



**AIPPI General Secretariat
Toedistrasse 16
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Bratislava, 29 May 2017

Patent and Trademark Attorneys
European Patent Attorneys
European Trademark and
Design Attorneys

**RE: RESPONSE TO REPORT FOR STANDING COMMITTEE ON
GEOGRAPHICAL INDICATIONS QUESTIONNAIRE TO NATIONAL
GROUPS**

Country: Slovak republic

Dear Sirs,

The following is order a response to the above stated questionnaire. Please be informed that the answers in this questionnaire refer to domestic GI and/or AOs, however please note that appellations of origin are being called designations of origin in our legislative and thus this name is being used through the whole document.

I. Analysis of current legislation and case law

1) Are GIs and/or AOs protected under your Group's current law?

Yes, they are protected under the Act no. 469/2003 Coll. on designations of origin for products and geographical indications for products.

2) If yes, please briefly describe the following:

a) How AOs and GIs are defined and the prerequisites (in particular the type, nature and intensity of link with a territory).

For purposes of the relevant Act,

a) designation of origin for product shall mean name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if a quality or characteristics of such product are exclusively or essentially given by a geographical environment with its characteristic natural and human factors, and production, processing and preparation of such product take place exclusively within defined place, region, or country.

b) geographical indication for product shall mean name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if such product is of a specific quality, reputation or characteristics which could be ascribed to such place, region or country.

c) designation of origin for wine means the name of a specific place, a region or, in exceptional cases, a country used to describe a product, the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, its production takes place in this geographical area; it is obtained from vine

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varieties belonging to *Vitis vinifera* and the grapes from which it is produced come exclusively from this geographical area;

d) geographical indication for wine means the name of a specific place or a region, in exceptional cases, a country, used to describe a product, which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, the production of which take place in this geographical area, it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*, and at least 85 % of the grapes used for its production come exclusively from this geographical area;

b) Whether that protection is provided by sui generis laws; solely as aspects of other laws, such as by registration as collective or certification marks; or by other (and if so, what) means.

Protection of GIs and AOs in Slovakia is being provided by the means of obtaining a registration certificate.

c) If GIs and/or AOs are protected by sui generis laws, whether your Group's laws provide for a system of registration. If so, what are the steps of this procedure including the content of the application and the possibility of opposition by third parties.

An application for designation of origin ("application") may be filed by the corporation or association of producers or processors regardless of legal form or composition ("association") for a product produced, processed and prepared in the specified territory. An individual natural person or a legal entity may apply for registration, provided that at the time of filing of the application it is the only person that produces, processes and prepares the product in the specified territory ("applicant"). Another natural person or legal entity which submits the application independently, provided that production, processing and preparation of the product with defined quality or characteristics takes place in the defined specific place, has the right to become a member of association, if fulfils conditions of membership in association, that are neither discriminatory nor in conflict with legally binding rules of economic competition. The association is obliged to issue a certificate of membership to its members upon request.

Content of application:

Application for designation of origin

An application for designation of origin (hereinafter referred to as an "application") may be filed by an association of producers or processors with legal personality for product produced, processed and prepared within a specified territory (hereinafter referred to as an "applicant"). An applicant may also be an individual person provided that at the time of filing of the application it is the only person that produces, processes and prepares the product within a specified territory.

Any person shall have the right to become a member of an association, who produces, processes and prepares, within a specified territory, the product with quality or characteristics related to circumstances stated for registered designation of origin and meets conditions of membership in an association, which shall not be discriminative nor contrary to rules of economic competition. An association shall be obliged to issue a certificate of membership to members upon request.

An application shall contain:

- a) request for entry of designation of origin into the Register,
- b) surname, name, address of permanent residence and nationality of an applicant; and if an applicant is a legal entity, name or trade name and place of business,
- c) determination of a product or product specification,
- d) surname, name and address of place of business of authorised representative of an applicant, if an address is not identical with an address of permanent residence, or address of permanent residence, or trade name or name and seat of authorised representative of an applicant, as well as letter of attorney, if an applicant has been represented or has to be represented

e) signature of an applicant or a person authorised to act on his behalf.

Determination of a product shall contain:

- a) name of a product, including wording of designation of origin,
- b) geographical definition of territory where production, processing and preparation of a product is being realised,
- c) document confirming that a product originates from a defined territory,
- d) description of characteristics or qualitative signs of a product, which are given by a particular geographical environment
- e) description of a process of obtaining a product, eventually description of original and unchangeable local processes of its obtaining.

Specification of a spirit drink shall contain

- a) name and category of a spirit drink,
- b) description of a spirit drink including principal physical, chemical or organoleptic characteristics of a product as well as specific characteristics of a spirit drink as compared to the relevant category;
- c) definition of a geographical area concerned,
- d) description of a method for obtaining the spirit drink and, if appropriate, authentic and unvarying local methods; and
- e) in case of a spirit drink with designation of origin, details bearing out that its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and in case of a spirit drink with geographical indication details bearing out the link with geographical environment.

Specification of wine shall contain

- a) name of wine
- b) description of wine
 1. for wines with a designation of origin, its principal analytical and organoleptic characteristics,
 2. for wines with a geographical indication, its principal analytical characteristics as well as evaluation or indication of its organoleptic characteristics;
- c) where applicable, specific oenological practices used to make wine as well as relevant restrictions on making wine;
- d) demarcation of geographical area concerned;
- e) maximum yields per hectare;
- f) indication of the wine grape variety or varieties the wine is obtained from,
- g) in case of wine with designation of origin details bearing out that its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and in case of wine with geographical indication details bearing out that the wine is of a specific quality, reputation or other characteristics attributable to that geographical environment.

Request for registration of designation of origin or geographical indication is necessary to submit with determination of the product or, in case of agricultural product or foodstuff, their specification agreed by the Ministry of Agriculture of the Slovak Republic.

As for the oppositions, after publication of essential parts of the application for registration of agricultural products or foodstuffs in the Official Journal any person, who proves legal interest, having permanent residence or seat at the territory of the Slovak Republic (hereinafter referred to as "opponent"), shall be entitled to file objections against the application within time limit of three months from the publication with the Office. The objections shall be justified and shall prove that requested designation of origin or geographical indication fails to meet conditions pursuant to a special regulation for entry into the Register of protected designations of origin and geographical indications maintained by the European Commission.

3) If your country does not protect GIs and/or AOs, was this a deliberate decision and, if so, why?

This question is not applicable as in our country GIs and AOs are protected.

4) What are the grounds of invalidity/loss of rights for GIs and/or AOs under your Group's law (e.g. becoming generic, lack of use, not paying fees) and where can such be invoked (which court, office etc.)? Please specify the applicable test, how such is proven (e.g. consumer surveys, expert advice, dictionaries, etc.) and who bears the burden of proof.

Any person proving legitimate interest may lodge a request for cancellation of registration of designation of origin or geographical indication in the Register of protected designations of origin and geographical indications maintained by the European Commission with the Office for the reason, that agricultural product or foodstuff fails to meet conditions of specification.

The Office shall cancel registration of designation of origin if it ascertains, in the proceedings started on request of a third party (hereinafter referred to as "plaintiff"), inspection authority or ex-officio, that

- a) designation of origin has been registered contrary to conditions for registration,
- b) conditions given by particular geographical environment set for registration of designation of origin have ceased to exist;
- c) product for which a designation of origin has been registered, does not meet the relevant requirements of determination and these requirements were not met even within additional time limit specified by the Office.

Registration of designation of origin referred to in paragraph c) shall not be cancelled, if a product, which meets the requirements of determination is placed on a market or if such product is not placed on a market but natural conditions have not ceased.

5) What is the scope of protection of GIs/AOs under your Group's current law?

Only the holder of the registration certificate for a designation of origin for product ("holder of the registration certificate") and user of registered designation of origin for product ("user") is entitled to use registered designation of origin. Holder of the registration certificate has the right to prohibit the use of designation of origin by user if the designated product lacks the characteristics or quality which are due to a particular geographical environment or does not comply with the requirements of specification for agricultural product or foodstuffs.

Holder of the registration certificate or the user may assign on the product the information that this is a registered designation of origin. No license may be granted for the registered designation of origin. The right of lien on registered designation of origin may not be established. Registered designation of origin may not be a subject of an assignment. Protection of designation of origin arises on the day of its entering in the register. Duration of protection of designation of origin is not limited in time.

Please be informed that under the provisions of the relevant act, holder of a certificate on registration of a designation of origin for product or on registration of a geographical indication for product shall be a person for which a designation of origin or geographical indication for product is entered into the Register of designations of origin and geographical indications, and the user of registered designation of origin for product or registered geographical indication for product shall be a person who uses registered designation of origin for product or registered geographical indication for products complying with the conditions.

Furthermore, the registered designation of origin shall be protected against

- a) any direct or indirect commercial use on products to which such sign is not related, if such products are identical or similar with a product which is registered under such designation of origin, or such using takes an advantage of good reputation of registered designation of origin,
- b) any misuse, imitation or evocation of misconception about a product origin, even if true origin of a product is indicated or even if registered designation of origin is indicated in translation or is accompanied by an expression such as "kind", "type", "style", "method", "as produced in", "imitation", "similar"; or with other similar expression,
- c) any other false or misleading indication as to the origin, nature or essential qualities of the product, on the inner or outer packaging, advertising materials or documents relating to

product concerned, and the packing of the product in a container liable to convey a false impression as to its origin,

d) any other practice liable to mislead the consumer as to the true origin of the product.

Registered designation of origin shall not be considered generic name of a product. If a name of a product, which is a generic name, is a part of a registered designation of origin, the use of such name shall not be considered to be contrary to above paragraph a) or b).

Right to protection of designation of origin shall arise on day of its entry into the Register.

Term of protection of registered designation of origin shall not be limited.

6) Against what kind of conduct are GIs/AOs protected? For example, against use misleading consumers, parasitism and free riding.

Registered designation of origin shall be protected against

a) any direct or indirect commercial use on products to which such sign is not related, if such products are identical or similar with a product which is registered under such designation of origin, or such using takes an advantage of good reputation of registered designation of origin,

b) any misuse, imitation or evocation of misconception about a product origin, even if true origin of a product is indicated or even if registered designation of origin is indicated in translation or is accompanied by an expression such as “kind”, “type”, “style”, “method”, “as produced in”, “imitation”, “similar”; or with other similar expression,

c) any other false or misleading indication as to the origin, nature or essential qualities of the product, on the inner or outer packaging, advertising materials or documents relating to product concerned, and the packing of the product in a container liable to convey a false impression as to its origin,

d) any other practice liable to mislead the consumer as to the true origin of the product.

Registered designation of origin shall not be considered generic name of a product. If a name of a product, which is a generic name, is a part of a registered designation of origin, the use of such name shall not be considered to be contrary to above paragraph a) or b).

7) Who has legal standing to protect a GI/AO. For example, individual producers, consortiums and associations, public bodies.

In case of infringement of rights protected by this Act or jeopardising these rights, holder of registration certificate is entitled to claim the prohibition of infringement or jeopardising his rights and to eliminate consequences of infringement. Right to compensation of actual damage shall not be affected. If a non-pecuniary injury has been caused by infringement or jeopardising of rights protected by this Act, the injured party shall have right to adequate satisfaction, which may be in form of pecuniary compensation

8) What remedies are available in the case of violation of rights in a GI/AO?

Any person shall be entitled to claim prohibition of using a registered designation of origin or a geographical indication for identical or similar products, which do not meet conditions for its utilisation and removal of such products from market.

In case of infringement of rights protected by this Act or jeopardising these rights, holder of registration certificate is entitled to claim the prohibition of infringement or jeopardising his rights and to eliminate consequences of infringement. Right to compensation of actual damage shall not be affected. If a non-pecuniary injury has been caused by infringement or jeopardising of rights protected by this Act, the injured party shall have right to adequate satisfaction, which may be in form of pecuniary compensation.

Holder of registration certificate may request in infringement or jeopardizing of his rights protected by this Act that a person placing or intending to place identical or similar product on the market provided him with information related to origin of a product infringing rights

pursuant to this Act and to circumstances of its placing on the market.

Holder of registration certificate shall be entitled to propose so that court, in protection of rights pursuant to this Act, could impose by precaution same duties as in decision on the merit if any delay could cause to entitled person a hardly reclaimable pecuniary or nonpecuniary injury.

Within a decision on precaution the court may impose a duty to a plaintiff to pay a deposit of an adequate amount or to implicate that decision comes into force by execution of an imposed duty.

9) How does your Group's law regulate the conflict between a GI/AO and a prior trademark? Does the GI/AO or the trademark prevail or do they coexist? Under what conditions?

According to the relevant act, the following, among others, shall not be registered as a designation of origin or geographical indication in the Register: indication which registration could cause confusion with already registered designation of origin, geographical indication, trademark, or well-known trademark.

10) Is there any specific provision or practice concerning the inclusion of a GI/AO in a domain name?

There is currently none that we are aware of.

11) Is there anybody that administers GIs/AOs in your country and/or is responsible for the verification of compliance of goods bearing a GI/AO? Please briefly describe the relevant processes, e.g. the process by which compliance with product specifications is verified before such goods are put on the market and/or the subsequent market controls on such goods?

The official control of agricultural products and foodstuffs with a protected designation of origin, a protected geographical indication or a traditional specialty guaranteed mark meeting the requirements of special regulations is being carried out by the authorities of the State Veterinary and Food Administration under the regulations of REGULATION (EC) No 882/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

12) Please describe any other developments in your country in relation to GIs or AOs which you consider relevant, including any proposals for reform. For example, to the extent that your country has been involved in any negotiations or discussions regarding the protection of GIs and AOs in any fora, such as multilateral, regional or bilateral agreements, please specify whether your country is negotiating or has signed any agreement with other countries that includes provisions on AOs/GIs and whether it was necessary to amend domestic legislation as a result of such agreements.

As far as we are concerned, there has been none.

II. Proposals for improvements and for harmonisation

We are of the opinion that the current law regulations, since being harmonised with the European Union regulations regarding the tangible, are sufficient at the moment.

Best regards,

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