

**Supplementary Provisions with regard to the Trademark Regulations
governing the Use of the EU Certification Mark No. 018155313**



INDICATION: the German version of these Supplementary Provisions shall be binding.

Section A

Supplementary Provisions regarding No. 7.1 of the Trademark Regulations

- 7.1.4 All grants of rights for using the EU certification mark will be exclusively granted on a temporary basis. The periods of use (durations of the agreements) shall be at least two years but may not exceed five years.
- 7.1.5 Each authorized user shall be obliged to closely cooperate with the mark owner and its agents and its authorized persons, in particular with the Proprietor in all matters relating to the granting covering the use of rights of the EU certification mark in particular to provide all information and documents required for the granting and maintenance of the right governing the use of the EU certification mark immediately and truthfully upon request.
- 7.1.6 Insofar as the trademark owner or the Proprietor provide form sheets in connection with the right governing the use of the EU certification mark, these are to be used.
- 7.1.7 For the products (smoke alarm devices) involved, the Proprietor will keep a record of all agreed upon rights granted to use the EU certification mark.
- 7.1.7.1 For trademark administration, the Proprietor will record in the register according to Paragraph 7.1.7:
- a) the authorized user with complete details (first and last name, if necessary, also maiden name and company according to the register of commerce a.s.o.);
 - b) address under which the authorized user is offering on the market the product for which the right to use the EU certification mark has been granted;
 - c) furthermore, common communication data including web-address (internet homepage), in companies in particular also the name and email-address of the competent person of contact in charge of the subject-matter authorized by the authorized user including a professionally used email-address;
 - d) for authorized users which are legal persons and partnerships the complete name/s of his appointed representative/s, if necessary, as entered in the official registers plus corresponding function;
 - e) the pertaining contract or ID-number;
 - f) date of issue and expiry date of the current right to use the mark as well as
 - g) any other information required for a proper administration of the rights related to the corresponding right of use, the authorized user or the product for which rights of use were granted.
- 7.1.7.2 Additionally, the Proprietor will record in the register for trademark administration purposes the following data:



- a) name and other markings suited to distinctly identify the product for which the right to use the EU certification mark was granted;
- b) the name of the Technical Institute authorized by the authorized user according to No. 7.2.9 regarding continuous monitoring of work pieces of the product concerned made available on the market for compliance with the requirements according to the “Technical Guideline for the Quality Test of Smoke Alarm Devices” and
- c) the correspondingly agreed upon expiry date of the order placed with the Technical Institute with regard to the aforementioned continuous testing.

7.1.7.3 In order to enable consumers to get at any time access to complete information regarding the product for which the right to use the EU certification mark was granted and to furthermore enable market participants to mutually control marketing of the correctly marked smoke alarm devices for which the right to use the EU certification mark was granted, the Proprietor will make accessible on the internet to the public the register in accordance with No. 7.1.7 including details of No. 7.1.7.1 a), b), d) and e) by stating the web-address of the homepage on the internet, furthermore, details according to No. 7.1.7.2 a) and if possible also a picture of the corresponding product.

7.1.7.4 Entry of an authorized user into the Proprietor’s register according No. to 7.1.7 will not immediately be deleted on expiry of the right to use the trademark agreement, but will be continued for an appropriate period of time as long as the marketed goods covered by the previous right to use the trademark can be still obtained on the market or will be further used by buyers or users and, thus, inquiries regarding the right to use the EU certification mark are to be expected.

Public visibility of a product for which the right to use the trademarks was granted in the publicly available register according to No. 7.1.7.3 will be terminated accordingly one year upon expiry of the pertaining agreement governing the right to use the EU certification mark.

7.1.8 Agreements governing the right to use the trademark will not be renewed. On the contrary, the corresponding authorized users are free to apply for and to stipulate a new agreement governing the right to use the trademark for a subsequent contract period.

The trademark owner and the Proprietor are not obliged to indicate on their own initiative to the authorized user the imminent expiry of an agreement governing the right to use the EU certification mark and to offer a follow-up agreement.

The documents and proofs submitted for the previous agreement governing the right to use the EU certification mark can be used for an immediately following follow-up agreement; a new initial technical inspection does not take place. Documents and proofs issued with limited validity can only be accepted for the period of their validity. It is incumbent upon the Proprietor to duly examine and decide to what extent such documents are regarded as continuing and accepted as the basis for a follow-up agreement.



- 7.1.9 Documents are to be submitted as a complete copy of the original in German and/or English language, in case other languages are used, complete copies of the original document with certified translation are to be submitted in one of these languages.
- 7.1.10 Insofar as documents according to the Trademark Regulations and supplementary provisions shall be stored for a certain period such documents are to be stored as a rule as a version printed on paper, whereby the print must be a permanent one. Those, who are obliged to store documents according to this trademark regulation, can
- a) make the storage themselves or engage a suited, trustworthy third party for this task by conclusion of a written agreement and/or
 - b) record it also in electronic form instead of the version of the documents printed on paper and to convert them into an electronic form themselves or with the help of suited trustworthy third parties. Archiving of electronic documents should orientate itself to the OAIS-model for long term archiving of the ISO 14721: 2012-09. The person in charge of the storage according to the Trademark Regulations must ensure that electronically archived documents
 - can be permanently accessed and will always be available and
 - remain unchanged and will not be compromised,
 - remain legible without any limits,
 - can be safely and quickly retraced and
 - to which any access made to a document will be documented during storage with time, duration and person having accessed the document,
 - access to documents stored is only possible by specifically authorized persons.
- 7.1.11 There is no legal claim to the granting of an agreement governing the right to use the EU certification mark without prejudice to the obligation of the trademark owner and the Proprietor not to refuse the granting of rights of use arbitrarily and without objectively justified reason.
- 7.1.12 A manufacturer may have himself represented by an authorized representative according to Article 2 No. 22 of the Regulation (EU) No. 305/2011.
- 7.1.13 In the event of doubts as to the interpretation and application of the Trademark Regulations and the Supplementary Provisions, the Proprietor will decide, outside proceedings before the Sanctions Committee (No. 8.7) and dispute before the State Court, if necessary, possibly after consultation with the trademark owner.

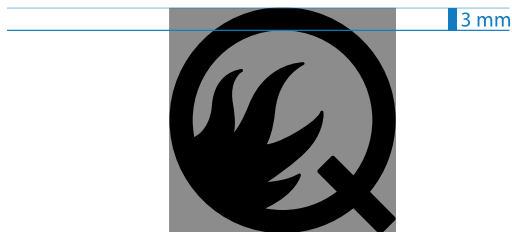


Section B

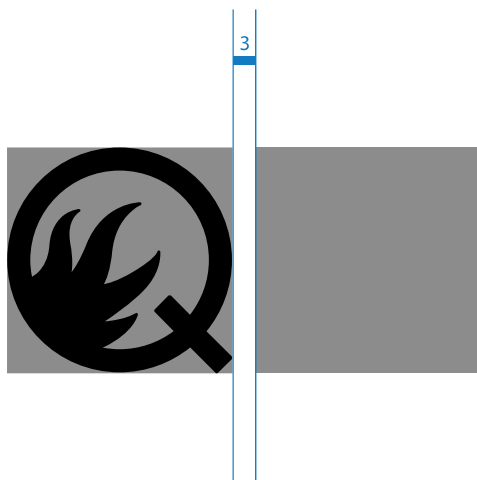
Supplementary Provisions regarding No. 7.1.2 of the Trademark Regulations

Detailed Rules for the Graphic Reproduction of the Mark, the spaces to other marks and the placing of the mark

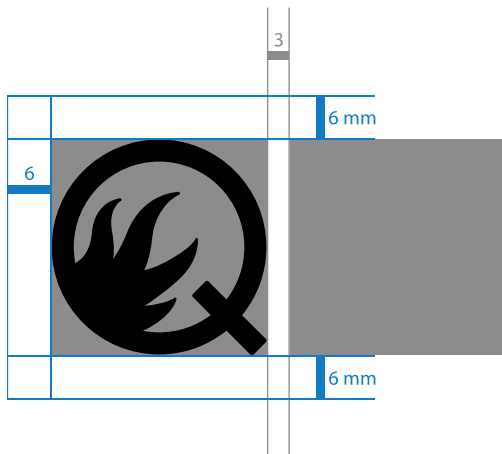
If the EU certification mark shall be displayed next to the trade symbol (logo) of the authorized Technical Institute which issued the Q-certificate according to the trademark regulations or shall be displayed next to another symbol, the EU certification mark must be displayed at least as large as, if not even larger, than these other marks. However, the reproduction of the authorized Technical Institute's trade symbol (logo) mark on, for example, packaging or on the product is on voluntary basis and not mandatory and also may not be prescribed by the authorized Technical Institute to the Proprietor.



The margin measurement is the line width of the Q label.
In the example to the left: 30 mm height + width
Line width: 3 mm



The distance to the neighboring certification logo corresponds to the line width of the Q label.
In the example to the left: 3 mm



The distance to **all** other edges, for example, the packaging edge, corresponds to double the line width.
In the example to the left: $(2 \times 3 =) 6 \text{ mm}$



Format and Color Specifications

30 mm

15 mm

7,5 mm

■ C = 0
M = 0
Y = 0
K = 100

RGB
0/0/0
#000000



■ C = 0
M = 0
Y = 0
K = 85

RGB
73/73/72
#494848



■ C = 0
M = 55
Y = 100
K = 0

RGB
241/135/0
#f18700



□ C = 0
M = 0
Y = 0
K = 0

RGB
255/255/255
#ffffff





Section C

Supplementary Provisions regarding No. 7.2 of the Trademark Regulations

- 7.2.6 The manufacturer must himself commission an authorized Technical Institute to provide the proof in accordance with No. 7.2.3 and at the same time provide the authorized Technical Institute with the following proof or submit the following as part of the testing order together with the order:
- 7.2.6.1 In accordance with the version of EN 14604 mandated under Regulation (EU) No. 305/2011 currently designated as harmonized the smoke alarm device has been tested and evaluated. A complete copy of the test report must be submitted. If there are several test reports for the same product, all reports must be submitted.
- 7.2.6.2 A complete copy of the performance assessment certificate established according to the test report or the test reports for the smoke alarm device concerned which is based on the CE-label according to Regulation (EU) No. 305/2011 shall be submitted.
- 7.2.6.3 Test report and performance assessment certificate must contain information of the testing result with regard to all not optionally defined technical individual characteristics as far as those are relevant in the individual case for the test pieces, no matter, whether or not the characteristics belong to the mandated Essential Characteristics. For optionally defined technical individual characteristics, the test report and the performance assessment certificate have to contain information about the testing result and the performance assessment inasmuch as the pertaining optional technical equipment is functionally relevant or available, respectively in the smoke alarm device.
- If the performance assessment certificate does not contain, not clearly contain, or not completely contain such information regarding technical performances of the smoke alarm device, the manufacturer is hold to procure first of all the necessary testing result from a relevant accredited certifier prior to the authorized Technical Institute being allowed to start with the execution of the testing order according to 7.2.6 in connection with the “Technical Guideline for the Quality Test of Smoke Alarm Devices”. The manufacturer may himself commission the authorized Technical Institute to carry out this test of the smoke alarm device for determining the missing technical specifications, provided it is accredited in this respect.
- 7.2.6.4 The manufacturer is hold to submit in full the performance declaration established by him according to Regulation (EU) No. 305/2011 based on the performance assessment certificate for the product concerned. Beyond the provisions of Regulation (EU) No. 305/2011 and with regard to all technical individual characteristics of all mandated Essential Characteristics dealt with in EN 14604 the performance declaration must contain information about the technical performances of the smoke alarm device concerned with regard to the pertaining defined technical performances confirmed in the performance



assessment certificate, inasmuch as the smoke alarm device is provided correspondingly with the technical equipment and functionality, respectively; the statement “NPD – No Performance determined” with objectively available technical capability of the smoke alarm device is not sufficient. Furthermore, the manufacturer has to prove that he will attach this performance declaration to the product when placing it on the market or according to the harmonized rules make it available in another way; for products not yet placed on the market, he has to warrant this correspondingly in writing.

- 7.2.6.5 The manufacturer is obliged to submit for the product a duly established EC conformity declaration, by means of which compliance of the product with all other pertinent harmonization legal regulations relevant for the product – outside the Regulation (EU) No. 305/2011 - is confirmed.
- 7.2.7 The smoke alarm device concerned must have been or is to be duly CE marked as long as it is supplied to the internal market and at the same time bears the warranty performance label on the product itself and/or on its accompanying documents or packing. In the same way Art. 30 of Regulation (EC) No. 765/2008 as well as the provisions of Regulation (EU) No. 305/2011 have to be met with regard to the CE marking and the necessary accompanying documents.
- 7.2.8 The manufacturer who is applying for a test certificate for one of his products according to the Trademark Regulations is obliged to submit to the authorized Technical Institute all further technical documents required by it with regard to his product, especially also such ones from the technical documentation, which the manufacturer needs to have established for his product according to Art. 11 para. 1 sub-para. 2 of Regulation (EU) No. 305/2011.
- 7.2.9 For conclusion of an agreement governing the right to use the trademark according to 7.2.3 as well as for the continuation of such an agreement governing the right to use the trademark according to No.7.2.4, a manufacturer has to prove that he can ensure and will be able to warrant by corresponding procedures in production and quality control that the quality characteristics of the test pieces confirmed by the EU certification mark will also be available for every work piece which the manufacturer will make available on the market as part of his serial production and which he intends to mark or has marked with the EU certification mark.

The manufacturer will provide this evidence by proving to the Proprietor that by applying for conclusion of an agreement governing the right to use the EU certification mark according to 7.2.3 he has ordered for the pursued duration of the agreement governing the right to use the EU certification mark an ongoing monitoring of the work pieces made available on the market of the product concerned regarding compliance with the requirements of the “Technical Guideline for the Quality Test of Smoke Alarm Devices” by a Technical Institute authorized by the Proprietor. For this purpose, the manufacturer will present a written confirmation of an authorized Technical Institute that an ongoing monitoring of the work pieces made available on the market of the pertaining relevant product for which the right to use the trademark was granted or will be



granted has been legally effective agreed upon with the manufacturer for a duration to be stated.

For execution of this ongoing monitoring the corresponding definitions in No. 7.4 of the Trademark Regulations and the “Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices” will apply.

For the whole duration of the agreement governing the right to use the EU certification mark, the manufacturer has to maintain the ongoing monitoring of the work pieces of the product made available on the market for which the right to use the mark was granted.

Instead of the authorized Technical Institute commissioned to carry out the initial testing the client may commission another according to No.7.3. authorized Technical Institute with the ongoing monitoring of the work pieces of the product made available on the market for which the right to use the EU certification mark was granted and may change the authorized Technical Institute during the duration of the agreement governing the right to use the mark. The Technical institute authorized in accordance with No. 7.3 to which the manufacturer applies for such a change shall decide on its own responsibility whether it fully, partially or not recognizes previous test results and/or certificates which the manufacturer submits for the initial test or from the ongoing monitoring for the implementation of such a change. In case of such a change, the authorized user has to prove to the Proprietor immediately the conclusion of a new agreement regarding the product concerned including the details according to 7.1.7 letters e) and f) by presenting a corresponding written confirmation of the Technical Institute newly commissioned by the authorized user.

- 7.2.10 A manufacturer may allow the use of the right to use the EU certification mark granted to him for own distribution purposes to third parties only and insofar as the third parties use and distribute the product concerned exclusively under the product name of the product for which the right to use the mark was granted with unchanged manufacturer details and product marking.
- 7.2.11 A manufacturer who has been granted the right to use the EU certification mark for one of his products may, analogous to Art. 36, para. 1 letter b), of Regulation (EU) No. 305 / 2011, allow third parties whom he wishes to allow to market the same product under their own name and/or under the trademark of the third party in the contract to be concluded between the parties, provide the technical documents, test results and other evidence necessary for the application for a right of use of the EU certification mark, so that the third parties can apply for their own right of use by using these documents and evidence without renewed product testing and certification, provided that the third parties leave the product concerned technically unchanged.



The precondition for the granting of corresponding rights of use of the EU certification mark is that

- a) the third party is or will be indicated on the product as manufacturer according to Art. 2 No. 19 Regulation (EU) No. 305/2011 (Construction Products Regulation) and
- b) the third party as manufacturer has demonstrated, by submitting a written certificate from the authorized Technical Institute which issued the original Q-Certificate, that the smoke alarm devices designated differently from the original product are technically identical to the tested and Q-certified original product, so that the original Q-Certificate also applies to these versions of the smoke alarm device type.

7.2.12 If a manufacturer wants to offer a type of smoke alarm device for which he has been awarded a Q-Certificate in a technically completely identical form on the market himself or via third parties (dealers) under different product names, he must conclude a right of use agreement with the Proprietor with regard to each product name.

7.2.13 If a manufacturer wants to offer a type of smoke alarm device for which he is to be awarded a Q-Certificate in technical variants on the market which are or are to be identified as variants of the original product type by means of designation supplements, while retaining the product designation for which he has acquired or intends to acquire a right to use the EU certification mark, the manufacturer may only and only then use the certification mark for the marketing of this type of smoke alarm device, together with the names of the variants, if this is expressly permitted by the contract granting the right to use the EU certification mark for this type of smoke alarm device under exact designation of all variants included.

A precondition for the contractual extension of the right to use the EU certification mark, which is still to be granted for the original product type to its variants as well is that the performance assessment certificate according to Regulation (EU) No. 305/2011 on the one hand and the Q-certificate on the other hand also confirm for the relevant variants that they meet the respective requirements.

A subsequent extension of an already issued Q-Certificate does not take place, nor does the subsequent extension of an already concluded contract for the right of use to such technical variants.

7.2.14 Manufacturers are obliged to clearly mark those documents or parts of documents regarding their product as „confidential“ or „confidential for the Technical Institute / testing laboratory only“ or by another similar notice which they hand over to the authorized Technical Institute or the testing laboratory, if they are of the reasonable and justified opinion that the document in question may contain trade and business secrets objectively worthy of protection, in particular technical know-how to be protected so that the documents are protected against inspection by persons working for competitors.



When placing any order, manufacturers are obliged to permit at the same time the authorized Technical Institute or where appropriate the testing laboratory commissioned by them to provide information to the trademark owner, to the Proprietor as well as to an authorized third party (expert) and to grant inspection of the documents connected with the corresponding order inasmuch as such information and inspections are regulated in the Trademark Regulations and these Supplementary Provisions and/or supplementary guidelines.



Section D

Supplementary Provisions regarding No. 7.3 of the Trademark Regulations

7.3 Provisions regarding the authorization as "Technical Institute" and responsibilities of an authorized Technical Institute for testing, authentication and quality control of smoke alarm devices and for technical advisory services regarding quality tests at smoke alarm devices

7.3.1 The authorization as "Technical Institute" for testing, authentication and quality control of smoke alarm devices according to the Trademark Regulations is granted by the trademark owner or based on a corresponding authorization by the Proprietor upon written application. Authorization will follow upon conclusion of a written agreement with the trademark owner or the Proprietor authorized in this respect and handover of an independent document regarding the authorization.

The authorization is for a limited period; the period of time is regularly limited to five years, unless otherwise agreed. The end of the authorization must be stated in the contract and in the authorization document. For an authorization for the following period the procedure as described in paragraph 1 is to be repeated. After termination of the authorization, further actions permitted only under a valid authorization are not allowed to be carried out any longer, in particular, "Q-certificates" may no longer be issued. The validity of "Q-Certificates" shall not be affected if the authorization of the Technical Institute ends after its valid issue.

For applicants:

- whose experience in the verification and evaluation of test results relating to smoke alarm devices is not known to the trademark owner and/or the Proprietor at the time of application,
- who do not submit their testing and/or evaluation practice, especially with regard to the testing of smoke alarm devices and the evaluation of such test results, to inter-comparisons with other similarly active institutions,

and/or

- who have only recently started the testing of smoke alarm devices or intend to start testing for the first time,

the authorization is initially limited to a trial period. Authorization with a time limit in accordance with paragraph 2 can only be granted after the trial period has been successfully accomplished. Further details regarding the application procedure in such cases and regarding the process of the trial period are regulated in No. 7.3.10.

A fee must be paid for the authorization, the details of which are specified in the authorization contract.

7.3.2 With his written application for conclusion of an agreement regarding his authorization as „Technical Institute“, for the purpose of the Trademark Regulations, the applicant has



- 7.3.2.1 to indicate in writing the complete names and the exact descriptions of the function of those persons who at that time are responsible within the Technical Institute
- a) for management and control of the execution of technical tests commissioned to them according to the “Technical Guideline for the Quality Test of Smoke Alarm Devices” as well as execution of recurrent monitoring according to 8.1,
 - b) for the internal monitoring of testing processes and quality assurance as well as
 - c) for issuing of test certificates and confirmations („Q-certificates “) according to Nos. 8 and 10 of the “Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices”,
 - d) for the names of the legally responsible persons (managing director, board of directors etc.) of the legal entity which the Technical Institute is bearing, as well as
 - e) for analogous application of the data specified in No. 7.1.7.1, whereby „authorization” takes the place of the "right to use" [the EU certification mark],

7.3.2.2 to submit a copy of the complete document where his accreditation as certifier for smoke alarm devices in the meaning of EN 14604 mandated and as harmonized published according to Regulation (EU) No. 305/2011 is confirmed.

7.3.3 At the time of the application, the accreditation of the Technical Institute must be valid at least for two further years.

The authorized Technical Institute has to maintain this accreditation for the duration of the agreed or to be agreed upon authorization agreement otherwise a contract about authorization of the Technical Institute by which termination of its accreditation terminates without further notice. At the latest on expiry of the set accreditation period during the existence of an authorization agreement, the authorized Technical Institute has to present to the Proprietor without being requested a new accreditation confirmation for the subsequent period in case the authorization agreement shall not end at the same time.

If the accreditation of the authorized Technical Institute expires prior to the date stated in the accreditation document, the authorized Technical Institute is bound to indicate this circumstance immediately to the Proprietor; an electronic message in text format will be sufficient.

If the expiry date of the accreditation period cannot be directly taken from the accreditation document, the Technical Institute has to present a separate confirmation of his accreditor together with the application for conclusion of an authorization agreement.

7.3.4 The applicant has to bindingly assure that at least one testing laboratory will be available within the same legal entity or outside the legal entity that he has



committed to him by contract such a laboratory which deems to him to be technically suited to carry out in appropriate quality necessary technical tests of smoke alarm devices according to the Trademark Regulations. A testing laboratory certified according to EN 14604 for technical tests of smoke alarm devices is considered to be suited until proof is provided otherwise.

The Technical Institute applying for its authorization according to the Trademark Regulations has to commit itself in its application

- a) to name to the manufacturer requesting a Q-certificate one or several certified testing laboratories which it deems to be suited;
- b) to ensure by appropriate instructions on part of responsible persons, where necessary, those of the super-ordinated entity or by contractual agreements that it is able to warrant at any time without delay the information requirements of its own according to No. 7.3.6 as well as access rights, inspection and audit rights of the trademark owner according to No. 7.3.7 additionally with regard to the activity of the testing laboratory with regard to documents available to them as well as with regard to documents produced during preparation and execution of the technical test of a smoke alarm device.

Whether the order to the testing laboratory will be placed by the Technical Institute in its own name or directly in the name of the manufacturer, for its own account or for the manufacturer's account will be dealt with in the contract to be concluded between the authorized Technical Institute and the manufacturer having correspondingly committed the Technical Institute.

7.3.5 The authorized Technical Institute has to strictly observe and adhere at any time to the defined conditions as per this section 7.3. as well as to the "Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices".

7.3.6 The authorized Technical Institute is bound

- 7.3.6.1 to inform the Proprietor at an early stage about any changes regarding the circumstances, facts, persons and functions stated under 7.3.2.1.
- 7.3.6.2 to refrain from becoming active on the market with competing markings or tests regarding the quality of smoke alarm devices regarding the EU certification mark according to the Trademark Regulations which are based on rules identical or essentially of the same contents stated in the Trademark Regulations and these Supplementary Provisions and supplementary guidelines for describing quality requirements of smoke alarm devices with regard to their testing.

7.3.7 Granting of rights of access, inspection and information of the trademark owner and the Proprietor

7.3.7.1 The authorized Technical Institute

- a) grants upon request to the trademark owner, to the Proprietor and to third parties authorized and commissioned as well as to persons (experts) access at



normal business hours to the authorized Technical Institute, to the responsible persons named according to No. 7.3.2.1 as well as to relevant testing laboratories.

- b) grants upon request to third parties and persons (experts) commissioned by the trademark owner or the Proprietor access at normal business hours to the authorized Technical Institute and inspection of the testing documents to be established and to be recorded according to No. 11 of the “Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices” in particular in respect of the Q-testing report about progress and result of the test of smoke alarm devices according to the Trademark Regulations and the report about progress and result of the previous performance assessment test as well as the possible correspondence with the client concerning testing procedure and result assessment.
- c) makes available at any time upon request to the trademark owner, the Proprietor or third parties and persons (experts) authorized and commissioned by them all necessary and relevant information and
- d) sends upon their request to the trademark owner, the Proprietor or to third parties authorized and commissioned by them and to persons (experts) duplicates or copies of the relevant documents;

Documents marked by the manufacturer according to No. 7.2.12 are excepted from the inspection right and duty of inspection, duty of disclosure, submission requirements and duty of transmission according to letters c) and d).

The afore-mentioned rights may be exercised only in such a way that competitors of the manufacturer concerned do not get for example by perception of functions at the trademark owner knowledge neither directly nor indirectly about the contents of, nor get access to documents which the manufacturer has submitted to the Technical Institute and the testing laboratory, respectively to which according to letter b) access is granted only to the expert.

According to letter b), the manufacturer concerned is to be informed prior to inspection; he is to be given the opportunity of participating at such an inspection himself or by an authorized representative.

The authorized Technical Institute and the Proprietor for their part will take care that these safeguard provisions are complied with accordingly for the benefit of the manufacturers concerned.

- 7.3.7.2 Inasmuch as the trademark owner wants to exercise access-, inspection and disclosure rights himself or wants to commission third parties or persons (experts) to perceive such rights, the decision has to be made by the management board of the trademark owner. If the trademark owner commissions third parties (experts, the management board of the trademark owner will issue the necessary power of attorneys; the provisions of the Trademark Regulations concerning third parties and persons (experts) authorized and commissioned by the Proprietor, their rights and obligations shall apply *mutatis mutandis*.



- 7.3.7.3 Third parties and persons (experts) authorized and commissioned by the Proprietor have to legitimate themselves towards the authorized Technical Institute. They are only entitled and obliged to disclose relevant information of the certification mark obtained in the execution of an agreement to the trademark owner and his bodies, in particular the Sanctions Committee and the Proprietor as well. In all other respects, to the extent permitted by law, they shall maintain secrecy with regard to all circumstances brought to their knowledge in the matter assigned to them, in particular with regard to foreign business and company secrets for an unlimited period of time, even beyond the duration of the respective assignment and vis-à-vis any person. Third parties and persons authorized and commissioned by the trademark owner or the Proprietor shall be obliged to comply with these obligations and the protective obligations according to No. 7.3.7.1 by means of a written contract.
- 7.3.7.4. The parties or persons (experts) commissioned with the inspection of the authorized Technical Institute according to No. 7.3.7.1 and 7.3.7.2 shall each prepare a written report on the course and result of their inspections and send it to the respective Technical Institute and to the client (Proprietor) immediately upon completion of each inspection.
- 7.3.7.5 If the authorized parties or persons (experts) according to No. 7.3.7.1 and 7.3.7.2 detect irregularities in the performance of the tests regulated in the Trademark Regulations by an authorized Technical Institute, the provisions of No. 8.2. will apply.
- 7.3.8 Authorization of the Technical Institute for technical advisory services with regard to quality tests of smoke alarm devices.
- 7.3.8.1 The authorization of a Technical Institute for testing and certification of smoke alarm devices according to the Trademark Regulations fundamentally includes also technical advisory services with regard to quality tests of smoke alarm devices according to the Trademark Regulations.
- 7.3.8.2 When rendering advisory services with regard to quality tests of smoke alarm devices, the Technical Institute is obliged to fathom issues and interests on part of those seeking advice with regard to product tests concerned in such a comprehensive way that also such thematically relevant issues are dealt with, the relevance of which may, however, be not clear to the person seeking advice, but will be, when approached meticulously, understood by the expert from the course of the conversation or its context. The person seeking advice shall be fully informed of any aspects of the consulting topics which in the opinion of a person skilled in the art approaching the matter meticulously are or may become relevant in such a way as to enable the person seeking advice to take a competent and economically reasonable decision by his own. The actual and recognizable, otherwise the presumed interest of the person seeking advice always has precedence over the self-interest of the authorized Technical Institute when providing advisory services with regard to quality tests of smoke alarm devices.



7.3.8.3 Course and content of the consultation as well as the names of persons involved on part of the person seeking advice and the authorized Technical Institute shall be documented in such a way that an external third party can subsequently identify the persons involved and understand the course and the essential content of the consultation, the topics addressed by the person seeking advice, additional topics addressed by the consultant as well as analyses, advice and recommendations given. The documentation on such advisory services provided by the authorized Technical Institute shall be kept at least until the end of the fifth full calendar year after the end of the consultancy.

7.3.8.4 As to testing – and inspection rights as well as information obligations regarding such advisory services No. 7.3.7 will apply accordingly.

7.3.9 Register of authorized Technical Institutes

7.3.9.1 For the purpose of the Trademark Regulations the Proprietor will establish a register of the Technical Institutes authorized by him, in which data and documents stated under 7.3.2 as well as all other relevant data with regard to the Trademark Regulations and the fulfillment of rights and obligations resulting thereof will have to be recorded; this register can be established completely or partly electronically and/or partly in a documentary way.

7.3.9.2 To facilitate the research and selection of authorized Technical Institutes to manufacturers interested in the acquisition of the right to use the EU certification mark, the Proprietor will make publicly available a list of authorized Technical Institutes according to sentence 1 and the web-address of the internet homepage according to No. 7.1.7.1 letters a), b) and e).

7.3.9.3 Entry of an authorized Technical Institute into the register according to No. 7.3.9.1 will not be deleted immediately after termination of an authorization agreement but continued and if necessary also up-dated as long as products are still available on the market or are used by customers and users, respectively and for this reason inquiries regarding the legitimacy to use the EU certification mark or complaints about the product are to be expected whose labelling with the EU certification mark is based on the Q-certificate of the respective authorized Technical Institute.

7.3.9.4 Public access to the entry about an authorized Technical Institute will be terminated immediately after termination of the pertaining authorization agreement.

7.3.10 Authorization of Technical Institutes for a trial phase

7.3.10.1 The contract for an authorization as a Technical Institute for a trial phase in accordance with No. 7.3.1 paragraph (3) entitles and obliges the Technical Institute concerned to initially contract and perform the quality testing and evaluation procedure in accordance with No. 7.2 of the Trademark Regulations, these Supplementary Provisions and the supplementary guidelines for one smoke alarm device only. However, the Technical Institute



being in the trial phase may only issue a "Q-Certificate" for this smoke alarm device in accordance with Nos. 8 to 10 of the "Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices" if

the test results established by the Technical Institute being in the trial phase

- with regard to the tested smoke alarm devices and their evaluation have been verified and no objections have been raised, and
- the Technical Institute being in the trial phase has been successfully audited by an authorized expert appointed by the Proprietor with regard to compliance with the rules of the Trademark Regulations, these Supplementary Provisions, the Technical Guideline for the quality test of smoke alarm devices and the "Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality test of smoke alarm devices".

7.3.10.2 If the Technical Institute being in the trial phase is of the opinion after having carried out the prescribed tests and assessments that the smoke alarm device tested and assessed by it meets the requirements of the Trademark Regulations, these Supplementary Provisions and the "Technical Guideline for the Quality Test of Smoke Detectors", it shall immediately inform the Proprietor thereof, stating the name of the client and the identification data of the smoke alarm device concerned.

The Proprietor shall immediately name an expert authorized and commissioned by him in accordance with No. 7.5.1 to the Technical Institute being in the trial phase, to whom the Technical Institute being in the trial phase shall immediately send at least five original test pieces and complete copies of the test reports of the testing laboratory and its own assessments of these test results. In addition, it shall confirm in writing to the authorized expert that, at his request, it will not only grant him access to its own premises and to its own employees who are commissioned and involved in the processing of the quality tests, but that it will grant or enable access to the testing laboratory that has become active and to the persons involved there in the tests as well as to the testing facilities which were used.

A commissioned "authorized expert" shall also be deemed to be an authorized body commissioned by the Proprietor in accordance with No. 7.5.1.

7.3.10.3 The expert shall arrange for the re-testing of the test pieces provided to him by an authorized Technical Institute regarding the compliance with the requirements of the Trademark Regulations, these Supplementary Provisions and the "Technical guideline for the quality test of smoke alarm devices". The expert provides to the Technical Institute authorized and commissioned by him only the original test pieces made available to him, but not the test reports and assessments made available to him by the Technical Institute being in the trial phase, which he will treat confidentially vis-à-vis the Technical Institute



authorized and commissioned by him, so as not to influence the independency of the re-testing arranged by him.

7.3.10.4 In addition, the expert shall be responsible for auditing the Technical Institute being in the trial phase in parallel with the re-testing of the smoke alarm devices in order to ensure compliance with the procedures prescribed in the Trademark Regulations, these Supplementary Provisions, the "Technical guideline for the quality test of smoke alarm devices" and the "Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices". As a rule, the expert shall extend the audit to the testing laboratory that worked for the Technical Institute being in the trial phase; however, it is within his dutiful discretion to assess whether this can be dispensed with in individual cases. No. 7.5.2 sentences 1 and 2 of these Supplementary Provisions shall apply accordingly.

7.3.10.5 The authorized Technical Institute commissioned with the re-testing of the test pieces shall prepare a written test report on the basis of its own test results and based on this, its own final written assessment as to whether it would issue a "Q-Certificate" for the re-tested smoke alarm devices assuming they came from its own initial testing. Complaints about the smoke alarm devices that arise during the re-testing according to No. 7.3.10.3 shall be described or justified in writing and in such detail that they can be easily understood by experts in the field of smoke alarm detector technology.

Within the scope of the re-testing the authorized Technical Institute is not allowed to issue its own "Q-certificate".

The authorized Technical Institute commissioned by the expert to carry out the re-testing shall send its final assessment and any objections found, together with a complete copy of the test report, to the expert in writing immediately upon completion.

7.3.10.6 The expert shall summarize the result of the re-testing of the smoke alarm devices communicated to him in accordance with No. 7.3.10.5 and the result of his audit of the procedures at the Technical Institute being in the trial phase and, if applicable, also at the testing laboratory which was active, in a separate report, together with a recommendation derived from these partial results to the Proprietor to grant the final authorization of the Technical Institute being in the trial phase or, in any case, not to grant it at present.

The expert shall send his report and recommendation together with complete copies of the test reports, assessments and objections from the retesting and the auditing in parallel both to the Technical Institute being in the trial phase and to the Proprietor.

7.3.10.7 After receipt of the report of the authorized expert commissioned, the Proprietor shall set a period of time in text form to the Technical Institute being in the trial phase within which it may comment on the expert's report in text form.

7.3.10.8 After expiry of the deadline, the Proprietor decides on the final authorization of the Technical Institute being in the trial phase, taking into account the expert's



report, the incorporated results of the re-testing and of the auditing, as well as any comments made. The rejection decision will be sent with proof of receipt. If no final authorization is received, the trial phase ends without further ado upon receipt of the Proprietor's negative decision at the Technical Institute. The institute concerned may submit a new application for a trial authorization at the earliest three years after receipt of the negative decision.

7.3.10.9 If the authorized Technical Institute commissioned with the re-testing of smoke alarm devices raises objections in accordance with No. 7.3.10.3 during the re-testing, the Proprietor shall send the manufacturer of these smoke alarm devices complete copies of the test reports, evaluations and objections from the re-testing (No. 7.3.10.5 para. 3).

7.3.10.10 If the re-testing of the smoke alarm devices and/or the auditing of the Technical Institute being in the trial phase and, if applicable, of the testing laboratory do not give rise to any objections, so that the Technical Institute is granted final authorization, the Proprietor shall bear the costs incurred in this respect.

If, on the other hand, objections arise in this respect, so that the Technical Institute being in the trial phase is refused final authorization and the contract for trial authorization is terminated, the Technical Institute shall bear the costs incurred for the procedure described in this No. 7.3.10, which the Proprietor shall charge to it. The contract for the preliminary authorization provides for a corresponding obligation of the Institute to reimburse these costs to the Proprietor. In order to secure this payment obligation, the Proprietor shall agree in the contract for the preliminary authorization to provide for sufficient guarantees.

7.3.11 Analogous application of general rules

Supplementary the provisions of Sections 7.1.4, 7.1.5, 7.1.6, 7.1.8, 7.1.9, 7.1.10, 7.1.11 and 7.1.13 applying to the grant of the right of use and the contracts governing the grant of the right of use will apply accordingly to the authorization of Technical Institutes as well as to the authorization contracts concluded with them.



Section E

Supplementary Provisions regarding No. 7.4. of the Trademark Regulations

Execution of regular Repeat Tests on Smoke Alarm Devices as well as Re-Testing

7.4.5 In order to carry out the repeat tests in accordance with No. 7.4 of the Trademark Regulations, the authorized Technical Institute must take 5 work pieces each from the production. The authorized Technical Institute is obliged to ensure, as far as possible and reasonable, that the manufacturer has no influence on the selection of the individual work pieces to be tested for the respective product.

7.4.6 Insofar as the Proprietor himself removes 5 work pieces of a smoke alarm device marked with the EU certification mark from the market for monitoring purposes, these are to be sent to the authorized Technical Institute for the respective next regular test according to No. 7.4.8, which takes place in accordance with the contract agreed between the respective manufacturer and the authorized Technical Institute, with the effect that these 5 work pieces take the place of the work pieces otherwise to be removed from production by the authorized Technical Institute for the same test.

The contracts to be concluded between the Proprietor and the manufacturer on the one hand, the authorized Technical Institute on the other hand and, furthermore, between the manufacturer and the authorized Technical Institute shall regulate the details necessary for the implementation and applicability of the Proprietor's authority regulated above.

7.4.7 During the regular repeat tests in accordance with Nos. 7.2.5 and 7.4, the authorized Technical Institute shall test a total of 3 criteria, including always the functionality of the smoke sensor system (No. 4.9.1 of the "Technical Guideline for the Quality Test of Smoke Alarm Devices") and the control of the alarm for function (No. 4.9.2 of the "Technical Guideline for the Quality Test of Smoke Alarm Devices"). The authorized Technical Institute and the manufacturer are free to choose the third technical element to be tested from the other technical elements according to the "Technical Guideline for the Quality Test of Smoke Alarm Devices"; this element must not be identical to the two elements mentioned above.

The third technical element to be tested shall be agreed in writing in the contract concluded between the authorized Technical Institute and the manufacturer regarding regular inspection. They may agree that this third element shall change annually or at intervals, or that the choice of the third technical element to be tested shall be left to the discretion of the authorized Technical Institute commissioned; the latter shall also apply if no agreement has been made between the manufacturer and the Technical Institute in this respect.

7.4.8 If the regular repeat testing of a product shows that one or more of the tested work pieces does not comply or do not completely comply with the requirements



according to No. 7.2 and the "Technical Guideline for the Quality Test of Smoke Alarm Devices" or the authorized Technical Institute shall promptly inform both the manufacturer (customer) and the Proprietor in writing or in text form of the ascertained facts, with all the details necessary for technical verification, and shall set the manufacturer (customer) a period of time for the manufacturer (customer) to comment and to take the measures envisaged by the manufacturer to remedy the situation; this period of time shall be reasonable, but shall not exceed three months.

- 7.4.9 If the manufacturer has notified the Technical Institute that the defect and its cause have been rectified, or otherwise, without such notification, after the 3-month period has expired, the Technical Institute shall take a new sample of 5 work pieces and test them against the same three technical quality criteria in accordance with No. 7.4.7 as in the previous regular repeat tests. In order to confirm the quality criteria according to No. 7.2 and the "Technical Guideline for the Quality Test of Smoke Alarms" in the case of such a re-test, all work pieces of the new sample drawn for the re-testing must fully comply with all three tested quality criteria. If this is not the case, the authorized Technical Institute may not issue the confirmation to the manufacturer. In this case, the authorized Technical Institute shall immediately inform the manufacturer and the Proprietor with all the details necessary for technical verification.



Section F

Supplementary Provisions regarding No. 7.5. of the Trademark Regulations

Monitoring of the authorized Technical Institutes during product testing of smoke alarm devices and in advising manufacturers

7.5.1 The monitoring of the authorized Technical Institutes is carried out by bodies or persons (experts) commissioned or to be commissioned by the Proprietor. For their part, these bodies or persons require explicit authorization from the trademark owner prior to commissioning them by the Proprietor.

7.5.2 The bodies or persons responsible for the inspection of the authorized Technical Institutes must prepare a written report on the course and result of their inspections and send it to the respective authorized Technical Institute and the Proprietor immediately after completion of each inspection.

In case the report contains criticism of the practice of the authorized Technical Institute with regard to handling its obligations according to the Trademark Regulations and these Supplementary Provisions and/or supplementary Guidelines the authorized Technical Institute must be given the opportunity to make comments in writing within an appropriate time; the time limit for the comment will be defined by the Proprietor.

The Proprietor is entitled and obliged to impose conditions on the authorized Technical Institute in writing with regard to the procedures to be observed by it to prevent repetitions of deficiencies objected or to avoid their continuation; if necessary the Proprietor has to stipulate the way and extent of these conditions with the trademark owner.

7.5.3.1 If bodies or persons (experts) commissioned discover irregularities with a testing laboratory when carrying out the tests regulated in the Trademark Regulations and the "Technical Guideline for the Quality Test of Smoke Alarm Devices" and the "Guideline regarding the procedure to be followed by authorized Technical Institutes for the acceptance and execution of orders for quality testing of smoke alarm devices" which objectively justify the suspicion that its testing and evaluation practice with one or several certain smoke alarm devices do not or do not completely comply with the requirements and obligations with the consequence that the noted deficiencies of the testing process, the testing results and their assessment may have led to the fact that with a certain probability one or several Q-certificate/s was/were issued for certain smoke alarm devices by the authorized Technical Institute although the testing deficiencies should have become obvious to the authorized Technical Institute when proceeding correctly and the actually granted certificates should not have been allowed to be issued, the third body or the person (expert) commissioned may request that such tests of certain smoke



alarm devices partly or as a whole are repeated under their supervision at the same authorized Technical Institute or testing laboratory (re-testing).

- 7.5.3.2 If the testing laboratory is not part of the same legal entity as the responsible authorized Technical Institute, the authorized Technical Institute has to ensure that the responsible testing laboratory immediately carries out the ordered re-testing in the third bodies or the person's (expert) presence.
- 7.5.3.3 The request for execution of such re-testing may verbally be put forward initially in an informal way during the control or during the concluding discussion by the commissioned body or person (expert), however, it must be made in any case subsequently after termination of the control in writing and with exact reasoning towards the pertaining authorized Technical Institute as well as towards any manufacturer concerned; the request may be contained in the report. Unless it is not directly handed over in hard copy the report is to be sent to the client electronically. The Proprietor will at the same receive a copy of the report and of the information stating explicitly the request to repeat one or several product tests of certain smoke alarm devices.
- 7.5.3.4 Such re-testing is each to be restricted to those performance characteristics of a smoke alarm device according to the "Technical Guideline for the Quality Test of Smoke Alarm Devices" regarding type and extent of the relevant deficiencies noted during execution of the tests. In case of procedural irregularities or other faults which do not have direct influence on the result of the technical test of a smoke alarm device according to the Trademark Regulations and "Technical Guideline for the Quality Test of Smoke Alarm Devices", it is not allowed to request or order a re-test. Apart from that, the third parties or persons (experts) commissioned are obliged when determining the type and extent of the re-testing to choose that which is absolutely necessary to establish correct conditions for granting the right to use the EU certification mark, on the other hand, however, at the same time which is sufficient and connected with the lowest costs and disadvantages (prohibition of excessiveness) for all parties concerned including Proprietor and trademark owner.
- 7.5.4 The request for a re-test is made by the commissioned body or person (expert) to the relevant authorized Technical Institute and to each relevant manufacturer, in the name of the Proprietor. The authorized Technical Institute concerned and each manufacturer concerned whose Q-Certificate is contested shall have the opportunity, to make a statement in writing or in text form to the commissioned body or person (expert) and to the Proprietor within two weeks of receipt of the request.
- 7.5.5.1 The Proprietor is entitled to change the request of the commissioned body or person (expert) for execution of a re-testing vis-à-vis the respective Technical



Institute and each manufacturer concerned by written notification or in text form to all parties concerned. Such a change can only be ordered within one month of receipt of the report from which the request of the commissioned bodies or person (expert) is derived, vis-à-vis the manufacturer concerned and the authorized Technical Institute concerned.

- 7.5.5.2 If the Proprietor does not cancel the request of the commissioned body or person (expert) for execution of a re-testing in accordance with No. 7.5.3 within the one-month period, the authorized Technical Institute concerned shall be obliged to carry out the re-testing without delay after expiry of this one-month period. It shall agree the date and, if necessary, further details with the commissioned body or person (expert) who requested the re-testing test and shall carry out the re-testing with their participation and under their supervision or have it carried out by the responsible testing laboratory. With regard to the procurement of work pieces of the smoke alarm device concerned for the performance of the re-testing, the provisions of No. 7.4.5 shall apply accordingly.
- 7.5.6 If a requested or ordered re-testing according to paragraphs 7.5.3. to 7.5. 5 shows that the Q-Certificate which has been reviewed should not have been issued or should not have been issued with the technical performance data entered therein, the authorized Technical Institute which issued the reviewed Q-Certificate shall bear the costs of the re-testing, including the costs which the Proprietor has incurred for the commissioned bodies or persons (experts) for the respective re-testing by the Technical Institute; if errors and irregularities have occurred which have had the same effect on several Q-Certificates, these costs of the Proprietor shall be divided up accordingly, if necessary.
- 7.5.7 If a re-testing requested or ordered in accordance with Nos. 7.5.3 to 7.5.5 does not result in any objections to the reviewed Q-Certificate, the costs of the re-test, including the costs incurred to the Proprietor for the commissioned body or person (expert) who has in each case become active, shall be borne by the Proprietor vis-à-vis the named parties; a settlement in the internal relationship with the trademark owner shall be regulated by the contract to be concluded between the two parties.
- 7.5.8 If and to what extent in cases dealt with in No. 7.5 cost reimbursements will be made between the authorized Technical Institute on the one hand and the manufacturer of the smoke alarm device concerned on the other hand in particular if the certificate issued for him according to No. 8.5 of the granted right to use the EU certification mark in connection with 7.5.3 of the Supplementary Provisions was declared invalid or was withdrawn, because it proves or has proven not to be correct as to the contents remains reserved to the agreements firstly between the Proprietor and the authorized Technical Institute secondly to the pertaining manufacturer of the smoke alarm device and thirdly to the contract between the authorized Technical Institute and the pertaining manufacturer of the smoke alarm device .



7.5.9 The monitoring of the advisory activities of the authorized Technical Institutes towards the manufacturers of smoke alarm devices with regard to the quality requirements according to the Trademark Regulations shall be performed by submitting the advisory documentation prepared in accordance with No. 7.3.8.3 to the expert authorized in accordance with No. 7.5.1, taking into account No. 7.3.8.4.



Section G

Supplementary Provisions regarding No. 7.6. of the Trademark Regulations

Complaints

Unless the necessary facts are already directly apparent from the respective complaint, the Proprietor will at first attempt to clarify the facts of the case and, upon or after sufficient clarification of the facts, will forward the respective complaint to the affected party for comment. The authorized user or the authorized Technical Institute concerned are obliged to comment on the content of the complaint transmitted to the Proprietor in writing or in text form within one month of receipt at the latest. The opinion shall be forwarded to the complainant.

The Proprietor will decide whether he wishes to take further measures which the trademark regulation provides for or whether he considers the appeal to be settled; he also decides whether the trademark owner should be informed.



Section H

Supplementary Provisions regarding No. 8 of the Trademark Regulations

Sanctions

- 8.3.1 The authorized user concerned shall be informed in writing, against proof of receipt, of the content of the allegation against him and shall be given the opportunity to make a written statement within a reasonable period, which shall be at least three weeks from receipt and shall be extended upon reasoned request.
- 8.3.2 The Proprietor, otherwise the board of the trademark owner, must endeavor to clarify the facts of the case as accurately as possible. Incriminating and exonerating evidence which is presented or transmitted voluntarily to the Proprietor or the trademark owner, has to be used; witnesses who voluntarily appear and testify may also be questioned.
- 8.3.3 If a situation has been sufficiently clarified and a violation of the Trademark Regulations, these Supplementary Provisions and/or the supplementary guidelines by an authorized user is confirmed, No. 8.2 will apply.

With regard to 8.5. sanctions without prior warning notice

- 8.5.1 If it is noted by a re-test in the scope of regular repeat tests of smoke alarm devices according to No. 7.4.1 that not all tested work pieces according to No. 7.4.9 of a smoke alarm device fully comply with the three performance criteria required, the Proprietor is obliged to give to the manufacturer concerned the opportunity of voluntarily waiving the use of the right to use the trademark concerned within a week prior to revoking the trademark utilization right granted to him for the smoke alarm device concerned with immediate effect. The revocation can be made informally in advance in text format, however, must be issued in writing to become effective. This revocation becomes effective as of receipt at the addressee. The revocation is only effective for the future.
- 8.5.2 If by checking of an authorized Technical Institute according 7.5.3.it is noted that a Q-certificate issued for a smoke alarm device by this authorized Technical Institute should not have been issued or not have been issued with the same contents, the Q-certificate concerned has to be immediately declared invalid by the Proprietor, unless the authorized Technical Institute has not already previously withdrawn itself the Q-certificate towards that manufacturer to whom it has previously issued the Q-certificate for his smoke alarm device.

Revocation of a Q-certificate by the issuing authorized Technical Institute has to be made in writing and has to be delivered to the pertaining manufacturer against proof and has to be transmitted at the same time to the Proprietor for attention.

The annulment of a Q-certificate by the Proprietor has to be each delivered to the manufacturer concerned and to the authorized Technical Institute as well, always against proof of receipt.



In both cases the Q-certificate concerned has to be made illegible or to be deleted in the publicly visible database.

If a Q-certificate is declared invalid or is withdrawn, the right to use the EU certification mark expires upon receipt of the corresponding notification at the manufacturer.

8.5.3 The sanctioning of an infringement of the Trademark Regulations, these Supplementary Provisions and/or the supplementary guidelines in accordance with the provisions of No. 8.5.1 and No. 8.5.2 shall not prevent the imposition of a further sanction, even one that goes beyond the provisions of No. 8.8.4 and No. 8.8.5.

With regard to 8.6.

The appeal must be made in writing. It shall be addressed to the Chairman of the Sanctions Committee and shall, together with the written statement of grounds, specify all evidence required in support of the appeal and, if necessary, be accompanied by such evidence. The appeal shall be lodged within one month of receipt of a decision pursuant to points 8.2, 8.4, 8.5.1 or 8.5.2. An appeal lodged too late or against formal requirements is not admissible

With regard to 8.7

Establishment of the Sanctions Committee and the procedure before it.

8.7.1 The Sanctions Committee will consist of at least three persons, at most of seven persons who have sufficient command of the German language.

8.7.2 The members of the Sanctions Committee will be each elected for 3 years. Re-election is admissible. The trademark owner will immediately conclude an agreement in writing with every member of the Sanctions Committee upon his election in case of No. 8.7.6 and 8.7.7 sentence 2– about his activity and the remuneration possibly to be paid. In case the member of the Sanctions Committee is representative or employee of a member company of the trademark owner, the applicable law of the country where the trademark owner has his place of business is to be taken into account by him; in particular, in such cases only those remunerations of proven expenses for travelling costs to meetings and consultations of the Sanctions Committee may be paid for cooperation in the Sanctions Committee..

8.7.3 A person may only be appointed Chairman of the Sanctions Committee who has the qualification to be a German judge and who is not a member of the staff or a functionary of a member company of the trademark owner or the Proprietor. If a representative is appointed in advance for the chairmanship of the Sanctions Committee, the requirements and pre-requisites for the chairmanship shall apply in the same way for an appointment to this position. The condition in sentence 1 will apply mutatis mutandis for exercising the office of the Chairman of the Sanctions Committee during the entire term of office.

8.7.4 The trade mark owner shall ensure that the other members of the Sanctions Committee (assessors) and their personal representatives are selected in such a way that sufficient practical knowledge and experience of market practice is represented in the Sanctions Committee.



- 8.7.5 Election as a member of the Sanctions Committee is in person. Representation is only permissible in such a way that the elected personal representative, in the case of No.8.7.7 sentence 2 the elected personal representative takes over permanently the handling of a certain matter and continues his work until a decision is made or until his own permanent termination of his activity in the Sanctions Committee.
- 8.7.6 If the Chairman is prevented from exercising his duties in a proceeding, provided no representative has been elected in advance, the President of the locally competent Higher Regional Court for the seat of the trademark owner shall be appointed to designate a suitable representative.
- 8.7.7 For the other members of the Sanctions Committee, a personal representative will be elected at the same time as the members are elected, who shall replace the represented member in a procedure if the represented member is not only temporarily prevented from exercising his duties. If the personal representative is also out, the managing board of the trademark owner must immediately appoint a suitable further representative; his term of office ends with the completion of the procedure in which he is appointed by the managing board.
- 8.7.8 The members of the Sanctions Committee will be independent of instructions from third parties, including those of the trademark owner and his bodies, as well as of the Proprietor. In their activity, the members of the Sanctions Committee are solely obliged to protect the trademark, the Trademark Regulations, these Supplementary Provisions and the supplementary Guidelines and moreover they are bound by law and order.
- 8.7.9 Unless the Proprietor has not already done so, the Sanctions Committee shall itself endeavor to clarify the facts of the case as accurately as possible. The Sanctions Committee may use evidence which is voluntarily submitted or forwarded to it; it may hear witnesses who voluntarily appear before it and testify. If not yet done so by the Proprietor before or if the facts relevant to the decision have subsequently changed, the Sanctions Committee shall give the authorized user concerned sufficient opportunity to comment within a period to be determined by the Sanctions Committee. The statement can be made in writing or in text form but is only effective if it shows the responsible author with full name and function beyond doubt.
- The Proprietor and the trademark owner as well shall also to be heard during the proceedings.
- 8.7.10 In the Sanctions Committee, only those persons may participate in debates and decisions on an individual matter where no reservations exist regarding a possible bias with regard to the individual matter being discussed or to be decided. The members of the Sanctions Committee shall be obliged to examine at any time and under their own responsibility any concerns regarding their personal impartiality at the beginning and during the handling and handling of any matter and to inform the other members of the Sanctions Committee immediately and completely of any indications of such concerns. The person concerned in a case may at any time assert the objection of bias against individual members of the Sanctions Committee, which must be justified, in writing or be stated in the protocol. A general rejection of the Sanctions



Committee as such is not admissible. The Sanctions Committee shall decide on the exclusion of a member from participation in the processing and decision of a case by a decision of its other members, which is to be justified, communicated to the parties involved in the proceedings and shall be filed. In case all members of the Sanctions Committee are simultaneously rejected due to bias, the examination of the justification of the objection shall be incumbent on the managing board of the trademark owner.

- 8.7.11 Apart from that, the Sanctions Committee shall proceed according to its reasonable discretion. In so doing, it shall follow the provisions of the German Code of Civil Procedure as far as this is objectively possible.
- 8.7.12 The Sanctions Committee shall decide by a simple majority of its members called upon to take a decision which is to be made in writing. The decision shall be reasoned when it terminates the proceedings, in particular when a sanction is imposed on the authorized user concerned or when the imposition of a sanction is confirmed or a sanction imposed is amended or revoked. In addition, decisions may be substantiated. Decisions of a procedural nature may be issued by the chairman only and do not have to be substantiated.
- 8.7.13 The members of the Sanctions Committee involved in any proceedings. shall be obliged to maintain secrecy about the content and course of their deliberations vis-à-vis all persons at all times. They shall sign the original of the decision. The original of the decision shall remain in the case file of the Sanctions Committee.
- 8.7.14 A copy of each decision shall be sent to the authorized user concerned. If the decision imposes a sanction on the authorized user concerned, the decision, together with proof of receipt, shall be sent to that authorized user.
- 8.7.15 If necessary, the trademark owner shall set up an office for the Sanctions Committee which may not be located with the Proprietor. The office – in lack of such a one, the Chairman shall maintain the case files and the business dealings with the Sanctions Committee, including the organizational preparation and follow-up of meetings, deliberations and decisions of the Sanctions Committee.
- 8.7.16 Recovery of costs and reimbursement of costs in proceedings before the Sanctions Committee
 - a. In so far as the appellant is unsuccessful in the proceedings before the Sanctions Committee with his application, the Sanctions Committee's decision concluding the proceedings shall at the same time order him to pay the costs of the proceedings in proportion to the extent of his unsuccessfulness in favor of the trademark owner (order to pay the costs).
 - b. A separate decision shall be taken by the Chairman of the Sanctions Committee on the amount of the costs to be reimbursed on the basis of the costs claimed by the parties and the witnesses.
 - c. The costs to be considered include
 - the costs relating to the respective proceedings incurred to the members of the Sanctions Committee in accordance with their agreements with the trademark owner



- necessary costs and expenses of the trademark owner and the Proprietor relevant to the proceedings as well as the costs incurred by and claimed by the witnesses and experts summoned or heard during the proceedings of the Sanctions Committee.
- d. Costs and expenses of an authorized representative or adviser as well as other costs for representing or advising the appellant shall always be borne by the represented party, irrespective of the outcome of the proceedings.
- e. If the Sanctions Committee appoints third parties because of the special importance of the proceedings or at the request of the appellant or the Proprietor, the co-summoned persons shall bear their own costs incurred in this respect.
- f. Otherwise, the principles developed under § 91 of the German Code of Civil Procedure shall apply mutatis mutandis.

8.7.17 The Sanctions Committee's proceeding files have to be retained at least for 10 years by the trademark owner. The time limit is calculated as of the end of that year in which the proceedings were legally closed.

8.8.1 The authorized user concerned may have represented himself and accompanied by an accredited lawyer in any situation of the proceedings vis-à-vis the Proprietor, the trademark owner and in proceedings before the Sanctions Committee.

8.8.2 The proceedings at the Proprietor, the trademark owner and before the Sanctions Committee will be in German language. If participants have no command or no sufficient command of the German language, they may make use of an interpreter at their own cost and also bring such a person to an oral hearing before the Sanctions Committee.

8.8.3 Documents relevant to the decision which are available to the Proprietor from the procedure for granting the right to use the EU certification mark and which are not written in German shall only be translated into German if this is deemed necessary in each case. Additional documents the authorized user concerned intends to submit for a procedure must be submitted by him in the original and with German translation.

8.8.4 Several of the abovementioned sanctions may be imposed simultaneously. Several sanctions may also be imposed in such a way that a further sanction becomes effective only after expiry of a previously imposed sanction, e.g. in the event that a fine imposed under (a) is not paid in time and/or in full.

8.9 The appeal to the State Court shall be admissible only after the proceedings before the Sanctions Committee have been concluded by a final judgment.

8.10 The Proprietor shall be responsible for any judicial enforcement and enforcement of a sanction pursuant to points 8.2, 8.4, 8.5.1, 8.5.2, 8.8 and 8.8.4 as well as for any defense against attacks before the State Court.



8.11 Application of the sanction regulations to authorized Technical Institutes

The regulations on sanctions according to No. 8 of the Trademark Regulations do neither apply directly nor mutatis mutandis to authorized Technical Institutes.

8.12 In sanction proceedings, the Proprietor as well as the authorized user or other parties involved, with the exception of the members of the Sanctions Committee, may at any time obtain the assistance of a lawyer authorized in Germany to represent them, who must have a command of the German language. Such legal assistance does not release the party from the obligation to appear in person if such assistance was ordered in the proceedings before the Sanctions Committee.

Editorial status: March 31, 2021/ Decision of the Forum Brandrauchprävention of April 27, 2021.

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