IPOS
INTELLECTUAL PROPERTY
OFFICE OF SINGAPORE



GEOGRAPHICAL INDICATIONS

INFOPACK



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1. INTRODUCTION AND FUNDAMENTALS

Intellectual Property ("IP") refers to products of the mind or intellect. IP can be an invention or innovation, special names and images used in trade, original designs or an expression of an idea. In Singapore, laws exist to protect such IP. An IP may be registered via processes such as patent grants for inventions, trade mark registration for signs indicating trade origin, geographical indication registration for signs that identify goods with particular characteristics linked to the geographical origin, industrial design registration for designs applied to articles, and grants of protection for plant varieties. Other forms of IP, such as copyright, confidential information and trade secrets, and layout-designs of integrated circuits, may be protected even though there is no registration process for these IP.

1.1 Introduction to Geographical Indications

A geographical indication ("GI") is a sign used to identify a product of a particular quality, reputation or other characteristic which is attributable to its geographical origin. There may be two or more variants[1] constituting the same GI. A GI, and each variant constituting the GI (if any), may contain two or more words.

The products identified by GIs are typically foodstuff, beverages and agricultural products. A GI usually consists of or contains the place of origin of the product. Well-known GIs include Champagne (from the Champagne region of France) and Scotch Whisky (from Scotland).

1.2 Legislation Governing Geographical Indications

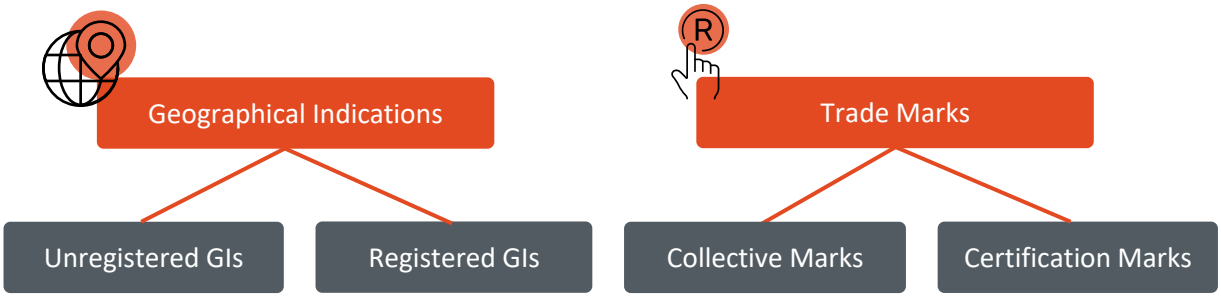
The Geographical Indications Act 2014 ("GI Act") and its subsidiary legislation, the Geographical Indications Rules 2019, form the legislation governing geographical indications in Singapore.

>> The legislation can be viewed online at https://sso.agc.gov.sg.

[1] "variant", in relation to a GI, means a variant of the indication constituting the GI, and includes any translation, transliteration or other variation of the indication.

1.3 Protection of Geographical Indications in Singapore

GIs may be protected in various ways:



Unregistered Geographical Indications

An unregistered GI enjoys protection in accordance with the standards in World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS"):

- All GI products enjoy a basic level of protection where GI labels cannot be used on products which do not come from the place indicated by the GI, if this misleads the public as to the true geographical origin of those products.

- For wines and spirits, there is an enhanced level of protection where GI labels cannot be used even if consumers are not misled as to the true geographical origin of the goods in question.

Registered Geographical Indications

A registered GI enjoys enhanced protection where GI labels cannot be used on products which do not come from the place indicated by the GI, even if consumers are not misled as to the true geographical origin of the goods in question. Registered GIs which are not for wines and spirits would thus enjoy the same level of protection for GIs which are for wines and spirits mentioned in the previous section.

Registration will give the holder certainty that a term is recognized as a GI and is therefore entitled to all the protections enjoyed by a GI, without needing to confirm this before the Courts.
In addition, there are better border enforcement measures to protect registered GIs. The producers, traders, or associations of such producers and/or traders of any registered GI may request the Singapore Customs to detain suspected infringing goods that are expected to be imported into or exported out of Singapore.

The enhanced border enforcement measures in the GI Act will be implemented within 3 years of

the entry into force of the European Union-Singapore Free Trade Agreement ("EUSFTA"), in accordance with EUSFTA obligations.

Collective Marks and Certification Marks

GIs may also be registered in Singapore as collective marks or certification marks under the Trade Marks Act.

A collective mark is a sign used to distinguish the goods or services offered by members of an association from those goods or services of those who are non-members. Collective marks are often registered under the name of an association or a company, and they represent membership of the provider of the goods or services to a particular association.

A certification mark is a sign used to distinguish goods or services certified by the proprietor from other non-certified goods or services. A GI may be used as a certification mark to indicate the geographical origin or quality of the goods. However, unlike an ordinary trade mark which is used by the proprietor of the trade mark, a certification mark cannot be used by its proprietor as the proprietor is the certifying body. Only parties authorised by the proprietor may use the certification mark.

>> More information on collective marks and certification marks can be found in the relevant chapters listed under Trade Marks Work Manual at https://www.ipos.gov.sg/about-ip/trade-marks/managing-trade-marks/guides.

1.4 Registering a Geographical Indication

Although it is not compulsory to register a GI in Singapore in order for it to be protected under TRIPS, a registered GI is better protected against infringement action. As such, it also safeguards the interests of consumers by providing greater assurance that the products in the marketplace which are identified by a GI truly carry the characteristics that the GI is known for and which are attributable to its geographical origin.

The protection conferred by a GI registration is for an initial period of 10 years from the date of registration, and the registration can last indefinitely if it is renewed every 10 years.

1.5 When to file

There is no time limit as to when a person may apply to register a GI.

However, it should be noted that to bring an infringement action on the basis of a registered GI is only possible when the GI is registered, as the rights conferred by a GI registration take effect from the date of registration of the GI.

1.6 Entitlement to File Application for Registration

An application for registration of a GI can only be filed by the following persons:

(a) a person who is carrying on an activity as a producer in the geographical area specified in the application with respect to the goods specified in the application;
(b) an association of persons referred to in (a); or
(c) a competent authority having responsibility for the GI for which registration is sought.

There is no restriction as to nationality or country of incorporation of the above persons. However, the applicant must provide an address for service in Singapore.

1.7 Categories of Goods

An application for registration of a GI may only be sought in respect of goods falling within one or more of the categories of goods set out in the Schedule of the GI Act. The categories of goods are as follows:

1. Wines
2. Spirits
3. Beers
4. Cheese
5. Meat and meat products
6. Seafood
7. Edible oils
8. Non-edible oils
9. Fruits
10. Vegetables
11. Spices and condiments
12. Confectionery and baked goods
13. Flowers and parts of flowers
14. Natural gum

1.8 Making False Representation – A Criminal Offence

It is a criminal offence to falsely represent a GI as registered when it is not registered, or to make a false representation as to the goods for which a GI is registered.

1.9 Homonymous Geographical Indications

A GI that, in part or in whole, has the same spelling as, or sounds the same as, a GI for any goods having a different geographical origin is considered a homonymous GI.

Homonymous GIs often occur when regions in different countries share the same name and produce goods with specific qualities or characteristics essentially attributable to the respective regions.

A hypothetical example could be that there is a territory in Belgium as well as in Canada that is called “Brussels” in both countries. Both territories produce goods that allow “Brussels” to be considered as a GI in the respective territories. To avoid consumer confusion as to the true origin of these goods, the registration of such homonymous GIs may be imposed with certain practical conditions so as to differentiate the GIs.

1.10 Unregistrable Geographical Indications

The following are some examples of GIs that cannot be registered:

Not a "geographical indication"	The indication applied for does not fall within the meaning of "geographical indication": Any indication used in trade to identify goods as originating from a place, provided that — (a) the place is a qualifying country or a region or locality in a qualifying country; and (b) a given quality, reputation or other characteristic of the goods is essentially attributable to that place.
Goods not within prescribed categories	The GI identifies goods that do not fall within the categories of goods set out in the Schedule of the GI Act.
Contrary to public policy or morality	The GI is contrary to public policy or morality.
Not protected in country/ territory of origin	The GI is not or has ceased to be protected in its country or territory of origin.
Identical to common name of goods	The GI is identical to the common name of any goods in Singapore, where registration of the GI is sought in relation to those goods.
Contains name of plant variety or animal breed	The GI contains the name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.
Could be confused with earlier GI	The GI applied for is likely to cause confusion among the public because it is identical with or similar to, and has the same geographical origin as, an earlier GI.

Could be confused with earlier trade mark[2]

The GI is likely to cause confusion among the public because it is identical with or similar to—

(a) a registered trade mark which was applied for or registered in good faith in Singapore before the date of application for registration of the GI in Singapore; and/or

(b) the trade mark has been used in good faith in Singapore in the course of trade before the date of application for registration of the GI in Singapore.

Identical/Similar to well known trade mark[2]

The GI is identical with or similar to a trade mark, where—

(a) the trade mark is, before the date of application of registration of the GI in Singapore, a well known trade mark in Singapore; and

(b) the registration of the GI is liable to mislead consumers as to the true identity of the goods identified by that GI.

[2] The GI may still be registered if the proprietor of the trade mark consents to the registration of the GI.



2.1 Filing the Application for Registration

The following information must be provided in an application for registration of a GI (Form GI1):

(a) the name, address, address for service in Singapore, and nationality of the applicant;

(b) the capacity in which the applicant is applying for registration;

(c) the representation of the GI[3] for which registration is sought;

(d) the geographical area to which the GI applies;

(e) the goods to which the GI applies;

(f) the quality, reputation or other characteristic of the goods and how that quality, reputation or other characteristic is essentially attributable to the place from which the goods originate; and

(g) where the GI for which registration is sought relates to a qualifying country other than Singapore, evidence that the GI has obtained recognition or registration as a GI in the qualifying country of origin.

Where any of the above information (except for (c)) in its native language is not in English, a suitable transliteration in English or an English translation should be provided in Form GI1. If the foreign-language information is provided in a separate document (e.g. document showing the GI registration in the country of origin for (g)), the document must be accompanied by an English translation.

If any of the above information is not furnished or the prescribed fee of Form GI1 is not paid, the form is treated as not filed.

[3] If a person intends for a variant or variants constituting a GI to be registered, the person may include the variant(s) in an application for registration in the same (or a different) application for registration of the GI in question.

Additional information required:

Address for service

An address for service in Singapore must be provided in the application form.

Where there is a change in the address for service, the applicant must file the relevant form to change the address for service appearing in the register.

Transliteration of GI

If the GI contains or consists of word(s) not in Roman characters, the language and transliteration in English of the word(s) must be provided. The Registrar may also require that a supporting document (which can be from a certified translator or translation company, or an extract from a dictionary) be provided to verify the transliteration.

2.2 Searching for Conflicting Rights

Before you apply to register a GI, it is advisable that you search the registers of geographical indications and trade marks to ensure that there is no prior GI or trade mark that is identical with or similar to the GI you intend to register. As explained above, an application for registration of a GI may be refused if it conflicts with an earlier GI or trade mark.

>> The search can be conducted at IPOS Digital Hub https://digitalhub.ipos.gov.sg/.

2.3 Estimated Processing Time

The total processing time from the date on which the application for registration is filed to the registration of the GI is usually about nine months, if the application did not contain any deficiency or face any objection. Otherwise, the total processing time may be longer.

2.4 Forms and Fees

All forms and fees pertaining to the Registry of Geographical Indications are available on IPOS website at https://www.ipos.gov.sg/about-ip/geographical-indications/managing-geographical-indications/forms-fees-for-geographical-indications.

Please note that once a form is filed and processed by IPOS, the fee paid is not refundable regardless of the outcome of the application or request. For example, in the event that an application for registration faces an objection issued by IPOS and the applicant does not wish to continue with the application, the fees paid in connection to the application will not be refunded.

2.5 Submission of Forms and Requests

For more information on payment and application submission methods, please refer to the "Forms & Fees" section at https://www.ipos.gov.sg/about-ip/geographical-indications/managing-geographical-indications/forms-fees-for-geographical-indications.

2.6 Process after Submission of Form GI1

Formalities Check

The Registry of Geographical Indications will conduct a formalities check upon receipt of the application form and the applicable fee. This entails checking that the application meets filing requirements.

>> Please refer to "Filing the application for registration" at page 11 for more information.

If the filing requirements are not met, the applicant will be notified of the deficiencies and will be required to remedy all deficiencies within a deadline. If the applicant fails to do so, the application for registration will not be treated as filed.

When the filing requirements are met, the application will proceed to the examination stage.

Examination

The application will be examined to determine whether the GI is registrable in accordance with the law. This process includes searching the registers of geographical indications and trade marks for earlier GIs and trade marks which conflict with the GI applied for.

>> Please refer to "Unregistrable geographical indications" at page 9 for more information.

If it appears to the examiner that the application should be refused or that additional information/evidence is required to meet registration requirements, the applicant will be notified via an examination report of the objection(s). The applicant has to make representations or comply with the examiner's instructions within a specified period of time. If the applicant failed to do so within the deadline, the application shall be treated as abandoned.

Publication

If the examiner is satisfied that the application met the requirements for registration, the application will be accepted and published in the Geographical Indications Journal. Within six weeks after the date of the publication, any person may oppose the registration of a GI.

>> The latest publications of the Geographical Indications Journal may be downloaded at https://digitalhub.ipos.gov.sg/.

Opposition

Opposition is made by lodging a notice of opposition stating the grounds for the opposition and accompanied by a statutory declaration setting out the evidence in support of the opposition.

Where there are two or more variants constituting the GI, it is possible to oppose only against one or some of the variants. If so, even if the opposition against the specific variant(s) prevail(s), the GI will be registered in relation to the remaining variant(s).

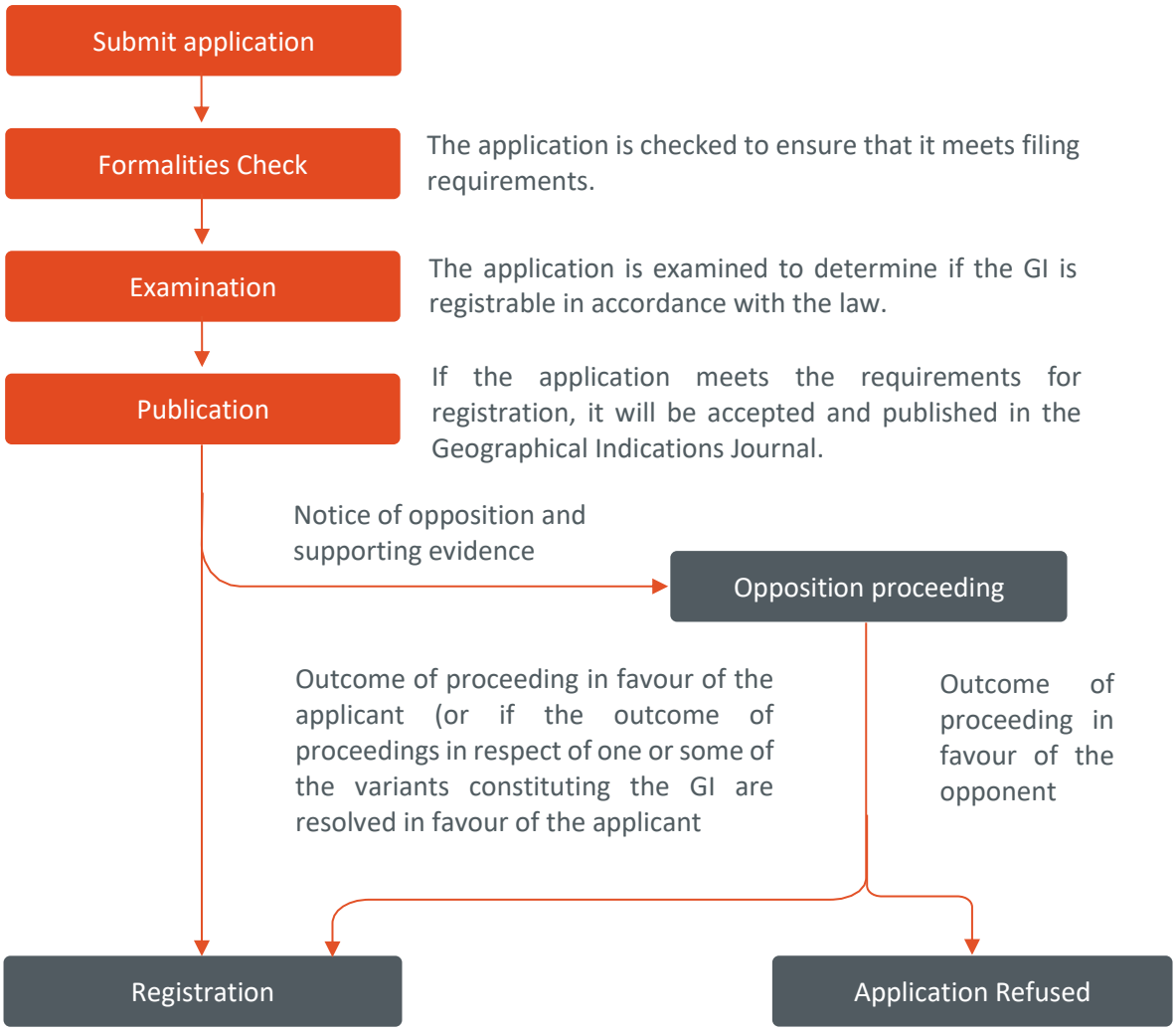
A hearing officer from the Hearings and Mediation Department will hear the case based on the information and evidence presented by both parties and present the decision.

>> More information on GI opposition proceedings can be found at IPOS website https://www.ipos.gov.sg/about-ip/geographical-indications/managing-geographical-indications/resolve-disputes.

Registration

If there is no opposition to the registration of the GI, or the opposition proceedings in respect of the GI, or in respect of one or some of the variants constituting the GI are withdrawn or resolved in favour of the applicant, the GI or the GI in relation to the remaining variant(s) will be registered. A certificate of registration will be issued to the applicant.

2.7 Flowchart of an Application to Register a GI



2.8 Qualification of Rights

The rights of a GI may be qualified in the register in respect of —

(a) any name contained in the GI; or

(b) any term which may be a possible translation of the GI.

A qualification of rights request clarifies the boundary between what is protected by the GI registration and what is available for use by third parties in relation to the GI.

Any person may submit a request for a qualification of rights at any time after the publication of the application for registration of the GI in the Geographical Indications Journal but before the registration of the GI.

The proposed qualification of rights, if accepted by the Registrar, will be published in the Geographical Indications Journal. Interested parties are entitled to challenge the proposed qualification of rights before the Registrar of Geographical Indications. Decisions from the Registrar are appealable to the Courts.



3.1 Renewal of Registration

The registration of a GI can be renewed every 10 years from the date of registration, subject to the payment of the prescribed fee.

3.2 Limitation of Scope

Any post-registration applications for a limitation as to the scope of rights conferred in respect of a registered GI may be filed in and heard by the High Court. The scope of such applications, and the grounds on which such applications can be granted, are set out in section 48A of the GI Act.

3.3 Cancellation

The registration of a GI may be cancelled by

(a) the Registrar upon an application by the registrant; or

(b) the Court or the Registrar upon an application by any other person on any of the following grounds:

(i) the GI was registered in breach of section 41 of the GI Act;

(ii) the registration was obtained fraudulently or by misrepresentation;

(iii) the GI has ceased to be protected in its country or territory of origin;

(iv) there has been a failure to maintain, in Singapore, any commercial activity or interest in relation to the GI, including commercialisation, promotion or market monitoring;

(v) in consequence of a lack of any activity by any interested party of goods identified by the registered GI, the GI has become the common name of those goods in Singapore.

If the application to the Registrar for the cancellation is accepted by the Registrar, the proposed cancellation will be published in the Geographical Indications Journal. Any person who claims the person's interests will be affected by the proposed cancellation may file a notice to challenge the cancellation.

Where there are two or more variants constituting the GI, it is possible to cancel one or some of the variants. In such a scenario, the registration of any other remaining variant(s) constituting the GI is/are not affected.

Any challenge against the proposed cancellation of the variant(s) constituting the GI will be construed accordingly.