

- (ii) business information which includes the internal information which an enterprise has developed so as to be used within the enterprise.

In this section the word “enterprise” has the same meaning as in section 101 of the Act.

(7) Any person or enterprise or association of producers, manufacturers or traders aggrieved by any act or practice referred to in this Part, may institute proceedings in Court to prohibit the continuance of such act or practice and obtain damages for losses suffered as a result of such act or practice. The provisions of Chapter XXXV of this Act relating to infringement shall apply, *mutatis mutandis*, to such proceeding.

(8) (a) Any person, who willfully and without lawful authority, discloses any undisclosed information shall be guilty of an offence under this Act and shall on conviction after trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(b) The provisions of Chapter XXXVIII of the Act shall apply, *mutatis mutandis*, to the offence specified under this subsection.

(9) The rights conferred by the provisions of subsection (6) shall be in addition to, and not in derogation of, any common law rights.

PART IX

CHAPTER XXXIII

GEOGRAPHICAL INDICATIONS

161. (1) Any interested party shall be entitled to prevent—

- (i) the use of any means in the designation or presentation of goods that indicates or suggests that the goods including an agricultural product, food, wine or spirit in question originates in a

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geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of goods ; or

- (ii) any use of a geographical indication which constitutes an act of unfair competition within the meaning of section 160 ;
- (iii) the use of a geographical indication identifying goods including an agricultural product, food, wine or spirit not originating in the place indicated by the geographical indication in question or identifying goods not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expression such as kind, type, style or imitation or the like.

(2) The protection accorded to geographical indications under sections 103, 160 and 161 shall be applicable against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.

(3) In the case of homonymous geographical indications for goods including an agricultural product, food, wine or spirit, protection shall be accorded to each indication, subject to the provisions of subsection (2) of this section. The Minister, in case of permitted concurrent use of such indications, shall determine by prescribed practical conditions under which the homonymous indications in question will be differentiated from each other, taking into consideration the need to ensure equitable treatment of the producers concerned and the protection of consumers from false or deceptive indications.

(4) The Court shall have power and jurisdiction to grant an injunction and any other relief deemed appropriate to prevent any such use as is referred to in this section. The provisions of Chapter XXXV of the Act shall, *mutatis mutandis*, apply to such proceedings.

(5) For the purposes of this section “geographical indications” shall have the same meaning as in section 101.

PART X

CHAPTER XXXIV

CONSTITUTION AND POWERS OF ADVISORY COMMISSION

162. (1) The Minister may constitute an Advisory Commission (hereinafter referred to as the “Commission”) for the purpose of advising him on any matter referred to him in relation to the law relating to Copyright, Industrial Designs, Marks, Patents and Unfair Competition and any other area or subject of Intellectual Property.

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(2) The Commission constituted under subsection (1) shall consist of—

- (a) not less than five and not more than ten members appointed by the Minister from among persons who have shown capacity in law or commerce or related fields, (hereinafter referred to as an “*appointed member*”); and
- (b) the Director-General who shall be an *ex-officio* member and who shall function as the Secretary to the Commission;

(3) (a) Subject to the provisions of subsection (4), the term of office of an appointed member of the Commission shall be three years :

Provided that a member appointed in place of a member who resigns or is removed or otherwise vacates office, shall hold office for the unexpired portion of the part of term of office of the member whom he succeeds ;

(b) An appointed member of the Commission who vacates office by effluxion of time shall be eligible for re-appointment.