



CCFN ALERT Newsletter – Q4 2020
Chairman's Column

A Successful Year Brings Tidings of Joy

For many, 2020 has been a difficult year with new and unprecedented challenges. While these challenges have required dedication and ingenuity to navigate, we've pressed forward knowing that we're fighting on behalf of farmers, manufacturers and exporters that deserve a fair chance to label their products with common food and wine terms.

CCFN is the only organization fully dedicated to this cause. Your faith in our mission and continued support has given CCFN the resources to lead the way, coordinating among industry stakeholders and leveraging government support to stand up to the EU's destructive GI agenda. We are grateful to have an incredible list of accomplishments to share from the past year:

- More than 170 Members of Congress signed letters requesting that the U.S. government enhance protections for common food and wine terms.
- The U.S. Patent and Trade Office (USPTO) issued a ruling declaring that [gruyere is a generic style of cheese](#). While the Swiss have appealed this decision, CCFN has already filed a counterstatement to the appeal and will be staunchly defending the action in order to keep "gruyere" generic in the U.S.
- USPTO issued [new guidance](#) that will help ensure that generic terms are given adequate consideration and protection.
- The U.S. completed the [Phase One trade agreement with China](#), which creates new safeguards protecting market access for products labeled with common terms.
- We had several wins in our daily pushback on threats to common terms, including a win for asiago and gorgonzola cheeses in Australia.
- We sought to protect common terms under the framework of the EU-MERCOSUR trade agreement, which is currently being negotiated. As a result of this work, several companies were recognized in Argentina and Brazil as previous users of some common food terms.

The items listed above do not even begin to capture the work that CCFN is advancing on a day-to-day basis or the work that lies ahead as we begin to educate new members of Congress and a new administration about the threats to common food terms. We stand together and ready to fight back against any attempt to confiscate these terms.

Stay healthy and have a very joyous holiday season.

Errico Auricchio
CCFN Chairman
President and Founder, BelGioioso Cheese

Defending Common Terms Continues to Lead Congressional Agenda

“Congress has spoken loudly; it is time for stronger action by the U.S. government.”

That was the [quote](#) from Jaime Castaneda, Executive Director of the Consortium for Common Food Names (CCFN), following the release of a bipartisan [letter](#) sent by 111 members of the U.S. Congress urging stronger protections for American-made food and wine exports using common terms.



“For far too long, Europe has used unjustified trade barriers to block competition from high-quality American-made cheese, meat and wine exports. Europe is undermining global trade rules and weakening intellectual property system protections internationally,” Castaneda continued. “Today’s letter is an important reminder that we must raise the bar in our efforts in order to prevail in creating agricultural trade policy that works for the world, not just the European Union.”

The letter asks the U.S. Trade Representative (USTR) and U.S. Department of Agriculture (USDA) to make safeguarding common food and wine terms a core policy objective in all current and future trade negotiations. The effort was led by Reps. Jim Costa (D-CA), Jodey Arrington (R-TX), Angie Craig (D-MN), Dusty Johnson (R-SD), Ron Kind (D-WI), Mike Gallagher (R-WI), Jimmy Panetta (D-CA) and Mike Kelly (R-PA). A similar [letter](#) sent in July was signed by 61 senators.

Once again, this letter was made possible through CCFN’s work and close coordination with member organizations the National Milk Producers Federation (NMPF), the U.S. Dairy Export Council (USDEC) and the North American Meat Institute, as well as with allies at the American Farm Bureau Federation, the National Association of State Departments of Agriculture and the Wine Institute. CCFN members all across the country also played a critical role in reaching out to members of Congress to urge their support for this message.

It's Elemental: Emmental is Generic

The European Intellectual Property Office (EUIPO) has ruled against an appeal from Emmentaler Switzerland after its request to trademark the term “emmental” was previously denied. EUIPO confirmed that the term is generic and referred often to the arguments presented by CCFN and other opponents of the Swiss application. The Swiss group filed its initial request in October 2017 for protection as a collective trademark for emmentaler. CCFN filed a submission registering opposition to restricting the name and insisting on the need to preserve the generic status of the term, which is also a standard under the international Codex Alimentarius.



The Swiss may appeal this decision to the European General Court, but CCFN will continue working to defend the rights of users of this common term.

New Resources to Defend Common Names

While we know very well the dangers that lie ahead if the European Union (EU) is allowed to continue their destructive campaign on GIs unchecked, one of the key components of our efforts over the past year has been making sure that both the public and policymakers hear this message loud and clear.

To break down what can seem like a complicated issue, we teamed up with USDEC and NMPF – both CCFN member associations – to create a package of social media-friendly materials on the issue of common terms with a specific focus on U.S. cheeses. This includes a [brief video](#), a [one-page fact sheet](#) and multiple social media graphics. Please click on the images below to expand. All of these items are free for you to download and share.





We hope you find these tools useful to increase public awareness of this critical trade issue as we continue our work behind-the-scenes to ensure that exports with common terms are not blocked by the EU.

Heard on Hoard's: Speak Up in Defense of Common Terms

In October, CCFN Executive Director Jaime Castaneda joined Hoard's Dairyman for a [webinar](#) where he broke down what exactly is a geographical indication (GI) and the mission of CCFN. Castaneda was also joined by Jeff Schwager, CEO of Sartori Cheese (a CCFN member), and Andy Novakovic, an Agricultural Economist at Cornell University.



Fighting back against the misuse of GIs is a key issue for dairy producers in particular because specialty cheeses are one of the fastest growing dairy markets around the world and the ability of U.S. producers to continue to use common terms – such as feta, parmesan or gruyere – is in jeopardy.

“While [a GI] is meant to denote a product that is specifically produced in a defined area, it has been wielded as a trade weapon,” wrote Maggie Gilles, a Kansas dairy farmer, in an [op-ed](#) on Hoard's Dairyman following the webinar.

The EU's mission to monopolize common food and wine terms is detrimental to U.S. agriculture as a whole, regardless of whether a manufacturer or supplying farmer currently produces an item at risk. Together, we all need to speak up in defense of common food and wine terms to advance fair trade rules and protect valuable market share.

Also...

U.S. Government Awards Trademarks for Valid GIs

CCFN has long advocated for policies at the U.S. Patent and Trademark Office (USPTO) that protect goods labeled with common terms and truly distinctive products alike. That's why we were gratified to see USPTO manage a fair and just process when it approved trademarks for the GIs Mortadella Bologna and Mozzarella Di Bufala Campana, and communicated our appreciation for that well-balanced approach to USPTO.



The trademarks granted to Consorzio Mortadella Bologna and Consorzio Per La Tutela Del Formaggio Mozzarella Di Bufala Campana for Mortadella Bologna and Mozzarella Di Bufala Campana, respectively, will provide these specialized products and their unique regional names the full protection afforded to trademarks under U.S. law. Equally as important, the USPTO also provided an avenue to protect the interests of U.S. manufacturers and farmers that produce mozzarella di bufala, mortadella or bologna, and the U.S. consumers who know and trust these American-made products, by requiring the applicants to disclaim any exclusive rights to use the terms “mortadella bologna” and “mozzarella di bufala.”

We hope that other GI applicants will use these applications as a model for future submissions. It is possible to fairly protect valid GIs while allowing free use of the common terms derived from those GIs!

CCFN Submits Comments in China, Australia and the EU

CCFN recently submitted comments on several important markets around the globe. In China, CCFN's comments on the proposed Guide on Determining Generic Names in the Protection of Geographical Indications (GIs) included several recommendations, such as further strengthening the regulations guiding free use of generic names and individual terms in a compound name. Overall, however, we are encouraged by China's actions to protect the free use of generic terms and prevent the appropriation of those terms through GI protections.



The proposed guide takes a critical step forward in working to implement many of the commitments in the U.S.-China Phase One trade deal related to GIs and the usage of generic names that CCFN successfully advocated for in that agreement. Many of the points we made in our comments were also reflected in recommendations submitted by the International Trademark Association (INTA), of which CCFN is an active member.

In Australia, CCFN submitted comments in response to the possibility that a new GI system may be implemented as part of the framework of the negotiations of the Australia – EU FTA. Our comments made it clear that any GI protection regime must have the safeguards necessary to ensure that GIs do not harm the use of common or generic terms and the trademarks owners' rights.

Lastly, in the EU, CCFN took an opportunity to utilize our comments on the EU's quality schemes to comment on the key problem areas that remain unaddressed in regard to GIs. These comments addressed a number of issues including the EU's systematic refusal to indicate which names are considered generic, a lack of clarity on the scope of protections for GIs both in the EU and in third countries and the lack of a transparent and fair process for GI applications and oppositions, among other issues.

Forging a Balanced Approach to GI Protections

COVID-19 restrictions meant that CCFN couldn't make the trip in person to Geneva for the Assemblies of the Member States of the World Intellectual Property Organization (WIPO) 61st series of meetings in September. Instead, we participated virtually, delivering an oral statement and submitting comments for the record reaffirming our commitment to working alongside WIPO to address unbalanced approaches to GI policies in markets around the world. These comments echoed some of the issues raised in a letter we sent to Daren Tang that month, welcoming him as the new WIPO Director General, and expressing our interest to working together on these complex but critical issues.

CCFN’s comments also flagged challenges in the implementation of the Geneva Act of the Lisbon Agreement on Appellations of Origin (AOs) and Geographical Indications (GIs) of 2015, which took effect in February 2020.

As CCFN Senior Director Shawna Morris noted in an [article for the International Trademark Association \(INTA\)](#), varying approaches to implementation could undermine safeguards that protect the rights of users of generic terms, as well as GI holders, and put their rights at risk.

“Fair and equitable application of intellectual property (IP) protections is critical to maintaining the necessary balance in IP systems to respect both the rights of new applicants—in this case GI and AO holders—as well as the rights of trademark owners and users of generic terms,” Morris wrote. “An equitable process will set a global precedent that strengthens the integrity of IP systems.”

INTA’s GI Committee has responded by providing recommendations and useful guidance as to how the Geneva Act may be implemented to appropriately meet its goals. At the WIPO in Switzerland, CCFN leveraged its WIPO observer status and its relationship with INTA by making a brief intervention at the Working Group on the Development of the Lisbon [GI] System. Frank Hellwig, a GI expert acting on behalf of CCFN, reminded the working group of the need for a balanced implementation of GI regimes, including the protection of generic terms in the process.

Hellwig also presented the views of CCFN at an [INTA webinar](#) related to the implementation of the Lisbon Agreement on Appellations of Origin. Hellwig spoke strongly regarding the importance of preventing the monopolization of generic terms as GI regimes are implemented.

UnCommon Heroes **Congress Stands Up for American Food Producers**

Europe has zero justification for blocking exports labeled with common terms, such as California wines labeled with chateau, Wisconsin-made parmesan cheeses or Made-In-America bologna. Yet, the EU bans U.S. food and wine exports to its own market and is actively seeking to block U.S. exports to our trading partners, as well.



Last month, more than 110 members of Congress said: Enough is enough.

Congressmen Jim Costa (D-CA) and Jodey Arrington (R-TX) are two of the several champions for food and farm exports that led a letter to the U.S. Trade Representative (USTR) and U.S. Department of Agriculture (USDA). This letter states that it is “critical that USTR and USDA advance a consistent trade policy that prioritizes securing specific market access assurances for products that use common food terms, traditional terms, or the names of legitimate plant and grape varieties in all trade-related discussions.”

Representatives Angie Craig (D-MN), Dusty Johnson (R-SD), Ron Kind (D-WI), Mike Gallagher (R-WI), Jimmy Panetta (D-CA) and Mike Kelly (R-PA) also co-led this effort.

"American farmers and food producers are hurting like never before and we must take steps to protect access to key markets," Costa said in his [press release](#) announcing the letter. "By requiring protections for common food and wine terms in any trade negotiations, we can ensure they continue to have reliable and fair access to overseas markets, which are critical to their economic health."

"In order to have a vibrant agricultural economy and promote free trade, American producers must not be denied access to markets by unfair and arbitrary trade rules like the European Union's misuse of Geographic Indicators," explained Arrington. "When U.S. farmers and ranchers compete on an even playing field, consumers across the globe win by having access to the highest quality and most affordable food and fiber in the world. USMCA will serve as a blueprint for future free and fair trade deals opening up new markets for American producers, manufacturers, and workers."

The importance of what is at stake was underscored by Joey Fernandez, a third-generation dairy farmer from California's Central Valley.

"My farm is committed to producing high-quality milk that is then processed into incredible American-made cheese products. Europe cannot be allowed to ban common cheese terms simply because they do not want to compete with our products," Fernandez said.

This is an important step forward in the mission to level the playing field for U.S. exports, and we hope that USTR and USDA will act upon this letter and use U.S. trade arrangements to usher in stronger protections for common food and wine terms.

**Other GI News from Around the World...
Great Scott! United Kingdom (UK) Unveils
New GI Scheme**

The transition deadline for the UK's departure from the EU is rapidly approaching and beginning January 2021, the UK will leave the EU single market and customs union. In preparation, the UK has unveiled their own GI scheme to put the stamp of approval on authentic British goods. Under the new scheme, all existing UK products currently registered as a GI with the EU will remain protected. While we raise a heartfelt cheers to protecting valid GIs and lowering trade barriers, we hope that the UK will chart its own path forward on GIs to embrace fair competition.



Farmers Down Under Wary of EU GI Mandates

Australian farmers are expressing concern that ongoing trade negotiations with the UK will have disastrous outcomes as the EU imposes its GI regulations on Australian goods. "A lot of businesses have built their brands around these names and [there] is common acceptance of them," a representative of the National Farmers' Federation (NFF) [said](#). The NFF used the example of feta, saying that people consider feta a style of cheese and do not believe that all feta is produced in Greece. "The GIs that they're putting forward right now would bar any use of the word [feta]... and you would probably have to call it something like continental-style white cheese." CCFN has worked with member Dairy Australia to push back against the EU's onerous GI demands in the ongoing EU-Australia FTA negotiations, as the consequences could be severe. Dairy Australia has previously estimated that local products with estimated annual aggregate sales of over \$650 million are at some commercial risk if dairy GIs are built into any agreement with the EU.



Pakistan says Bah Humbug to Basmati GI

India is seeking GI protection for its basmati rice in the EU, claiming that the high-quality of India's basmati rice is linked to where its grown. While India grows, and exports, a lot of the grain, Pakistan also controls approximately 35% of global basmati rice exports. [Asia Times](#) notes that if India's GI request is granted, it "could hinder Pakistan's competing exports while allowing India to fetch higher prices for its grains." While this would not only be devastating for Pakistan's agrarian economy, one expert noted that it could inspire competitors to try and secure GI protections for

their basmati rice in other markets. Needless to say, GI protections are not intended to be wielded as trade weapons and this once again demonstrates the danger of misusing GIs to create trade monopolies.