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March 2024

Geographical Indications and Appellations of Origin of Goods in the Republic of Kazakhstan



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In August 2022 the Trademarks Law was amended and provisions granting protection to geographical indications were included.

Currently only five geographical indications (GIs) have been registered in Kazakhstan, including “Чача” (Chacha) for Georgia, “Алматинский апорт” (Almaty Aport) for apples and two GIs “TURKISTAN” for chocolate and ice cream, and “Карагадинское” (Karagandinskoye) for ice cream again.

What the term geographical indications mean here?

In our opinion, the most precise definition of geographical indications is given in Article 22 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS):

“indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

In Kazakhstan, we believe that such known and important designations as “Кызылординский рис” (Kyzylorda rice), “Кызылординская дыня” (Kyzylorda melon), “Нарынкольский картофель” (Narynkol potatoes), “Аральская соль” (Aral salt), “Заилийские” (Zailiyskie) for apples, “Петропавловское молоко” (Petropavlovsk milk), “Иссыкские вина” (Issyk wines) could also be registered as geographical indications and hope it will shortly happen. These are indications of localities where the



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special quality or reputation of goods are determined by their geographical origin and strongly depend on the origin.

What is the difference in geographical indications and appellations of origin of goods (hereinafter also “appellations of origin”) as defined by the current Kazakhstan legislation?

The World Intellectual Property Organization determines that the main difference between the two concepts is that in the case of an appellation of origin, the link to the place of origin should be stronger.

The table below compares the concepts “geographical indication” and “appellation of origin of goods”.

Geographical Indications	Appellations of Origin of Goods	Difference
<p>a designation identifying the goods originating from the territory of a geographical object</p> <p>a geographical indication may be a contemporary or historical, official or unofficial, full or abbreviated name of a country, region, settlement, locality or other geographical object and a designation derived from such geographical indication and appellation and their combinations with the generic name of the goods.</p>	<p>a designation sign representing or containing the contemporary or historical, official or unofficial, full or abbreviated name of a country, settlement, locality or other geographical object, including such appellation or a derivative of such appellation, which has become known in the result of its use in relation to the goods</p>	<p>There is almost no difference between GI and appellation of origin in the definition for a geographical object</p>
<p>a certain quality, reputation or other qualities of a product</p>	<p>the special characteristics of the goods <u>are exclusively or</u></p>	<p>for GIs, a single criterion linked to the</p>

<p><u>are strongly linked to its geographical origin.</u></p>	<p><u>mainly determined by the natural conditions and (or) human factors</u> typical for the geographical area in question.</p>	<p>geographical place of origin, whether it be quality, reputation or other characteristics of the goods¹, is sufficient.</p> <p>For appellation of origin, the special characteristics of the goods must be exclusively or mainly related to the geographical site, natural conditions and/or human factors.</p>
<p><u>at least one of the stages of production of the product, which has a significant impact on the formation of its qualities, must be carried out in the territory of the geographical object in question</u></p>	<p><u>all stages of production of the goods,</u> which have a significant impact on the formation of special qualities of the goods, must be carried out in the territory of the given geographical area</p>	<p>For a GI, a single stage of production is sufficient</p> <p>For appellation of origin, all stages of production must take place in a geographically defined location.</p>

Thus, geographical indications and appellations of origin of goods are similar in nature, but the requirements for appellations of origin of goods provided in the law are stricter.

It should be remembered that not any name of a geographical object can be registered as a geographical indication, but only that designation for goods whose special qualities or reputation are determined by their geographical origin. Unfortunately, at present, the register of geographical indications does not identify “special qualities or reputation or characteristics which are determined by its geographical origin”. This, at least, makes it difficult to assess the significance and the possibility of challenging the registration of a GI. Consequently, this is why the procedure for challenging GI registrations is not yet quite clear, and will certainly be finalized in the near future.

¹ Please ask yourself what qualities of an ice cream or a chocolate are associated with Turkestan and Karaganda?

The geographical indications *TURKISTAN* for chocolate and ice cream and Карагандинское (*Karaganda*) for ice cream referred to at the beginning of this article do not, in our opinion, well meet conditions for the recognition of a geographical indication—the very description of the products and their production raises doubt on any connection with the geography of their production. In our opinion, if it is about, for example, ice cream produced in Kazakhstan, it is more likely to be associated in terms of quality and reputation with one of the largest ice-cream producers – Шин-Лайн (Shin-Line), rather than with a registered GI of Turkestan or Karaganda. For the authors personally, Turkestan is, first of all, a tourist center, and Karagandy is associated with metallurgical enterprises, with a possible geographical indication of Karaganda coal, and not the ice cream, the qualities of which in our case hardly depend on the place of its production in Kazakhstan.

It is interesting that to date only one non-Kazakhstan geographical indication has been registered in Kazakhstan - it is Georgian “Chacha” - the Georgian national strong alcoholic drink, but we believe that in the near future such applications will be filed for other products and from other countries. We are ready to assist in their registrations and will be happy to inform our clients about all new records in the Register of GIs.

Throughout the CIS, GI is not a popular IP object. Thus, for example, in Russia, with the largest number of GI registrations for the first three years of existence of this IP object (as of 31 August 2023, according to Rybchak I.A.²) Rospatent has registered just 47 geographical indications, and the goods in respect of which GIs are registered include:

- cosmetics and medications –Шуйское мыло (Shuyskoye soap) (Reg. No. 254) for detergent hygienic cosmetic products and solid handmade toilet soap, Ейская (Yeyskaya) (Reg. No. 257) for therapeutic mud and mud mask;
- handicrafts - Ордынская роспись (Ordynskaya painting) (Reg. No. 272) for wood products for utilitarian and decorative purposes with painting, Хлудневская глиняная игрушка (Khludnevskaya clay toy) (Reg. No. 282) for clay toys;
- minerals - Балахтинский уголь (Balakhta coal) (Reg. No. 310) for brown coal;
- building materials - Новороссийский цемент (Novorossiysk cement) (Reg. No. 279) for cement, Мансуровский гранит (Mansurov granite) (Reg. No. 305) for granite blocks;
- clothes and headdresses - Агинские национальные костюмы (Agin national costumes) (Reg. No. 265) for national costumes, Тойробшо агинских бурят (Toirobsho of Agin Buryats) (Reg. No. 266) for headdresses;
- household items - Бахметьевский хрусталь (Bakhmetevsky crystal) (Reg. No. 286) for crystal products, namely decorative vases, vases for flowers, tableware, sets and sets of tableware, souvenirs (statuettes, cups, Easter eggs);

² <https://www.gorodissky.ru/publications/articles/geograficheskie-ukazaniya-osobennost-i-vygoda/>

- food products - Печень трески по-мурмански (Murmansk-style cod liver) (Reg. No. 270) for canned cod liver, Федосихинские пельмени (Fedosikhinskiye pelmeni) (reg. No. 293) for dumplings and Тюменский пломбир (Tyumensky Plombir) (Reg. No. 307) for ice cream;

- non-alcoholic and alcoholic beverages - Майкопский Лимонад (Maikop Lemonade) (Reg. No. 267) for non-alcoholic sweet carbonated drinks (lemonades), Napa Valley (Reg. No. 278) for wine, Вологодский Иван-Чай (Vologda Ivan-Tea) (Reg. No. 291) for herbal tea (Ivan-Tea).

In our opinion, all the above GIs are almost unknown in Kazakhstan, but maybe we just do not know their unique features and certainly it does not affect significance of registration in Kazakhstan of GIs from the other countries.

What do you think, what geographical indications can be related to the products of Kazakhstan or your country? Should they be registered in Kazakhstan?