

Thesis Title : The Problems on the Discrepancy Between the Geographical Indications Protection Act B.E. 2546 and the TRIPS Agreement

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ABSTRACT

Thailand as an associated member of the World Trade Organization (WTO) is obligated in implementation of domestic laws to comply with the standard of the measure prescribed by TRIPS Agreement, however, despite the Geographical Indication Protection Act 2546 was implied to comply with the minimum standards and the purpose of the TRIPS Agreement, the lack of clear rules on such issues are remained i.e. the use of geographical indications of other Member States with a product or service in the country that cause such geographical indication a common name, the use or registration of a trademark to be filed after the effect of negatively used of protection of Geographical Indications, of protection of the existing person's trading name.

The research revealed that Thailand's law on Geographical Indications Protection Act B.E. 2546 is unclear, either the lack of clarity of the guidelines to determine a common name, or the issue of timing in the use or registration of a trademark that must be filed after the effect of negatively used of protection of Geographical Indications or the issues of protection of the existing person's trading name, while the European Community's Regulations and Malaysia's law of geographical indications has set guidelines on such issues in those Law of Protection of Geographical Indications, especially the European Community has set the explicit rules and regulations on the issues mentioned above.

Researchers hereby suggest the amendments to the protection of Geographical Indications Act 2546 by modifying the term "common name" to be "what is common to the trade for certain products or certain classes" to be consistent with trademark law. This is to allow the registration of Geographical Indications to use the same basis for determining the Registrar of Trademarks, the issues of timing of the use or registration of a trademark to be filed after the effect of negatively used of protection of Geographical Indications, of protection of the existing person's trading name shall adopted the European Community's Regulations as guidelines for Geographical Indications Protection Act B.E. 2546

