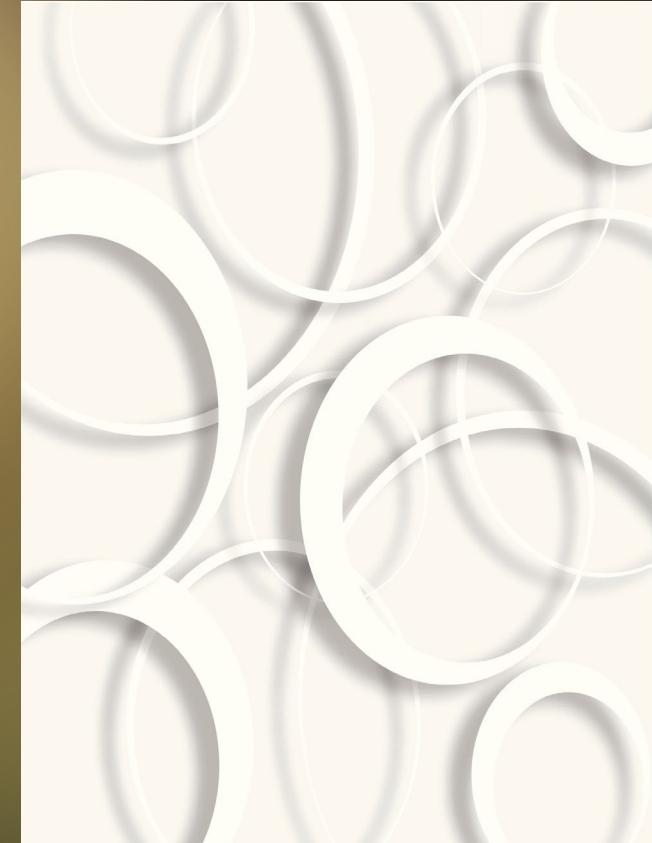


Geographical Indicators and Trademarks in CARIFORUM: The Future of Jurisprudence

HON MR JUSTICE WINSTON ANDERSON
JUDGE OF THE CARIBBEAN COURT OF JUSTICE
CHAIRMAN OF THE CCJ ACADEMY FOR LAW

21 OCTOBER 2021



Factual Background

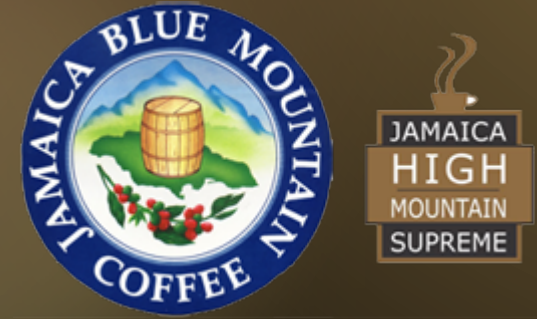
Geographical Indications: e.g.

- Dominica Republic: Café de Valdesia (coffee)
- Cuba: Cigars
- Jamaica: Jerk seasoning
- Guyana: Demerara rum
- Trinidad: Trinidad Montserrat Hills Cocoa

Factual Background

Trademarks: e.g.

- **Jamaica:** Blue mountain coffee
- **Dominica Republic:** Oro del Valle
- **Jamaica:** (Jamaica-Made Mark)



Factual Background

Services ?

- Emerging area
- Discussion of using GIs to protect services.
 - Music (production services): Hollingsworth & Smith (2017)
 - Clothing industry (Savile Row Bespoke and Harris Tweed tailoring services).
- We need to be part of the dialogue – start with regional conversation on protection of services

Legal Regime Needed to Support / Respond

Treaties

- Well-represented in IP treaties.
- However, not so much in TMs (Madrid Protocol – A&B, T&T)
- GIs. Geneva Act (none)

Legislation

- Majority of CARICOM states have sui generis legislation on GIs & TMs

CARIFORUM

- Intra-CARIFORUM GI Agreement (being negotiated)

EU-CARIFORUM

- Currently negotiations with EU and CARIFORUM for mutual recognition of GIs

Adjudication by National Courts

- National courts (inclusive of JCPC, CCJ-AJ, ADR)
- Dearth of case law
- Registrars of IPOs
- Resolved through the criminal process
- CCJ Academy/WIPO Project

RTC Article 214 Referrals to the CCJ

- Harmonization of interpretation of provisions/obligations
 - Misuse; imitation; evocation.
- European Court of Justice
- Court of Justice of Andean Community
- Caribbean Court of Justice
 - RTC, Article 66
 - RTC, Provisions on services
 - RTC, Provisions on trade in goods
- Referrals from CARIFORUM countries?
- Data Base of IP and related experts

Enhancing of Legal Competence

- **Training and capacity building**
- **Regional legal education**
 - UWI Faculty of Law
 - Post-graduate
- **Developmental Assistance**
 - WIPO
 - EUIPO
 - CarlPI Project
- **Regional Economic Development**
 - Linkage to trade, development, innovation