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

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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 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

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- 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!

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- 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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