitors - the craftsmen installed in the area of the city in question, who used the

composite certification mark with the name of that city outside the conditions previously established - presented their own offer with a quality of characteristics that it did not have; deceiving consumers, these competitors could therefore a competitive advantage, advantage such that, building on a false appearance, it would qualify as unfair.

Also the certification mark functioned as a monopoly facilitator according to the thesis of NOGUEIRA SERENS [15], for the following reasons: First, its use corresponded to corporate-professional interests. It was a way of normalizing production: all the craftsmen, who, because they were settled in the area of the city whose name constituted the certification mark, aspired to have their products bearing that mark, were obliged to respect minimum standards of product, that there would see to allow respective products quality-assurance features for which the mark was affixed. In other words, the certification mark contributed to the transparency of the relations between competitors - and to that extent softened the competition - which was why they informed each of them of a set of technical-productive procedures to which all others were bound. Observance of such procedures implied, of course, additional production costs, which could be more or less high - it would all depend, in the end, on the degree of specialization and, more generally, on the investments in the different productive that the products had the quality-characteristics on which their certification depended. And the truth is that this increase in production costs would necessarily have an effect on the number of the concourse, since it expelled from the respective market the artisans who were less economically and financially equipped. Secondly, the certification mark operated as a monopoly operator because it conferred a competitive advantage on certain competitors, an advantage which could in fact prove unfair. Indeed, any artisan, although not located in the area of the city whose name constituted a certification mark for certain products - we are thinking, of course, of industrial (manufactured) products - could undertake in the production of products with the same quality characteristics as those bearing that mark. But even if he succeeded, he would still be unable to share the *selling power* of the certification mark.

#### **4. THE COLLECTIVE MARK IN LIGHT OF THE MOZAMBICAN LAW**

The Code of Industrial Property (CPI), approved by Decree 47/2015 of 31 December defines separate collective mark and certification mark form, which initially convey that to the Mozambican legal order these are distinct types brand. Pursuant to article 1 j) of the CPI, collective mark : *the distinguishing sign of origin or any other common feature, including*



*the quality of the goods or services of undertakings, members of an association, group or entity . In point (1), it defines a certification mark: a sign identifying products and services which, although used by different entities under the supervision of the holder, guarantee the particular characteristics or qualities of the products or services in which it is used .*

These definitions results of the collective mark is to identify the origin or any other common and peculiar characteristic of products or services of an entity. Whereas the certification mark aims to guarantee the particular characteristics or qualities of the products and services that use it.

Strictly speaking, although the type appear distinct brands in the light of the Mozambican legal system, reading attentive to these legal provisions just quoted, it seems that the collective trademark and the certification mark are the same. In this sense, the collective brand is a genre of the certification mark, since both the collective mark and the certification mark attest , certify and guarantee the quality of the products and services of a particular entity . Moreover, this understanding is unequivocal under Article 123 (3) of the CPIM when it states: "The right to register collective marks is granted to legal persons to whom a guarantee or certification mark is legally attributed or recognized and may apply to certain qualities of the goods or services ". Thus, from CPIM's point of view, the collective mark certifies the common origin of the peculiarity of certain products or services , while the certification mark also certifies and guarantees that certain products or services under the supervision of its owner, have the same quality.

An inglorious attempt to distinguish the collective trademark of certification mark the author of the CPIM has n number 4 of Article 124 that: "The right to certification mark registration, is recognized to legal persons and public entities that oversee, control or certify the conformity of a product or service with certain standards or technical specifications, including the quality, nature, material used, methodology employee and geographical origin ". We have said ingloriously because the content of number 4 of article 124 is not totally different from number 3 of the same article with a simple reading . What is said of the legitimacy for registration of the certification mark under Article 124 (4) of the CPIM is exactly the same as the collective certification mark under Article 124 (3). It is also clear that the author of CPIM, in saying that the Right to register a certification mark is recognized to " legal persons " , was thinking of the collective mark.

Although on the collective mark the CPIM text does not refer to the inspection of the trademark owner , it is clear that the owner of the collective mark is the collective entity in which all those who use the trademark are found to contradistinguir products and

services. Therefore, it is the owner of the collective mark that is responsible for the inspection of the trademark. Therefore, both the collective and the certification mark are inspected by the respective owners. The ownership of the collective mark as well as the certification mark, the certification and certification, the guarantee of the peculiar characteristics, *especially* the quality of the products and services and the inspection carried out by the owner, enable us to state that although CPIM to consider them as distinct, the text of the standard does not envisage such a distinction.

There are no regulations or other CPIM provisions relating to these marks. However, in matters of comparative law, it seems that Portugal solved in a less dubious way the problem of the concept of the collective mark. Thus, pursuant to Article 228 (1) "*A collective mark shall be understood as an association mark or a certification mark;*

2. *Can be mark paste signs or indications used commercially to designate the geographical origin of goods or services.* "Under Article 229 of the CPI P Portuguese, "*An association mark is a specific sign belonging to an association of individuals or paste, whose members use it, or intend to use, for products or services related to the object to of the association*".

In accordance with Article 230 (1) of CPIP "*A certification mark is a specific sign belonging to a collective person who controls the goods or services or sets standards to which they must comply*". 2. *This signal is intended to be used in the goods or services subject to that control or for which the marks have been established*". We thus the broad sense of the term collective mark that includes (RCA ma association or brand paste in the narrow sense and the certification mark) [16]; the *association's trademarks* are the individuals and associations or paste and are or may be used by the respective members and *certification marks or guarantee* belong to collective persons who control the existence of certain qualities in products or which lay down the technical standards to which they are subject [17].

However, the concept of collective mark of the Portuguese legal order, based on the new Directive of marks (EU) 2015/2436, could, due to the legislative harmonization, turn out to be another. The collective marks of the certification or guarantee marks will be differentiated.

## 5. THE COLLECTIVE MARK AND ITS HEADLINES

What interests us is not knowing what the legal system that best conceptualize brand paste, but certainly examine the aspect general to that characterize face to what is called thee, certification mark. It should be noted that there are countries that do not have a legal framework that protects collectively the trademark especially as the dean of

"droit des marques" of the Benelux, BRAUN [18], *"Diverses législations ont admis d'emblée ces marques appelés collectives, et les ont protégées par dispositions spéciales. D'autres n'ont entendu que les protect marques individuelles"*.

According to MARIA MIGUEL CARVALHO [19] - [20] *"Collective marks, and in particular guarantee or certification marks, are becoming increasingly important, especially in industrialized countries"*. The author continues in her article on collective marks: *"It is undeniable that the competitiveness of companies operating in a global market is strongly influenced by factors such as respect for the environment and health and safety of products and / or services. Hence the increasing use of signs that allow consumers to differentiate, and prefer the products (or services) that the notice"* Brands do not belong to a plurality of subjects but belongs to one person the entity, and this entity may be private (private collective mark) or public (collective mark of public entity) [21]. The use is made by any individual or collective person by the authorized person, so that, contrary to what one might first think, it is not the identity of the brand that is collective, but rather its use [22].

According to PINTO COELHO [23] *"These marks are intended to indicate that the goods on which they are staked were produced by the members of the corporation or collectivity of the holder, or come from the country, region or locality to which the mark is referred. It is therefore used by all who make up the association, or belong to the country, region or locality to which the mark corresponds. We have seen that trade unions and workers' corporations were allowed to create a trade mark which was precisely intended to distinguish the products of the work of the members of the group; the collective mark also represents an indication of provenance, the common sign being all products of a particular class or group of producers, manufacturers or traders, or originating in a particular place or region, all industrial producers or traders of the said classes, locality or region"*. The author presents for this purpose, some examples of collective trademarks, from France and Portugal. *"Thus have a private brand, those in France, the Lyon silk manufacturers; and the company known as the Union of Manufacturers of France has also created a collective mark which each of its members may apply to its products, either alone or together with any other individual private mark, and on the same terms have established the Union of Paris and the Union of toy manufacturers a seal of guarantee for the use of its members; the names of "Port" "Madeira" and "Burgogne" distinguish the wines produced in certain regions, the use of the denominations or marks referred to being exclusive and common to all wine producers in those regions; the imperial eagle is*

the collective mark which all German manufacturers are entitled to print on their products or their packaging, and a special stamp created by the Union of manufacturers for the international protection of industrial property, with the name of the latter, distinguishes all products exclusively on the market, affixed to the mark; and expressly allows Spanish law the adoption of a trademark to distinguish all products from the area of a county or province. "

## 6. COLLECTIVE MARK AND GROUP BRAND

Do not confound the mark collective with the group mark, this consists in the joint ownership of the same distinctive sign by various legally independent companies but linked by economic link [24]. ABREU COUTINHO [25] notes that *"Some of the key issues that puts (va) m in the problematic framework of the" group of brands "(Konzern-Marken) are: a) Can a company of the group, notably the society- mother, although does not directly exploit a company of its own - to obtain trademark registration for goods produced by other companies in the group? b) Can several group companies be co-holders of a trade mark? (c) As a group company (in particular the parent company) holding a trademark, what title can be used by other companies in the same group? "* Moving forward, the author says: *"Today, among us (as in many other arrangements), will be tas this s (very brief) responses: a) can still when the company is a holding company, refers to the reading of Article 225 of the Portuguese CPI. b) The chain of the companies of the group can be all the more c) By means of licenses (free or honest) cfr . Articles 3 2 , 264 - or other (including informal) agreements . Finally, it ends with ABREU COUTINHO saying that "And none of these answers , finally notice, requires that you consider the group of companies as a company ."*

The ownership of the mark by a group of companies is an important aspect to examine because, one can ask the question to know who is the owner of the group's brand? The group or one of the companies affiliated to the group? The answer to this question raises the prior question of what kind of group it is, that is , the answer depends on the group in question. On the one hand, the group can be of a company (commercial company or not) holding several brands according to the areas of operation of each one of them and each of these brands individualizing certain products (products and services) offered to the interested public. However one is the brand that identifies the group-the brand of the group. On the other hand, the group can be constituted through the coalition of legally autonomous but related companies to maximize mutual benefits, adopting for this purpose a brand that identifies them as a group with respect to the products and services they offer. In the first case the brand is of the group companies, in the

second the brand belongs to the group of companies. In accordance with the principle of the unitary registration of the mark by a certain entity, cfr . Article 10 and paragraph 2 of Article 123 all the CPIM, in the case of corporate brand of the group, the mark will be registered by the parent company (commercial or non - company), parent - dominant and the others will benefit from it in fact and not from law. And brand so will the ownership entity with legal personality upon which the other of the group are subordinated. In the case of corporate group brand , the brand of the group may be of ownership also of the influential company -dominante, which may through licenses available to the group companies for their use.

Anyway the mark of the group is not the group so to speak but reflexively in fact or in law, since the registration of the mark is unitary in an entity unique to distinguish goods and services from another entity, cfr, point i ) of Article 1 in conjunction with Article 126 of the CPIM.

A busted example of collective mark among us , is the brand called "Mozambican Pride Made in Mozambique" [\[26\]](#), owned by the Mozambican State created by Presidential Decree number 15/2000, of 19 September, whose regulations appear in Ministerial Diploma number 117/2007 of 3 September - which, despite being considered pursuant to Article 3 of this regulation a mixed brand, ( which seems to be a purely formal qualification, superficial and not legal) , is truly a brand collective, let's see why: First, is owned by a single entity, in this case (public). Pursuant to the provisions of article 3 of the regulation to grant the right to use this mark, "The sign" Pride Mozambican. MADE IN MOZ AMBIQUE "is a mixed brand of government, registered in Mozambique, as property of the Mozambican State. " Secondly it is assigned (used) to various subjects . *The undertakings, associations of undertakings, groups, cooperatives, public and private institutions which satisfy all the general and specific requirements laid down in Articles (...)* are eligible for use of the trade mark in accordance with Article 6 of that Regulation . Third, there is a set of requirements ( formal and material - quality) required for brand assignment. Article 7 of the Regulation lays down general requirements for the attribution of the trade mark which are:

- a) *Be under Mozambican law;*
- b) *Comply with labor legislation in force in the Republic of Mozambique;*
- W) *Observe the regulations of hygiene, public health, plant and animal health, environment, in force in the national territory;*
- (d) *Present the tax and social security contributions duly regularized, before pertinent state institutions , respec- tively, tax administration and INSS;*

*and) Comply with the legal requirements necessary for the exercise of its activity, namely in the matter of licensing;*

*f) Produce, market products and services tailored to the target market. As regards the specific requirements, Article 8 Specific requirements are those relating to the conditions which the products and services, according to nature, must present, being the following:*

*(a) food products, put up for sale in public, must:*

*(i) present, on their packaging, expiry dates, chemical composition and ingredients;*

*(ii) hold certificates attesting that they have undergone laboratory tests carried out by competent authorities, where applicable;*

*iii) Have labels duly approved by a competent national body.*

*(b) Industrial products shall:*

*(i) in the process of processing, it has received a minimum added value of 20%;*

*ii) Be classified in the Customs Tariff, unlike the raw material that gave rise to them.*

*W) Fishery and agricultural products must:*

*i) Present good conservation status;*

*ii) Observe the quality requirements established in Specific Regulations.*

*(d) The services provided to consumers must:*

*and) I) Respect the specific norms, established for the type of activity and adapted to the target markets. One sees in these special requirements the concern regarding the quality certification.*

In fourth place, the subjects assigned to brand, only have the right to use, are not her owners. Article 19 of the Regulation, establishes obligations on the user of the mark in the following terms: *Notwithstanding the preceding article, the entity candidate who is granted permission to use the trademark undertakes:*

*(a) use it correctly and honestly so as not to mislead the public, in particular as to the nature, quality or geographical origin of products and services;*

*b) Present the Certificate of Use, in the requests for confection of packaging, advertising and advertising and other activities, for which it is necessary to display the document;*

*W) Do not grant or assign to third parties the right to use the trademark, in any form, unless authorized by UTPPRON [\[27\]](#);*

*(d) Provide all the information requested by the competent authorities regarding the use of the mark;*

*and) Communicate, in a timely manner, all changes that you wish to introduce in your production process, when it takes place;*

f) *To allow free access of the technicians responsible for the inspection, in the exercise of their activity, during the period of work.* Other provisions that reinforce the view that "eligible" members have only a right to use the trademark or are simply users and not the owners, are: Article 21 on expiration of use " *The right to use the trademark expires when the holder does not use it for the duration of the concession period [28] or does not require its renewal*"; Penalties, Article 23 " *Without prejudice to the penalties provided for in the Industrial Property Code, whenever the use of the trademark is manifested in breach of the provisions of this law, the authorization shall be suspended or revoked, depending on the seriousness of the infringement.*" Having said that, doubts remain that the brand "Mozambican Pride. I MADE N MOZAMBIQUE ", it is a brand paste tive certification belonging to the Mozambican state. Parallel to the brand "Mozambican Pride. MADE IN MOZAMBIQUE ", we have another public sign created by the Ministry of Tourism that they call the brand

"MOZAMBIQUE". N the truth is not a brand, if we consider the principle that the brand is one distinctive sign that contradistinction products and services of an entity of the other enti ity . Now the signal MOZAMBIQUE does not distinguish goods and services, so it is not brand, nor may think it's logo, since it is not a sign that distinguishes a to and ntidade the other , as paragraph h) of Article 1 of the CPIM . The signal " MOZAMBIQUE" is a d name and origin, in accordance with paragraph c ) of Article 1 of CPI M . Not all authors see the trademarks cole as "genuine [29]", in Portugal for example, the negative positions of CARLOS OLAVO [30] and PUPO CORREIA [31]. However, he raised -If against the placement of these authors, DE ABREU COUTINHO [32], the following terms :

" *CARLOS OLAVO, ob. cit., pp . 76, ss contends that collective marks are not genuine marks because they attest to certain characteristics of the goods and are not intended to distinguish them and, moreover, they depart from the marks themselves as to the possibilities of use and transmission. PUPO CORREIA, ob. cit., p. 338, limits the exclusion of "true marks" from certification marks ( because they have no distinctive function). I do not think so. Collective marks ( association or certification) distinguish certain products, distinguishing them from those which are put on the market by non -members of the respected associations and / or those who do not have certain qualities; and the differences in existing schemes are not incompatible with the quality of those signs as trade marks (it should be noted , moreover, that non-collective marks were not always transferable and were not always available to the same type of person who can use them today ... ). But even if collective marks did not have that distinctive function, it would be necessary to prove that only the signs with the distinctive function typical of today's*

*individual brands deserve such qualification - proof (at least) difficult today, proof impossible yesterday ... "*

It is of the same position as COUTINHO DE ABREU, MARIA MIGUEL CARVALHO [33] which indicates another opponent joining the first two cited, this time, RIBEIRO DE ALMEIDA, *Denomination of Origin and Brand*, Stvdia Ivridica 39, Coimbra Editora, 1999, p. 635, and one more ally, AMÉRICO DA SILVA CARVALHO, *Trademark Law*, Coimbra, Coimbra Editora, 2004, pp. 103 et seq .

Also, we do not see why collective marks can not be considered as genuine marks. What causes a sign to be branded is not the possibility of its transmission, but only the "distinctive capacity", if the sign has that capacity, can be trademark regardless of its legal regime, moreover, not all non- collective trademarks have the same legal regime, as Professor COUTINHO DE ABREU was cleverly defended. The certification marks, kind of collective marks (according to the Portuguese design), are not just trademarks because they are aimed at certification; when betting on the product or signaling the relevant service, contradicting. No Guem the goods or services with that certification, those who do not have it, are just real distinctive in that distinguish certified products from non - certified. Rather, it is a qualitative distinction of the products or services marked by the certification mark .

## 7. COLLECTIVE MARK INDICATIONS OF ORIGIN, DENOMINATION OF ORIGIN AND GEOGRAPHICAL INDICATIONS

In cases where the collective mark is composed of a geographical sign [34] doubts may arise as to its definition of other signs also consisting of geographical signs [35] - [36]. This occurs in specific cases of **indications of provenance**, **designations of origin** and **geographical indications** [37].

Let's talk these signs beginning with the presentation of the settings to light the CPI M, paragraphs c) *designation of origin: the name of a region, a specific place or, exceptionally, a country, used to distinguish or identify a originating in that region, place or country, the qualities or characteristics of which are due essentially or exclusively to a specific geographical environment, including natural and human factors, and whose production or extraction, processing or elaboration takes place within the defined geographical area*; f) *geographical indications: the name of a region, d and a particular location or exception tionally, of a country which distinguishes or identifies a product originating in that region, place or country, whose reputation, quality or characteristics may be attributed to that geographical origin, provided*



*that the production, extraction and / or processing and / or elaboration occur in the defined geographical area;*

The fact that our country is young in terms of industrial rights means that we do not have many examples of registered geographical signs that deserve examples. It is true that already is a major concern on the part of INSTITUTE of Proprietary Industrial (IPI), the mass of the protection of Geographical Indications and Designations of Origin, judging by the speech Dire IPI for [38] according to which, within the next few days, they would carry out a campaign to "promote records of Geographical Indications", taking as an example the cases of "Sofala Bank Shrimp" and "Tete Kid Goat" [39]

In fact, in our country, we have many cases of Geographical Indications, Indications of Origin and Denominations of Origin, which have long been protected, to be evaluated by the preference of the respective products marked by the Denomination of Origin or by the Geographical Indication by the public consumed. Speaking of nuts and fruit from the Muxungué -Sofala, or pineapple coming from Nicoadala -Zambézia, chicken Zambezian, it makes all the difference for those wishing to acquire these products for consumption. The informed Mozambican consumer, insofar as he wants to acquire good chestnut, will, among other options, Muxungué in the case of pineapples, not the proveniente of Muxungué or Nicoadala, starting from principle the nuts and pineapple taste or priate of said sites, is best quality. On the other hand, it is well known the taste of the chicken prepared (roasted) according to the Zambezian way. Regrettable is the fact that until now the records of these and other geographical signs have not yet been made, unless there is an error. In Portugal, the Designations of Origin, Geographical Indications and Indications of Origin, on the breviada s By : DO, IG, IP respectively, have man important interest, especially in the indication of the quality of the wines. In this way, wines marked with a geographical sign, have a higher value than wines with no DO or IG rights, this scenario can easily be seen through sales prices [40]. But the figures of DO and IG are not restringem the domain of wines (although they have been coined in this sector of the tivity). We find many other examples prod food ucts: the cheeses (Serra da Estrela, Roqueforte, Parmigiano Regiano) in carnes ("Barroso") in fruit (apple 'Bravo Esmolfe'), candies ("Turrón Alicante") or olive oil ("oil in Behind-the hills"). Even non-food products, such as "Embroideries of Madeira" and "Habanos", now benefit from the certification of the DO and IG [41]. PEDRO SOUSA AND SILVA [42] teaches that, "The consumer is not indifferent to the origin of the products that he acquires. The geographic origin of the goods, especially food, constitutes a considerable added value, when it

has associated an image of quality, prestige or tradition. This surplus has usually been generated over decades (or sometimes centuries), by the efforts of successive generations of producers in the region of origin, in the improvement of production techniques and the elaboration of products, although the role of traders is also crucial to consumer promotion. Since time immemorial some agricultural products and foodstuffs have been designated specifically by the name of the regions of production: wines, cheeses, oils, teas and fruits were often ordered, marketed and valued according to their geographical origin, in what would have been the first manifestations of commercial recognition and differentiation of products, with the consequent economic repercussion. The geographical origin thus ended up being a kind of *pedigree* of the product, giving it an additional value, which results in an increase in demand and of course of price. Sometimes this recovery takes on unexpected dimensions, such as during the "mad cow" crisis, where the search for meat with native breeds, such as "Alentejano" and "Barrosão" cattle, attested by the names. And this leads us to the true functions of OD and IG: alongside a function indicative of geographical origin, there is another function of quality assurance (or, in other words, genuineness), both serving to justify and explain the guardianship which is legally waived, nationally and internationally. " According to the explanation of NOGUEIRA

SERENS

[[43](#)] "(...) marks with posts with geographical names ( the name of a continent, a country, a region, a street, etc.) or with other characteristics of certain cities and landscapes typical of certain countries ) . If any entrepreneur wishes to register as a trade mark for his products or services the name of the place where he carries on his business, that would obviously not be a detrimental mark as regards the geographical origin of those goods or services. But because it is composed exclusively of a geographical name, the sign that the entrepreneur has chosen may be unusable as a trade mark ( because it is necessary to preserve it ... to leave it to the free availability of all the entrepreneurs already established or who may establish themselves in the same place , thus leaving them the possibility of registering the name of that place as a collective mark or as an element of a complex individual mark. These two grounds for refusal of registration may, moreover, be cumulative. In order to verify the first one, it will be necessary that the geographical name in question be understood in the relevant circles of the traffic with that sense ( as a sign used by that entrepreneur to describe or advertise the place where he is established, thus showing the geographical origin of his products or services, and not as a sign used by an entrepreneur to individualize his products or differentiating them from the products or services of their competitors, and irrespective of the place where they operate the respective undertakings. The second of these Geografi name registration grounds for refusal

to co concerned as mark ( individual), so that it asserts it is not necessary that the place which the name refers, in which the applicant that registration exercises respeanother company which already manufactures the same products or provides the same services." The indication of provenance is " ( ... ) a simple mention of the place where a product was produced, manufactured, extracted, etc. (...). It does not constitute a guarantee of product quality (...)[44]. This figure does not offer great difficulties in defining conceit ual regarding those discussed below. The indication of provenance does not indicate that the undertaking from which the product originates is a member of a particular association , it is therefore not confused with the association mark and also does not attest to the quality or other characteristics of the product concerned, differing from that form of the certification mark [45]. For PEDRO SOUSA AND SILVA [46] there are two figures close to the DO and IG, which are the IP and the geographical mark. Regarding the indication of provenance "nowadays does not constitute an industrial property right, subject to registration, conferring any kind of exclusive. It is only a reference to the place where a product was produced or produced, with merely informative content (...). That indication is therefore subject to the general rules of economic activity and must not be misleading or misleading as to the origin of the product, otherwise it will be prohibited to prohibit unfair competition or be subject to the rules of commercial practices disloyal (... )". "The geographical brand [47] is a mark consisting of a geographical name. (...), can be summarized as follows: if the geographical name is used as a simple designation of fanta sia, it does not raise any objections ( a LUAR DO MONDEGO perfume brand , made in Lisbon, would not be misleading). The same is true when we are dealing with a generic name ("COLOGNE WATER"). Therefore, the geographical mark does not have the function of certifying or even informing about the provenance of the product or service, serving only the purpose of identifying it in the market, as it does with non-geographic marks. The name of the region or locality will, in these cases, function as a geographically neutral designation ( not having the effect of valuing or qualifying the product itself). However, where such neutrality does not exist and there is a risk that the mark will mislead the public as to the geographical origin of the product or service, its registration must be refused. In the absence of such a risk, there is nothing to prevent a geographical mark from being registered, provided that it does not offend priority rights. On the other hand, if the trade mark consists exclusively of indications which may serve to designate that geographical origin, we shall be faced with an invalid trade mark on account of lack of distinctive capacity, the registration of which must be refused or annulled. The greatest difficulty is to establish the distinction between the designation of origin and the geographical

indication

[48]. "Denominations and geographical signs undoubtedly constitute one of the mechanisms by which the process of differentiating products and services on the market is carried out. It can even be said that the use of geographical indications and names is frequent in the economic trade precisely because it is a relatively sensitive learning mechanism. Indeed, in contrast to an arbitrary or fancy name whose memory may initially be difficult to identify, the geographical name is often found in perceptions and factors already developed in the minds of consumers: geographical knowledge, usually held by different parts of the population" [49]. At international level, the subject of geographical indications and designations of origin is governed by the following texts [50]: Article 10 of the Paris Convention of 20 March 1883; Madrid Agreement Concerning the Repression of False Indications of Provenance in the Merchandise of 1891, revised in 1949, further revisions were made in Washington on 2 June 1911, at The Hague on 16 November 1925, London, 2 June 1934 and in Lisbon on 31 October 1958; Ac. Lisbon Relative to Protection of Appellations of Origin and their International Registration, last revised in 1979. In the European Union, the focus is on Article 7 of Regulation (EC) No 40/94 of the Council of 20 December 1993 on the Community trade mark.

"... the definitions of designation of origin and geographical indication, modalities of distinctive trade signs which, having in common functions ( quality assurance and indication of their geographical origin, in particular) and characteristics (such as mandatory of the products originate in the region, place or country) differ in the intensity of the link required between the qualities and characteristics of the products and the geographical environment from which they come. In fact, as ALBERTO RIBEIRO DE ALMEIDA points out ( " *Indications of Provenance, Denominations of Origin and Geographical Indications* " in Industrial Law, volume V, 2008, p. [51] "the geographical indication the link that binds the product to the particular region is weaker than the designation of origin" for n that "the reputation of the product ( or a quality or other characteristics) can ( just you can) be attributed to the region without direct influence of natural and human factors. On the other hand, the lesser connection in the geographical indication of the product to the specified region also results from the non-requirement that all production, processing and processing operations take place in the specified area ( as established for the appellation of origin), if one of them occurs in the defined area " [52]. To summarize the discrepancy between the modalities, ALBERTO RIBEIRO DE ALMEIDA states that "the designation of origin requires a marked linkage of the product with the demarcated region, unlike the geographical indication that a brief appearance of connection with the region is enough which can be attributed to the specified region ) " [53] - [54]. In a sense close to the one just quoted, COUTINHO DE ABREU [55] states that : " The

main difference between designations of origin and geographical indications lies in the fact that the former identify products whose overall quality or characteristics are essentially due to the geographical environment, whereas the latter designates products which, although produced with identical global quality in other geographical areas, owe their fame or certain characteristics to the delimited geographical area from which the geographical name originates. " Thus, the interpretation to be drawn on the distinction between OD and IG is that ODs translate a true link between the product and its geographical origin, whereas the GIs translate a simple link or reference of the product to the geographical location which is not necessarily where the referred to, but there may be a connection between the product and the geographical area concerned. In this sense, there is a greater veracity of the connection of the product to the geographical space defined in the DO than in the GI. At the level of the doctrine it is usually questioned if the *geographical indications and denominations of origin* [56] are trademarks [57] and whether they can be registered by a natural person. At the outset, among us, by the CPI M system, we see that they are not brands. The DOs and the GIs are set out in points e) and f) of the CPI M, and their legal regime is enshrined in articles 163 to 186 of the CPI M, marks by their body are defined in items i), j) and k) and adjusted to 16 121 Article 2 paragraph CPI M. On this issue, teach brilliantly COUTINHO DE ABREU [58] as follows: " (...) of origin and geographical indications aimed at distinguishing products, such as marks. But do not get confused with these. The possibilities for the constitution of the marks (Article 1 (i) of the CPI M) are much wider than those relating to those signs, which are always nominative and almost always consisting of geographical area names; the marks belong to specific subjects, and the designations of origin and geographical indications are common property of the residents or established, in an effective way serious, in the locality, region or territory demarcated; instead of the generality of the marks, those other signs always distinguish products originating in certain geographical areas. Nevertheless, the proximity between designations of origin and geographical indications and collective marks consisting of names indicating the geographical origin of the products is very large. Even here however, there remain differences relative subjects to that (and besides other differences regime in respective chapters of the CPI M), it should be noted that the control abilities production and marketing of products marked by a and other signs are generally broader with regard to collective marks (...)". Geographical indications [59] are simple information that allows the consumer to know, for example, whether the product is of a particular origin or not. [60] The geographical name (geographical name) as long as the place to which the name refers is known to the public, can not be considered as a trade mark since it would violate the principle of free

availability of names, if this geographical name is not known ( not all places are known by all, since they are innumerable and may be totally unknown by certain means) its admissibility as a trademark could be viable since in this condition it would not indicate any origin for the public that does not know the name, in which case the geographical name appears as a fantasy name. [61] GIs and ODS [62] can not in *themselves* be regarded as a trade mark unless they appear combined with other elements. This position results from the provisions of Article 134 (d) of the CPI M which establishes (grounds for refusal to register the mark) . (d) to display *signs consisting exclusively of indications which may be used in trade to designate the species, quality, quantity, destination, value, geographical origin, time or medium the value of the production of the product or of the supply service, or other characteristics thereof*; In Mozambique there are examples of geographical, are the cases of "Water of Namaacha", "Water Vumba ", "Tea Gúruè ". The "Water of Namaacha" is extracted in a certain geographical place of the District of Namaacha in the Province of Maputo to the south of Moçambique . Although its sign is not exclusively constituted by the geographical indication "Water of Namaacha", a great relief is given to this origin on the label, that is, at a glance, what you see on the label of the bottle is the expression referring to the indication Geography "Water of Namaacha". There is every reason to believe that the 'Namaacha water', which should not be, in so far as it is contrary to the principle that GIs can not constitute trade marks in so far as they constitute mere information of provenance. Strictly speaking, the company that owns the referred GI ; for its product (water ), it should have adopted a "proper" brand, eg , "Water X " with the addition to the reference of the indication of provenance "Water of Namaacha", so would be "Water X " of Namaacha . In any case, we can not now successfully call into question the fact that that IG has become a a true Mozambican brand, and its owner has acquired full exclusive right over its use to the detriment of the other people of that region (Namaacha), since it acquired an unquestionable national and perhaps international reputation. The argument of *secondary meaning* , can also be used as a battle horse for the defense of this (mark ) that in the beginning was not and nor should be mark. The "Vumba Water " and the " Gündu Tea " [63] are (objectively ) in our modest understanding, *geographical denominations* that have finally acquired distinctiveness , considering the arguments presented in the preceding paragraph ( *acquisition of notoriety and a second meaning - secondary meaning* ). Vumba and Gurué are "names" of well - known sites in Moçambique and, in particular one of the s err the provin cia of Manica and name of a di strito the province of Zambezia respe tively. If the doctrine is unanimous in stating that denominations of origin (geographical names) when known brands shall not constitute, by virtue of s you to to deprive the other connoisseurs of (name) from using that name to inform the public

about the qualities of their products or services. In the case of the examples present, would constitute a violation of this principle, since, despite the names men will source appear in respective labels combinado with other elements (figurative), what is most evident is the DO.

The GIs and DOs can be included in trademarks, obviously not being the proprietor with the exclusive use of them, and provided that the trademark offers its own characteristics, perhaps in this case its distinctive character [64]. There are various views on the nature of the DO and IG, especially those who defend the right to property (especially those who qualify this sign as a "common hand" property and those who come in these distinctive signs mere rights of monopoly, is the case with other industrial property rights. the position of our legislature was to consider the DO and IG as "property", this position stems from the established in paragraph 1 of Article 163 ° CPI, with the following content: "*the right to property of a geographical indication or in accordance with the provisions of this Code*" In Portugal, in the light of article 305, number 4, of the CPI - It seems that the legislature has also inclined to the position of being a property right by stating that *designations of origin and geographical indications, when registered, are common property of residents or established in the locality, region, or territory, of the effective and serious nature, and may be used interchangeably by those which, in the relevant area, operate any characteristic line of production where authorized by the holder of the registration* [65]. Regarding legitimacy (who can apply for registration of GIs and DO)? According to CPI M, Article 163 (2), are persons resident or established in the geographical area in question. This is the position prevailing in other legal systems. In light of comparative law, under the terms of number 4 of article 305. of the Portuguese CPI "Designations of origin and geographical indications, when registered, constitute common property of residents or established in the locality, region or territory, in an effective and serious manner and may be used interchangeably by those who, in

"This means that residents or residents in the locality, region or territory in an effective and serious manner can own the GIs and DOs. On this issue, PINTO COELHO [66] wrote: "As regards, in particular, the regional or territorial mark, as well as the name of a territoriality or territorial division of an official character, undoubtedly constitutes heritage, for the purpose of its use as designation of provenance, of those in that area, it is well understood that the same happens and that an identical effect can be obtained with an emblematic figure of that locality or territorial division, thus creating a figurative, district or regional mark "[67].

Regardless of the ownership and ownership of the OJ and the GI , it seems clear that the interests protected with the protection of these distinctive signs are not only those of the producers, who understand those names and indications as references of genuineness and quality. Effectively, in the consumer's view, products certified by DO or IG offer greater guarantees of authenticity and quality, since the use of the geographical name subject to the control of a certifying entity, whose suitability contributes decisively to that security [68]. NOGUEIRA SERENS[69] he wrote: "When composed with a geographical name , the mark may only be ( intrinsically) deceiving if the entrepreneur who intends to register it does not exercise the respective company in the place designated by that name. If necessary condition dece tivity (intrinsic ) brand, this discrepancy ( between the name of the place to which it belongs and the name of the place where the applicant carries on business) is not however a sufficient condition. Two hypotheses need to be considered here. The first is that in which the geographical name , being unknown in the traffic, is understood here as an arbitrary designation or fantasy. A mark consisting of a geographical name can not, at the time when the administrative authority is called upon to decide on its registration , be regarded as deceased ( ...). But the fact that the mark is (exclusively) made up with a name g eográfico can make it insusce ible log-happen so it is affirm in relation to this geographical name the necessity of its preservation ". Continued NOGUEIRA SERENS, "If, in the place which that name refers to, entrepreneurs are already established who manufacture the same products or who provide the same services as the applicant for registration of the trade mark, the assertion of that need is clear. It does not matter whether it is a place situated in the national territory or in a foreign country; in the latter case, it is also irrelevant whether that country is uropean or of another continent ( the so-called "process of globalization of trade" and himself TRIPS / TRIPS - cfr . art . 22 to 24 - require equal treatment of the names of places in the most industrialized countries and the names of places in the countries which are now least equal). In the place in question there may be no entrepreneur who manufactures the same products or who provides the same services as the applicant for registration of the (exclusively) composite brand with the name of that place, but there are other entrepreneurs, ie entrepreneurs who products or which provide different services ( including products or services akin to those indicated in the application for registration). Is this last circumstance sufficient to affirm the need to preserve the name of this place? The answer to this question depends on what is given to this other: the need to preserve the name of a place must be assessed only in relation to the goods or services that are indicated in the application for registration of that name as a mark ( need to preserve concrete) or should it be assessed in relation to any products or services ( abstract preservation requirement )? The Court, interpreting Article 3 (1) (c) of the First Directive, appears to be in favor of the



second alternative term. If this assumption is confirmed - and the last word it is obviously the very Court of Justice-, national authorities, who are required to interpret their laws (national ) marks in conformity with Community law, will have to conclude by the need to preserve a geographical name even if in the place designated by that name there are only entrepreneurs who manufacture products or provide services other than those of the applicant for registration of the (exclusively) composite trade mark with that name. There is still a third situation that matters to consider, and that is to not exist in the place whose name incorporates the brand, and with reference to the date when the administrative authority is required to decide on the respective any relevant industrial activity ( in the place concerned there are no entrepreneurs who manufacture the same products or provide the same services as the author of the application, or entrepreneurs who manufacture or provide different services). In order to assert the need to preserve the name of the place concerned, with a consequent refusal to register the ( exclusively) composite mark with that name, it suffices that it is reasonable to accept, in particular, the characteristics of the place, that one or more entrepreneurs come to be installed therein, even if they only design or draw their products , and their manufacture takes place in a different place, by undertaking undertakings for the manufacture of the same products or for the is intended for an undertaking exercised ( in a different place) by the applicant for registration of the trade mark ( with a prohibition on the registration of marks consisting of signs or indications which may serve in commerce to designate the geographical origin of the goods or services, aimed at protecting not only the interests of competitors but also the interests of potential competitors and the fact that the production of certain products or the provision of certain services at a given place in the country or abroad was not sufficient at any given moment to make the name and place registrable as a trade mark [by a third party exercising its company in a different place]. It would be extremely difficult for the name of such a place to enjoy a reputation in the production of those goods or in the provision of those services, as a result of the activity of the entrepreneurs who decided to establish themselves in the place concerned). This solution, which is based on the idea that the need for the preservation of a geographical name ( or other type of indication) does not need to be genuine or serious, on the grounds that, in the light of the possibility of future economic developments, whether hypothetical or potential, has recently been upheld by the Court of Justice in (...) Judgment - *Windsurfing Chiemsee* ", Which reads as follows:" Article 3 (1) (c) of First Council Directive 89/104 EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks , must be interpreted as meaning that it does not confine itself to prohibiting the registration of geographical names as trade marks only in cases where they designate places which at the same time have a link with the category of the goods in

question for the persons concerned but applies. If also the names geographical and brands susceptible being used in future by the undertakings concerned as a geographical indication of the product category in causa "Instead whose name makes up ( and with reference to the date on which the administrative authority is called upon to decide on its application for registration , there may be no relevant industrial activity, and it is only reasonable to allow the possibility of, in particular, of the place, one or more entrepreneurs may settle there in the future for the purpose of carrying on business for the manufacture or supply of services other than those for which the undertaking is engaged ( in a different place) by the applicant for registration of the trade mark. Is this enough to affirm the need to preserve the name of this place? In our opinion, is to confirm the understanding that seems to follow from the judgment - *Windsurfing Chiemsee* ' - according to which the name of a place can not be registered as a trade mark (in favor of an employer established in a different place) if there already exists (and there are only) entrepreneurs who manufacture products or provide services other than those which are indicated in the application for registration of the mark in question, it is necessary to reply in the affirmative to the question put " [70]. "From reading the number. 4 of Article 305 of the Portuguese CPI shows that not all producers produced in the geographical area can use the designation of origin or geographical indication and the use of these trade the distinctive signs permitted only to those who meet the traditional or regulated conditions, compliance with which shall be verified by the competent inspection body. From the same norm, ALBERTO RIBEIRO DE ALMEIDA argues that the designation of origin is the communal property of the producers established in the area of the denomination, who dedicates the exploitation of the typical product. Even the first producer that has been established in the region will or the one who really contributes the to value the right to designation of origin, does not enjoy any privilege, for all who are established in the geographical area of the denomination of origin, the exercise of the economic, characteristic of this area, are also entitled to the designation of origin, because that name belongs to the common heritage. There is no place here for any idea of quota or share, where division is not possible, and each producer ( or all of them by common consent) can not dispose of the appellation of origin. The right to a designation of origin belongs to the collectivity of producers, however, it is a right each producer " ( this reasoning is also in line with the geographical indication). In the same sense, José Oliviera Ascensão ( *problematic issues in geographical indications and appellations of origin* ), in *Industrial Law*, Volume V, 2008, pp. 85-87), which particularly criticizes the conclusion of the final part of no. Article 305 , stating that the legislator included the phrase "when authorized by the registration holder" but wanted to mean the mere verification of the usual or regulatory conditions through are the administrative entity ("representative") that geographical indication ", an entity that, underlines, "is the

emanation" of that community in common hand, and not holder of any industrial rights " [71]. Thus, it is clear that who can apply for registration of a GI or DO, is someone who lives in the region indicated or with the name of that place, should not be an *outsider*. If the inhabitants of the place of the GI or DO, organize themselves in association to obtain greater and better benefits from the common law, they may register these indications as marks, as long as they are associated with other elements[72].

It is also the dominant IG and DO are not transferable, such a position is repeated by the provisions n number 4 of 163 CPI M . In spite of the admissibility of a trademark registration containing a GI, the Mozambican legislator cautioned against misleading use of these indications by providing for a requirement of protection of trademark (absolute impediment to the region ), in Article 121 (c) of the CPI : *Do not be suspicious to mislead the consumer or the public about the specific characteristics of the goods or services to which the trade mark relates in particular to the geographical origin, nature or characteristics of the goods or services in question*; The question is whether the concept of an OA or a GI can be applied to services ( not to products). The answer from our legal framework is that these signs distinguish only products as can be read in Article 1 (c) and (f) of CPIM. In Portugal, this is also the case, according to Article 305 of its CPI, DO and IP are only registrable in relation to products. PEDRO SOUSA AND SILVA[73] argues that ... these signs have a special function to indicate the geographical origin of something that is normally transacted and consumed outside the region of origin, which is mainly the case with products, not services. Even so, the idea of certain services is not repugnant, g. , therapeutic, to benefit from such designations, provided that they are unequivocally linked to the geographical region invoked. " Leaning on the purpose, PEDRO SOUSA AND SILVA[74] wrote: "The purpose of the OJ and the GI are identical: they are intended to reserve to producers in a given region the appealing power resulting from their geographical origin and the image of quality and prestige attached to them, thus giving them credit vis-à-vis the consumer. Therefore, the use of these distinctive signs remains an exclusive of the producers of the demarcated region, who fulfill the other established requirements, being prohibited to use it for products originating from the outside of that zone. The intrinsic value of an OD comes from the work of man from the producers of the region of origin who have created that added value of reputation. And that is why they must be recognized and reserved the use of the geographical name that make them known in the market. That is, you have to give "yours to your owner". In the background, all this leads to a matter of regulating competition. In the same way that the holders of the "COCA-COLA" mark have the right to to reserve for themselves the economic benefit derived from the use of this famous brand ( since they were the ones who

celebrated it), also the wine growers of the CHAMPAGNE region should have the right to enjoy exclusively the benefits derived from the reputation of their wine, generated by their effort over generations. So, even if one were able to produce a wine in Australia equal to this, it would be illegitimate and parasitic to use that geographical name to mark it.

From a legal point of view, the functions of DO and IG are manifold. First and foremost, they have a distinctive and indicative function, informing traders and consumers of the geographical origin of products and thus distinguishing them from those having a different origin. They have, secondly, a genuineness function, that is to say, that the products referred to have the qualities or characteristics typical of producers entitled to use that name or indication. This means that not all products originating in the region may use DO or IG (it is reserved for those who have the typical characteristics, pre-set by law or regulation). Thirdly, only in certain cases can ODs and GIs still have an advertising or procurement function, in the case of a prestigious designation or designation, it is then necessary to reserve the exceptional appeal that results from that reputation. " As a general rule, the exclusive rights conferred by the DO and IG are subject to the principle of specialty. That is to say, the registration of an OD or IG, which is made for a particular type of product, does not allow to prevent the use of that geographical name in completely different products, without any affinity with the first ones. Thus, an OJ intended to mark cheeses does not prevent the use of that name in meat or wine. On the other hand, in the light of the principle of specialty, there is no obstacle to the registration of marks or other DOs or GIs incorporating the constitutive words of the protected DO or IG when (other than reputable DO or GI), such marks are intended for products or services which are not related to the products for which the protected designation or indication is intended. For example, the fact that there is an "Tea Gurú " DO in Gurúè does not prevent the adoption of others with the same geographical name as " Gurúè Beans " and " Gurúè Potatoes " [75]. Still home to DO and IG, must - be considered those of prestige. The principle of specialty is removed where there is a question of DO and GI of prestige, which enjoy a regime similar to that of the prestigious marks [76]. ALBERTO DE ALMEIDA [77] in this regard wrote: " ( ...) the designations of origin and geographical indications do not only benefit from protection is concerned when the need for protection of its essential legal functions. They must also be protected against improper use of their reputation, including those which may lead to dilution or damage to their distinctive force. This orientation is implicit in Article 159 (c) of the Portuguese CPI, which establishes on grounds of refusal: " *Whether it is reproduction or imitation of a designation of origin or an earlier geographical indication*". In this sense the previous DO and IG, include those of prestige. In accordance with the rule derogating from the principle of specialty, in Portugal, other refusals were refused, registration of the mark "VINHO DO PORTO. PT "for management,

administration and publicity services, for having considered the name" Porto "a reputed DO, to which the principle of specialty does not apply, since the applicant can take advantage of the prestige and category of that one, the danger of its distinctive efficacy being impaired, destroyed or diluted [78]. In Portuguese law, the positive effect of this enhanced protection was made in the 2003 Portuguese CPI, whose article 312, number 4, prohibits the use of a designation of origin or geographical indication with prestige in Portugal or in the European Community for products without identity or affinity where the use of them is unjustifiably to seek to take unfair advantage of, or be detrimental to, the distinctive character or the prestige of the designation of origin or geographical indication previously established. At Community level, this principle was enshrined in Regulation (EC) No 510/2006 and Regulation (EC) No 419/2009, which prohibits any direct or indirect commercial use (...) to the extent that such use exploits the reputation of a designation of origin or a geographical indication [79]. The reinforced protection of reputational OD and GIs is not justified only where there is a danger of confusion as to the origin of the goods or services. In fact, the great risk to be avoided here is that of the dilution or banalization of the prestigious signal, and not so much the risk of confusion of the consumer [80]. The greatest danger that leads to all the great denominations of origin of the world to react in these cases is that of diluting or trivializing the distinctiveness, the peculiarity of the sign, by blurring or losing its distinctive force [81]. CARLOS OLAVO [82] cited by PEDRO SOUSA AND SILVA [83] stated ... it must be borne in mind that the use of a well-known designation of origin [even] in products of a completely different nature to those for which it is registered may entail a danger that its distinctive efficacy would be prejudiced, diluted, or destroyed. In fact, the indiscriminate use of the expression constituting a designation of origin is likely to trivialize that name to weaken its distinctive efficacy. For this, however, it is indispensable that such an expression has a high symbolic-evocative value. This is the case of the appellation of origin "Champagne", which is associated with the idea of the best and most prestigious beverage (... ) "A final note that we give the matter of the DO and IGs according to PEDRO SOUSA AND SILVA [84] (...) it should not be forgotten that most of the DOs or GIs are simultaneously names of cities or regions. Therefore, such names may be used in the composition of trademarks of products or services not affiliated with the products covered by the protected name or indication. Therefore, even in the case of prestigious appellations of origin, any use of the protected words can not be prevented, as the name of a city or region can not be appropriated by anyone. For example, the designation "PORTO" may legitimately enter into the composition not only of marks destined to mark Port wine, but also of distinctive signs belonging to entities with legitimate legitimacy to use this

place name, as in the case of Câmara do Poto or Football Club of Porto ( on the assumption that they do not mislead and respect products or services related to their sphere of activity ). There will also be legitimate trademarks or logos that use the word "Porto" as a simple geographical reference (for example "THE AGENDA DO PORTO", COMÉRCIO DO PORTO or HOSPITAL PRIVADO DO PORTO). On the other hand, when the signs to be registered use the word "PORTO" as a mere word of fantasy (that is, without being a geographical reference) , there is no longer an objective justification for the choice and must prevail guardianship of the prestigious DO. In such cases, the fact that that word constitutes the name of a city does not make it necessary to be included in the trade mark, and the applicant's interest must yield to the public interest in preserving the distinctive effectiveness of the prestigious DO PORTO. [85]. Returning to collective marks. The collective mark can not be confused with the *labels* , these "workers' labels or labels " indicate that products distinguished from them are the result of organized labor under certain conditions[86]. In Portugal, the inclusion of these signs in the field of trademarks, more specifically in collective trade marks , was strongly discussed[87]. Nevertheless, it is a reality in some legal systems , as is the case in the USA. At the same time , this issue is about workers' demands, but more broadly, also involving environmental concerns and consumers, in what has been called "corporate social responsibility" and linked to the idea of sustainable growth. On the other hand, this issue continues to be associated with brands, because these, and especially prestigious brands, have been used as weapons to achieve better working conditions, environmental quality and consumer information [88]. Collective marks , and in particular certification marks , are also distinguished from other signs used to attest to certain quality or characteristics. For example, **contrast marks**[89], which are obligatory signs in metal prices, unlike collective marks which are optional [90]. More difficult is ( although we do not have in our legal system) the delimitation between collective marks and the increasingly frequent signs that indicate the conformity of the products with certain standards. We think, for example, the " **eco-label** " ( **eco-label** ) Community and in the " **mark of conformity with standards** " Portuguese [91]. The latter is the "(...) whose purpose is to certify that the products that have it bet correspond to the prescriptions established by Portuguese, European or international standards or to technical specifications indicated by (...) [ Portuguese Quality Institute (IPQ) article 1, number 2 of the DL number 18/93, of May 19) [92].

In Mozambique, quality is certified by the National Institute for Standardization and Quality ( INNOQ), created by Decree No. 2/93 of March 24. According to article 1 of this legal diploma, "The National Institute for Standardization and Quality (INNOQ) is a public institution nationwide, for coordinating the activities for Standardization, Metrology, Certification and

Quality Management and has legal personality with administrative autonomy ". In turn, Article 4 provides : 1. *"The purpose of the INNQ is to promote and coordinate the national policy or quality through standards, Metrology, Certification, and Quality Management aimed at the development of the national economy.* 2. *In order to achieve its objective, INNOQ is responsible for :*

*(a) Create and promote the development of a national quality management system in order to integrate all relevant components for the improvement of the quality of products, processes and services;*

*B)*

*(d)*

*(e) to establish national marks in accordance with the approved standards and to ensure proper management;*

*f)*

*g)*

*h) To promote the collection, treatment and dissemination of information relevant to the development of a national quality management system and to adjust national regulations and standards to the directives issued by the regional and international organizations in which the country is represented;*

*(i)*

*j) To promote and develop training courses in the field of Standardization, Meteorology, Certification and Quality Management.* MARIA MIGUEL CARVALHO [93] believes that the s mark of conformity with the standards are also certification marks [94], defends this thinking with the following arguments: "We are faced with a distinctive sign of products ( as in any certification mark, a product is distinguished by reference to certain characteristics, which are attested by this sign, in other products of the same type that have these characteristics certified), entitled by the State through a public-Portuguese Institute of Quality - IPQ, recorded using the nationally national Institute of Industrial Property (INPI) or via international rel actively countries where it is presumed that the brand will be used. The legal statute referred to also provides for the regulation of use of the mark, where it is explained that can use the mark who is authorized by the IPQ, and there the obligations of the users of the mark are indicated (see article 9 ), among which we highlight the to undergo control (see. the als . b), c), g) and h) of article 9 and Article 10 ) and the prohibition of the use of the mark yield, without the authorization of IPQ [95]. "Regarding the ecolabel (*ecolabel* or ecological quality label), we have a lot of doubts about its qualification as a certification mark", says MARIA MIGUEL

CARVALHO[96] and makes the following thesis: " The Community eco-label award scheme was established by Council Regulation (EC) No 880/92 of 23 March 1992, meanwhile repealed by Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 (RRE) [97]. Your objective confessed in Article 1 number 1, RRE, " aim is to promote products [and services] susceptible to contribute to the reduction of negative environmental impacts, as compared with other products of the same group, contributing thereby to the use efficient use of resources and a high level of protection of the ENVIRONMENT. In order to achieve this objective, consumers of these products will be provided with correct, non-misleading and scientifically based guidelines and information "

The award of an eco-label, as referred to by EMANUEL MONTELLIONE, is the result of a certification process that verifies the conformity of a product or service with certain ecological requirements for the area of responsibility to which the product or service belongs.

From this purpose of the eco-label seems to derive uncertainty as to its legal classification. In fact, many authors associate it with certification marks, characterizing it as a *sui generis* guarantee mark.

Despite the common point - which consists precisely in the fact that both certify certain characteristics of a product or service - we believe that they are different figures. First, they distinguish between the fact that a certification mark is validly constituted by its registration with the entity responsible for registering trade marks (which in our case, as we know, is the INPI), which is not the case with the label ecological. On the other hand, we consider very relevant the fact that the communitarian legislator - the same as previously adopted a directive to make and establishing by the Trade Mark Regulation of European Community TMREC- have deliberately adopted "eco-label" and does not mark, seeming to indicate that it is not a trade mark. The consideration of protected interests also seems to point the same way: if consumer interest prevails in the certification mark, the overriding interest in the eco-label is the general interest in protecting the environment. We judge from all this, that certification mark and eco-label are different figures. But that does not mean that they can not get in the way. We believe that ... there may be protection of the eco-label as a trade mark, provided that it is registered as a certification mark ". Despite the brilliant thesis of the Professor of the University of Minho, which we have just presented, we do not see why we do not accept the Ecolabel as a certification mark, assuming that it is awarded as a result of a certification process. A (certification) mark does not cease to be, because it is not registered in the body that administers the Industrial Property, and in this case, as the author has said, there is nothing to prevent the label being registered as a trademark in the INPI. The fact that a particular law does not designate *ipsis verbis* a sign as "brand" should not lead us to all, the idea that the sign is not brand, because, trademark is any



distinctive sign of goods or services of one person in relation to others.

On the other hand, the protection of the environment is of general interest, in which consumers are included. The caveat presented by the author in the final part of her thesis in these words, "*But that does not mean that they can not be involved. We believe that ... there may be protection of the Ecolabel as a trade mark, provided that it is registered as a certification mark*", shows that it is difficult not to consider the Ecolabel as a certification mark. Our understanding goes to those who consider the eco-label as a *sui generis* certification mark. At an international level, the collective mark has known its legal regulations in the will of the Paris Union for protection CUP Industrial Property, which introduced Article 7 bis in Conference Washington 1911, which established that EU countries undertake to admit the region to and to protect collective marks belonging to past activities whose existence is not contrary to the law of the country of origin, even if these collectivities do not have an industrial or commercial establishment and reserve to each country the consideration of the particular conditions in which the collective mark will be protected. Also establishes the possibility of being refused to protection if the mark is contrary to the public interest and establishes the impossibility of guardianship refuses by any activity whose existence is not contrary to the country of origin law on the ground that she did not find country in which the protection is required or has not been established under the law of that country. [98]. Of that Article 7 bis it can be concluded that the Paris Convention only expressly hurts the brand pastive not referring to the certification mark, which does not mean having the Convention prohibited such brands[99]

ADIPIC, considered the most relevant international treaty of the twentieth century, with regard to Intellectual Property, extends the obligation of that norm (Article 7 bis of the CUP) to the members of the World Trade Organization who are not simultaneously members of the Paris Union and which would therefore not be affected by it [100]. On the other hand, given the strong link between collective marks and geographical names, the provisions of TRIPs on geographical indications also apply. Articles 22 and 23 of TRIPs[101]. At European level, the Trade Marks Directive 89/104 / EEC of 21 December 1988 harmonizing the laws of the Member States relating to trade marks has since been taken into account in Article 1 which applies to all marks of goods or of services which have been the subject of registration or application, such as individual trademark, collective mark or warranty or certification. Veri one is thus that the Directive clearly distinguishes The Sea beyond individual, brands paste tions on the one hand, and guarantee or certification marks by another [102]. The naked mere 4 of

Article 4 of this Directive, considers further that the Member States may provide that the application for a mark's registration refused or, if registration, can be voided if : - the trade mark is identical or similar to an earlier collective mark which has conferred an expired duty not later than three years before the application was lodged ( point (d) (4)). - the mark is identical or similar to a previous guarantee mark or certification, which has conferred a right which has ceased within a period prior to the filing of the application for registration and whose duration is fixed by the Member State ( Article 4 (4) (e) [\[103\]](#). Article 10 of the Directive considers that "the use of the mark as consent of the holder or by any person authorized to use a collective mark or a guarantee or certification mark shall be deemed to have been made by the holder"[\[104\]](#). Finally, Article 15 of the Directive provides that Member States may stipulate that signs or indications used in trade to designate the geographical origin of products or services may be collective marks or marks of guarantee or certification [\[105\]](#). Although the had points of convergence between the collective *strictu sensu* and certification or guarantee mark ( such as a plurality of users, different from the trademark holder, provided to use it at the same time, subjecting users to a range of regulatory rules concerning the acquisition, use and loss of trademark rights, legal treatment in the same field ( collective marks and certification marks) according to the scheme of many trade mark legislations), characterized by the certification function of certain common characteristics as well as a certain and specific level of quality when betting on the products or services that carry it [\[106\]](#); there are aspects that clearly differentiate them, which need to be presented. But it is important to emphasize that certification marks do not indicate mere qualities of products and / or services (a function played by the overwhelming majority of brands), they point to " *other qualities* " than the common qualities. With them the holders seek to achieve a universe of special public-consumer, more demanding in terms of quality, hence the prices of goods and or services whose brands are accompanied by a certification signal are relatively high compared to the same species. Let's see the differences: 1. The use of the paste tag the user to a corporation or association. The use of the certification mark is not conditional upon affiliation to a legal entity of an associative nature, it may be used by any person, provided that it complies with the requirements inserted in the regulation of use of the mark. 2. As regards the function, the collective mark indicates the business origin of the products and / or services, while the certification mark indicates a certain level of quality of the goods or services that carry it. 3. In the collective mark , the principle of specialty is present, which is not true of the certification mark [\[107\]](#). 4. The collective mark is independent, that is to say, alone, whereas the certification mark is ancillary, it is not worth in isolation, but when betting on another, the principal to be certified. The certification mark is also distinguished from designations of origin. According to ALBERTO RIBEIRO DE

ALMEIDA[108], there are some coincidences from the functional point of view and also, from a letter, conceptual way. However, it is possible to delimit certain differences: (a) certification marks, although having their own legal regime, benefit from the legal regime applicable to trade marks, which diverges from the legal treatment of the designation of origin; (b) the certification mark primarily protects the interests of consumers [109], while the designation of origin, although guardianship these, protects, first, the interests of producers; (c) the designation of origin covers almost exclusively agri-food products, however, the certification mark may be applied to any products or services; d) the designation of origin is a geographical or traditional name, there is freedom of composition in the certification mark; (e) the holders of the designation of origin shall be resident producers which are effectively established in the locality, region or territory and may be used interchangeably by those who, in area of production; f) the certification mark is owned by a single person who can not use it in the certification of own products or services [110]. Reference should also be made to so-called **basic marks**[111] also the we can consider r of "major brands" [112]. They are not provided for in the previous CPI M, but in the previous one (1999), they were enshrined in Article 96 (1) (c) (a) of the basic trademark: identifies the commercial or industrial origin of a series of products or services produced by a multi-purpose enterprise or by a group of undertakings. And the number 3 of Article 96 was established that: The right to register the brand base for the undertaking of the multiple activities or group of companies that use or intend to use it in their products or services. Theoretically, it was a sign identifying the commercial or industrial origin of a series of goods or services supplied by a multiple-activity undertaking or a group of undertakings and therefore fulfilled the function of identifying the source of the goods to which was destined [113]. In Portugal, the base mark that was enshrined in Article 173 et seq. Of the 1995 Portuguese CPI was also deleted[114]. CARLOS OLAVO [115] states that: "MAR base ca was suppressed by the code, although the rights deriving from respective log remain in the terms that were granted in accordance with Article 12, paragraph 5, the Decree number 36/2003". Disseminating about the basic brand in his rich work, COUTINHO DE ABREU[116] wrote: "(...) the basic mark could only be" used when accompanied by a specific mark relating to each product or service "(Article 179). This pair of base brand / special brand reminds one another, traditional in the doctrine: general brand / special brand. The general mark distinguishes all the products of the same company; the special mark distinguishes products of a certain type (a company of varied types may have a general mark and several special marks [117]. However, there was no perfect match. The general trade mark concerns a company which does not have to be 'multi-tasking' - for example, a company producing only carpets may have a general brand

and special brands for carpets of various types, may have a general mark (eg, "Renault" and special marks for the various models (eg "Laguna", " Megane "). It has also been understood that the special mark may be used unaccompanied by the general mark and vice versa". We do not know why reason is that the new CPI M does not provide the base mark. However, looking at the Portuguese reality, we have seen that the maintenance of the base brand encountered strong opposition in the doctrine of such a kind that OLIVEIRA A SCENÇÃO in the Final Report of the Activities of the Follow-up Commission of the Industrial Property Code, RFDUL, 1997, p.347, noted that it was found that the forecasts were inoperative because article 178/2 of the Portuguese CPI determines that the forecasts regarding the use of the brand of the company or group of companies, which entails jobs and costs that the entrepreneurs are not willing to face. It adds that "the fundamental problem is the possibility of creating a distinctive sign of goods or services which goes beyond the continuing limitations of the trade mark principle - and the costs would lead to a multiplication of registrations ..." [118]. Still regarding the problematic of the base mark, CÉSAR BESSA MONTEIRO [119] wrote: "Nor can reference be made to Article 178 (2) of the Industrial Property Code and, with due respect for its authors, its deletion or at least modification. In fact, the cited legal provision obliges entities wishing to register the base mark to insert in their statutes the rules concerning the right to use the mark, the conditions that must be used and also the rights and obligations of users in the case of contra faction dog. It is known that economic groups already exist that could possibly be interested in the registration of the Base Mark. They have share capital of millions of pounds and that any change to their social pacts, intended to include Article 178 would not fail to have high costs, for notaries and registration costs, it is therefore concluded that the obligation to include in the articles of association the provisions regulating the basic mark is still a deterrent to its registration. Moreover, it does not appear to us that the statutes of a company are the most appropriate instrument for regulating the use of any right exclusive of industrial property . It could be to contemplate a system in which there was a regulation approved by the company or companies that defined the conditions of use of the Base Tag and the rights of the various interested parties , and such regulation should be registered with the Industrial Property Institute . We think that the basic brand there-to continue to exist even if the CPI M not provide, either because reasons, we live at a time when economic agents have increasingly diversified the supply of its products or services, so to cover most of the customers' needs that appear to them . The principle of specialty remains in full force with regard to the classes of goods and services, no longer so much as the object of the company. If the basic mark serves as the main sign of the entrepreneur, roughly equivalent to the logo, we do not see what would be the need to establish a regulation to use that sign, if the holder of the marks is the same, they are

not used as if they were autonomous companies, except in the cases of a group of companies. Although become known regarding the group mark, we still think that this' regulation of use of the mark "would not be necessary, insofar as it could be established in the contracts, agreements or statutes of the" group "the aspect on the use of the basic mark, without disregarding the possibility of this being a matter for deliberation of the governing bodies of the group, to be registered in the .

[1] On this type of marks, see for all FRANCISCHELLI, REMO, *Trattato di Diritto Industriale*, vol.I, Giuffrè Editore, 1961, pp. 183-247, *Sui Marchi D` Impresa*, 4th ed., Giuffrè Ed., Milan, 1988, pp. 45-55; FERNANDA Sarsi-Sartori, *Alcune considerazioni in theme di marchio collective and principle di relatività della guardianship*, in *Rivista di Diritto Industriale*, year XL-1991 Numbers 1-2 Gennaio-Giugno, Milan- Dott . A. Giuffrè Editore, pp. 21-36; VINCENZO DI CATALDO, *I Signi Distintive*, 1st and 2nd ed., Giuffrè Ed., Milano, 1985 and 1993, pp. 161 et seq . ; VANZETTI, ADRIANO / DI CATALDO, Vincenzo, *Manuale de Diritto Industriale*, Giuffrè Editore, Milan, 2009, pp. 283-284; CASANOVA, Mario, *Impresa and Azienda*, Unione Tipografico Editorice Torinese, 1973, pp. 464-465; CIONI, Ferdinando, *The Funzione del Marchio*, Giuffrè, Ed, Milano, 1998., pp. 13-32; BRAUN, Antoine, *Précis des Marques, Troisième Edition 1995*, Maison Larcier, pp. 471-478; NOGUEIRA SERENS, *The Monopolization of Competition and the ( Re -) Emergence of the Guardianship of the Brand*, *Almedina*, 2007, pp. 632-665; COUTINHO DE ABREU, *Course on Commercial Law, Vol I, Almedina*, 1996, pp. 367-368; CARLOS OLAVO, *Industrial Property*, vol I, Almedina pp. 76-79, PUPO CORREIA, *Commercial Law*, 12th edition, revised and updated, EDIFORUM, Lisbon, p. 349; AMERICA DA SILVA CARVALHO, *Trademark Law*, Coimbra Editora, 1999, pp. 92-104; MARIA MIGUEL CARVALHO, *Collective Brand. Brief Considerations, in Industrial Law, vol.V*, 2008, pp. 215-310.

[2] *base brand and brand paste tive*, APDI-Associations will Portuguese Intellectual Property Law, Vol. I, Adams, 2001, p. 335.

[3] ASTRID UZCÁTEGUI, *The Tradition and Its Particularities*, Journal of the Brazilian Association of Intellectual Property, n. 68, January / February 2004, p. 8.

[4] Formulation of MARIA MIGUEL CARVALHO, *Marc as cole tivas ... ob. cit .*, p. 223.

[5] *I mean ... ob. cit .*, pp. 11 and 12.

[6] NOGUEIRA SERENS, *Monopolization ... ob. cit.*, p. 632.

[7] On historical developments, check out JEFFREY BELSON, *Certification Marks*, London, Sweet & Marcell, 2002, p. 5 and ss ; JEAN CHRISTOPHE GALLOUX, *Droit de la Propriété Industrielle*, 2nd ed., Paris, Dalloz, 2003, pp. 524 ff .

[8] In this sense, v . NOGUEIRA SERENS. *Monopolisation ... ob. cit.*, pp. 632-634.

[9] *Monopolization ... ob.c it .*, P. 633.

[10] NOGUEIRA SERENS, *Monopolization ... ob. cit.*, p. 633, says that he found examples of both types in the authors cited in footnote 1271 and which are: D. RAMÓN PELLA, *Trademarks*, p. 18 et seq ; BRAUN TH / A CAPITAINÉ, *Marques*, XX ff ., FRANK Schechter I, *Historiactal foudation*, 78 and SS and R. Francischelli, *Marchi*, 26 and ff .

[11] NOGUEIRA SERSN, *Monopolization ... ob. cit .*, p. 634.

[12] *Idem .*, Pp. 635-636.

[13] NOGUEIRA SERENS, *Monopolization ... ob. cit .*, pp. 636-639.

[14] *Idem.*, P. 639.

[15] *Monopolization ... ob. cit .*, pp. 641-643.

[16] MARIA MIGUEL CARVALHO, *Collective marks ... ob. cit .*, p. 217.

[17] *COURSE OF ABREU, Course ... ob. cit .*, p. 368.

[18] *Précis ... ob. cit.*, P. 471.

[19] *Collective marks ... ob. cit.*, p. 216

[20] In the footnotes, this author cites important Anglo- Saxon authors who have studied the subject, and therefore is a bibliographical source to consider.

[21] Cfr . DI CATALDO, VINCENZO, *I Signi ... ob. cit.*, pp. 162-166.

[22] *COURSE OF ABREU, Course ... ob. cit.*, p. 368, in the same sense MARIA MIGUEL CARVALHO, *Collective Marks ... ob. cit.*, p. 218-219, in note 11 this last author suggests that this placement is also FERRER BELT, *Commercial Law Lessons*, Vol. I, University of Coimbra, 1973, p. 319.

[23] *Trademarks and Industrial ... ob. cit.*, pp. 14-15.

[24] Cfr . For further developments, FRANCISCHELLI, REMO, *Sui marchi ... ob. cit.*, pp. 153-156 ; GIOVANNI MASSA, *Funzione ... ob. cit.*, pp. 61-73; v. *tb.* , in the same direction PINTO COELHO, *Trademarks and Industrial ... ob. cit.*, p. 16.

[25] *Course ... ob. cit.*, pp. 369-370.

[26] cfra . [www.madeinmozambique.gov.mz](http://www.madeinmozambique.gov.mz)

[27] Technical Unit for Promotion of National Products and Services, was replaced by DPPRON-Direction for the Promotion of National Products and Services, created through the Resolution of the Interministerial Commission of Public Function n. 27/2010 of 18 November approving the Organic Statute of the Ministry of Industry and Commerce. It is an Organic Unit of the Ministry of Industry and Commerce that administers the seal "Mozambican Pride. Made in Mozambique ", among other duties.

[28] The term of concession is under the terms of article 13 of the Regulation of 5 years, renewable at the request of the interested party.

[29] In the same vein CESAR BESSA MONTEIRO, *Marca ... ob. cit.*, p. 335, in note 1 indicates Professor CARLOS OLAVO, in *Industrial Property* , Almedina, 1976, p. 41, as an advocate of the idea that collective marks are not true trademarks.

[30] *Property ... ob. cit.*, pp. 76 secs

[31] *Right ... ob. cit.*, p. 338.

[32] *Course ... ob. cit.*, p. 368 , note number 39 .

[33] *Collective marks ... ob. cit.*, pp. 219-220, footnotes 11, 13 and 15 .

[34] For all, treatment of this problematic matter in the traditional doctrine, in CASANOVA, MARIO, *Impresa ... ob. cit.*, pp. 473-474, footnote 1 on p. 473, this author indicates a long list of authors of his generation who developed the theme of geographical names.

[35] Developed, NOGUEIRA SERENS, *Aspe tos ... ob. cit.*, pp. 12 et seq .; PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, pp. 279-302; v . *tb.* , MARIA MIGUEL CARVALHO, *Collective marks ... ob. cit.*, p. 223, in note 27 of the page just indicated, the author says: "With a very happy image, GIAN MARIA FERRÁRIO refers in this regard to" (...) the distinction between a brand (...) [individual], a collective mark , denomination of origin, indication of provenance seems almost to point to a progressive passage of circles, not necessarily concentric, in the common area of distinctive signs *lato sensu* (" *Denominazione d' origine , indicazioni di provenienza e ... dintorni* ", in RDI, 1990, Part II, page 224: COUTINHO DE ABREU. *Course ... ob. cit.*, pp. 412-416.

[36] PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 285, note 576, in which he wrote: "For a distinction between collective marks and the DO and IG, RIBEIRO DE ALMEIDA, *A Autonomia legales*, cit., Pp. 682 et seq . This Author warns that *the certification or guarantee mark is much closer to the designation of origin than the collective or association mark , not only because of its notion and function, but also by a number of other elements . It clarifies that the guarantee mark [certification in CPI terminology] plays a quality assurance role, but it does not have to impose a geographical-qualitative connection, even if it requires the product to come from a defined geographical area. It is what the appellation of origin is imperative in certification or guarantee mark (and , by fortiori, the brand paste tive [Association] is optional . "*

[37] Cfr . Maria MIGUEL CARVALHO, *Collective marks ... ob. cit.*, p. Highlights

[38] Speech delivered on October 24, 2014, when interviewed on a national television channel (MIRARAMAR ).

[39] Beef and goat from the Tete province , is considered tasteful.

[40] cfra . In this sense, the rich study of PEDRO SOUSA AND SILVA, *Derecho ... ob. cit.*, p. 279.

[41] *Idem.*, Pp. 279-280, the examples are of the cited author because of our band are scarce . We can present the example of mixed brands (nominative + gustativa), with IG, "CHICKEN TO ZAMBEZIANA".

[42] PEDRO SOUSA AND SILA, *Law ... ob. cit.*, p. 280, v. in footnote 568 of p. 281, of the same *ob. cit.* , an interesting bibliographic indication on the subject of DO, IG and IP.

[43] *Aspects ... ob. cit.*, pp. 12-13.

- [44] MARIA MIGUEL CARVALHO, *Collective Marks ... ob. cit.*, p. 224, citation 28, RIBEIRO DE ALMEIDA, *Geographical indication, indication of provenance and designation of origin* (geographical names in industrial property), in: *Industrial Law*, vol. I, Portuguese Association of Intellectual Law, Coimbra, Livraria Almedina, 2001, pp. 10 and ss, in the same sense PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, pp. 283-284.
- [45] Cf. MARIA MIGUEL CARVALHO, *Collective marks ... ob. cit.*, p. 224.
- [46] *Right ... ob. cit.*, p. 284
- [47] On the mark, PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 284, cites in note 574 RIBEIRO DE ALMEIDA, *Denomination of Origin and Brand*, pp. 342; CARLOS OLAVO, *Trademarks and Geographical Indications*, Note to ac. RL of 29. 07.2004, in ROA, Year 65, pp. 527 et seq., COUTO GONÇALVES, *Trademark Law*, 2000, p. 72.
- [48] On this quarrel, v. for all, PINTO COELHO, *Trademarks and Industrial ... ob. cit.*, p. 17, developed AMÉRICO DA SILVA CARVALHO, *Law ... ob. cit.*, pp. 219-242; MARIA MIGUEL CARVALHO, *The Mark Enganosa, ob. cit.*, pp. 125-134; v. tb., the bibliographic indications of ASTRID UZCÁTEGUI, *The Certification Mark ... ob. cit.*, p. 8, note 22, in which it presents, ALBERTO FRANCISCO RIBEIRO DE ALMEIDA, *Denomination of Origin and Marks* "in Bulletin of the Faculty of Law of the University of Coimbra, n. 39, Portugal, 1999, pp. 379-380; RITA LARGO GIL, *The Collective Marks and the Marks of Guarantee in the Law of Marks of 2001*, in notebooks of Right and Commerce, Madrid, n. 35, p. 131-133, Sep. 2001, p. 617-624; MARIA DEL MAR MORONO GARGALO, *The Legal Protection of Denominations of Origin in the Spanish and Community Rights*, Madrid, Marcial Pons, 2002; MARIANO LOPEZ BENITTEZ, *Las Denominations of Origin*, Barcelona, Cedecs, 1996; JOSÉ MANUEL BOTANA AGRA, *Las Denominations of Origin*, in Jimenez Sanchez, Guillermo (Coord), *Treaty of Derecho brands*, t. XX, v. 2º, Madrid, Marcial Pons, 2001
- [49] AMERICA DA SILVA CARVALHO, *Right ... ob. cit.*, p. 220, cites FERNANDEZ-NOVOA, *The Community Trademark System*, Montecorvo, SA, Madrid, 1995, p. 128.
- [50] Cf. Several legal treaties (Protection Regimes) on DO and IG in PEDRO SOUSA E SILVA, *Law ... ob. cit.*, pp. 289-292.
- [51] Another work by this author much quoted in the Portuguese doctrine on the subject of geographical indications and designations of origin is: *Denominações Origin and Trademarks*, Coimbra Editora, 1999.
- [52] *AAVV, Portuguese Industrial Property Code* annotated, 2010, pp. 535-536.
- [53] *Idem.*, P. 536.
- [54] On this matter, still OLIVEIRA ASCENÇÃO, "Problematic issues in terms of geographical indications and denominations of origin", in: *Industrial Law (AA.VV.)*, Volume V, Almedina, Coimbra, 2008, p. 69; ALBERTO RIBEIRO DE ALMEIDA, *Denomination of origin and brand*, Coimbra Editora, 1999.
- [55] *Course ... ob. cit.*, p. 413.
- [56] This terminology (*Geographical Indications and Denominations of Origin*) was adopted by Professor OLIVEIRA ASCENÇÃO in his work "Problematic Issues in Geographical Indications and Designations of Origin" in *Industrial Law (AA.VV.)*, Volume V, Almedina, Coimbra, 2008, p. 69, which we also find to be welcome, insofar as the term "geographical indications" better elucidates or subsumes the two realities inherent therein (Indication of Provenance and Geographical Indication), is a formulation that saves the use of words that seem redundant.
- [57] Cf. On this questioning, MARIA MIGUEL CARVALHO, *The Mark Enganosa, ob. cit.*, pp. 125-134.
- [58] *Course ... ob. cit.*, p. 413.
- [59] Ahead IG - Geographical indications.
- [60] In this sense v. AMERICA SA SILVA CARVALHO, *Law ... ob. cit.*, p. 180-181, citation RIBEIRO DE ALMEIDA, *Geographical Indications, Indications of Origin and Denominations of Origin* (Text corresponding to the lecture delivered at the Graduate Course of Industrial Law 1999, organized by the Faculty of Law of Lisbon and the Association of Intellectual Law") Published in *Industrial Law*, Vol. I, pp. 5 et seq.
- [61] Cf. In this sense AMÉRICO DA SILVA CARVALHO, *Right ... ob. cit.*, p. 223, which the French author Mathély, in his turn, cites, is today the generally adopted solution.
- [62] Denominations of origin.
- [63] This ceased to be produced with the advance of the civil war that lasted 16 years in our country, the respective factory was paralyzed, however we have information that is working towards its reactivation.
- [64] AMÉRICO DA SILVA CARVALHO, *Right ... ob. cit.*, p. 231.

- [65] Cf. PEDRO SIUSA AND SILVA, *Law ... ob. cit.*, P. 287.
- [66] *Trademarks and Industrial ... ob. cit.*, p. 17.
- [67] In the same sense PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, pp. 287-288.
- [68] PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 288.
- [69] *Aspects ... ob. cit.*, pp. 22 et seq.
- [70] *Aspects ... ob. cit.*, pp. 22-32.
- [71] Point III of the comments of the *Portuguese CPI* noted in AA. VV, *ob. cit.*, pp. 536-537.
- [72] Cf. AMERICA DA SILVA CARVALHO, *Right ... ob. cit.*, p. 231.
- [73] *Right ... ob. cit.*, p. 283.
- [74] *Right ... ob. cit.*, pp. 285-286.
- [75] PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, pp. 295-296.
- [76] In this sense, v. PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 296.
- [77] *The legal autonomy of the designation of origin, a transnational perspective. A quality assurance*, Coimbra Editora, 2010, pp. 1363-1364.
- [78] Example extracted in PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, P. 296, on this page, there are other relevant examples that you can consult, wanting.
- [79] Cf. PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, pp. 297 and ss, presents several examples of records of applications rejected for having understood there is a risk of confusion and dilution of the prestigious brand that embodies directly or indirectly DO or GI.
- [80] *Idem.*, PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 299.
- [81] *Idem.*, PEDRO SOUSA AND SILVA, *Law ... ob. cit.*, p. 299.
- [82] *Geographical Marks and Indications*, Note to ac. RL. From 29. 07. 2004, in ROA, Year 65.
- [83] *Right ... ob. cit.*, p. 299.
- [84] *Idem.*, Pp. 301-302.
- [85] We could not close the reference to the DO and IG, without pointing out a failure or error of candlestick that is found in article 159 c) of the CPI, in which it is said that the definitions of the GI and DO are listed in sections l) in Article 1, when in fact they appear in points m) and n).
- [86] MARIA MIGUEL CARVALHO *Collective marks ... ob. cit.*, p. 227, in footnote 42, cites on this matter, PINTO COELHO, *ob. cit.*, p. 239; v. *tb.*, in the same sense CARLOS OLAVO, *Property ... ob. cit.*, p. 78.
- [87] Maria Miguel CARVALHO, *Brands paste tions*, cited in footnote 43 paragraphs upper arms 64 and ff. *From the Opinion of the Corporate Chamber cit.*, And PINTO COELHO, *ob. cit.*, pp. 334 ff.
- [88] *Idem.*, P. 228 on social responsibility, in footnote 45, the author wrote: "Corporate social responsibility consists of" (...) the voluntary integration of social and environmental concerns by companies into their operations and their interaction with other stakeholders "( Green Paper presented by the Commission of the European Communities entitled "Promoting a European framework for corporate social responsibility" (COM (2001) 336 final, p.
- [89] MARIA MIGUEL CARVALHO, *Collective Marks ... ob. cit.*, p. 228, on this type of mark cited in note 47, the Regulation of Contrastaria contained in DL number 391/79 of September 20, with the successive changes that were introduced. Integrating contrast marks on the certification marks, cfr. PUPO CORREIA, *ob. cit.*, p. 316.
- [90] MARIA MIGUEL CARVALHO, *ul. ob. cit.*, p. 228.
- [91] Remember that we are using foreign doctrine to restrain our work, since within doors we have nothing elaborate on the matter.
- [92] MARIA MIGUEL CARVALHO, *collective marks ... ob. cit.*, p. 229.
- [93] *Collective marks ... ob. c. it.*, p. 229.
- [94] We do not oppose this understanding.
- [95] MARIA MIGUEL CARVALHO, *Últ.*, *ob. cit.*, p. 229.
- [96] *Idem.*, P. 229.
- [97] Regulation of the attribution of the E-Label.
- [98] Cf. MARIA MIGUEL CARVALHO, *Collective marks ... ob. cit.*, pp. 232-133, in the same sense v. CÉSAR BESSA MONTEIRO, *Base marks ... ob. cit.*, p. 342.
- [99] CÉSAR BESSA MONTEIRO, *Base marks ... ob. cit.*, p. 342, v. Also in this regard, MARIA MIGUEL oak, *últ. ob. cit.*, p. 232 note 64, writes: "It should be noted that in the text of the CUP there is no express reference to the two types of collective marks. At the international level, the first express reference to certification marks is found in Article 2 (v) of the Vienna Treaty of 12 July 1973 on the International Registration of Marks, to which Portugal, like the overwhelming majority of the members of the World Intellectual Property Organization, is not



bound. Stressing the little relevance of this Treaty, cfr . RITA LARGO GIL, *The Guarantee Marks* , Madrid, Editorial Civitas, SA, 1993, p. 37., p. 27 ".

[100] Cf. MARIA MIGUEL CARVALHO, *Collective marks ... ob. cit.*, p. 233.

[101] *Idem.* , P. 233.

[102] Cf. CÉSAR BESSA MONTEIRO , *ob. cit.*, p. 334., to the same effect, MARIA MIGUEL CARVALHO, *ul. ob. cit.*, p. 233, in footnote 67, justifying the insertion in its text of the phrase "The 1st Trademark Directive did not include among the subjects subject to harmonization what it designates as" collective marks or "marks of guarantee or certification" says: "We transcribe the used expression in Article 15 (1) and (2) of the DM, it is nevertheless pointed out that at least in the Portuguese, English, French, Spanish and Italian versions), the nomenclature used is different ("collective marks, guarantee marks and certification marks"). Thus, we believe that also in DM no place to considerations of collective brands in a broad sense covering both types: collective marks in the strict sense and certification or guarantee marks. "

[103] Cfr , CÉSAR BESSA MONTEIRO, *ob. cit.*, p. 343.

[104] *Idem.*, P. 342.

[105] *Idem.*, P. 342.

[106] Cf. ASTRID UZCÁTEGUA, *The Certification Mark ... ob. cit.*, p. 3.

[107] ASTRID UZCÁTEGUA, *The Certification Mark ... ob. cit.*, p. 7.

[108] Cited by ASTRID UZCÁTEGUA, *The Certification Mark ... ob. cit.*, p. 7-8.

[109] We do not believe that the certification mark (only ) primarily protects the interests of consumers (this will normally happen if its holder is a public administrative entity, over whom it may hold a certification mark, see ASTRID UZCÁTEGUA , *The certification Mark ... op. cit.* , p. 3), if an individual, this also, and naturally have economic interests in the certification of products or services. Let us remember that today, the brand plays a utilitarian function for both its owner and the public-consumer.

[110] On differences between collective mark and certification mark v. *tb.* , FERNANDEZ-NÓVOA, *Derecho ... ob. cit.*, pp. 60-62.

[111] Developed CÉSAR BESSA MONTEIRO, *The Base Mark ... ob. cit.*, pp. 344-347.

[112] Major in relation to other brands of the same company that we may consider secondary or daughters.

[113] In this sense CARLOS OLAVO , *Property ... ob. cit.*, p. 79.

[114] *Idem.*, P. 79, v. in the same direction ABREU COUTINHO, *Course ... ob. cit.* , pp. 368-369; AMERICA DA SILVA CARVALHO, *Right ... ob. cit.*, pp. 104-105.

[115] See *.last, op. cit.* , p. 79.

[116] *Course ... ob. cit.* , p. 369.

[117] *Idem.*, P. 369 , cited in footnote 40 as an example of traditional authors making the dichotomous general and special brand classification, CASANOVA, MARIO, *Impresa e azienda* , UTET, Torino, 1974, p. 461, v. *tb.* , in the same sense MANGINI, VITO, *IL Marchio ... ob. cit.* pp. 183-185, wrote that the basic mark normally bears the social name or business name of the entrepreneur and is adopted to identify all the product coming from his company, whereas the special mark aims to contradicting a particular type of product. It also says that this double sign is often used by large companies engaged in the production or trade of several product lines that may be homogenous or highly differentiated. In footnote 79 of p. 184, the author presents two examples, the first of General Electrics which manufactures many products, all more or less re- usable for use in electricity ; The second example is the company Hunt Foods , which manufactures products using diversified techniques and raw materials.

[118] Cf. AMERICA DA SILVA CARVALHO, *Right ... ob. cit.*, pp.104-105 , in the same sense, COUTINHO DE ABREU, *Course ... ob. cit.* , p. 369, note 41.

[119] *The Base Mark ... ob. cit.*, pp. 346-347.

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