

MONGOLIA
ON TRADEMARKS AND GEOGRAPHICAL INDICATIONS

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CHAPTER ONE GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1. The purpose of this law shall be to ensure the legal guarantees for trademarks and service marks (hereinafter referred to as trademarks) and geographical indications, to protect the rights and legitimate interests of their owners and users, and to govern relations arising in connection with the ownership, use and disposal of trademarks and the use of geographical indications.

Article 2. Legislation on Trademarks and Geographical Indications

2.1. The legislation on trademarks and geographical indications shall consist of the Constitution of Mongolia, the Civil Law, this law and other legislative acts issued in conformity with them.

2.2. If an international treaty to which Mongolia is party provides rules different from those laid down in this law, the provisions of the international treaty shall be applicable.

Article 3. Definitions in this Law

3.1. For the purposes of this law the following terms shall have the following meanings:

3.1.1. "trademark" means distinctive expression used by a natural or a legal person in order to distinguish the goods or services from those of others;

3.1.2. "collective mark" means a trademark used under the associated control by members of manufacturers and service providers' associations or societies and which are established in accordance with the country's legislation;

3.1.3. "certification mark" means a trademark to be used by others, when authorized organization certifies quality, method of production and other characteristics of certain goods or services;

3.1.4. "geographical indication" means the geographical definition of a country, region or locality where the goods or products originated therein with a given quality, reputation or other characteristics that are identified by factors of nature and climatic condition or people custom of given territory;

3.1.5. "registered trademark or geographical indication" means a trademark or geographical indication which is registered in State register according to procedures laid down by the law;

3.1.6. "certificate" means a document issued by the State which

attests the rights of a registered trademark owner or a user of a registered geographical indication;

3.1.7. "owner of a trademark" means a person who has obtained the right to own of a registered trademark according to procedures laid down by the law;

3.1.8. "user of a geographical indication" means a person who has obtained the right to use a geographical according to procedures laid down by the law for his/her own goods and products;

3.1.9. "application" means a request for registration of a trade mark or a geographical indication and other relevant documents required by the law which are filed with the Intellectual Property Office by a natural person or a legal person;

3.1.10. "Formality check" means procedures of the Government Agency in Charge of Intellectual Property Matters, to check whether it complies with the requirements provided for in Article 6, 21 of this Law;

3.1.11. "examination" means procedures of the Government Agency in Charge of Intellectual Property Matters to find out and to make decision whether the given trademark, geographical indication complies with requirements provided in Article 5, 20 of this Law;

3.1.12. "license agreement" means a written agreement made with another person by the owner of a trademark to use the registered trademark;

3.1.13. "well-known mark" means a trademark that has become well known in the territory of Mongolia in the relevant sector regardless of whether the trademark is not registered;

3.1.14. "Official Periodical Gazette" means a gazette, web page and electronic information published by the Government Agency in Charge of Intellectual Property Matters;

3.1.15. "filing date" means the date on which is specified in Article 7.2, 11.2, 23.2 of this Law;

3.1.16. "priority date" means the date on which a trademark application is filed for registration in any country party to the Paris Convention or a Member of the World Trade Organization before application filing date or the date which is specified in article 11 of the Paris Convention;

3.1.17. "Goods and services classification" means the International Classification of Goods and Services for the Purposes of the Registration of Marks, established by the Nice Agreement of June 15, 1957;

3.1.18. "International registration of trademarks" means a

registration effected by the International Bureau of the World Intellectual Property Organization under the provisions of the Madrid Agreement and the Madrid Protocol;

3.1.19. "Paris Convention" means the Paris Convention for the Protection of Industrial Property, concluded on March 20, 1883, as revised and amended;

3.1.20. "Madrid Agreement" means the Madrid Agreement Concerning the International Registration of Marks, concluded on April 14, 1891, as revised and amended;

3.1.21. "Madrid Protocol" means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted on June 27, 1989;

3.1.22. "Common Regulation" means the Implementing Regulations of the Madrid Agreement and Madrid Protocol.

CHAPTER TWO PROTECTION OF TRADEMARK RIGHTS

Article 4. Representation of the trademark

4.1. Trademarks may be expressed in words, figures, letters, numerals, three-dimensional configurations, colors, sounds, scents or any combinations thereof.

Article 5. Requirements for Registering a Trademark

5.1. Following which do not have distinctive character shall not constitute a trademark

5.1.1. In case of only letters or numerals, common geometrical shapes, generally known terms, names

5.1.2. names determining the goods or services, words or figures indicating the quantity, size, weight, quality, purpose, price, or place, time or method of manufacturing

5.1.3. Undistinguishable shapes or figures of goods and their packaging

5.1.4. in case of only reproductions of names or representations of Mongolian historical and cultural monuments

5.1.5. in case of only reproductions of the names, pseudonyms, portraits or pictures of historical persons of Mongolia or suggested names directly related thereto

5.2. The following shall not be registered as trademark:

5.2.1. denominations that consist of, or identical with, or similar to, the national emblems, flags or other State symbols of Mongolia or member countries of the Paris Convention and the WTO, or official emblems, the full or abbreviated names of Intergovernmental international organizations without the authorization of the competent authorities, organizations, and of that country;

5.2.2. reproductions that consist of the full names or pseudonyms, portraits, pictures of Mongolian famous persons without the consent of those persons or their heirs;

5.2.3. signs identical with, or similar to the Mongolian State decorations, medals or other awards, or to official signs and hallmarks indicating control and warranty;

5.2.4. indications, the content of which is contrary to public order or morality;

5.2.5. indications liable to deceive or mislead consumers as to the nature, quality, geographical origin or other characteristics of the goods or services.

5.2.6. it is identical with a trademark registered or applied for registration in Mongolia in respect of identical goods or services;

5.2.7. it is identical with, or similar to, a trademark registered or applied for registration in Mongolia in respect of similar goods or services where its use would result in a likelihood of confusion on the part of consumers;

5.2.8. it is identical with, or similar to, a trademark which has become well-known among the public, regardless of the nature of the goods or services and where the use would result in a likelihood of confusion on the part of consumers, take unfair advantage of, gain profits from, cause damages, or be detrimental to, the repute of the well-known trademark;

5.2.9. it would conflict definitely with a famous copyright and related rights or industrial property right in Mongolia.

5.3. When the elements provided in Article 5.1, 5.2.1 of this law not compound whole part of the trademark, it can be registered it disclaiming given words or figures.

5.4. The Government Agency in Charge of Intellectual Property Matters (hereinafter referred to as The Government Agency) shall approve Rules of Identification of Mongolian historical, famous persons and Filing of trademark application and examination provided in Article 5.1.5, 5.2.2.

5.5. The Government Agency shall approve the list of Well-known trademark provided in Article 3.1.13 and shall publish in Official periodical gazette provided in Article 3.1.14.

Article 6. Filing of Trademark Application

6.1. A trademark application (hereinafter referred to as application) shall be file in Mongolian with the Government Agency by a natural or a legal person wishing to register the trademark.

6.2. Trademark application shall be filed by the applicant or by the intellectual property representative provided in Article 31 of this Law.

6.3. One trademark application shall be related to one trademark.

6.4. The application shall contain the followings:

6.4.1. An application according to form approved by the Government Agency.

6.4.2. Fee Receipt which is paid in compliance with Article 9.4 of this Law and documents in compliance with Article 6.6.

6.5. The application provided in article 6.4.1 shall indicate followings.

6.5.1. a request for registration of the trademark;

6.5.2. the family name, surname, given name and address of the applicant, the name of a state of nationality, domicile or establishment, the date of filing of the application and signature where the applicant is natural person;

6.5.3. the official designation, address, the legal nature, the name of a state of establishment and a signature of an authorized person, seal where the applicant is a legal person;

6.5.4. the family name, surname, given name and address of that representative and a signature where the applicant represented by the intellectual Property representative;

6.5.5. a declaration claiming the priority where the applicant wishes to claim the priority date;

6.5.6. a reproduction of applied trademark for registration;

6.5.7. a description of the trademark;

6.5.8. a statement of the trademark representation;

6.5.9. where the trademark is collective mark, a statement to that effect;

6.5.10. where the trademark is certification mark, a statement to that effect;

6.5.11. a transliteration of the mark into Cyrillic characters, or where it is in a foreign language, a translation thereof where the trademark is expressed in characters other than Cyrillic;

6.5.12. Classifications of the goods and services pertaining to the trademark or list of the goods and services.

6.6. Followings shall be accompanied with Trademark application.

6.6.1. regulations governing the use of collective mark, names of the authorized person entitled the use thereof where the applicant wishes to register the trademark as a collective mark,

6.6.2. regulations governing of the use of certification mark, evidence to the effect that an organization is certified organization where the applicant wishes to register the trademark as a certification mark.

6.6.3. certified copy of the application the priority of which is claimed, or related evidence where the applicant wishes to claim the priority date.

6.6.4. the power of attorney where the applicant represented by the intellectual Property representative.

6.7. When two or more entities are using identical trademark for similar goods or services, it shall protect the rights to own of who has first applied for registration.

Article 7 Formality check of Trademark application and according filing date

7.1. The Government agency shall formality check within 10 working days from the date of receipt of given trademark application.

7.2. Where the Government agency finds that application meets requirements of formality check, the filing date of the application shall be accorded as of the date of receipt and shall notify it in writing the applicant.

7.3. Where the Government agency finds that application does not meet requirements of formality check, shall notify in written the applicant and applicant shall make necessary corrections within 20 days of receipt of such notification.

7.4. Where the corrections are submitted by the applicant within the time limit referred to 7.3 of this Law, the Government agency shall consider/accord the filing date as of the date of initial receipt of the application and shall notify it in writing the applicant.

7.5. Where the corrections failed to be submitted by the applicant within the time limit referred to 7.3 of this Law, the Government agency shall consider the application is abandoned and shall notify it the applicant in writing.

7.6. The items referred to 6.6 of this law shall be submitted to the Government agency within 2 months from the filing date of the application.

7.7. Where the items referred to 6.6 of this Law failed to be submitted within the time limit referred to 7.6 of this Law, the

Government agency shall consider that applicant abandoned his/her application and notify about it to the applicant.

Article 8. Examination of Trademark Applications

8.1. The Government agency shall examine whether the trademark could be meet requirements provided for Article 5 of this Law and issue an examination report after formality check and following the accorded a filing date of trademark in compliance with Article 7 of this Law.

8.2. The Government agency shall examine within 9 months from the filing date of the application; if necessary, this period may be extended up to 6 months.

8.3. Where the Government Agency finds that a trademark meets the requirements provided for in Article 5 of this Law, it shall issue an examination report and make decision to register in State trademark register based on the report.

8.4. Where the Government Agency finds that a trademark does not meet the requirements provided in Article 5 of this Law, it shall issue an examination report on it and make provisional decision to refuse the registration of the trademark based on the report, and notify applicant in written.

8.5. Where the applicant disagree the decision referred to Article 8.4, reasoned response shall be submitted to the Government Agency within three months from the date of receipt of the corresponding decision.

8.6. The Government Agency shall make final decision to register a trademark within three months from the date of receipt of the response referred to Article 8.5.

8.7. Where the applicant failed to submit the response referred to Article 8.5 within the prescribed term, The Government Agency shall make final decision to refuse the registration of the trademark and notify the applicant in writing.

8.8. The applicant may, in the course of examination, make any changes to the application except a modification of the trademark; however, new application must be filed if the goods or services

classification is added to the application of the trademark.

8.9. The applicant may, in the course of examination, divide the application related to more than one class of goods or services and file separate trademark applications.

Article 9. Registration and Publication of Trademarks

9.1. The Government Agency shall record the trademark in the State Trademark Register, issue a certificate where the decision has been taken to register the trademark.

9.2. The State Trademark Register shall contain registration number, Application number, family name, surname, name, the official designation of a legal person, address, country name of the owner of the trademark, reproduction of the trademark, a list of the goods and/or services pertaining to the trademark, grouped according to the International Classification, the filing date, priority date, period of validity of the registration, and non-protected words and figures.

9.3. A trademark registration shall be valid for a period of 10 years following the filing date and may be renewed by 10-year periods at the request of the owner.

9.4. Fees under a tariff prescribed by the Law of Mongolia on Stamp Duties and service fee shall be payable for the issue of certificates and renewal of the period of validity of the registration.

9.5. The Government agency shall notify the reproduction and bibliographic data of the trademark in the Official periodical Gazette prescribed in Article 3.1.14 of this Law.

9.6. Registered trademark shall relate only registered goods and services and effect for the owner referred to Article 12.2.

Article 10. Record the changes in the State registration of trademark

10.1. State trademark registration shall be recorded following changes at the request of the owner.

10.1.1. Renewal of the period of validity of the registration

10.1.2. Change in the name or address of the trademark owner
10.1.3. transfer of the trademark owner's rights
10.1.4. limitation to classification and list of the goods and services

10.2. The request for renewal of the period of validity of the registration shall be submitted to the Government agency during the last year of validity of the registration or within 6 months from expiry date of validity of the registration.

10.3. No changes in the trademark or extension in the list of goods or services shall be made on the renewal of the period of validity of the registration.

10.4. Where the name or address changes and the right of the owner of a trademark transfers, The Government Agency must be notified in writing within 6 months after the day the change occurs; the relevant changes shall be recorded in the State Register.

10.5. if any change in State registration, the Government Agency shall publish it in the Official Periodical Gazette referred to Article 3.1.14 of this Law.

Article 11. Proceedings relative to International registration of trademarks

11.1. Related provision of the Article 8-10 of this Law shall be applicable for trademark registration and examination designating Mongolia by international application.

11.2. The filing date of the trademark application designating Mongolia by international application shall be accorded as of the date of the international registration or of the date of the request for territorial extension of the registration.

11.3. Any Mongolian natural or legal person or any person with permanent residence or who is engaged in the manufacturing of goods or the provision of services in Mongolia who has applied for or registered the trademark in compliance with the procedure laid down in this Law, wishing to register the trademark in the member countries of Madrid Agreement and Protocol, shall file the international trademark application himself or by representative to

the International Bureau.

11.4. The Government Agency is Receiving Office for an application referred to Article 11.3 of this Law.

11.5. Filing the international trademark application shall follow provision of the Common Regulations of the Madrid Agreement and the Madrid Protocol.

11.6. Request for renewal of the international trademark registration, transfer of the trademark owner's rights, cancellation or territorial extension shall be submitted to the International Bureau through the Government Agency.

11.7. International trademark registration fees shall be paid by the applicant to the International Bureau in compliance with the Common Regulations.

CHAPTER THREE EXCLUSIVE RIGHT OF TRADEMARK OWNER

Article 12. Exclusive right of trademark owner

12.1. The exclusive rights of a trademark holder arise on the registration of the trademark in State Register.

12.2. The exclusive rights of the trademark owner shall be exercised within the scope of the list of the registered goods or services.

12.3. The trademark owner shall have the following exclusive rights in respect of the trademark:

12.3.1. to own registered trademark;

12.3.2. to permit others the use of registered trademark;

12.3.3. to transfer registered trademark to others;

12.3.4. where the registered trademark is used by others without permission/consent, to request to discontinue the use of a mark;

12.3.5. to request to discontinue the use of a mark by others which is identical with or similar to the registered trademark where its use would result in a likelihood of confusion on the part of consumers.

12.3.6. to claim compensation from guilty person for damages caused by actions referred to Articles 12.3.4, 12.3.5 of this law.

Article 13. Use of Trademark

13.1. The following cases shall be considered to use of a mark:

13.1.1. If using the trademark on the goods, packaging or containers thereof, or in services;

13.1.2. if supplying, offering for sale the goods or stocking them for such purposes, or offering services under the trademark;

13.1.3. if importing or exporting the goods bearing the trademark;

13.1.4. if using the trademark in correspondence, prospectus or other documents and in advertising or in Internet.

13.2. The trademark owner may use a circled Latin letter R alongside the trademark to show that the trademark is registered.

13.3. The intellectual property valuation of trademark can be used in property approval, pledge, investment, issue of stock, privatization, auction, equity fund and insurance.

13.4. Any contract is concluded for the purpose of 13.3 of this law,

the contract shall be registered to the Government Agency.

Article 14 Use of Collective mark

14.1. The owner of a collective mark shall be a person which controls its use, while members of manufacturers and service providers' associations or societies shall be entitled only to use the collective mark under the associated control.

14.2. The owner and user of a collective mark shall be entitled to take preventive measures against unlawful use of the mark.

14.3. The owner and user of a collective mark shall be entitled to claim compensation guilty person for the damage caused by unlawful use of the collective mark or a mark similar thereto.

Article 15. Use of Certification mark

15.1. The owner of a certification mark shall be a certification organization which attests specific characteristics of the goods or services, while natural or legal persons authorized thereby shall be entitled to use the certification mark.

15.2. The person authorized to use a certification mark shall be entitled to take preventive measures against unlawful use of the mark with the permission of the owner of the mark.

15.3. The owner of a certification mark shall, on behalf of a person authorized to use the mark, be entitled to claim compensation for the damage caused by unlawful use of the certification mark or a mark similar thereto by others.

15.4. For the certification mark which consists of a geographical indication and attests an origin of the goods, the provisions of this Law relating to geographical indications shall be applicable.

Article 16. Transfer of Trademark Rights

16.1. A trademark owner may transfer the right to own a trademark to others by means of a written agreement with respect of all or some of the goods or services related to registered trademark.

16.2. The agreement transferring the right to own the trademark shall be recorded with the Government Agency, and the transfer of

rights shall be effective upon recordation of relevant changes in State Trademark Register.

16.3. The Government Agency shall inform the public the transfer of right of the trademark by official publication referred to Article 3.1.14 of this Law.

Article 17 Use of trademark by others / Permission to use trademark by others

17.1. A trademark owner may, under a licensing agreement, permit to use other person to use the trademark with respect to all or some of the goods or services for which it is registered.

17.2. License agreement shall be done in written and it will be effective after signed by two parties and registered in the Government Agency.

17.3. Fees under a tariff prescribed by the Law of Mongolia on Stamp Duties and service fee shall be payable for the recordation of the license agreement.

17.4. The Government Agency shall inform to the public the information on the registered license agreement by official publication referred to Article 3.1.14 of this Law.

Article 18 Termination of Trademark Rights

18.1. The right to own the trademark shall terminate on the following grounds:

18.1.1. where the period of validity of the registration is expired or the request for renewal of trademark registration has not been submitted within time limit referred to 10.2 of this Law;

18.1.2. liquidation of the legal entity which is own the trademark where there is no transfer to others;

18.1.3. where a trademark owner is submitted a request for cancellation;

18.1.4. Other grounds laid down in law.

18.2. When trademark owner's right is terminated the Government Agency shall inform it the public by official publication referred to 03.1.14 of this Law.

CHAPTER FOUR PROTECTION OF GEOGRAPHICAL INDICATION

Article 19. Geographical indications representation

19.1. Geographical indications may be expressed in solely geographical name of a locality that identifies a good as originating therein or combination of name of the goods.

Article 20. Geographical Indications and Requirements Related Thereto

20.1. A following indication shall not be considered as a geographical indication if:

20.1.1. it does not fall into the definition provided for Article 3.1.4 of this Law.

20.2. A geographical indication shall not be registered if:

20.2.1. it has become a generic name in the territory of Mongolia to denote goods of a certain kind.

Article 21. Filing of Applications of geographical indications

21.1. Organization or association or union of unified manufacturers of products related to geographical indication which has a request to register geographical indication shall supply written application of geographical indication under bases of legal rights representing the manufacturer in accordance with regulation approved by Government Agency.

21.2. Geographical Indication application shall file by the applicant or by the representative referred to Article 31 of this Law.

21.3. One Geographical Indication application shall relate to one Geographical Indication.

21.4. An application shall contain the followings:

21.4.1. An application according to form approved by the Government Agency.

21.4.2. Fee Receipt which is paid in compliance with Article 25.4 of this Law.

21.5. The application shall be given followings.

21.5.1. a request for registration of the geographical indication

21.5.2. the official designation, address, the legal nature, the name of a state of establishment of the applicant and a signature of an authorized person, seal;

21.5.3. Where the applicant has an Intellectual Property representative, the family name, surname, given name and address of that representative and a signature;

21.5.4. Applied geographical indication for registration;

21.5.5. where the geographical indication is expressed in characters other than Cyrillic, a transliteration of the geographical indication into Cyrillic characters, or where it is in a foreign language, a translation thereof;

21.5.6. Classifications of the goods and services pertaining to the geographical indication or list of the goods and services;

21.5.7. the geographical locality of the place;

21.5.8. description about how given quality, reputation and other characteristics of the goods associated with natural and climatic condition and inherent human factors of particular geographical environment.

21.6. The application for a geographical indication shall be accompanied the following:

21.6.1. Document issued by the Authorized organization certifying/confirming that the production activity is carried on in the geographical locality concerned;

21.6.2. Document issued by the Authorized organization certifying/confirming that how given quality, reputation and other characteristics of the goods associated with natural and climatic condition and inherent human factors of particular geographical environment;

21.6.3. Where foreign Geographical Indication is filed for registration, document certifying that where the geographical indication is protected in home country;

21.6.4. Power of attorney, if the application is filed by the representative;

Article 22. Description of the goods bearing the geographical indication

22.1. The goods bearing the geographical indication shall be defined the following features.

22.1.1. Name of the goods shall be consisted of the Geographical indication;

22.1.2. description of the goods related to the geographical indication shall be contained chemical, physical, microbiological, structural characteristics;

22.1.3. It shall indicate definitely the geographical area related to the Geographical Indication;

22.1.4. goods related to the geographical indication shall be confirmed that it is originated from that geographical area;

22.1.5. It shall be confirmed that given goods are produced in connection with origin, natural and human factors, features of geographical environment;

22.1.6. Description of permanent and stationery methods of specific production for the relevant geographical area.

Article 23. Formality checks of GI application and according filing date

23.1. The Government agency shall formality check within 10 working days from the date of receipt of given geographical application.

23.2. Where the Government agency finds that application meets requirements of formality check, shall accord the filing date as of the date of receipt and shall notify it in writing the applicant.

23.3. Where the Government agency finds that application does not meet requirements of formality check, shall notify in writing the applicant and applicant shall make necessary corrections within 10 days of receipt of such notification.

23.4. Where the corrections are submitted by the applicant within the time limit referred to 23.3 of this Law, the Government agency shall consider/accord the filing date as of the date of initial receipt of the application and shall notify it in writing the applicant.

23.5. Where the corrections failed to be submitted by the applicant within the time limit referred to Article 23.3, the Government agency shall consider the application is abandoned and shall notify it the applicant in writing.

23.6. The items referred to Article 21.6 shall be submitted to the Government agency within 2 months from the filing date of the application.

23.7. Where the items referred to Article 21.6 failed to be submitted within the time limit referred to Article 23.6, the Government agency shall consider that applicant abandoned his/her application and notify about it to the applicant.

Article 24. Examination of Geographical Indication Application

24.1. Following the accorded a filing date and formality check in compliance with Article 23 of this Law, The Government agency shall examine whether the Geographical Indication could be meet requirements provided for Article 20 of this Law and issue an examination report.

24.2. The Government agency shall examine within 6 months from the filing date of the application; if necessary, this period may be extended up to 6 months.

24.3. Where the Government Agency finds that the Geographical Indication meets the requirements provided for in Article 20 of this Law, it shall issue an examination report and make decision to register in State trademark register based on the report.

24.4. Where the Government Agency finds that the Geographical Indication does not meet the requirements provided for in Article 20 of this Law, it shall issue an examination report on it and make provisional decision to refuse the registration of the Geographical Indication based on the report, and notify applicant in written.

24.5. Where the applicant disagree the decision referred to 24.4, reasoned response shall be submitted to the Government Agency within three months from the date of receipt of the corresponding decision.

24.6. The Government Agency shall make final decision to register the Geographical Indication within three months from the date of receipt of the response referred to 24.5.

24.7. Where the applicant failed to submit the response referred to Article 24.5 within the prescribed term, The Government Agency shall make final decision to refuse the registration of the geographical indication and notify the applicant in writing.

24.8. The applicant may, in the course of examination, make any changes to the application except a modification of the geographical indication.

Article 25. Registration of Geographical Indication, Publication

25.1. Where the decision has been taken to register the geographical indication, the Government Agency shall record the geographical indication in the State Register of Geographical indication, issue a certificate.

25.2. The State Register of Geographical indication shall contain data on the registration number, application number of given geographical indication, official designation of a legal person, address, countries name, reproduction of the geographical indication, name of the goods pertaining to the geographical indication, grouped according to the International Classification and the filing date.

25.3. A registration of geographical indication shall be valid beginning from the filing date and shall be unlimited in time.

25.4. Fees under a tariff prescribed by the Law of Mongolia on Stamp Duties and service fee shall be payable for the issue of certificates.

25.5. The Government agency shall inform the reproduction and bibliographic data of the Geographical indication in the Official periodical Gazette prescribed in Article 3.1.14 of this Law.

CHAPTER FIVE RIGHTS AND OBLIGATIONS OF USERS OF GEOGRAPHICAL INDICATION

Article 26. Rights and obligations of users of geographical indication

26.1. The rights of users of geographical indication shall arise on the registration of the Geographical Indication in State Register.

26.2. The rights of users of geographical indication shall be exercised within the scope of registered goods.

26.3. The user of a geographical indication shall have the following rights in respect of the geographical indication.

26.3.1. to use geographical indication for the goods;

26.3.2. to request to discontinue that act where the registered geographical indication is used by others in respect to goods not manufactured in the locality indicated;

26.3.3. to request to discontinue that act where the registered geographical indication is used by others in respect to similar goods and therefore takes unfair advantage of, or is detrimental to, the repute of the geographical indication;

26.3.4. to request to discontinue that act where using geographical indication in a translated form, or accompanied term such as "typical", "stylish", "structural" and "similar" although origin of goods is correctly designated when the registered geographical indication is used by others:

26.3.5. to claim compensation for damages caused by actions/act referred to 26.3.1-26.3.4 of this law.

26.4. User of geographical indication shall bear responsibility to keep quality, reputation and other features of the given goods in accordance with documents referred to 21.6.2 of this law.

26.5. Internal or external control on quality shall be done for the purpose of determining whether the goods with geographical indication is covering the given features of geographical indication.

26.6. Internal quality control of goods with geographical indication shall be done by organization of any union or association, users of geographical indication.

26.7. External quality control of goods with geographical indication shall be done by quality control laboratory of amiga or capital city, or any state organization in the charge of quality control.

26.8. The given product shall be recognized as a good with geographical indication when the documents of quality control of goods with geographical indication meets the features referred in the documents 21.6.2 of this law.

Article 27. Use of Geographical indication

27.1. The following cases shall be considered to use of a geographical indication:

27.1.1. If using the geographical indication on the goods, packaging or containers thereof, or in services;

27.1.2. if supplying, offering for sale the goods or stocking them for such purposes, or offering services under the geographical indication;

27.1.3. if importing or exporting the goods bearing the geographical indication;

27.1.4. if using the geographical indication in correspondence, prospectus or other documents and in advertising or in Internet.

27.2. Registered geographical indication shall be entitled to use according to this Article where any entity carries on production activity in the locality concerned who has registered to use the geographical indication for own goods.

Article 28. Expiry of rights of User of Geographical Indication

28.1. Rights of User of Geographical Indication shall be terminated in following grounds:

28.1.1. where the quality, reputation and other characteristics of given goods have no direct relation with natural and climatic condition, human factors of that geographical environment;

28.1.2. where the legal entity as a user of geographical indication has been liquidated;

28.1.3. where the user of geographical indication has requested cancelation of the given geographical indication;

28.1.4. other grounds laid down in law.

28.2. Government agency shall inform by official periodical gazette referred to Article 3.1.14 of this law where rights of user of

geographical indication is terminated.

CHAPTER SIX INTELLECTUAL PROPERTY OFFICE

Article 29. Government Agency in Charge of Intellectual Property Matters

29.1. The Government Agency shall be responsible for dealing with matters concerning trademarks, geographical indications and will carry out the following functions:

29.1.1. conduct for implementation of legislation on trademark and geographical indication in national level;

29.1.2. submit proposals on amendment, adjustment to international convention and treaties which Mongolia has joined and improvement to legislation on trademarks and geographical indications;

29.1.3. approve regulation related with registration of trademark and geographical indication and its state registration, amendments and recognition of well-known mark;

29.1.4. specify layout of the application form for registration and the certificate of trademarks and geographical indications;

29.1.5. receive applications for trademarks and geographical indications and render decisions thereupon;

26.1.6. carry out the registration of trademarks and geographical indications and issue certificates;

29.1.7. keep the unified State Register of trademarks and geographical indications;

29.1.8. maintain a unified database of trademarks and geographical indications;

29.1.9. publish an information on registration of trademarks and geographical indications in the Official periodical Gazette referred to 3.1.14 of this law;

29.1.10. invalidate trademarks and geographical indications on the grounds and according to procedures, as laid down by the law;

29.1.11. carry out (the proceeding) international registration of trademarks;

29.1.12. carry out the state supervision on implementation of trademarks and geographical indications law and appoint state inspectors of intellectual property;

29.1.13. conduct for supplying unified methodology of research and training of trademarks and geographical indications;

29.1.14. approve a valuation of trademarks and geographical indications on request by an owner and user;

29.1.15. conduct examination of and issue special license to any entity intending to practice as an intellectual property

representative;

29.1.16. render decisions on appeals and disputes within its competence, as provided by the law;

29.1.17. perform other functions, as provided by the law;

29.1.18. A member of the Government in charge of intellectual property matters shall approve the amount of fees for services provided in 6.4.2, 9.4, 17.3, 25.4 of this Law.

Article 30. Powers of the Intellectual Property Inspector

30.1. The Government Agency shall have a state general inspector, a senior state inspector and a state inspector.

30.2. The Director General of the Government agency is General State Intellectual Property Inspector.

30.3. The rights of the State General Inspector of Intellectual Property shall be granted by the Government, the rights of the Chief State Inspector and the rights of the State Inspector shall be granted by the Government member in charge of intellectual property.

30.4. The state general inspector, senior state inspector, state inspector (hereinafter referred to as "state inspector") shall exercise the general powers specified in the Law on State Inspection, Law on Administrative Liability and other legislation in the field of intellectual property control.

30.5. In exercising his / her powers specified in the legislation, the state inspector shall not be influenced by others and shall be guided only by the legislation and other legal acts issued in accordance with it.

30.6. It is prohibited for a state inspector to interfere or influence a citizen, legal entity or official in exercising his / her powers specified in the legislation.

30.7. It shall be prohibited for other persons to make decisions on any issues related to the powers of the state inspector granted by by legislation.

Article 31. Intellectual Property Representative

31.1. An intellectual property agent shall be a citizen of Mongolia

with higher education, at least three years of experience in the intellectual property sector, at least 25 years of age and permanent residence in Mongolia, or a legal entity established and operating in accordance with the laws of Mongolia.

31.2. An Intellectual Property representative shall obtain a license in accordance with regulation.

31.3. The Government agency shall determine regulations on the operation of Intellectual Property representatives.

CHAPTER SEVEN CONSIDERATION OF APPEALS, REQUESTS AND DISPUTES

Article 32. Consideration of appeals, requests and disputes

32.1. The Dispute Resolution Commission should work under the Government Agency who has authority to consider below mentioned appeal or requests related with trademark and geographical indication.

32.1.1. an appeal of applicant related to the procedures referred to Article 7,8,23,24 of this Law.

32.1.2. a request for invalidation of trademark and Geographical indication registration on the grounds provided in 33.1.1 of this Law.

32.1.3. a request for invalidation of trademark registration on the grounds provided in 33.1.2 of this Law.

32.1.4. a request for recognition that the mark is well-known mark.

32.2. An applicant shall submit to the Dispute Resolution Commissions an appeal provided in 32.1.1 of this law within 30 days from the date of receipt of the notification.

32.3. Requests provided in 32.1.2, 32.1.3 shall be submitted to the Dispute Resolution Commissions within one years from the date of official periodical publication referred to 3.1.14 of this Law.

32.4. The Dispute Resolution Commission shall consider appeals or disputes provided in 32.1 of this Law within 6 months from the date of receipt and notify it in written.

32.5. The petitioner is entitled to apply to the court where they disagree with the decision of the Dispute Resolution Commission.

32.6. A member of the Government in charge of intellectual property matters shall approve the regulation on procedure of the Dispute Resolution Commission.

CHAPTER EIGHT MISCELLANEOUS

Article 33. Invalidation of the registration of trademarks and geographical indications

33.1. Registration of trademarks and geographical indications shall be invalidated on the following grounds:

33.1.1. Where trademark and geographical indication is registered in violation of Articles 5, 20 of this Law.

33.1.2. Where the trademark is registered in the member country of Paris Convention under name of any representative or distributor without permission of an exclusive rights owner of the given trademark.

33.2. Any Interested person may, on the grounds provided for 33.1.1, 33.1.2 of this Law, may submit to the Dispute Resolution Commissions a request for invalidation of trademark and Geographical indication registration.

33.3. Where the Dispute Resolution Commissions finds that the request is well founded, the decision shall be taken to invalidate the registration of the trademark or geographical indication and the Government Agency shall be notified accordingly.

33.4. The Government Agency shall invalidate the registration of the trademark or geographical indication in respect of the owner or user concerned in the following cases:

33.4.1. where the request for renewal of trademark registration has not been submitted within 6 months from the expiry of the period of validity of the registration;

33.4.2. where the trademark owner or user of a geographical indication renounces the right to own the trademark or use the geographical indication by means of a written declaration;

33.4.3. where a legal person the trademark owner or user of a geographical indication has been liquidated and the right to own the trademark or use the geographical indication has not been transferred to others or the trademark has not been assigned by means of a license agreement.

33.5. Government agency shall inform it to public by official periodical gazette referred to Article 3.1.14 where the registration of a trademark or geographical indication has been invalidated.

Article 34. Liability for Breach of rights of Trademark owner and Geographical Indications

34.1. Where a violation of the legislation on trademarks and geographical indications is held not to constitute a criminal offence, a state inspector or a judge shall impose tugrug amount up to increasing 2-6 times low rate salary of labor of one month and, in the same case impose tugrug amount up to increasing 10-25 times low rate salary of labor of one month to legal entity or a judge shall imprison guilty citizen and officers for up to 7-14 days and state inspector or judge who alienating the infringing goods and alienating of illegal incoming, destroyed or the production be ceased shall be state revenue.

34.2. Compensation for damages caused by the infringement of the rights of a trademark owner or a user of geographical indication shall be awarded in compliance with the Civil Law.