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Protection of Geographical Indication Intellectual Property of Tea in Guangdong Province

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Abstract As to tea resources in Guangdong Province at present, there are 4 kinds of national geographical indication products, 2 national geographical indication trademarks, and 1 kind of national geographical indication of agricultural products. We conduct a analysis on the current protection of geographical indication intellectual property of tea in Guangdong Province, and put forth the following countermeasures: (i) Conducting in-depth study of geographical indication characteristics of famous tea; (ii) Exploiting and arranging the intangible cultural heritage of tea; (iii) Focusing on the protection pattern of geographical indication products established by the General Administration of Quality Supervision, Inspection and Quarantine; (iv) Taking full advantage of special mark of geographical indication.

Key words Tea, Geographical indication, Intellectual property, Guangdong Province

1 Introduction

Geographical indication rights are an important part of agricultural intellectual property^[1], mainly for the intellectual property protection of traditional famous and high-quality specialty^[2–9]. In the today's world, the intellectual property protection is a hot topic drawing widespread attention^[10–12]. Geographical indication and origin naming system have had more than 100 years of history. France is one of the birthplaces of the system. From the beginning, France mainly used the system to protect champagne and other types of liquor produced at home. This system was introduced to the World Trade Organization's *Trade-Related Intellectual Property Rights Agreement* (TRIPS Agreement) and many other international conventions^[10–12]. In the seven major types of intellectual property rights covered by the TRIPS Agreement, geographical indication, as an independent type of intellectual property, is provided in special sections^[12].

However, China's geographical indication protection system was implemented in 1995, with serious conflicts and high degree of repeat. There were mainly five geographical indication protection systems successively^[12]. Currently, there are still three of them as follows: (i) The geographical indication product protection of the General Administration of Quality Supervision, Inspection and Quarantine; (ii) The geographical indication trademark registration of the State Administration for Industry and Commerce; (iii) The agricultural product geo-

graphical indication registration of the Ministry of Agriculture.

China is the origin of tea, with long history of tea planting and tea drinking, which is now the world's largest tea-producing country. Guangdong is one of China's major tea-producing provinces, in the tea-growing areas of South China, which is famous for its oolong tea (Phoenix oolong tea, etc.), and black tea (Yingde black tea, etc.). Tea in the province is the superior agricultural industry with the competitive advantage, which is an important channel for increase in agriculture benefit and farmers' income, having become a new bright spot of economy for the rural areas and agriculture in mountainous areas at present.

How to use the geographical indication intellectual property provided in the special section under the WTO's TRIPS Agreement, in order to cultivate the tea brand in Guangdong Province and enhance the international competitiveness of tea, is an important issue for the further development of the tea industry in the province. Therefore, this article will focus on the analysis of the current situation and development countermeasures concerning the geographical indication intellectual property protection of tea resources in Guangdong Province.

2 Protection of geographical indication tea products in Guangdong Province

2.1 Overview of protection of geographical indication tea products in China On January 31, 2000, Shaoxing wine became the first national origin product in China (namely geographical indication product). As of August 15, 2012, the former State Bureau of Quality and Technical Supervision and the General Administration of Quality Supervision, Inspection and Quarantine, implemented the geographical indication product protection of 1 007 kinds of specialties at home successively, according to *Provisions on Protection of Origin Products* and *Provisions on Protection of Geographical Indication Products*.

Among them, there are 84 kinds of geographical indication

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tea products, accounting for 7.9% of total domestic geographical indication products, including 58 kinds of green tea, 5 kinds of green tea (oolong), 4 kinds of black tea, 2 kinds of white tea, 4 kinds of dark tea, 1 kind of yellow tea, 10 kinds of other tea (Duzhong tea, scented tea, Broadleaf holly leaf tea, hawk – tea).

These national geographical indication tea products are distributed in 15 provinces and an autonomous region, and the planting amount of Sichuan, Hubei, Fujian, Zhejiang ranks in the top 4 places. Among them, there are 28 kinds of tea in the southern Yangtze River tea area, 22 kinds of tea in the south-western tea area, 21 kinds of tea in the southern China tea area, and 13 kinds of tea in the northern Yangtze River tea area.

2.2 National geographical indication tea products in Guangdong Province

On December 31, 2006, the protec-

tion of tea geographical indication products in Guangdong Province achieved "zero" breakthrough, and Yingde black tea first got the treatment of protection of geographical indication products. Therefore, Yingde black tea becomes the 299th national geographical indication product in China, and also the 30th national geographical indication product in China's tea products.

By August 15, 2012, in accordance with *Provisions on the Protection of Geographical Indication Products*, the General Administration of Quality Supervision, Inspection and Quarantine had implemented the protection of geographical indication products on 4 kinds of tea products in Guangdong Province (Table 1). Among these national geographical indication products, Yingde black tea is black tea; Yanxi Baimaojian tea and Xiangwo tea are green tea; Phoenix tea is oolong tea.

Table 1 National geographical indication tea products in Guangdong Province and the use of special mark (By August 15, 2012)

Ranking approved	Approval time	Geographical indication products	The protection scope of geographical indication products	The use of special mark	
				The number of enterprises	The number of enterprises trademarks
299	2006.12.31	Yingde black tea	Four big tea areas in Yingde City (East Yingde, Central Yingde, Northwest Yingde, Southwest Yingde) (112°45' – 113°55'E, 23°50' – 24°33' N)	7	6
556	2009.06.11	Yanxi Baimaojian tea	Jiufeng Mountain in Lechang City	1	1
662	2010.04.06	Phoenix oolong	Fenghuang Town, Tiepu Town, Wenci Town, Linxi Town, Guantang Town, Dengtang Town, Chifeng Town, Guihu Town, Guxiang Town, Fengtang Town, Wanfeng forest farm in Chao'an County, Chaozhou City; Fubin Town, Qiandong Town, Zhangxi Town, Fushan Town, Tangxi Town, Sanrao Town, Lianrao Town, Xinwei Town, Xinfeng Town, Raoyang Town, Shangrao Town, Jianrao Town, Gaotang Town, Xintang Town, Dongshan Town in Raoping County; Yixi Town in Xiangqiao District, Qiaodong tea – growing area; Fengxi District	0	0
810	2010.12.29	Xiangwo tea	The Tianlu Mountains in the administrative area of Taiping Town and Rencun Town, Xinxing County	0	0

3 Registration of geographical indication trademarks of tea in Guangdong Province

3.1 Overview of registration of geographical indication trademarks of tea in China The geographical indication trademark registration work of the State Administration for Industry and Commerce started from 1995. By August 15, 2012, the State Administration for Industry and Commerce had registered 1 344 geographical indication trademarks in 32 provinces, cities and autonomous regions (including one of Taiwan Province).

Among them, there are 134 tea trademarks, accounting for 9.97% of the total number of domestic geographical indication trademarks, including 93 green tea trademarks, 14 oolong tea trademarks, 11 black tea trademarks, 6 white tea trademarks, 3 black tea trademarks, 3 yellow tea trademarks, and 4 trademarks on other types of tea (scented tea and broadleaf holly leaf tea). These tea products with national geographical indication trademark are produced from 14 provinces, 1 city, 1 autonomous region; in terms of the number of trademarks, Fujian, Zhejiang, Anhui and Sichuan are in the top four places (53 in the southern Yangtze River tea area; 37 in the south-

western tea area; 26 in the southern China tea area; 18 in the northern Yangtze River tea area).

3.2 National geographical indication trademarks of tea in Guangdong Province By August 15, 2012, 2 geographical indication trademarks of tea in Guangdong Province had been registered in the State Administration for Industry and Commerce; Phoenix oolong and Yingde black tea (Table 2).

Table 2 National geographical indication trademarks of tea in Guangdong Province (By August 15, 2012)

Name of trademark	Registrant	Registration number
Phoenix oolong	The Chao'an Phoenix Tea Professional Association	5 365 101
Yingde black tea	Yingde Center for the Promotion and Development of Tea	5 868 390

4 Geographical indication registration of tea products in Guangdong Province

4.1 Overview of geographical indication registration of tea products in China The geographical indication agricultur-

al product trademark registration work of the Ministry of Agriculture started from 2008. By August 15, 2012, in accordance with the *Geographical Indication Registration Procedure of Agricultural Products* and *Geographical Indication Usage Norms of Agricultural Products*, the Ministry of Agriculture had registered 1 092 kinds of geographical indication of agricultural products.

Among them, there are 59 kinds of national agricultural product geographical indication of tea, accounting for 5.40% of the total number of national agricultural product geographical indication (1092), including 51 kinds of green tea, 4 kinds of oolong tea, 1 kind of black tea, 1 kind of yellow tea, and 2 kinds of other tea (some tea types not included, such as white tea, black tea and brick tea). These tea agricultural products with national geographical indication are produced from 12 provinces, 1 city, 1 autonomous region; in terms of the number of tea agricultural products with national geographical indication, Sichuan, Shandong, Zhejiang, Hubei, and Jiangxi are in the top five places (24 in the southern Yangtze River tea area; 12 in the southwestern tea area; 7 in the southern China tea area; 16 in the northern Yangtze River tea area).

4.2 National geographical indication of tea products in Guangdong Province By August 15, 2012, one kind of tea in Guangdong Province had been registered as agricultural product geographical indication of the Ministry of Agriculture: Lingtou oolong.

Designated protection scope of the place of origin of Lingtou oolong is Fubin Town, Dongshan Town, Tangxi Town, Xintang Town, Sanrao Town, Hanjiang forest farm, Xinfeng Town, Shangrao Town, Raoyang Town, Jianrao Town, and Zhangxi Town in Raoping County. The applicant is Xingnong Tea Professional Cooperative in Fubin Town of Raoping County.

5 Conclusions and recommendations

5.1 Conclusions Now China has 84 kinds of national geographical indication tea products, 134 national geographical indication tea trademarks, and 59 kinds of national tea product geographical indication.

Among tea resources in Guangdong Province, there are 4 kinds of national geographical indication products at present (Yingde black tea, Yanxi Baimaojian tea, Phoenix oolong tea, Xiangwo tea); 2 kinds of national geographical indication trademarks (Phoenix oolong and Yingde black tea); 1 kind of national agricultural product geographical indication (Lingtou oolong).

Based on the study of the protection of tea product geographical indication in Guangdong Province, we put forward the following recommendations.

5.2 Recommendations for the protection of geographical indication intellectual property of tea in Guangdong Province

5.2.1 Conducting in-depth study of geographical indication characteristics of famous tea. There are not so many tea resources in Guangdong Province having carried out the protection of geographical indication intellectual property, only 4 kinds of national geographical indication products (Yingde black tea,

Yanxi Baimaojian tea, Phoenix oolong tea, Xiangwo tea), and 2 national geographical indication trademarks (Phoenix oolong, Yingde black tea), and 1 national agricultural product geographical indication (Lingtou oolong).

It is necessary to conduct in-depth study on characteristics of natural factors and human factors concerning the aforesaid geographical indication tea, coupled with Shiguping oolong tea, Xiyan oolong tea, Hongyan Jinxuan oolong tea, and other kinds of famous tea, in order to reveal the geographical indication characteristics of famous tea in Guangdong Province, and provide a scientific basis for the management and protection of geographical indication intellectual property.

5.2.2 Exploiting and arranging the intangible cultural heritage of tea. Since the State Council issued *Views on the Strengthening China's Intangible Cultural Heritage Protection Work* and *Notice on Strengthening Cultural Heritage Protection* in 2005, the rescue and protection of intangible cultural heritage has formed the climax in contemporary China, and yielded fruitful results^[13-15]; the registration system of four-level (national, provincial, municipal and county) intangible cultural heritage list system has been gradually established.

Therefore, we should exploit and arrange the traditional craftsmanship related to tea in Guangdong Province (especially the traditional tea making craftsmanship, and traditional production technique of food containing tea, etc.), traditional music, traditional theater, traditional Chinese medicine (especially the ethnic minority medicine), folk custom (Zhuang, Yao, Miao and other ethnic minority folk customs), and other forms of intangible cultural heritage. Moreover, we should strive to include these forms of intangible cultural heritage in the four-level (national, provincial, municipal and county) intangible cultural heritage list; strengthen the protection of intangible cultural heritage of tea in the province; enrich the cultural connotation of tea products.

5.2.3 Focusing on the protection pattern of geographical indication products established by the General Administration of Quality Supervision, Inspection and Quarantine. At present, China's geographical indication protection system only include three main systems. As for the protection of geographical indication products of the General Administration of Quality Supervision, Inspection and Quarantine, its former name is the origin product protection of the former State Bureau of Quality and Technical Supervision. The establishment of this pattern is the fruit of Sino-French cooperation in the field of intellectual property. This protection pattern of geographical indication products is fairly close to the geographic intellectual property protection pattern in France, which applies to the countries with rich geographical indication resources. This pattern has strict quality and technique requirements and needs the participation of quality control system, connected to the World Trade Organization's *Trade-Related Intellectual Property Rights Agreement* (TRIPS Agreement).

The geographical indication trademark registration of the State Administration for Industry and Commerce is the earliest protection system of geographical indication intellectual property

established in China. Different from the protection of geographical indication products of the General Administration of Quality Supervision, Inspection and Quarantine, and agricultural product geographical indication registration of the Ministry of Agriculture, this pattern is the protection pattern of geographical indication intellectual property based on *Merchandise Marks Act*, quite close to the geographical intellectual property protection pattern in the United States, Germany and other countries.

The registration of agricultural product geographical indication in the Ministry of Agriculture began in 2008. Different from the registration of geographical indication trademarks in the State Administration for Industry and Commerce, this geographical indication intellectual property pattern based on *Trademark Law*, is similar to the protection pattern of geographical indication products in the General Administration of Quality Supervision, Inspection and Quarantine, but there are less types of products to be protected, mainly limited to agricultural products, only involving 12 types (fruit, vegetables, cereals and oil, tea, livestock, aquatic products, herbal medicines, poultry, handicrafts, flowers, beverage, condiments), but not involving wine, vinegar, food, ceramics, fireworks, lacquerware, jade, the four treasures of the study, willow knitting, silk, brocade and other types.

By comparing the above protection pattern of geographical indication products, we know that the protection pattern of geographical indication products is much better.

Given that currently there are mainly three protection patterns of geographical indication in the State Administration of Quality Supervision, Inspection and Quarantine, the State Administration for Industry and Commerce and the Ministry of Agriculture, respectively, the geographical indication product protection of tea in Guangdong Province should be mainly based on the protection pattern of geographical indication products in the General Administration of Quality Supervision, Inspection and Quarantine. At the same time, it should register the national geographical indication trademark, and register the national geographical indication of agricultural products.

5.2.4 Taking full advantage of special mark of geographical indication. By August 15, 2012, the General Administration of Quality Supervision, Inspection and Quarantine had approved 4419 companies or industry associations to use the "special mark for geographical indication products" of 494 kinds of products. Among them, about 172 companies can legally use the "special mark for geographical indication products" – Longjing tea, and there are as many as 160 corresponding trademarks. Compared with Longjing tea, the "special mark for geographical indication products" of national geographical indication tea products in Guangdong Province is not used well (Table 1).

In order to better cultivate brand and make full use of the geographical indication brand effect, it is necessary to encourage and support more enterprises within the scope of geographical indication tea protection in Guangdong Province, to

use their respective special mark of geographical indication.

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