



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

www.icsi.edu

PROFESSIONAL PROGRAMME

INTELLECTUAL PROPERTY RIGHTS: LAWS AND PRACTICES (OLD SYLLABUS)

(Relevant for students appearing in December, 2019 examination)

MODULE 3 ELECTIVE PAPER 9.4

Disclaimer:

This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Students appearing in December 2019 Examination shall note the following:

Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the Competent Authorities to relate to Law covering Intellectual Property Rights: Laws and Practices & Central Government on or before six months prior to the date of the examination.

These Updates are to facilitate the students to acquaint themselves with the amendments in laws relating to Intellectual Property Rights: Laws and Practices upto June, 2019, applicable for December, 2019 Examination. The students are advised to read their Study Material (2015 Edition) along with these Updates. In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu

Contents

GI Certification for Five Varieties of Indian Coffee	4
Approval for Accession of India to (a) The Nice Agreement on the International classification of goods and services for the purposes of registration of marks (b) The Vienna Agreement for setting up an International classification of the figurative elements of marks (c) The Locarno Agreement for establishing an International classification for industrial designs	5

GI Certification for Five Varieties of Indian Coffee¹

The Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India has recently awarded Geographical Indication (GI) to five varieties of Indian coffee. They are:

- **Coorg Arabica coffee** is grown specifically in the region of Kodagu district in Karnataka.
- **Wayanaad Robusta coffee** is grown specifically in the region of Wayanad district which is situated on the eastern portion of Kerala.
- **Chikmagalur Arabica coffee** is grown specifically in the region of Chikmagalur district and it is situated in the Deccan plateau, belongs to the Malnad region of Karnataka.
- **Araku Valley Arabica coffee** can be described as coffee from the hilly tracks of Visakhapatnam district of Andhra Pradesh and Odisha region at an elevation of 900-1100 Mt MSL. The coffee produce of Araku, by the tribals, follows an organic approach in which they emphasise management practices involving substantial use of organic manures, green manuring and organic pest management practices.
- **Bababudangiris Arabica coffee** is grown specifically in the birthplace of coffee in India and the region is situated in the central portion of Chikmagalur district. Selectively hand-picked and processed by natural fermentation, the cup exhibits full body, acidity, mild flavour and striking aroma with a note of chocolate. This coffee is also called high grown coffee which slowly ripens in the mild climate and thereby the bean acquires a special taste and aroma.

The Monsooned Malabar Robusta Coffee, a unique specialty coffee from India, was given GI certification earlier.

In India, coffee is cultivated in about 4.54 lakh hectares by 3.66 lakh coffee farmers of which 98% are small farmers. Coffee cultivation is mainly done in the Southern States of India:

- Karnataka – 54%
- Kerala – 19%
- Tamil Nadu – 8%

Coffee is also grown in non-traditional areas like Andhra Pradesh and Odisha (17.2%) and North East States (1.8%).

India is the only country in the world where the entire coffee cultivation is grown under shade, hand-picked and sun dried. India produces some of the best coffee in the world, grown by tribal farmers in the Western and Eastern Ghats, which are the two major bio-diversity hotspots in the world. Indian coffee is highly valued in the world market and sold as premium coffee in Europe.

The recognition and protection that comes with GI certification will allow the coffee producers of India to invest in maintaining the specific qualities of the coffee grown in that particular region. It will also enhance the visibility of Indian coffee in the world and allow growers to get maximum price for their premium coffee.

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1569831>

Approval for Accession of India to (a) The Nice Agreement on the International classification of goods and services for the purposes of registration of marks (b) The Vienna Agreement for setting up an International classification of the figurative elements of marks (c) The Locarno Agreement for establishing an International classification for industrial designs²

It is a globally settled fact that one of the reasons for transition of the world into knowledge driven economy is because of Intellectual Property Rights (IPR). The accession to the three WIPO Agreements (i.e., the Nice Agreement, Vienna Agreement and Locarno Agreement) by India supports the statement and the reasons for the same have been discussed below. The three WIPO Agreements have received accession from the Indian Government.³The three Agreements were introduced through the WIPO treaties primarily to ease the search for trademarks and industrial designs. In this arena it is significant to understand the prominence of all the three Agreements. A brief understanding of all the three Agreements are as follows:

Nice Agreement

In the area of classification of goods and services for the purpose of registering trademarks and service marks, the Nice Agreement plays a prominent role.

While registering a trademark or service mark it is significant for the trademark offices of contracting states to indicate, in official documents and publications in connection with each registration, the numbers of the classes of the Classification to which the goods or services for which the mark is registered belong.⁴ The Nice Agreement is where the Classification is indicated. Under the Nice Classification there is distinctive classes where goods and services could be registered. Classes one to thirty-four which deals with goods and classes thirty-five to forty-five which deals with services.

Vienna Agreement

The Vienna Agreement establishes a Classification for marks that contains or consists of figurative elements.⁵ In all the official documents and publications in connection with each registration and renewals of marks, the numbers of the categories, divisions and sections of the Classification to which the figurative elements of those marks belong must be indicated.

Locarno Agreement

Classification of industrial design is established under the Locarno Agreement. In the official documents reflecting the deposit or registration or publications of industrial designs, the

² Source: <https://selvams.com/blog/indias-accession-to-wipo-agreements-a-step-towards-knowledge-driven-economy/>

³ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1568710>

⁴ Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. Available at: <https://www.wipo.int/treaties/en/classification/nice/>

⁵ Summary of the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks. Available at: https://www.wipo.int/treaties/en/classification/vienna/summary_vienna.html

Competent offices of the Contracting States must indicate, the numbers of the classes and sub-classes of the Classification to which the goods incorporating the designs belong.⁶

Accession to the WIPO Agreements by India

On June 7, 2019, India's instruments of accession to the three Classification treaties that is, the Nice Agreement, Vienna Agreement and the Locarno Agreement was received by WIPO Director General Francis Gurry from Ambassador Rajiv K. Chander, Permanent Representative of India to the United Nations and other International Organizations in Geneva. To quote the delightful statement by the Director General of WIPO, Frances Gurry:

“We're absolutely delighted that India today has deposited its instruments of accession to three classification treaties. India has been extremely active in the field of intellectual property and in international cooperation in the field of intellectual property in recent years. This deep engagement on the part of India in the World Intellectual Property Organization and in the international intellectual property system is extremely welcome.”⁷

India is now the 88th member of the Nice Agreement, 34th member of the Vienna Agreement, and 57th member of the Locarno Agreement. By acceding to the WIPO Agreement, India would be deriving the following benefits:

There would be harmonization of Classification systems of trademark and design application with the global applications,

It creates an opportunity to include Indian designs, figurative elements and goods in the international classification systems,

Install confidence in foreign investors about investments in India and protection of their intellectual properties in India,

The accession would also facilitate in utilizing rights in decision-making processes regarding review and revision of the classification under the Agreement.

Considering the above factors, it could be stated that, the accession to the WIPO Agreement, has turned to be fruitful to India and is a step towards knowledge driven economy.

⁶ Locarno Agreement Establishing an International Classification for Industrial Designs. Available at: <https://www.wipo.int/treaties/en/classification/locarno/>

⁷ India Joins Three Key WIPO International Classification Treaties. Available at: https://www.wipo.int/portal/en/news/2019/article_0021.html