

Geographical Indications - A Trademark Issue

The Government has issued Regulation No. 51 of 2007 on Geographical Indications (Regulation) in order to facilitate the implementation of Article 57(9) of Law No. 15 of 2001 on Trademarks. Geographical indications are in essence any signs or marks that indicate the region of origin of the good. These indicators can be either natural or human in type or a combination of both.

The most obvious examples of geographical indications relate to goods that are recognized by the region from which they originate such as 'Florida oranges', 'Washington State apples' or Indonesian examples such as 'batik Solo' or 'kue lapis Surabaya' (Surabaya layered cake). Article 57(9) allows for these goods to be trademarked because of the geographical indications that they include. This protection is afforded generally under the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPs Agreement) of the World Trade Organization (WTO). More specifically these protections are to be guaranteed under the national legislation frameworks of the relevant member countries.

Once protection has been afforded it will remain in place for so long as the geographical indicator remains in place. The Regulation lists the procedures and mechanisms for applying for the geographical indications protection facilities. Essentially, all applications must be in Indonesian, on the standard approved form, from an individual or entity that can request a trademark, among others. The general application requirements exist of identifying the applicant, the date on which the application was lodged, and the complete contact details of any attorney, and the payment of the relevant fees, the geographical indication that is the subject of the application, and a description of the geographical indicator.

The application will then be checked administratively and substantively to ensure compliance. The administrative check will take 14 days provided the documents submitted are complete. Incomplete documents will be allowed a period of 3 months to rectify any deficiency in the application. After the completion of the administrative checks the Director General will undertake a substantive examination of the application. This process will include the appointment of a expert team within 1 month of the administrative review. The review itself may take up to 2 years. Even once the substantive examination is concluded the failure to pay any associated fees will see the application to be deemed to have been withdrawn. If an application is rejected then the applicant has a right to review of the rejection but this must be made within 3 months of being notified of the rejection.

Foreign geographical indications can request protection in Indonesia. However, any application is dependent on the geographical indication being registered as a trademark in the country of origin of the applicant.

The Regulation has been in force since 4 September 2007. 

❖ Past Issues

- ✍ Blocking and Seizing Assets and Wealth Using Taxation Distress Warrants (Issue 674 - 12/09/2007)
- ✍ Jakarta and Public Order - Wanting to be Singapore Cleaning Up Jakarta? (Issue 673 - 11/09/2007)
- ✍ Reintegration of Jail Prisoners into the Community - Overcrowding in Jails and Other Financial Considerations (Issue 672 - 10/09/2007)

❖ Documents

The Government Regulation No. 51 of 2007
(PP_NO_51_2007.pdf - 92.Kb)

*Indonesian Legal Brief is a service of
PT Justika Siar Publika owner and operator of
www.hukumonline.com
Puri Imperium Office Plaza UG 15
Kuningan, Jakarta 12319
to subscribe, call 62-21-83701827 or fax to 62-21 83701826
or email layanan@hukumonline.com*