**Protection of Public Intellectual Property and of Geographical Indications of agricultural and food products in the U.S.**

Geographical indications are identifiers for products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. GIs belong to a community; they constitute a collective entitlement which provides benefits for all the producers of a specific territory.

So, like other forms of intellectual property (IP), geographical indications need to be protected. However, unlike in the field of trademarks, where the concepts of protection are practically the same in all countries of the world, there is no such uniform approach to the protection of geographical indications. At the national or regional level those indications are protected under a wide range of different principles, through different legal means. In the different jurisdictions these vary from sui generis protection to protection under trademark law, unfair competition or passing off. Despite the fact that there are a number of obvious differences between GIs and trademarks, both can together form a dynamic system in which entrepreneurs are able to find a deep, particular combination of these rights that suits their business needs best. This coexistence should respect some principles in order to strengthen the competitiveness in the market, ensure the fair competition and secure the consumers.

Let’s go to see which are the aforementioned principles.

From an international point of view, there are two legal texts that refer to the protection of geographical indications:

1. Paris Convention of 1967 and
2. the Agreement on trade-related aspects of intellectual property rights of 15th April 1994, known as TRIPS Agreement.

As far as Paris Convention, the following two articles are relevant:

Art. 10 par. 1 concerning the seizure of imported goods in case of direct or indirect use of a false Indication as to their source and

Art. 10bisconcerning unfair competition, prohibiting indications or allegations the use of which in the course of trade is liable to mislead the public as to the characteristics of the goods.

As far as TRIPS Agreement, the two following articles are relevant:

Art. 22 concerning the protection of Geographical Indications for goods by prohibiting:

a) the use any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;

b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;

(b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

Art. 23 concerning the protection for Geographical Indications for Wines and Spirits by prohibiting the use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits 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 expressions such as “kind”, “type”, “style”, “imitation” or the like.

Relevant provisions for the refusal or the cancellation of trademarks including such geographical indications we can found in par. 2 of the same Aricle.

In addition of the above mentioned provisions, Art. 6ter par. 1 (a) of the Paris Convention prohibits the registration of trademarks consisting to or including armorial bearings, flags, and other State emblems, of the countries of the Union, official signs and hallmarks, indicating control and warranty adopted by them, and any imitation from a heraldic point of view.

It is a common and unlawful practice to affix, for example, the flag of a country in a trademark, namely if this country is well known for the designated goods, in order to draw in customers.

Last but not least, I should mention the Lisbon Agreement and the Geneva Act related to it. At the moment, it is the only international agreement concerning the protection of appellation of origin and their registration. However, it has only 32 members, EU & 7 EU countries among them.

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