

## **Rights and requirements**

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There are a number of ways of obtaining the various intellectual property rights and the requirements for doing so can vary. Some rights are obtained by registration, while others are created by statute or arise at common law. The scope of rights can vary, and each intellectual property asset can be supported by more than one type of intellectual property right.

## **Geographical Indications**

Geographical indications are used to identify goods and services which come from specific regions. Such indications pertain to a quality or reputation of a particular good or service from a region. An example of this is Champagne which comes from the Champagne region in France.

The Geographical Indications (Wine and Spirits) Registration Act 2006 ("the Act"), which was passed in 2006 but is yet to come into force, will:

- set up a system for registration of geographical indicators in relation to wine and spirits;
- amend the meaning of "geographical indication";
- put in place limitations and exceptions to the protection provided in the Act, to allow for genuine use of geographical indicators in New Zealand;
- explain the association between trade marks and geographical indicators.

At this stage the Act is on hold, largely because of two issues: first, as part of the current WTO Doha Round, an international wines and spirits register has been proposed, and secondly,

there are suggestions that the protection should be extended beyond wines and spirits to include other goods and services.

Concerns were raised that European Union regulations, that were to come into force at the end of August 2009, would prevent geographical indications being used on New Zealand wine, however the Ministry of Economic Development has now had confirmation that this is not the case.

Unlike New Zealand, Australia has entered into a trade agreement with the European Union under which it will cease the use of names such as “sherry” (Spanish historic fortified wine), “tokay” (too similar to Tokaji Hungarian desert wine) and “port” (Portuguese fortified wine) which are considered to be geographical indications. Winemakers who have been affected by these changes have adopted their own brands – such as Rutherglen’s Pfeiffer Wines which has relabelled its Tokay as a “Topaque”.

At this point of time winemakers in New Zealand will need to watch and wait for further developments in this area.