

## IP Systems at a Glance from the World Intellectual Property Indicators Report 2024

### The Patent System

A patent is a set of exclusive rights granted in law to applicants for an invention that meets the standards of novelty, non-obviousness and industrial applicability. It is valid for a limited period (generally 20 years), during which time the patent holder may commercially exploit the invention on an exclusive basis. In return, applicants are obliged to disclose their inventions to the public, so that they may be replicated by others skilled in the art. The patent system is designed to encourage innovation by providing innovators with time-limited exclusive legal rights, thus enabling them to appropriate returns from their innovative activity.

The procedures for acquiring patent rights are governed by the rules and regulations of national and regional patent offices. These offices are responsible for issuing patents and rights limited to the jurisdiction of the issuing authority. To obtain patent rights, applicants must file an application describing the invention with a national or regional office.

Applicants can also file an international application through the Patent Cooperation Treaty (PCT) System, an international treaty administered by WIPO that facilitates the acquisition of patent rights in multiple jurisdictions. The PCT System simplifies the process of multiple national patent filings by delaying the requirement to file a separate application in

every jurisdiction in which protection is sought. However, the decision on whether to grant a patent remains the prerogative of national or regional patent offices and patent rights limited to the jurisdiction of each patent granting authority.

The PCT application process begins with the international phase, during which an international search and optional preliminary examination and supplementary international search are performed. It concludes with the national phase, during which national (or regional) patent offices decide on the patentability of an invention according to national law. Further information about the PCT System is available at [www.wipo.int/pct](http://www.wipo.int/pct).

### **The Utility Model System**

Like a patent, a utility model (UM) confers a set of rights to an invention for a limited period, during which time the UM rights holder can commercially exploit their invention on an exclusive basis. The terms and conditions for granting a UM differ from those for granting a traditional patent. For example, UMs are issued for a shorter period (6–10 years) and at most offices protection is granted without substantive examination. As with patents, procedures for granting UM rights are governed by the rules and regulations of national IP offices and rights limited to the jurisdiction of the issuing authority. In this report, the term “utility model” refers to UMs and other types of protection similar to UMs, such as short-term patents in the Republic of Ireland.

## **Microorganism Under the Budapest Treaty**

The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure plays an important role in relation to biotechnological inventions. Disclosing an invention is a generally recognized requirement for receiving a patent. When an invention involves microorganisms, national laws in most countries require the applicant to deposit a sample at a designated International Depository Authority (IDA).

To eliminate the need to deposit a microorganism in every country where patent protection is sought, under the Budapest Treaty the deposit of a microorganism with any IDA is sufficient for the purposes of patent procedures at the national patent offices of all contracting states and at any regional patent office that recognizes the Treaty. An IDA is a scientific institution – typically a “culture collection” – capable of storing microorganisms. As of September 2024, there were 51 IDAs around the world. Further information about the Budapest Treaty is available at [www.wipo.int/treaties/en/registration/budapest](http://www.wipo.int/treaties/en/registration/budapest).

## **The Trademark System**

A trademark is a sign used to distinguish the goods or services of one enterprise from those of another and is protected as an intellectual property (IP) right. Trademarks can be registered for both goods and services. In the latter case, the term “service mark” is sometimes used. For simplicity, this report uses “trademark,” regardless of whether the registration concerns goods or services. The holder of a registered trademark has the exclusive

right to use the mark in relation to the goods or services for which it is registered and can block unauthorized use of the trademark, or a confusingly similar mark, to prevent consumers from being misled. Unlike patents, trademark registrations can be maintained indefinitely, provided that the trademark holder pays the required renewal fees.

The procedures for registering trademarks are governed by the legislation and procedures of national and regional IP offices. Therefore, trademark rights are limited to the jurisdiction of the authority that has registered the trademark. Trademark applicants can file an application with a relevant national or regional IP office or an international application through the Madrid System. However, when an applicant files internationally via the Madrid System, the decision to issue a trademark registration remains the prerogative of the national or regional IP office concerned and trademark rights remain limited to the jurisdiction of the authority issuing that registration.

Between December 1995 and October 2016, two treaties administered by the World Intellectual Property Organization (WIPO) governed the Madrid System for the International Registration of Marks – the Madrid Agreement Concerning the International Registration of Marks, adopted in 1891, and the Protocol Relating to the Madrid Agreement, adopted in 1989. As of October 11, 2016, following a decision by the Madrid Union Assembly that no country could accede only to the Agreement, the Protocol is now the sole governing treaty of the Madrid System. The Madrid System offers many advantages to trademark holders and IP offices compared with the alternative method of obtaining international protection for marks called

the Paris route or the direct route. The Paris route involves filing separate applications directly at the IP office in the countries or regions where protection is sought (under the Paris Convention for the Protection of Industrial Property). In contrast, by paying a single set of fees in a single currency (Swiss francs), the Madrid System allows trademark holders to submit a single application in one language (English, French or Spanish) indicating the Madrid members where protection is sought (designations). The Madrid System also simplifies managing the mark once it has been registered by making it possible to request centrally the recording of further changes or to renew the registration through a single procedural step. A registration recorded in the International Register has the same effect as a registration made directly with every designated Contracting Party (Madrid member), if the competent authority of that jurisdiction has not issued a refusal within a specified time period. Further information about the Madrid System is available at [www.wipo.int/web/madrid-system](http://www.wipo.int/web/madrid-system).

### **The Industrial Design System**

Industrial designs are applied to a wide variety of industrial products and handicrafts.<sup>1</sup> They refer to the ornamental or aesthetic aspects of a useful article, including compositions of lines or colors or three-dimensional forms that give a special appearance to a product or handicraft. The holder of a registered industrial design has exclusive rights over the design and can prevent unauthorized copying or imitation of the design by others. The procedures for registering industrial designs are governed by national or regional laws. An industrial design can be protected if it is new or

original and rights are limited to the jurisdiction of the issuing authority. Registrations can be obtained by filing an application with a relevant national or regional IP office or by filing an international application through the Hague System. Once a design is registered, the term of protection is generally five years and may be renewed for additional five-year periods up to a total of 15 years, in most cases. In some countries, industrial designs are protected through the delivery of a design patent rather than design registration.

The Hague System comprises two international treaties – the Hague Act and the Geneva Act. The system makes it possible for an applicant to register industrial designs in multiple territories by filing a single application with the International Bureau of WIPO, thus simplifying the multinational registration process. Moreover, by allowing the filing of up to 100 different designs per application, the System offers considerable opportunities for efficiency gains. It also streamlines the subsequent management of industrial design registration, since it is possible to record changes or renew a registration through a single procedure for all territories. Further information about the Hague System is available at [www.wipo.int/web/hague-system](http://www.wipo.int/web/hague-system).

### **Plant Variety Protection**

To obtain protection, a plant breeder must file an individual application with every authority entrusted with granting breeders' rights. A breeder's right is granted only when a variety is new, distinct, uniform and stable, and has a suitable denomination.

In the United States of America (US), two legal frameworks protect new plant varieties: the Plant Patent Act (PPA) and the Plant Variety Protection Act (PVPA). Under the PPA, whoever invents or discovers and asexually reproduces any distinct and new variety of plant – including cultivated sports, mutants, hybrids and newly-found seedlings, other than a tuber-propagated plant (in practice, Irish potato and Jerusalem artichoke) or a plant found in an uncultivated state – may obtain a patent. Under the PVPA, the United States of America protects all sexually-reproduced plant varieties and tuber-propagated plant varieties, excluding fungi and bacteria.

### **The Geographical Indication System**

A geographical indication (GI) is a sign identifying a good as originating in a specific geographical area and possessing a given quality, reputation or other characteristic essentially attributable to that geographical origin. Thus, the main function of a GI is to indicate a connection between the quality, characteristics or reputation of the good and its territory of origin.

World-renowned examples of GIs include “Café de Colombia” (Colombia), “Bordeaux” (France), “Kampot Pepper” (Cambodia), “Penja Pepper” (Cameroon) and “Scotch Whisky” (United Kingdom).

Geographical indications are mainly used for agricultural and food products, which typically tend to have a close natural link with their place of origin. However, there are many GIs for other kinds of products, whose specific characteristics may derive from traditional manufacturing skills or

from a combination of local know-how and natural resources. Examples of GIs for handicraft and manufactured goods include “Bohemia Crystal” (Czech Republic), “Solingen” for cutlery (Germany), “Isfahan Handmade Carpet” (Islamic Republic of Iran) and “Swiss Made” for watches (Switzerland).

Although GIs are commonly names of places, they may also consist of non-geographical terms with a traditional geographical connotation (traditional denominations); for example, “Argane” (Morocco) serves as a GI, although not a geographical name.

Geographical indications can only be used on goods that conform to the applicable requirements concerning the area of origin, processing method and typicity of the product. Goods from production sites located outside the area of origin and goods that do not meet the applicable requirements are prohibited from using the protected indication.

### **Appellations of Origin**

An appellation of origin is a special kind of geographical indication. It generally consists of a geographical name or a traditional denomination that serves to designate a product as originating in a defined geographical area, where the quality or characteristics of the product are due exclusively or essentially to that geographical environment, including natural and human factors, and which have given the good its reputation. The most important difference between appellations of origin and other GIs is that the link with the geographical area should be stronger in the case of an

appellation of origin; in other words, appellations of origin are a more restrictive sub-category of GI.

## Protection of GIs

At the national and regional levels, GIs are protected through a variety of legal means. These include sui generis systems – that is, laws specifically designed to protect geographical indications,<sup>2</sup> often based on a registration procedure. Sui generis systems generally provide protection against any direct and indirect commercial use of a GI, as well as against its imitation. Sui generis systems for GI protection are used in many countries and also by two regional intergovernmental organizations: namely, the African Intellectual Property Organization (OAPI) and the European Union (EU).

Geographical indications can also be protected on the basis of trademark law, commonly through the use of collective and certification marks. Because trademarks incorporating geographical terms are typically not recorded by IP offices as a separate category of trademark, and because not all trademarks incorporating geographical terms can be considered to be GIs, it may be difficult to determine the exact number of registered GIs within jurisdictions. It is also worth noting that GI protection via sui generis or trademark systems are not mutually exclusive, but often coexist under many legal frameworks and are available for the benefit of GI holders.

Finally, GIs are typically also protected under unfair competition regulations, consumer protection laws and administrative and judicial

decisions, as well as under specific laws or decrees recognizing individual GIs.

As for other IP rights, the effects of a GI right obtained in a particular jurisdiction are limited to the territory of that jurisdiction. Thus, where a right over a GI is obtained in one jurisdiction, it is protected there but not abroad. In order to obtain protection in a foreign jurisdiction, GI holders must, in principle, seek protection under the relevant national or regional laws of the jurisdiction in question. However, international agreements can facilitate the acquisition of GI rights abroad. In particular, bilateral and regional agreements have incorporated lists of GIs that are to be protected within the jurisdiction of the relevant parties to the agreement. The listed GIs may relate to existing or subsequent GI rights, but protection may also emanate from the trade agreements themselves.

Another way of obtaining protection for GIs abroad is through two international registration systems administered by WIPO: namely, the Lisbon System and the Madrid System.

### **The Lisbon System**

The Lisbon System was established in 1958 to facilitate the international protection of appellations of origin through a single registration procedure.<sup>3</sup> Registration with the WIPO International Bureau ensures protection in all Lisbon contracting parties, without the need for renewal and for as long as the appellation of origin remains protected within its contracting party of origin. However, the decision as to whether to protect

a newly registered appellation of origin at the national or regional level remains the prerogative of each contracting party and each Lisbon member can refuse protection based on any ground foreseen at national or regional level within one year of being notified of a new appellation of origin by the WIPO International Bureau.

Globally-renowned examples of appellations of origin protected under the Lisbon System include “Tequila” for spirits (Mexico), “Chianti” for wines (Italy), “Habanos” for cigars (Cuba) and handicrafts such as “Chulucanas” for ceramics (Peru) and “Herend” for porcelain (Hungary). The scope of the System extends to non-geographical traditional names, such as “Reblochon” for cheese (France) and “Vinho Verde” for wines (Portugal).

In 2015, with the adoption of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications – which entered into force on February 26, 2020 – Lisbon contracting parties modernized the System in order to attract a wider membership, while preserving its principles and objectives. The Geneva Act formally extends the scope of the Lisbon System to the general category of GIs in addition to appellations of origin. The new Act also opened the Lisbon System to accession by intergovernmental organizations, such as the EU and OAPI. It also made the Lisbon System more flexible so as to secure a wider recognition for, and inclusion of, the various means by which countries may protect appellations of origin and GIs at a national or regional level (e.g., sui generis systems, trademark laws or specific ad hoc decrees, as well as judicial and administrative decisions).

## Protection of GIs Abroad Through the Madrid System

Geographical indications can be protected in several countries as trademarks (most commonly collective and certification marks) through the Madrid System, an international registration system legally governed by the Madrid Agreement (1891) and the Madrid Protocol (1989) and administered by WIPO. A famous example of a collective/certification mark registered under the Madrid System is Napa Valley for wines from the United States of America.

### Source

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