

Brazil: New Conditions for Registration of Geographical Indications

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Geographical indications (GIs), which can be protected as intellectual property rights, are defined under Article 22.1 of the TRIPS Agreement as “indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.” A geographical indication right enables the rightholder to prevent the use of the GI by a third party whose product does not conform to the applicable standards.

Under the governing law in Brazil, GIs can be considered an indicator of source where the name of a place is known as the center of extraction, production, or manufacture of a given good or service.

Brazil’s new Normative Instruction revokes the prior regulation dating back to 2013 (namely, Normative Instruction 25/2013) and provides, inter alia, that certain types of names are not protectable as GIs: (i) the names of vegetables registered as plant varieties or that are of common use, (ii) the names of existing animal breeds; (iii) names that are likely to cause confusion with other existing GIs;

and (iv) commonly used geographical or gentilic names (that is, names relating to a noun or adjective that denotes ethnic or national affiliation).

The new provisions also provide that any producer or service provider can use the GI, as long as the entity is established in the territory and complies with any required procedures or controls relating to the goods, even if the company has no relation to the entity that requested/obtained the GI registration.

It is also now possible to amend the GI registration after it issues, including (i) the name of the GI and its graphic or figurative representation; (ii) the delimitation of the territory/area at issue; (iii) the technical specifications of the GI; and (iv) the type of GI. Such changes may only be requested after 24 months of the GI registration, and the requested changes must not alter the elements that justified the issuance of the GI in the first place. –[MS](#)

Primary Contacts

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