
GIs, Collective and Certification trade marks in EU – different regimes, choices and outcomes

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Résumé

It is important to understand the different legal frameworks in the EU that exist for GIs and trade marks. The framework for trade marks provides for individual, collective and certification marks. The EU GI legal framework distinguishes between Protected Designations of Origin (PDOs) and Protected Geographical Indications (PGIs). To know whether choosing the one legal framework over the other will provide the same or different results or benefits, it is important to understand each of these rights as they are defined in the EU today. Firstly, GIs are meant to identify a product by its name. This is in contrast to the essential function of trade mark as indicating a commercial origin. Secondly, GIs are described as collective public rights because they belong to the regions to which they are intrinsically linked i.e., a GI cannot be removed from the area with which it is linked. Thirdly, GIs require product specifications. Finally, GIs are being regulated by third party controls. Hence, to have a GI one needs to have a designated geographical area, a specific product and most importantly a link between the two. The link requires that the designated geographical area should have some form of influence on the specific product. The strength of this link will determine whether one deals with a PDO or a PGI in the EU.

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