

DRAFT

LAW OF GEORGIA ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

ARTICLE 1. SPHERE OF REGULATION

This Law regulates the relations arising in connection with registration and protection of appellations of origin and geographical indications.

ARTICLE 2. MAIN DEFINITIONS USED IN THE LAW

1. Sakpatenti - National Intellectual Property Center of Georgia - a legal entity, which conducts the legal enforcement of the rights of natural persons and legal entities in the field of intellectual property.

2. The State Register of the appellations of origin and geographical indication - the combined data of the appellations of origin and geographical indications, also the data of the persons entitled to the d datag-5(h)e4 9A.1(a)sL9(.).2pe01nTarapndio ta.

- a) does not comply with the requirements of Article 3;
- b) has become a generic name of goods, even if it indicates correctly the place or the region where the goods have been produced, processed, or prepared;
- c) coincides with the names of varieties of plants and breeds of animals in a manner which misleads a consumer as to the origin of goods;
- d) contradicts to public morality and order;
- e) leads the public into confusion regarding the origin of the goods.

ARTICLE 6. PROTECTION OF HOMONYMOUS APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

If an appellation of origin or geographical indication registered in the other country is similar with the appellation of origin or geographical indication registered in Georgia, then the rules and conditions of registration of such a name in Georgia are established by the respective agreement.

ARTICLE 7. APPLICATION FOR REGISTRATION OF AN APPELLATION OF ORIGIN AND GEOGRAPHICAL INDICATION

1. An application for registration of an appellation of origin and geographical indication is filed with Sakpatenti by a legal entity or natural person or any voluntary association of producers, irrespective of its legal form (hereinafter referred to as "applicant").

2. Sakpatenti receives the application for registration of appellation of origin or geographical indication of the country, which on its side provides for the registration of the appellation of origin or geographical indication of Georgia.

3. The foreign applicant establishes relations with Sakpatenti through the representative having the address for correspondence in Georgia.

4. The application shall apply to one appellation of origin or geographical indication.

5. The application must be filed in Georgian language.

6. The application must include:

- a) a request for registration of an appellation of origin or geographical indication;
- b) the full name and legal address of the applicant;

- c) the appellation of origin or geographical indication;
- d) the list of the goods for which the registration of the appellation of origin or geographical indication is sought;
- e) the description of the goods and if necessary of the raw material, with the indication of their chemical, physical, microbiological and/or organoleptical and other characteristics.
- f) description of the geographical area location, by indicating its exact bounds;
- g) the document confirming that the goods have originated from the geographical area stipulated by the Article 3 of the Lating1.162 ~~TD~~

1. Sakpatenti checks whether the application complies the requirements of the Article 7 of this Law, whether there exists the basis defined by the Article 5 paragraphs b, c, d, e of this Law and conducts the search in respect to the trademark databases.

2. If the basis defined by the Article 5 paragraphs b, c, d, e exists Sakpatenti takes the decision on refusal of the further consideration of the application.

3. If the application complies the requirements defined in the Article 7 paragraph 6 subparagraphs e, f, g, h and i for additional consideration the application is send to the competent body (the Ministry or Office of the respective field).

4. If the application complies the requirements of the Article 7 of this Law and the basis defined by the Article 5 paragraphs b, c, d, e does not exist, Sakpatenti publishes the application materials in the Official Bulletin of the Industrial Property of Georgia (hereinafter the Bulletin), in one central and one local newspaper.

5. If within three months after the publication of the application materials the additional information shall be presented to Sakpatenti, this information shall be send for consideration to the competent body (the Ministry or Office of the respective field).

6. If no information is presented within three months from the publication of the application materials, Sakpatenti takes the decision on registration, records the data of the appellation of origin or geographical indication, also respectively in the State Register of the appellations of origin or geographical indications, also records the data of the persons entitled to their use and publishes the data in the Bulletin.

7. The registration of the appellation of origin or geographical indication is limitless.

8. In the Bulletin the following data shall be published:

a) an appellation of origin or geographical indication;

b) name of goods for which the appellation of origin or geographical indication was registered and description of its specific features;

c) description of the geographical area, showing the exact borders thereof;

d) full name and legal address of the applicant.

9. Other data obligatory for publication are defined by the "Instruction on Presenting of the application for the Appellat

appellation of origin or geographical indication, is not supposed to become a generic name.

3. The protected appellation of origin or geographical indication cannot be transferred into the generic term.

ARTICLE 12. THE USE OF THE REGISTERED APPELLATION OF ORIGIN AND GEOGRAPHICAL INDICATION

1. Any natural person or legal entity, which obtain or process the raw or has real production in the boundaries of the registered appellation of origin or geographical indication and the special quality, features and reputation of the produced goods is completely conditioned or connected with this geographical place, can present the application to Sakpatenti to the use of the registered appellation of origin or geographical indication.

2. The data of the person entitled to the use of the registered appellation of origin or geographical indication Sakpatenti records in the Register.

3. The right to the use can be revised by the competent body on the basis of inspection.

4. The rule of inspection and time is defined by the special normative act.

5. The use of the registered appellation of origin or geographical indication by the person, who is not registered as the holder of the right, is prohibited.

ARTICLE 13. INVALIDATION OF THE REGISTRATION OF AN APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION AND/OR OF A CERTIFICATE ON THE RIGHT FOR THE USE OF THE REGISTERED NAME

1. The registration of an appellation of origin or geographical indication can be invalidated if:

a) the registration has taken place under violation of the requirements of this Law;

b) due to changing or disappearing of natural and/or humane factors, characteristic of the given geographical area, becomes impossible to produce such goods which would have the exclusive quality and properties indicated in the Register;

c) the registration of the appellation of origin or geographical indication was invalidated in the country of origin;

ARTICLE 14. RELATIONSHIP BETWEEN AN APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION AND A TRADEMARK OR COLLECTIVE MARK

1. If after filing of the application for appellation of origin or geographical indication shall be filed the application for appellation of origin or geographical indication with Sakpatenti for identical or similar trademark registration and there exists one of the conditions in result of the registration of appellation of origin or geographical indication defined by the Article 11 of this Law the pending of such an application is retained until the taking of the decision on registration of the appellation of origin or geographical indication.

2. If at filing of the application for appellation of origin or geographical indication there was filed with Sakpatenti the application for registration of the appellation of origin or geographical indication or for the similar trademark and the decision on registration of this trademark has not been taken and in result of the registration of the appellation of origin or geographical indication there exists one of the conditions defined by the Article 11 of this law the pending of the application is retained until the decision on registration of the appellation of origin or geographical indication is taken.

3. If Sakpatenti takes the decision on refusal of the registration of appellation of origin or geographical indication, the consideration of the trademark application is

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geographical indication in the country of origin and the coexistence of the appellation of origin or geographical indication must not lead the public into confusion.

8. The Article 11 of this Law is not applied for the trademark used for at least 10 continuous years before April 15, 1994 (before the signing date of the World Trade Organization Agreement).

9. Taking into account the good reputation of the registered trademark its notoriety and longevity of use, it is admissible not to register the appellation of origin or geographical indication, if such a registration leads the public into confusion relating the real origin of the goods.

ARTICLE 15. RESPONSIBILITIES FOR INFRINGEMENT OF THE RIGHTS

Infringement of the right arising from registration on an appellation of origin or geographical indication causes civil, admi

1. This Law enters into force within 3 months from the publication.
2. In three months after publication of this Law shall be elaborated and approved in respect to the established rule the “Instruction on Presenting of the Application for the Appellation of Origin and Geographical Indication and Procedures Relating to the