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Report Highlights:

On November 28, 2019, the final version of the revised Foreign Geographical Indication Products Protection Measures entered into force. The Measures provide comprehensive procedures regarding China's management of applications for foreign geographical indication recognition. The new version of the Measures does not differ substantially from the previous version. This report provides an unofficial translation of the Measures.

Summary

On November 28, 2019, the China National Intellectual Property Administration (CNIPA) issued the final version of the Foreign Geographical Indication (GI) Products Protection Measures, which entered into force on the same day. A draft version of the Measures had been released for domestic public comment on February 28, 2019. The primary differences between the previous version and the newly implemented version of the Measures are:

1. The new version eliminates the requirement that GI applications to China include recommendation documents issued by the competent authority of the country of origin.
2. Under the new version, CNIPA may revoke protection from a recognized foreign GI product if it is considered as a generic name in China or if it evolves into a generic name.
3. Articles 34 and 35, related to revocation of GI protection, are newly added.

This report contains an unofficial translation of the Measures. The official announcement is available on CNIPA's website at <http://www.sipo.gov.cn/docs/20191128151211030583.pdf>.

BEGIN TRANSLATION

Foreign Geographical Indication Products Protection Measures

Chapter I General Provisions

Article 1 In order to effectively protect foreign geographical indication (GI) products sold in China, and to regulate the use of foreign GI product names and specific signs in China, these Measures are formulated in accordance with Article 26 of the Regulations on the Protection of Geographical Indication Products.

Article 2 The term "foreign GI products" as used in the Measures refers to products that are produced outside China, have been registered and protected by the country or region of origin, and comply with the provisions of Article 2 of the Regulations on the Protection of Geographical Indication Products.

Article 3 According to the Measures, foreign GI products that apply for protection in China shall be handled in accordance with the agreement signed between the country to which they belong and the People's Republic of China or the international treaties to which both countries have joined, or on the principle of reciprocity.

Article 4 The Measures apply to application, acceptance of application, examination, approval, use of specific signs, supervision, management, modification and revoking of foreign GI products protected in China.

Article 5 The protected name in China for a foreign GI product includes a Chinese name and the name in its original language.

(I) The Chinese name consists of a name with geographic indication and a generic name reflecting the product's true nature; the Chinese name may also be a name accepted through common practice.

(II) The name in the original language refers to the name which has gained GI registered protection in the country or region of origin.

(III) The above names are not generic names in China and do not conflict with other prior rights such as names of GI products in China.

Article 6 The China National Intellectual Property Administration (CNIPA) uniformly manages the protection of foreign GI products in China. Intellectual property departments at all levels shall protect foreign GI products according to their functions.

Chapter II Application and Acceptance

Article 7 An application for protection in China for foreign GI products shall be made by the original applicant for GI protection in the country or region of origin, be recommended by the authority in charge of GI in the country or region of origin and be submitted to CNIPA.

Article 8 An applicant for protection in China for foreign GI products may designate its Chinese subsidiary as the contact person for protection in China, and may ask staff of the official representative office of the country or region of origin in China to act as the contact person for protection work in China, or designate an agent.

Article 9 The following Chinese written materials are required to apply for the protection of foreign GI products in China:

(I) The application for the protection of foreign GI products in China.

(II) Applicant's name, address and contact number, and contact person in China and the contact person's address and contact number.

(III) The original official certification document approved for GI protection in the country of origin or region and its notarized Chinese translation.

(IV) The scope of producing areas issued by the competent authority in charge of GI in the country or region of origin, and its notarized Chinese translation.

(V) Quality technical requirements for this product.

(VI) Testing Report: A test report issued by the country or region of origin that provides the sensory characteristics and physical and chemical indicators of the product and its notarized Chinese translation.

(VII) Other supporting documents.

Article 10 Quality technical requirements of foreign GI products protected in China include:

(I) Chinese name and the name in original language.

(II) The protected scope of producing areas.

(III) Product properties and its production techniques and process.

(IV) Quality characteristics, including the products' sensory characteristics and physical and chemical indicators.

(V) Popularity, including the product's popularity in the country or region of origin, China and other countries and regions, and its trading and sales status.

(VI) Relevance, including a description of the relationship between the product's quality characteristics and the producing area's natural or cultural factors.

Article 11 After receiving application materials, CNIPA organizes a completeness review on the application materials within 30 working days. Possible conclusions of a completeness review include acceptance, need for corrections, and non-acceptance.

(I) For an application which is accepted by CNIPA, CNIPA releases a public announcement and publishes it on CNIPA's official website.

(II) For an application which needs corrections, CNIPA provides written suggestions to the applicant for additions and corrections. After the applicant submits materials of corrections, CNIPA organizes a completeness review again.

(III) For an application which is not accepted, CNIPA provides a written notice to the applicant of non-acceptance.

Article 12 The objection period for an announcement of acceptance is 60 days, which begins from the date when CNIPA publishes the acceptance. During the objection period, any organization or person at home or abroad may raise objection in writing to CNIPA.

Article 13 The objection content includes: the objector's name, working unit name, contact information, reason for objection and supporting materials. The objection shall be written in Chinese and have valid signature or seal.

Article 14 After receiving the objections, CNIPA shall report the content of objections to the applicant in a timely manner. Objections shall be settled by both parties to the objection; or CNIPA shall organize the parties to settle the objection; when consultation fails, CNIPA shall organize a GI Experts Committee to give a ruling after review.

Article 15 Under the following circumstances, CNIPA will not accept the objection and notify the applicant of non-acceptance and its reason in writing.

(I) Objection is not raised in legal period.

(II) There are no specific reasons, facts and legal basis for the objection.

Article 16 For a rejected objection application, CNIPA shall give the applicant a written notice. The applicant who is dissatisfied with the objection ruling may apply for review to CNIPA within 30 days after receiving the notice. CNIPA will decide within 60 days after receiving the application for review and notify the applicant of its decision in writing, and the decision of review is final.

Chapter III Technical Review and Approval

Article 17 If the acceptance announcement expires without objection, or if an agreement is reached for objection or the objection is invalid, the CNIPA shall organize experts to conduct technical reviews.

Article 18 Technical reviews include meeting reviews and necessary origin verification, and the applicant shall cooperate. The technical review panel consists of 5 or 7 people.

Article 19 During the technical review, the applicant shall invite professional and technical personnel and interpreter (s) who are familiar with the product to participate. The time and place of the technical review shall be agreed upon by both parties.

Article 20 There are three types of technical review conclusions: pass, need rectification, and fail.

(I) If it has passed the review, CNIPA shall issue an announcement of approval of the protection of foreign GI products in China and protect them in accordance with law;

(II) If rectification is required, CNIPA shall provide written feedback to the applicant on the rectification opinions. After the applicant submits the rectification materials to CNIPA, CNIPA shall again organize a technical review or technical confirmation;

(III) In case of failure, CNIPA shall send a written notice to the applicant that the technical review failed.

Chapter IV Specific Signs and Supervision and Management

Article 21 The information such as product name, origin, etc. of the foreign GI products protected in China shall be consistent with the information in the approval announcement published by CNIPA.

Article 22 Producers, associations and other organizations within the producing area of foreign GI products protected in China may apply for the use of Chinese GI-specific signs.

Article 23 The self-declaration system is adopted for the use of specific signs. Once the product name protected in China and the Chinese GI-specific signs are used, it is deemed a self-declaration that the products meet the requirements of CNIPA's approval announcement for foreign GI products.

Article 24 The GI-specific signs of the People's Republic of China are implemented in accordance with the relevant requirements of CNIPA.

Article 25 Applicants for foreign GI products protected in China shall publish in Chinese the applicable GI laws, regulations and technical standards from the GI product country of origin.

Article 26 Applicants for foreign GI products protected in China shall perform corresponding management responsibilities, formulate management measures, and manage their names, quality characteristics, and use of specific signs.

Article 27 An annual reporting system is implemented for foreign GI products protected in China. Before the end of March of each year, applicants must report their management measures for the current year and the implementation status of the previous year to CNIPA.

Article 28 When foreign GI products protected in China have a significant negative affect, CNIPA may conduct further on-site verification of the quality characteristics and conditions of the producing area if CNIPA deems it necessary, and the applicant shall cooperate.

Article 29 CNIPA publishes the protection information of foreign GI products in China on its official website and accepts social supervision.

Chapter V Protection, Modification and Revoking

Article 30 Foreign GI products protected in China and Chinese GI products enjoy identical protection.

Article 31 Intellectual property administrations at all levels accept reports of infringements on the legal rights and interests of foreign GI products protected in China, and relevant departments shall

investigate and punish violations in accordance with the law; applicants of foreign GI products protected in China may also file suits in the people's courts.

Article 32 Where major information has changed, such as the origin scope, quality technical requirements, the names and addresses of the producers, associations or community in producing areas of foreign GI products protected in China, applicants of foreign GI products shall report to CNIPA and file a change application within 90 days. After passing the technical review, CNIPA will issue a public announcement to change it.

Article 33 CNIPA may revoke a foreign GI product that has been protected in China under one of following circumstances, and any entity or individual may request CNIPA to revoke it and provide relevant evidence materials:

- (I) The GI protection has been revoked in the country or region of origin.
- (II) It is considered a generic name in China or evolves into a generic name.
- (III) There are serious violations of relevant laws or regulations of China.

Article 34 CNIPA will not accept the request for revocation if it is under the following circumstances, and CNIPA shall notify the requester in writing and explain the reasons:

- (I) There are no clear reasons and facts for revocation.
- (II) It only involves the product name becoming a generic name abroad.

Article 35 CNIPA shall organize a GI expert committee to review and rule on the revocation request. If the ruling is to revoke, CNIPA shall issue an announcement; if the ruling is not to revoke, the requestor and the right holder shall be notified.

Chapter VI Supplementary Provisions

Article 36 These Measures come into force from the date of publication.

Article 37 Foreign GI products protected in China shall also comply with the relevant provisions of China's entry-exit inspection and quarantine regulations.

Article 38 CNIPA is responsible for the interpretation of the Measures.

END TRANSLATION

Attachments:

No Attachments.