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ICANN75 | AGM – ccNSO: ccTLD News (1 of 2): Geographic Indications and ccTLDs  
Tuesday, September 20, 2022 – 10:30 to 12:00 KUL

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Thank you, and with that I will hand the floor over to Annaliese Williams. Thank you.

ANNALIESE WILLIAMS: Thank you, Claudia. My name is Annaliese Williams, I'm from the .au domain administration, and I'm also the chair of the ccNSO

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Internet Governance Liaison Committee, which together with the meeting's program committee has convened this session today. The purpose of this session is just to raise awareness of the issue of geographical indications, or GIs, which has fairly recently re-emerged as an area of increased regulatory attention. The most recent example is a proposal from the European commission to protect GIs on the Internet, including as domain names.

Before we start the session, I would like to invite people in the audience, in the room here to, if you haven't already, please join the Zoom room. We have had some feedback from some of the external participants that they're not aware of what's happening in the room, or how many people are in the room. Just having everybody in the Zoom room helps to make sure that everybody is having the same experience to the extent possible in a hybrid meeting. Just before our speakers start, if you wouldn't mind joining the Zoom room, too. Thank you.

This session will be looking at what geographical indications are, and we have some speakers to help illustrate how the issue is dealt with by CC managers across various regions. We'll be focusing on the impact of the regulatory proposals on ccTLDs. We won't be covering the use of GI related terms as new gTLDs or as second level domains within existing gTLDs. Our focus is just on CCs for this session.

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I'm joined by a number of guests today. We have some representatives from ccTLDs across four regions. We have Nick Wenban-Smith, who's the General Counsel at Nominet, Alyssa Quinn, Senior Policy and Advocacy Advisor at the Canadian Internet Registry Authority, Molehe Wesi, the CEO of the .za Domain Name Authority, and Anil Jain, CEO of the National Internet Exchange of India. To start our session today we will be inviting Brian Beckham, who is the head of the Internet Dispute Resolution Section at WIPO's Arbitration and Mediation Center to give us a presentation. Brian, the floor is yours. Thank you.

**BRIAN BECKHAM:** Hi everyone. Good morning from myself, here in Geneva, Switzerland. I'm going to see if I can't share my screen and start a brief presentation for you. Do you see my screen?

**YUKO YOKOYAMA:** Brian, no. Not yet.

**BRIAN BECKHAM:** Just one second here. I think you guys have it as a backup. I apologize, I don't see it. Here we are, share screen. Sorry for the mix-up and delay here. Do you see my screen now?

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YUKO YOKOYAMA: Yes, if you could please put it up. Yes.

BRIAN BECKHAM: Sorry about that. Thanks, everyone, for inviting me. Thanks Annaliese. As Annaliese mentioned, my name is Brian Beckham and I head up the Internet Dispute Resolution Section—

YUKO YOKOYAMA: Brian, apologies, this is Yuko, sorry to interrupt you. Could you please put it in full screen mode?

BRIAN BECKHAM: Full screen. Sorry.

YUKO YOKOYAMA: If not, I'm happy to share the slide deck on your behalf.

BRIAN BECKHAM: Hold on a second. Apologize for this.

ANNALIESE WILLIAMS: Just while you're doing that, Brian, I forgot to mention earlier in my introduction that you are also the author of WIPO's UDRP jurisprudential guide, WIPO Overview 3.0, and in his previous role as the head of legal policy at new gTLD consultancy Valideus,

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Brian helped to successfully negotiate Specification 13 to the Base Registry Agreement. Brian is an expert in this area.

**BRIAN BECKHAM:** Apologies, I seem to be fumbling with the screen view here. Let's see. Does that work?

**YUKO YOKOYAMA:** This works, thank you.

**BRIAN BECKHAM:** Sorry about the hiccups here on my side. Yes, I will give you guys a brief introduction to geographical indications. These are the topics that we'll cover today. We'll start with the basics just to set the scene, talk about the international legal framework, and then share a few bits for further information. Of course, feel free to ask questions as we go or at the end.

Just to set the scene a little bit, of course, want to introduce you to the topic of GIs or geographical indications, but I thought it would be useful just to show the underpinnings of GIs. That really comes from trademarks and trademark law. Trademarks are things that we all know and love. Here are some examples that you see from the ICANN world. Basically, a trademark, sometimes it's just a written word, sometimes it's a word plus a logo, but it's something that basically let's you know who you're dealing with.

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It distinguishes the goods or services of one company from another. Here are just some further famous examples that we all know from out in the real world, in the non-DNS setting. In fact, trademarks are so well embedded in our memory there are some fun studies done online where they've asked consumers to recall the logos of famous brands. This is just one example I pulled up of the Starbucks logo, and it's interesting to see people's recall of this and other marks. The link is in the bottom there. It makes for a good laugh sometimes to see how people recall the logos of different famous brands from around the world. Basically, trademarks help you identify the products or the services of one company versus another company, so you know effectively as a consumer who you're dealing with.

If you look at the pyramid here, from the foundation of trademark law, I know we're going to focus in a little bit more on GIs, which is one step further up, but just to show you a bit of an escalation or a cascading up effect, trademarks are the broadest understanding of a source recognition capacity. Then we have indications of source, which you're all familiar with when you look at the inside of your shoes or the back of your shirt. You can see that a product was made in a certain jurisdiction. This is just further along the continuum of trademark recognition in the world.

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Moving to GI, GIs basically are trademarks with additional qualities. You see there the common understanding is that it's a trademark which has source identifying capacity. GIs come from a particular place of origin, like an indication of source, and they have an additional quality, reputation, or characteristic, plus a link to a particular geographic source. Like I said, like a trademark a GI is an indication of source. It helps consumers to know who they're dealing with, and in particular, further to the notion of a trademark, a GI helps a consumer to understand the trademark in a sense where it has a particular quality or reputation which is attributable to its geographic origin.

Some common examples of the type— Sorry?

YUKO YOKOYAMA:

Brian, apologies to interrupt you again. The interpreters have a hard time hearing you. Do you happen to have a headset at hand that you could use so that the microphone and the audio is a little bit clearer?

BRIAN BECKHAM:

I don't have one handy. It would take me a few minutes to go out of the room and get one. The probably is not the best use of time, but I'm happy to do that if so.

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YUKO YOKOYAMA:                   Waiting for feedback from colleagues.

CLAUDIA RUIZ:                    Please proceed. The interpreters will let us know if we need to interrupt. Thank you.

BRIAN BECKHAM:                Okay. Let's see if getting a little closer helps. GIs are trademarks, they're source indicators, and they have a particular quality or characteristic that's tied to a reputation and a location. The typical types of GIs that we're familiar with I'll show you on the next slide. A lot of times it's food and beverages, sometimes it's handicrafts. I think probably it's safe to say a lot of you are familiar with the products on the screen there. These are examples of GIs. You can readily identify the type of product and the source of its origin.

Why do we protect GIs? Just like a trademark, it's to protect the value in the product's reputation. Obviously, if you're getting into business producing a good or providing a service to the public you want your investment to be protected and protected against unauthorized use or trading off by third parties. You want to prevent unfair competition. It also helps to avoid the public being misled, so effectively they know who they're dealing with if they buy the products of one company. They know what they're getting, and that has a certain quality or reputation associated



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with it. Of course, that has a competitive aspect, so if I go to Brand X on the Internet versus Brand Y, I know I'm getting in one case a superior or inferior product versus those of the competitors. At the end of the day that serves the interest of not only the businesses who are providing the goods and services, but of consumers. It provides consumer protection aspects, so that if you do have a problem with that product, you know who to hold accountable for anything that would happen with the product.

Obviously, you don't want to be misled into who you're dealing with. That can be a more acute problem on the Internet versus in the physical world. When you go to a shop, of course there's the risk that counterfeit products work their way into supply chains and you pick up inauthentic goods in the real world, but especially when you're at distance over the Internet, there's a chance that you get confused. There are a number of cities, for example, in the United States, called Paris. There's the well-known Paris, France. With a GI, like a trademark, it's about protecting the identity of a product. That assists consumers and the core of it, if you will, is that you wouldn't look to a product that was labelled with Paris thinking it was coming from the famous French city and it was coming from somewhere else. It's about really helping consumers identify who they're dealing with online.

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There's a reasonably complicated international framework of treaties that underpin the legal foundations of GIs. You see there on the screen the Paris Convention, the Madrid Agreement, the Lisbon Agreement. There's another Madrid Agreement and Protocol, and then the TRIPS Agreement. Four of those are managed by WIPO, the organization that I work for, and then the TRIPS Agreement comes from the World Trade Organization.

One of the bodies within WIPO is called the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications. It's a norm-setting body within WIPO, and actually it is the body back in 1999 that, at the request of member states of WIPO, produced the report that led to the UDRP, which I know a lot of you are familiar with today. It's a norm-setting body within the organization and there are a lot of active discussions around these types of topics today. Most recently, in 2018, you see we undertook a survey at the request of member states on how GIs and other terms were protected, how they were addressed in ADR policies, and terms and conditions in the DNS, both in gTLDs and ccTLDs. The reference, if you're interested there, is SCT/39/7. You can find that easily online on our website.

In addition to the text of this survey we produced in annex where we basically did a random sampling of 83 ccTLDs from around the world. We tried to cover different regions, languages and user bases and give a snapshot of how ccTLDs addressed GIs and other

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types of terms in their registration terms and conditions, and then also in their dispute resolution policies. Sometimes the language wasn't exactly clear, sometimes they used the exact term "geographical indications", sometimes they would refer to national law or logo place names, but what we found in our survey, again, it's not comprehensive. I guess it's maybe a little under half of the ccTLDs out there, but we found that a relatively small number of the ccTLDs actually provided protection for GIs in their ADR policies. I know that's a topic of further discussion for this session and generally in the regulatory environment.

Then, on our own website, this is a screenshot of our homepage for our ccTLD Dispute Resolution Services. We provide this as a service to our member states. We provide services currently for 81 ccTLDs. A lot of them have adopted the UDRP, about half of them, but a number of them have made small adjustments to their ADR policies, and oftentimes those account for things like national regulations, appeals to national courts, linguistic considerations, et cetera. Similar to the survey that we understood for the SCT, we found that a small number of the ccTLDs for which WIPO provides alternative dispute resolution services account for GIs in their alternative dispute resolution policies.

I'm happy to answer any questions, or turn it over to Annaliese, and of course I'll stick around in case there are questions throughout. Thank you.

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**ANNALIESE WILLIAMS:** Thanks, Brian. That was really useful, I think, for a lot of CC managers. We don't necessarily have cause to think about GIs all the time, so it's useful to have that overview. Of course, it's quite a complex issue. You mentioned the international frameworks that protect GIs, but not all states have signed up to all of those agreements, and terms that are considered a geographical indication in one jurisdiction are considered a generic term in another, so there are lots of complexities.

I will open the floor now if there are any questions for Brian. Just a reminder that if you could be mindful that this session does have interpreters, so if you could speak slowly and be mindful of that, the floor is open.

**LANLAN BIAN:** Can I speak?

**ANNALIESE WILLIAMS:** Yes, please go ahead.

**LANLAN BIAN:** Actually, I have a question about the ADR policies in some of the ccTLDs. For example, in .cm, I think it's Cameroon, I wonder, do we really have an ADR policy? I'm not specifically talking about GI,

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but even for trademark, because they are not in, at least, the WIPO group who provides the UDRP for some ccTLD who has adopted the UDRP, but for some countries who are not listed there. I've already queried some of the registries and never got any reply, so I'm just trying to understand better.

**BRIAN BECKHAM:** Sorry. Shall I go ahead and attempt an answer?

**ANNALIESE WILLIAMS:** If you would like to, Brian, or we can— Please go ahead if you'd like to answer it.

**BRIAN BECKHAM:** Yes. I can also take questions over the chat or by email and follow-up later. As I mentioned, the survey covers about 80 ccTLDs, and then we provide services for about 80. Dot cm for Cameroon is not one that we presently provide services for. I've just had a quick look at our survey document. It is in that survey annex. Again, it was SCT/39/7. You can find that easily online or I can provide a link that can be shared with participants. There is actually a dispute resolution policy for .cm domain names, and it does address a confusing similarity with trademarks or service marks, but it doesn't look like it covers GIs.

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Ultimately these are questions for the ccTLDs, for the national regulators. Some provide dispute resolution policies which are borrowing from the UDRP and are more narrowly focused on trademarks. Others go beyond to include GIs. Others include even additional terms beyond GIs or trademarks, that would be protected under national law. Ultimately, these are questions for the ccTLDs themselves. Again, the .cm does have a policy, and I can provide a link both to the document and to the particular policy in the chat.

LANLAN BIAN:

Also, I have an inquiry for other ccTLDs like .vc, .hm, .st. If you have any links to their ADR policies, can you provide the links? I would appreciate that.

BRIAN BECKHAM:

I will do my best.

LANLAN BIAN:

Thank you very much.

ANNALIESE WILLIAMS:

Thanks, Brian. There is a range of different ways of handling these issues, and I think we are going to hear a range of policies across

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the various regions. Are there any other questions for Brian? I'm not seeing any in the room.

**BRIAN BECKHAM:**

I can see there's a question in the chat about an example of a GI violation, and I don't know if Nick was intending to speak to this. As I said, effectively it boils down to what in the UK is known as passing off. If I were to go, and again this can happen on the Internet, this can happen in the real world, but if I go here where I live, we have a well-known cheese called Gruyere cheese. If I go to my local grocery, then I expect to buy a certain product. If I go somewhere and I buy a product which is a lookalike, but it's not the authentic product, someone is trying to pass themselves off as the authentic product that I'm looking at, that would be an example of a violation. It's really coming down to consumer expectations, and I'm not getting what I think I'm paying for.

**ANNALIESE WILLIAMS:**

Thanks, Brian, and we may come back to more general questions at the end, if there's time after other speakers have all had a turn and perhaps some of these questions will be answered as our speakers give their presentations.

Our next presenter is Polina Malaja. She's the policy director at the Council of European National Top-Level Domain Registries. She leads the policy work and liaises with governments and

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institutions and other organizations in the Internet ecosystem.  
Polina, please go ahead.

POLINA MALAJA:

Thank you very much, Annaliese, and thank you very much for having me today. I will maybe start first, very briefly highlighting what is CENTR and how we are closely following the geographical indications reform in the EU.

CENTR is the association of European ccTLDs, and we act as a voice of European ccTLDs on global and EU levels, monitoring the policy and regulatory developments, engaging in these policy discussions, and providing data and analysis on a number of topics. Today I would like to highlight a few key points on the ongoing geographical indications reform in the European Union and why it is important for the domain name system. Next slide, please.

I won't largely repeat the main points that were already highlighted by the previous speaker, but just to recap on the aim of the geographical indications protection, for example, in comparison to trademarks, is really to avoid imitation and misleading of the consumer, or also to provide confidence to the consumer that the product that they're buying is authentic. It is also a collective right that is given to all producers in a particular geographic area. When it comes to the European Union, at the



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moment only agriculture geographical indications are protected at the regional level, and the European Union is maintaining primarily two registries of existing geographical indications. The links are provided on the slide. It's really for the public and for everyone to check on the status of the protected geographical indications that are at the moment protected in the European Union. The next slide please.

When we speak about the current geographical indications reform in the European Union, we primarily speak of two proposals by the European Commission that were issued this spring. First, it is the revision of the existing regulations concerning the GIs and their protection within the agricultural area, also including wine and spirit drinks. Second is the proposal to expand the geographical indications that are currently enjoyed by the agricultural products to geographical indications in the area of craft and industrial products. What is remarkable for this audience is that both proposals explicitly expand the geographical indication protection to domain names. Next slide, please.

Some of the justification why the protection of the GIs is expanded to the online realm, and specifically to domain names, is primarily the reason that at the moment GIs are not considered to be a valid protected right within the UDRP policy, and the other, of course, reasoning is that in general the GI enforcement

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online is weakened, and that there is a need to prevent the potential of fraud in light of the increasing digitalization due to, for example, the COVID-19 pandemic. The overall aim is really to make the enforcement better when it comes to GIs and domain names. Next slide please.

How is the EU reform planning to address that, and specifically to address the weakened enforcement of GI protection online? First, both reforms explicitly include European Union ccTLDs in the scope, and particularly when it comes to recognition of GIs as a protected right within the respective alternative dispute resolution procedures that are in place across European Union ccTLDs. According to both of the proposals, European Union ccTLDs will be obliged to recognize GIs as a right that may prevent domain names from being registered or used in bad faith. Next slide, please.

Second, persons with a legitimate interest in the geographical indication will be also able, or must be able to request the revocation or transfer of the domain name after an appropriate alternative dispute resolution procedure in case the conflicting domain name has been registered without the rights or legitimate interest, or if it has been registered or is being used in bad faith. Next slide, please.

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Finally, both proposals also task the European Union Intellectual Property Rights Office to establish a domain name information and alert system. That is aimed to be able to inform GI applicants about the availability of their GI as a domain name, and on an optional basis to provide GI applicants with an alert once an identical or similar domain name has been registered. This in order to provide more protection to the GI applicants when it comes to domain names. Next slide, please.

What does it mean for the European Union ccTLDs? First of all, it is of course noteworthy that both proposals only concern European Union ccTLDs. That includes the ccTLDs that are not bound by UDRP policy. Second, European Union ccTLDs will be required to share all necessary data with the EU IPO for the establishment of the domain name alert system and considering also the fact that both proposals and the related provisions to domain names are actually not identical, it might lead to the establishment of different regimes for agricultural GIs on one hand and non-agricultural GIs on the other. There is also another amendment that is proposed with the GI reform to also establish a similar domain name alert and information system potentially for trademarks.

Some of the concerns with that proposal that CENTR members have identified are, first of all, it is not clear whether existing alternative dispute resolution procedures would need to treat GIs

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according to a specialized regime. For example, specifically when it comes to a potential conflict with existing trademarks. That's also especially interesting in light of the expansion of the GI protection to at the moment not protected craft and industrial products. Second, the information alert system for domain names that the EU IPO is tasked with looks a lot like a duplication or replication of the existing domain name lookup services that are already provided by registries and registrars to the public. It is not clear why significant efforts would need to be done to duplicate these existing lookup services, as everyone can already check whether a specific domain name is registered or not. Finally, it is of course also a significant, unprecedented attention to GIs when it comes to domain name space, while no other intellectual property right enjoys such level of recognition. Next slide, please.

My final slide is about a CENTR survey that we conducted by trying to understand better the existing GI protection within the European ccTLDs, and according to the findings of this survey that we did with our members, we found out that actually quite a significant number of CENTR members already include specific IPR protection provisions in their terms and conditions that in some instances also include an explicit prohibition of using domain names to infringe on geographical indications. We also were not able to identify any evidence of a widespread problem

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with enforcing GI protection within the ccTLDs within the European Union. As evident from my last bullet point, over the past couple of years the surveyed CENTR members have never or rarely encountered any disputes related to geographical indications in domain names.

With that I would like to end my presentation. I'm very happy to receive any questions if you have. Yes, I'm looking forward to the rest of the session. Thank you.

**ANNALIESE WILLIAMS:** Thank you, Polina. That was very interesting. I will open the floor to any questions for Polina. If you are in the Zoom room, could you please use the raise-hand function to indicate that you wish to speak. Are there any questions for Polina?

**BART BOSWINKEL:** Annaliese, Abdullah has a question first.

**ANNALIESE WILLIAMS:** Sorry, Burt? Abdullah, sorry. I'm queue jumping. Abdullah, my apologies. Go ahead.

**ABDULLAH CEMIL AKCAM:** No problem, Annaliese, thank you. This is Abdullah Cemil Akcam, for the record, from the TR ccTLD registry. Polina, my question is,

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you talked about an alert system. Do they envision a better legislation alert system, or is it monitoring and then putting down the domain name after the registration? Thank you.

POLINA MALAJA:

Thank you, Abdullah, for your question. At the moment it's not really clear, first of all, how such a system should function, but also how it should be put in place. Both proposals actually also differ in the legal basis for establish of such systems. For example, in the agricultural products proposal, the details of that system are supposed to be later clarified by the European commission in a delegated act, in a non-legislative instrument, while the—

I'm sorry, I have been muted. Hopefully you hear me now better. In the craft and industrial products proposal, it gives a few indicators on how such systems should be put in place. It says that European Union ccTLDs would need to share all data that is necessary for such a system to function. Of course, this is not clear whether it also entails the personal data of domain name holders or how technically such data should be transferred to the EU IPO. There are many questions on how such an alert system should be put in place, but most importantly it lacks the needed evidence that such a system is first of all necessary, but second of all, also proportionate in light of limited evidence of widespread

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counterfeiting with the geographical indications protection, and within the European Union domain name space.

ANNALIESE WILLIAMS: Thank you, Polina. I think we have time for another question. Could I just remind everyone in the Zoom room, if you're not speaking, to please put your microphone onto mute. Thanks.

Alyssa Quinn, please.

ALYSSA QUINN: Alyssa Quinn from .ca. Thank you Polina. My question is, and I'm not advocating for expanding the scope of this, but is there anything preventing the inclusion of gTLDs here? Do you have any views on why this is specific to just European ccTLDs when we've seen extraterritorial, much larger scope pieces of legislation in the past? Is there anything special about this area of law?

POLINA MALAJA: Thank you, Alyssa, very much, for your question as well. It's a very good question. There is no justification per se why these proposals are limited to European Union ccTLDs, but we could imply maybe that the reasons were first of all the jurisdictional area. It's difficult for, I think, the European Union to explicitly include gTLDs who are bound by the UDRP policy while there will be essentially a conflict within the legislation and the global

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UDRP that doesn't recognize GIs at the moment as an invokable right. I think the reasons might be primarily there, since ccTLDs are not bound by UDRP and can use this on a voluntary basis, then there is more room for leverage and more room for flexibility when it comes to GI recognition within the alternative dispute resolutions put in place or put forward by the ccTLDs. The reason might be there, but unfortunately there is no coherent answer on that level from the policy makers at this time, that I was able to locate.

**ANNALIESE WILLIAMS:** Thanks, Polina and Alyssa. We might move to our next speaker now. I think we have Nick-Wenban Smith on the line. Nick is the General Counsel of Nominet. You have the floor.

**NICK WENBAN-SMITH:** Thank you, Annaliese. Thank you everybody, thank you for inviting me to speak on this topic. Good morning from the small hours of Oxford in the United Kingdom. I'm very pleased to speak on this topic because it's a personal interest of mine. I have for many years been a committee member on the Intellectual Property Committee for the United Kingdom Law Society. They deal with regulation changes and legislative impacts of intellectual property law and regulation. It coincides with my other interest, which is my day job, which is as the United



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Kingdom ccTLD General Counsel. I have oversight of our dispute resolution policies as they relate to domain name registrations in the .uk registry.

I have got the slide up, I believe. Let's see if I can change it next. Here we go. Amazing, it works. The United Kingdom has a slightly unique historical relationship with the concept of geographical indications. We historically did not participate in the recognition and legal protection of geographical indications. However, we joined the European Union and so we were therefore obliged to adopt the whole body of European law and practices, and that does include geographical indications. I don't think we joined the European Union in order to participate in geographical indications, but it was a byproduct of our involvement in the European Union. I suppose everybody understands the United Kingdom is now not in the European Union. I think it was a definite question mark about whether the United Kingdom would keep geographical indications post Brexit or not to. Actually, there's a lot of support, I think, within the intellectual property community in the United Kingdom from producers. You will appreciate that there are some major international products of fame and repute, like Scotch whiskey. These are the classic areas for protection in geographical indications. There's a huge amount of industry support to continue with that type of protection. At exactly the same time that we left the European Union we did

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become a signatory to the TRIPS treaty in our own right, as part of our deciding what to do after we have left the European Union. We made a positive decision to keep geographic indication protections. It did mean quite a lot of work for our administrators and the officials who manage the intellectual regime in the United Kingdom.

Previously we had used and relied on the pan-European registry systems. Post Brexit we had to set up our own registries. We have our own, more UK specific GI scheme, and in general this is now a well understood and quite strongly supported part of the overall pattern of intellectual property protection. As well as trademarks, now we will have GIs. Yes, it's well established now.

I did just hear a couple of examples from the United Kingdom GI register. You can see, obviously, these tend to be food and spirit, drink products. That's the nature of a geographical indication. You can see here it's not just geographical indications from within the United Kingdom which are recognized and given legal protection. You can see on the left here pisco, which is a spirit from Peru, and this has protection in the United Kingdom. You can see from the registration details that originally this came back to 2013 when the United Kingdom was part of the EU. A lot of the geographical indications protections from the EU have essentially been pass-boarded over. They've basically been taken

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up and put into our new system. We just transferred what we had before and have put it into a new UK database.

You can see on the right-hand side, there's Kentish ale. It's a designated geographical indication. You can see we have now post Brexit come up with a new and distinctive logo to recognize the specific legal protections which are given to UK GIs. That all seems actually, relatively clear. When it comes to the domain name system you will see that Brian already discussed it. The ccTLDs often have an alternative dispute resolution mechanism. There is obviously legal protection through the courts, but that is expensive and complicated. Almost all ccTLDs will provide an alternative, a quicker, cheaper, specific legal mechanism for resolving disputes where essentially the text of the domain name registered could infringe somebody else's legal rights. We're not talking about registering a generic sort of name and having a shop behind it which may sell counterfeit goods. We're talking about infringements in the text of the domain name, and Nominet, the .uk registry, we are no different. We are different in the sense that we don't follow the UDRP as it applies to the gTLDs, nor do we have a UDRP variant of the types that Brian was describing and which the WIPO provide to many ccTLDs. We have our own. It's just the UK way, we choose our own path. However, it works, I think, pretty well.

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We don't explicitly say that geographical indications benefit from protection, but we have a very wide definition of the sorts of Rights as a defined term. Essentially, a right which gives you a basis to start a dispute could be any legal right. It could be, obviously most of our cases are trademark rights, but it doesn't have to be a trademark right as long as it's a legally recognized enforceable right. As I've just described, geographical indications are recognized in the UK and recognized in many jurisdictions as a legally protected right. That is good enough. There are other examples, for example personal data rights which have also come up in some of our disputes. Yes, we definitely cover geographical indications, and in fact we have had a couple of quite high-profile specific disputes in relation to UK domain registrations where, yes, the geographical indication was the legal basis relied on to bring the dispute.

We've considered this when we look at the trends and the volume of disputes that we get. There are a very small number of geographical indication disputes. I don't know exactly why that is, but there aren't that many geographical indications compared to the number of trademarks. Obviously, there are tens of thousands of trademarks that cover all sorts of goods and services. GIs tend to be a more specific protection largely based on, as we know, agricultural, wines, spirits, and food. Maybe it's just a smaller subset of the overall number, but certainly by

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volume of registrations I think in the UK we've got less than 2,000 geographic indications registered as legal protection, but there are tens of thousands, maybe hundreds of thousands of trademarks.

Polina spoke to the fact that, not just in Europe, but most registries will provide some sort of search services to the general public, whether they're looking for a new domain name or they are people who have rights, trademarks, geographical indications and they want to see whether they are registered or could be registered. We provide, I think, quite a nice service, searchable WHOIS. You can look for keywords and domain names registered. You can sign up so that if one of those keywords were to be registered the next day, that you would receive a notification of that fact. If you're concerned about the protection of your intellectual property, you can register and obtain updates, and there's plenty of information. It's pretty open in terms of what we are, what we do, the dispute policies and the challenges that can be made if you've got any sort of complaints.

Touching back on the EU proposal, I think I agree with Polina that I'm not quite sure whether this is something which is already duplicating existing policies and practices.

Just to wrap up very quickly—

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ANNALIESE WILLIAMS: Just a reminder of the time, Nick. If you could— Yes, thank you.

NICK WENBAN-SMITH: This is the last point, and I won't read it all out for you. Basically, certainly as far as the UK is concerned the existing arrangements work very well. This certainly isn't an area of problem or controversy for us. Thank you.

ANNALIESE WILLIAMS: Thanks, Nick. An interesting case study of a registry no longer in the EU. I think we may hold off questions until the end now. We are running a little behind, so I will now invite our next speaker to give us a North American perspective. We have Alyssa Quinn from .ca.

ALYSSA QUINN: Hello. I'd like to start by saying I did not know anything about geographical indications about six weeks ago, until this session came to the fore, and I'm glad it did because I now know much more about it. Part of that ignorance was that we've not had an issue with it in the .ca zone in the living memory of everyone who works there. We've not had a dispute about it, so it's not been an issue, which is not to say that we should not be aware and ahead

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of these things, especially given the EU proposal. Next slide, please.

Like elsewhere, a GI refers to the terroir of a given spirit, agricultural product or wine, and the vast majority of registered GIs in Canada are European, though we do have a few local Canadian ones pictured there on the slide. These are all covered by the Canadian Intellectual Property Office. The statute governing these is the Trademarks Act. The Trademarks Act protects a couple of categories of GIs, including registered ones. That's the formal act of going through and registering through the Canadian Intellectual Property Office. There are also protections for common law GIs. If you can establish, similar to a trademark, that it's a recognizable geographic indication, then that can also be used. Then there's also a category for certifications. Next slide.

The primary statute governing GIs in Canada is our Trademarks Act federally, but there are also a couple of provincial laws that protect local geographic indications. They tend to be duplicative of the federal statute anyway. Of course, as Nick mentioned, there are court procedures that can take place and certainly CIRA will act on any kind of court order that is based on Canadian law, but that has not happened thus far and is, of course, an expensive and tedious process. We do also have an alternative dispute resolution policy, the CIRA Dispute Resolution Policy, and we have a couple of providers for that service. It's intended for

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individuals and businesses that meet CIRA’s Canadian presence requirements, so it is unclear if a dispute did come to the fore that involved a European geographic indicator, that it would have status in Canada, and how the dispute resolution provider would handle that, whether simply being registered in the Canadian Intellectual Property Office as a GI would meet that test.

The CDRP, as it is written, does not explicitly cover GIs. It covers trademarks. We’ve not seen a dispute with respect to GIs, so it’s not been an issue in the .ca zone thus far. Next please.

Finally, are there any developments that could affect .ca? We’ve not seen anything so far. I was able to meet with our industry government colleagues, and we’re not seeing any kind of movement in that direction as it pertains specifically to the DNS. Of course, with the current language, as Polina went through, the EU proposals impact only the European ccTLDs, so we would be exempt from that. That’s my short Canadian story. Hopefully I’ve gained us some time back on geographic indications. Next slide, please.

Thank you. Merci.

ANNALIESE WILLIAMS: Thank you, Alyssa. I think this is why we’re doing this new session to raise awareness. I think many CC operators are perhaps not really aware of the GI issue. I did make inquiries with my



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colleagues in preparation for this as well, and like .ca we haven't seen GIs as a significant issue, and certainly not in my time or in Bruce Duncan's time there. It's been a while if it has been one. Are there any questions for Alyssa either in the room or in the Zoom room? I'm not seeing any.

We will move to our next presenter. For a perspective from the African region, we have Molehe Wesi. Thanks.

**MOLEHE WESI:**

Good morning, everyone, and good evening for those that are joining us online. My name is Molehe Wesi from the .za domain name authority in South Africa. I think without wasting more time I will move on through the slides. Don't be alarmed by the long list of agenda points, this is just to guide me through my presentation. It's not by design that I'm wearing the same suit, also. We discovered that now. For those that have downloaded the slide pack, there's a brief intro of who I am and my interests.

A brief background on who ZADNA is. ZADNA is a statutory body by nature. We came to be through a piece of legislation in my home country called the Electronic—

**UNIDENTIFIED MALE:**

Can you go closer to the microphone? You're very hard to hear.

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**MOLEHE WESI:**

My apologies. Can you hear me now? All right, thank you. We came to be through the Electronic Communications and Transactions Act, which mandated, of course, a member driven organization be set up to act as the ccTLD manager and also oversee some educational activities within the country pertaining to the domain name space. Furthermore, we are also the secretariat of Internet governance within the country, where we have the pleasure of convening the .za Internet governance forum and also support the multistakeholder committee. My members of course will kill me if I don't mention them to say we also account to them as much as we account to the department, which is a part of government, of course.

This is just a summarized extract of what we have to do legislatively as part of our mandate. It's quite important for me to highlight this because it speaks of us having to oversee the alternative dispute resolution, and I think this touches on our requirement as an organization to also look into GIs and also how to deal with issues on the domain name space. Without going into detail, I'll just move directly into the .za ADR regulations. These came to be in 2006. However, they were enacted of course in the beginning of 2007, flowing from the ECT Act. Of course, the whole aim of it is to basically protect individual IP rights on the domain name space.

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What is quite unique about our ADR process is that part of the fees that are payable, of course, for the adjudicators to convene and really delve into the matters in front of them, go towards ZADNA. The intention of that is to ensure that those can't afford the process, because it's a paid-for process, we subsidize that.

Moving on, as can be seen we have had a number of disputes over the years, since 2007 to date, 154. The picture on my right, which will be of course on your right also, will summarize all those disputes, what has happened in the process over a number of years. What's quite unique in our ADR process is they only cover what we call the commercial space, meaning these are second level domain names which are bought. Also, it has to be noted that coverage was only extended in 2014 to include the four SLDs, which is co.za, web.za, net.za and wap.za. Unfortunately, at the current moment it excludes private and also moderated second level domains. The reason for this is simply because of the numbers on the moderated and also the private second level domains, which are quite manageable. Then of course they go through an extensive moderator process before they onboard any person onto the platforms.

As cited by the previous speakers we also have contracted parties that assist us to deliver this or execute this particular process. Currently we have two accredited service providers in the country, and at the bottom of the slide you will see the fees that

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are payable, of course, for every case that they take on. Depending on your preference as a complainant you will either go for three adjudicators or one adjudicator. Now, these particular adjudicators, and this is where it ties back into the GIs, these particular adjudicators, their decision in the main as per the ADR processes or regulations as put forth, they are guided by the national decisions of previous ADR processes, and then of course by foreign dispute resolution providers as mentioned by the previous speaker. WIPO is one of those organizations which we derive our decisions from.

Furthermore, we also focus on national law. Part of this national law includes, but is not limited to, our Agricultural Act, Liquor Act, the Trademark Act, and of course some piece of legislation surrounding IP. Furthermore, we also are guided by foreign law. However, what is quite important to look at is that we mainly focus on, of course, ADR decisions flowing from those. If there aren't any precedents, we then look towards foreign, and then of course to international law. My apologies.

Now, moving to the GIs themselves, as noted by the previous speakers, in the main there are those two proposals that now require the member states of the EU to really have some means to enforce through setting up a system that will alert them when there might be possible transgressions, and also put in place by means of codified regulations processes on how they will deal

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with GIs within the domain name space. While this is applicable to the EU, from a South African context it is not a requirement per se. The following slide will also speak to that, as to say, “Why am I limiting my statement to that?”

In the main, the reason behind it, we have entered into a number of multilateral and bilateral treaties and agreements with various states, and of course regions. These in one way or the other do bind us as a country to ensure that those we have entered with into trade agreements, we protect the GIs within their regions. For an example, some of the treaties cited on this particular slide expect or impose an obligation on South Africa to protect no less than 250 GIs which are registered within the EU region.

Now, the inverse also applies, to say 88 of our own GIs which are registered within our country and also within the EU region must be protected. What's quite interesting, as a region, there's a number of treaties that we are engaged in which also obligate the member states to protect GIs from the African region. The one at the bottom which is in bold is the one that, I'm not sure if it has been finalized, but at the time I was preparing the slide deck it was punted as being in-progress, which also further obligates member states to protect GIs in the specific regions.

With that said, I think it goes without saying, in South Africa we do have adequate law or pieces of legislation which protect the GIs.

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However, it has to be noted there isn't any explicit mention within our current ADR or pieces of legislation which obligates us to enforce the compliance thereof. The beauty of our legislation is even though it's not explicit it does cover IP rights protection because it's wide enough. However, after conferring with a couple of colleagues internally we have come to the reasonable conclusion that for us to adequately deal with the situation as we are bounded by the pieces of treaties and agreements that I've previously cited, we have to update our current ADR regulations to explicitly speak to all GIs, as mentioned within the various treaties. What's quite interesting is that only in 2019 we imposed regulations from an agricultural perspective where, as a country now we have set up a register where our partners globally, and even those that are national or those that are local can actually register GIs on that particular register. That's further extending our legislative obligation. With those strides, it is only wise for us as ZADNA, and of course our various stakeholders, to also really look into GIs and also extend our ADR processes. Not forgetting, of course, while we update those, we need to question ourselves. Is it in line with our national priorities? If so, then that will only warrant us to update the higher-level legislation, which is the ECTA Act. On that note, that brings me to the end of my presentation.

I'll take any questions. Thank you.

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ANNALIESE WILLIAMS: Thanks, Molehe. The floor is open if there are any questions. We have a few minutes for questions.

UNIDENTIFIED FEMALE: I have a short question.

ANNALIESE WILLIAMS: Is that Irina? Irina has her hand up, please. The floor is yours, Irina.

IRINA DANIELIA: Thank you. It was not me speaking, so I'm happy to let the other person speak first.

ANNALIESE WILLIAMS: You are first in the queue Irina, and if we have a moment we will come to other questions, but you can take the floor please.

IRINA DANIELIA: Thank you. Thank you for the presentation. You have mentioned that ZADNA provides financial support for those who would like to apply for ADR but do not have enough money. I wonder how often that happens, and is it a complicated process to receive such support?

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**MOLEHE WESI:** Thank you for the question. It's quite an easy process. The application for funding or funding assistance is shared on our website. Unfortunately, not a lot of people have taken us up on that particular funding at the current moment, and to just bring up the numbers, we are running a campaign nationally with our relevant and immediate stakeholders to see if there's anyone who's interested in utilizing those funds, because they are just merely sitting there. Thank you.

**ANNALIESE WILLIAMS:** Thank you, Molehe. Just so we have time for all of our speakers we may move on to Anil Jain now for a perspective from Asia/Pacific, and then if we have time at the end we will come back to questions for other speakers as well. Anil, the floor is yours. Thanks.

**ANIL JAIN:** Thank you Annaliese, and thank you ccTLD to give this opportunity to .in. Good morning, good afternoon, good evening as per the time of the participants online. This topic is very interesting because trademark law gives you a right and protection overall for commercial activities, but GI indicators help us to grow more specific and in a focus area. My previous speakers have talked about the definition of GI entities, so no



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need to explain about that, but look us look at why this discussion is happening today, why it is important that we should discuss GI today.

We feel that an area which is multilingual and multicultural, specifically in those areas innovations are improving at all levels, and when innovation is improving the new thought process, new IP, new goods, new services are getting generated. I think the need is there to protect all of them. In addition to this, with growing digitization and online commerce this has become more impactful. It's clear to all of you because access to good and services, access to all other aspects has become more comfortable, more easy, and not only limited with geographic boundaries, but now it is available.

**ANNALIESE WILLIAMS:** Anil, excuse me for interrupting. We've just had a request that you move closer to the microphone so that they can hear you online. Thank you.

**ANIL JAIN:** Thank you. Next, which everybody has talked about, is not only protecting the products and services, but GI also talks about protection of community rights, the community which represents the products and services where are relating to GI, and

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specifically those communities which are marginalized, which do not have access to the law, the legal rights and all those things.

As my speakers have also spoken, and a lot of interest I am able to see in the house, yes, there is a concern with the increasing domain disputes, and those domain disputes are expected to increase with the GI getting more and more important. I think that it is important that we are discussing it today and thank you to ccNSO for organizing this. Next slide, please.

Now, let us look at what is happening in India. We have recognized the importance of GI from a legal aspect and the act, which is called GI India Act, was framed around 24 years back, back in 1999, which protects the rights of GIs along with the other trademark rights. At present, around 420 GIs are registered in India, and they are being used by various communities and individuals. An example that is famous because a good number of, most of us, must be consuming tea, and Darjeeling tea is a very famous one. In fact, the first speaker also had this brand, [inaudible] in its slides. The Darjeeling tea word and logo are the first GI tags which were registered in 2004 with us.

One more development which is happening in India is that politically we have around 650 districts in India, and now there is a growing requirement that we are putting one product, one district. One district/one product type of thing. For example,

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Darjeeling tea is given in one of the states, in ASA. Then there is a district called Aligarh in Uttar Pradesh for the locks are famous, so we are putting that lock specific to that particular district. The one district/one product program is increasing and this giving a real platform to give rights, and also to discover new GIs in India. A lot of awareness about GIs is happening in India. Next slide, please.

Now, if we come to the status of GIs in India, as I said, that GI act was formed in 1999 and as far as .in is concerned whatever GIs are coming in our knowledge, we are keeping these domains in reserve categories, and whenever there is a legal demand of registration of that particular domain, we are registering those domains.

What is planned for GI, as well as GIs concerned? We are planning to open the reserve category. The GI list can be frozen under the sunrise period for relegation to authorized institutions and authorized manufacturers and services. We are also considering modifying the present dispute name space resolution, that is INDRP, to include the regulation with respect to GIs. When we are talking about GIs, maybe the second level or even the third level, we are planning to include the IDNs because India is a country with the largest number of IDNs, which are at least 22. We have 22 IDNs in 15 scripts and we are also talking about reserving or allocating variants to the same GI authorized agency institutions

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who are authorized and have legal right on this. Next slide, please.

Coming to the global cooperation, which we feel is very, very important, is sharing the information about ccTLDs. It is important that a GI in one region or even one country may be a generic name in other countries. Since digitization is a very global type of thing and it is not restricted to a particular country, I personally feel that we should share information among ccTLDs. The time has come, so that a global thought process and policy can be framed accordingly.

Then we are also proposing to establish an institutional mechanism and crosscheck with the national GI registry. Of course, there's a demand for better dispute resolution or settlement mechanisms. This can be using the UDRP or maybe the dispute resolutions which are specific to a particular country or a particular region. GIs are not recognized as IP titles by domain name registrars, regulators, as on date. I think a policy is required, which should be a uniform policy for all ccTLDs, all gTLDs, to ensure that there should be a uniform process of recognizing the IP status for domain names. This is all I want to share with the community from India, our perspective.

Thank you very much. Any questions? Thank you.

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ANNALIESE WILLIAMS: Thank you, Anil. I think we have time for perhaps one question if there are any, and if you could please use the raise-hand function in the Zoom room to indicate.

I'm not seeing any questions, so perhaps we will wrap it up. Anil, you raised some very interesting issues there that GIs may be generic, things that are protected in one jurisdiction as a GI can be, in other jurisdictions, considered generic words. We have an example of that in Australia where the word "orange" is a GI for wine, but it's also a very commonly used English word. It's a color, it's a fruit, and I think if I'm not mistaken it might also be a brand and a gTLD.

I hope it's been a useful session for people as an introduction to geographical indications and the potential impact on registry operators. I would like to also put in a plug for the Internet Governance Liaison Committee. If you're a CC manager and you're not already a member and would like to be a member, please let Yuko know and we can add you to the list. I think there's certainly lots more to be said on GIs. It's important that they are protected, it's important for rights holders to have their rights protected, and it's important for consumers, for consumer protection so that they can be assured that they're purchasing what they think they're purchasing. Whether the existing policies and dispute resolution policies in place across various ccTLDs, I think that's an issue that perhaps the IGLC may like to look at

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further and share information on the extent to which policies may or may not be working for GI protection. If anyone is aware of any case studies of cases where the existing policy hasn't quite worked, I'd certainly be interested to hear about it.

Unless there's anything else, Yuko, I think we might call the session to a close. Thank you very much for joining us, and thank all our speakers, and also thank you to the interpreters. Thanks.

UNIDENTIFIED FEMALE: You can now stop the recording

UNIDENTIFIED FEMALE: Recording stopped.

**[END OF TRANSCRIPTION]**