

Geographical indications: protection of a name or a logo? A risky shift

Delphine MARIE-VIVIEN, François CASABIANCA

Dr Delphine Marie-Vivien
Researcher in Law
UMR Innovation, Montpellier France
delphine.marie-vivien@cirad.fr

Introduction

- GIs: exclusive right of use of a name for products complying with the GI specifications = intellectual right, usually codified in the IP law
- Actual context of internationalization : multi-certifications identified by particular labels and logos, especially in the agri-food sector:
 - AB, Fair trade, etc...
- Influences GI : increasing use of GI logos next to the GI name
 - logo specific to the GI product
 - an official national logo applying to all GIs in the country.
- Question:
 - Is the name not enough to attract consumers and are logos necessary to bring guarantees of authenticity?
 - Is such use of logos at risk, the risk of losing the protection of the name?

3 situations

- name protected with a mandatory logo
- name protected without official logo (not existing or being optional)
- logo protected while the name remains free of use within the geographical area

Increased use of logos worldwide

- EU agrifood GIs:



- mandatory > 2012 for EU products, optional for foreign products.
- < 2012 : possibility 'protected designation of origin'/'protected geographical indication'
- No procedure

- India:

- optional for Indian products and not allowed for foreign products
- Procedure: approval by the GI registry



- Thailand:

- only if controls of the compliance of the product with the GI specification
- Procedure : authorisation by the DIP, for 2 years
- Practice: no enforcement of products not using the logo



Increased use of logos worldwide

- OAPI countries:



- mandatory

- only for products packaged in the geographical area:
controlled by the collective management organisation.

- but GI name cannot be used alone without the OAPI logo

- What happens for GI product whose specification authorizes
final packaging outside the geographical area?

- No right to use the logo and no right to use the GI either!

Increased use of logos worldwide

- Latin America countries where DO systems: have been set up before Asia and Africa (Andina Community): Chili, Colombia
 - few countries have national logo
 - generally facultative, for promotion
- Cairn's group: Argentina
 - Low level of protection of the name :
 - name free of use for all producers in the geographical area
 - Logo to identify the GI/DO products
 - efforts for making the name well known :
 - benefiting to all products from the area, GI or not
 - GI name becoming a mere indication of source.



Evolution of Objectives of logos

- Inform consumers that the name is a GI
 - not all consumers are aware the product is an origin product, especially on the long distance market, a tool for marketing.
- Identification of GI products on the market to facilitate checks.
 - strengthen the market regulation and the fight against frauds and misuses on the names.
- Logos : becoming a proxy for the certification warranties and a warning sign for the authorities in charge of the controls.

An evolution at risk?

- Concept of an IPR on a name, based on the creation of the reputation of a product in a given place by a localized collective whose common production rules make this reputation possible is put at risk by its association with a logo.
 - GI logo becoming a simple brand - club,
 - GI name being a simple indication of source, without exclusive right on it
- far from the expected territorial development objectives
- urgent to reaffirm the reservation of the name, which goes hand in hand with the endogenous dimension of the GI =
 - specifications established by a group representing all the actors
 - An affirmation endorsed by the wines and spirits producers in the EU: have fight against mandatory use of the logo



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delphine.marie-vivien@cirad.fr