

MINISTERIAL REGULATION
PRESCRIBING RULES AND PROCEDURES RELATING TO APPLICATION FOR REGISTRATION,
ADVERTISEMENT, OPPOSITION AND COUNTER-OPPOSITION, REGISTRATION, APPEAL AND
AMENDMENT OR WITHDRAWAL OF GEOGRAPHICAL INDICATION REGISTER
B.E. 2547 (2004)¹

By virtue of section 4, section 9, section 10, section 13 paragraph two, section 15, section 16 paragraph two, section 18 paragraph two, section 19, section 22 and section 26 paragraph two of the Geographical Indication Protection Act, B.E. 2546 (2003), which contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 50 of the Constitution of the Kingdom of Thailand, so permit by virtue of law, the Minister of Commerce hereby issues the Ministerial Regulation as follows:

Clause 1. This Ministerial Regulation shall come into force as from the 28th day of April B.E. 2547 (2004).

CHAPTER I
GENERAL PROVISIONS

Clause 2. In this Chapter:
“Application” means an application for registration of Geographical Indication and other applications and shall include the opposition, counter-opposition, appeal and other petition.

Clause 3. All applications shall use the forms as prescribed and announced by the Director-General.

* Translated by Chandler and Thong'ek Law Office Limited under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of the Council of State.

¹ Published in the Government Gazette Vol.121, Part 37a, Page. 7, dated 16th June B.E. 2547 (2004)

The applicant is required to fill in the content of application with complete details in Thai language, by typing and signed by the applicant.

The application shall be submitted to the competent officer at the Department of Intellectual Property, Ministry of Commerce, or the provincial commercial office or any other competent authority as prescribed and announced by the Director-General, or shall be sent to the competent officer of the Department of Intellectual Property, Ministry of Commerce, by registered post with acknowledgement receipt or by any other means as prescribed and announced by the Director-General, together with making payment of the fees according to the procedure as prescribed and announced by the Director-General.

If the application is sent by registered post with acknowledgement receipt under paragraph 3, the day on which the Department of Intellectual Property receives the application shall be deemed the day the application is submitted.

Clause 4. In case a copy of personal Identification Card must be attached in support of the application:

(1) In case of governmental authority, governmental agency, state enterprise, Local Administration Organization, or any other governmental unit which is a juristic person, the chief of such governmental authority, governmental agency, state enterprise, Local Administration Organization, or any other governmental unit shall submit the application on such agency's behalf, attaching a copy of the identity card of the government official under the law governing identity card of government official or an order appointing the competent official as chief of such a governmental unit.

(2) In case of juristic person, the current Affidavit of such juristic person shall be attached, certified by an authorized person under the law, valid for a period of not more than six months from the date the Affidavit has been issued, except where a juristic person established under the foreign law which the document under clause 6 has been delivered, wherein a certification of foreign juristic person was given.

(3) In case of an ordinary person or a group of person, a copy of personal Identification Card or any other identity card issued by the government authority, or a foreign identity card or passport shall be attached.

Clause 5. If the submission of Application is made by the Attorney-in-Fact, the Power of Attorney and a copy of personal Identification Card or other identity card issued by the government authority, or a foreign identity card or passport of the Attorney-in-Fact shall be attached.

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Clause 6. In the case where the power is granted in a foreign country, the Power of Attorney must bear a certification of signature by the authorized officer of the Thai Embassy or Thai Consular, or the head of an office under the Ministry of Commerce stationing at the country where the grantor is a resident or the official who is designated to act on the said person's behalf, or bear a certification from a person who is empowered by laws of that country to certify signature.

In the case where the Power of Attorney in the first paragraph is made in Thailand but the grantor has no residence in Thailand, the applicant shall submit a copy of passport or a copy of the temporary residence document or any other evidence to the Registrar that the grantor truly enters into Thailand at the time the Power of Attorney is granted.

Clause 7. The applicant shall certify the correctness of the copy of document in support of the Application.

Clause 8. The applicant shall arrange the Thai translation of the foreign language document in support of the Application, certified correct translation by the translator.

CHAPTER II

APPLICATION FOR REGISTRATION OF GEOGRAPHICAL INDICATION

Clause 9. Application for registration of Geographical Indication shall have at least the following particulars:

- (1) Details of the applicant for registration according to the prescribed form and particulars;
- (2) Name, signage, or any other particulars to name or indicate the geographical origin;
- (3) Items of goods which Geographical Indication is used;
- (4) Details relating to quality, reputation, properties or characteristics of the goods using Geographical Indication;
- (5) Details showing relation between the goods using Geographical Indication and the geographical origin;
- (6) Details of the location showing geographical origin which applies for registration;

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(7) Details showing the use of Geographical Indication which applies for registration on the label of goods;

(8) Signature of the applicant for registration and date of signature.

Clause 10. The application for registration shall be submitted together with the following documents:

(1) A copy of application;

(2) A copy of Identification Card;

(3) Photo of the goods using the Geographical Indication which applies for registration;

(4) The original, copy or photo of the label of goods using the Geographical Indication which applies for registration, and the statements specified therein are clearly visible.

CHAPTER III ADVERTISEMENT

Clause 11. The Registrar shall advertise the registration of Geographical Indication under section 15 by posting on a highly visible place at the Department of Intellectual Property, Ministry of Commerce, or by other means as prescribed and announced by the Director-General.

Clause 12. Advertisement of the registration under clause 11 shall contain the following particulars:

(1) The application no. and the date on which the application for registration is filed;

(2) The date on which the registration is advertised;

(3) Name, address or a place of business of the applicant for registration;

(4) Items of goods which Geographical Indication is used;

(5) Details relating to quality, reputation, properties or characteristics of the goods using Geographical Indication;

(6) Details showing relation between the goods using Geographical Indication and the geographical origin;

(7) Details of the location and map clearly showing the geographical origin which applies for registration;

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- (8) Conditions imposed by the Registrar under section 15;
- (9) Other particulars deemed fit by the Registrar.

CHAPTER IV

OPPOSITION TO REGISTRATION AND COUNTER-OPPOSITION

Clause 13. The opposition to registration of the Geographical Indication under section 16 shall be filed by the opposing person, specifying reasons therefor, and a copy of the opposition, 1 set in number, and a copy of the Identification Card of the opposing person shall be attached.

Clause 14. Where the registration of Geographical Indication is opposed, the applicant for registration shall file a counter-opposition, specifying reasons therefor, and attach a copy thereof according to the number of the opposing persons.

CHAPTER V

REGISTRATION OF GEOGRAPHICAL INDICATION

Clause 15. In registering Geographical Indication under section 19, the Registrar shall issue the registration no. in sequence of registration. Preparation of register of Geographical Indication shall contain the following particulars:

- (1) Application no. and the date on which the application for registration is filed;
- (2) Registration no. and the date of registration;
- (3) Particulars under clauses 9 (1), (2), (3), (4), (5) and (6);
- (4) Map clearly showing geographical origin which applies for registration;
- (5) Conditions imposed by the Registrar under section 15;
- (6) Other particulars as deemed fit by the Registrar.

CHAPTER VI

APPEAL

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Clause 16. An appeal against the order or decision of the Registrar under section 13 paragraph two, section 18 paragraph two and section 26 paragraph two shall be filed by the Appellant, specifying reasons therefor, and a copy thereof in 1 set shall be attached.

Clause 17. Within the time fixed for the appeal, an Appellant may request a change in the Appeal in writing signed by the Appellant, explaining facts, objects and reasons for the change.

Clause 18. Before a decision is made by the Committee, the Appellant may request to withdraw the Appeal by motion in writing signed by the Appellant, and explain reasons therefor.

Where the Appellant files a written request to withdraw the Appeal under paragraph one, the request, upon examined by the Registrar, shall be submitted to the Committee for information, and the Appeal shall be disposed from the Appeal List.

CHAPTER VII

AMENDMENT TO, OR WITHDRAWAL OF, REGISTER OF GEOGRAPHICAL INDICATION

Clause 19. An application for amendment to, or withdrawal of, Register of Geographical Indication under section 22 shall be filed by specifying reasons therefor, together with the following evidential documents:

- (1) Copy of Identity Card of the applicant for amendment or withdrawal;
- (2) Details relating to Geographical Indication which applies for amendment or withdrawal;

Clause 20. Where the Committee makes a decision, ordering to amend Register of Geographical Indication under section 22, the amendment to Register of Geographical Indication shall be advertised according to the procedures prescribed under clause 11.

The advertisement under paragraph one shall contain the following particulars:

- (1) Application no. and the date on which the application for amendment of the Register is filed;
- (2) Registration no. and the date of registration;

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- (3) Date on which amendment to the Register is advertised;
- (4) Items which the Committee orders to amend;
- (5) Other particulars as deemed fit by the Registrar.

Clause 21. Where the Committee makes a decision, ordering to withdraw any Register of Geographical Indication under section 22, the Registrar shall record the items of withdrawal in the Register, and advertise the withdrawal of Register of Geographical Indication according to procedures specified under clause 11.

The advertisement under paragraph one shall contain the following particulars:

- (1) Application no. and the date on which the application for withdrawal of the Register is filed;
- (2) Registration no. and the date of registration;
- (3) Date on which withdrawal of registration is advertised;
- (4) Register of Geographical Indication which the Committee orders to withdraw;
- (5) Other particulars as deemed fit by the Registrar.

Clause 22. The provisions of clause 18 shall apply to the withdrawal of the application for withdrawal of Geographical Indication mutatis mutandis.

Given on this 28th Day of April B.E. 2547

Wattana Muangsuk
Minister of Commerce