

Chapter 15: Article 4(1)(xvii) (Indication of origin of wines or spirits)

(xvii) A trademark comprised of a mark indicating a place of origin of wines or spirits of Japan which has been designated by the Commissioner of the Patent Office, or a mark indicating a place of origin of wines or spirits of a member of the World Trade Organization which is prohibited by the said member from being used on wines or spirits not originating from the region of the said member, if such a trademark is used in connection with wines or spirits not originating from the region in Japan or of the said member;

1. Regarding "Marks indicating a place of origin of wines or spirits of Japan which has been designated by the Commissioner of the Patent Office" and "marks indicating a place of origin"

These marks include not only marks indicating a place of origin by the characters used in that place of origin but also, for example, marks indicating a place of origin by Katakana characters or other characters which are recognized to be the translation thereof.

(Example) Marks indicating the place of origin in Katakana characters

"ボルドー" for "BORDEAUX"

"シャンパーニュ" for "CHAMPAGNE"

"リュウキュウ" for "琉球" [RYUKYU]

(Example) Marks indicating the place of origin by other characters that are recognized to be the translation of the original language

"BURGUNDY" (English) for "BOURGOGNE" (French)

2. Regarding the expression "is comprised of"

Regardless of whether or not the relevant trademark misleads the consumers as to the place of origin, judgment is made based on whether or not the trademark formally contains such place of origin in its composition.

(Example) Case where the trademark "is comprised of"

The trademark "琉球の光" [Ryukyu no Hikari] for the goods "Shochu" (Japanese white liquor)

The trademark "山梨産ボルドー風ワイン" [Yamanashi-made Bordeaux style wine] for the goods "wines"

The trademark "CHAMPAGNE style" for the goods "wines"

3. Regarding "wines" and "spirits"

"Wines" as prescribed in this paragraph include alcohol-added wines. "Spirits" include, for example, Awamori (distilled spirits of millets), Shochu (Japanese white liquor), whiskey, vodka, brandy, rum, gin, Gaoliangjiou (distilled spirits of kaoliang), Baiganr (distilled spirits of kaoliang), etc. but do not include liquors.