

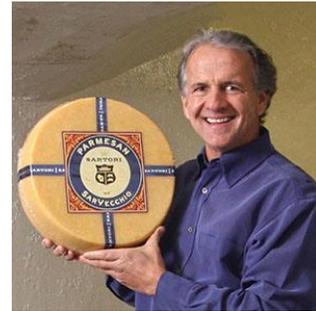
CCFN ALERT – 3rd Quarter 2018

September 2018

Guest Column

CCFN: A Strong Partner in Protecting Our Business

Jim Sartori, CEO, Sartori Co.



Like any growing food company, Sartori has had no shortage of tough issues to tackle. Who knew 10 years ago that defending the generic names of our cheeses would be added to the list? Fortunately, a number of forward-looking leaders in the cheese industry had the vision to form the Consortium for Common Food Names (CCFN). We are proud to have been part of CCFN's beginning. CCFN has allowed us all to work together as this issue has grown exponentially, to successfully combat threats to our ability to sell our products both at home and overseas. I'm all the more grateful to the food and wine industry in the United States and around the world for supporting CCFN – and for what together we've been able to accomplish.

Fighting for my company's right to use common names is very personal to me, because you can trace the success of our award-winning parmesan and other cheeses back generations, to when my 17-year-old grandfather Paolo left Italy on a steamship for the United States and eventually started making cheese in Wisconsin in 1939. I am not alone; many of us in the United States and other countries have spent years developing markets for the products that consumers have grown to recognize and love. But the EU has been aggressively attempting to chip away at that success, which my family and many other producers have created.

Since CCFN's creation in 2012, the EU has engaged in dozens of free trade agreements, and it is now standard policy for the EU to make GI demands within these negotiations. In each trade deal where GIs are in question, CCFN has forcefully countered the EU's abusive position and defended common names. CCFN has been able to protect many names and prolonged the opportunity to use others. Sartori can still export many of our cheeses – by their true, generic names – to Korea, Japan and Vietnam. Most recently, my company was able to continue selling a variety of our common-name products in Mexico for many years despite direct threats by Italian consortia to shut down our sales in that major, developing market. Maintaining our position in Mexico over that time period provided both a valuable showcase for our products and direct benefit to our bottom line.

When CCFN was founded, this battle was mostly outside of the United States, but in recent years the battle has come to our shores. The EU has been attempting to elbow in on our use of generic

terms through the U.S. trademark system. In response, CCFN developed a forceful legal team to defend generic names as trademark applications are reviewed by the U.S. Patent and Trademark Office. It is not by luck that we can continue to use the names asiago and romano within the United States; without the work of CCFN it is very possible we would have lost the right to these common names.

As CCFN has exposed the EU's GI agenda via media and government reporting, Sartori and other members have gained significant positive exposure on trade issues. We have been able to voice our concerns and policy objectives to decision-makers around the globe. And no matter who is in the White House, at the U.S. Department of Agriculture, or in any other key cabinet or trade policy position, you can be sure that CCFN has reached out to them, and that they are joining with us to defend our interests within the United States and overseas. We're more confident knowing that CCFN is at work, so we can focus on our business.

CCFN serves as the only global, organized effort to stand up to this significant threat to our businesses. Governments in the U.S., Latin America and Asia are now wise to what the EU is up to. Thanks to the many companies and organizations that work together with CCFN, the EU's GI activities are much more transparent and are frequently called into question. It's well worth the effort, because regardless of our myriad histories and where our foods are made, these are generic names that belong to everyone.

U.S. Agriculture Secretary and CCFN Share Podium at Argentina G20 GI Event

In conjunction with the G20 Summit in Argentina in July, CCFN participated in an event hosted by the U.S. Department of Agriculture Foreign Agriculture Service (FAS), to highlight the abuse of geographical indications policies. The event, which took place at the U.S. Ambassador's residence, featured remarks by U.S. Agriculture Secretary Sonny Perdue and CCFN Executive Director Jaime Castaneda. CCFN is grateful to the members who contributed high-quality "common name" cheeses and wines to be served at the event, which was well-attended by local industry representatives and diplomatic staff from Argentina and other Latin American nations.

Perdue tweeted after the event, "Joined @USAmbassadorARG and friends in Latin America to celebrate the common named foods producers and consumers have enjoyed for decades. We need to stand together against abuse of geographic indications." And in



an article in a top U.S. political publication ([Roll Call](#)) immediately following the event, Perdue said, “We feel the EU has become increasingly aggressive in their agreements and frankly we’ve become aggressive in our warnings to these countries who want to trade with us that they better be careful about accepting any kind of geographical indicators from the EU trying to brand or trademark or patent common food names.”

CCFN Executive Director Jaime Castaneda told the gathering at the reception, “We are watching closely the negotiations between the EU and many countries, including the partners of Mercosur. It is easy to bend to the EU’s pressures, but I can tell you that we and many other countries have demonstrated that you can stand up to these European pressures. You can and must push back on the EU. Other nations have done this successfully.”

He added, “I would say, if the EU wants to be a leader in parmesan, feta or chorizo, they should compete head-to-head in those markets and win consumers based on quality and taste. They should stop trying to steal these markets by shutting out the competition. This is a moment for you to protect the interests of your local food producers, to respect commitments under existing international agreements, and to ensure that your consumers have choice in the marketplace.”

Argentina and its Mercosur trade partners (Brazil, Paraguay and Uruguay) have been striving to complete a free trade agreement with the EU. Among the most hotly debated items is the EU’s GI list, which contains 357 products; about 50 of which are controversial, including parmesan cheese and rioja wine.

European Commission Agrees That “Emmental” is Generic

CCFN is awaiting a decision from the European Intellectual Property Office (EUIPO) on a request from Emmentaler Switzerland to trademark the term “emmental”, but we have received a positive sign from the European Commission, which has agreed that the term is generic. The Swiss group filed its request in December 2017 for protected designation of origin status for “emmental” – or in the German language, “emmentaler”. CCFN filed comments registering concerns

about preserving the generic status of the term, which is also a standard under the international Codex Alimentarius. The European Commission, asked recently to comment on this contentious application, [noted](#) that while the matter remained pending with the relevant authorities, “The Commission is however confident that the EUIPO in assessing the application in question, will fully take into account the fact that the term in the EU is considered to be generic and is contained in a number of EU geographical indications protected as compound names (e.g. ‘Emmental de Savoie’, ‘Allgäuer Emmentaler’).” It’s refreshing to see even the EC recognize the importance of preserving certain common names; a logical next step would be for that principle to be applied more consistently.



CCFN Briefs Agricultural Attachés on GI Issues

CCFN staff sat down this summer with agricultural attachés from Japan, Philippines, Brazil, Chile, Central America and the European Union (Brussels) at the U.S. Agricultural Export Development Council’s 2018 Attaché Consultations in Arlington, Virginia. The conference is one of the largest annual gatherings of U.S. agriculture export professionals and representatives from USDA’s Foreign Agriculture Service (FAS). The format – which allows brief meetings with each of the attaches – provided an excellent opportunity for CCFN to educate the FAS staff about EU attempts to disrupt trade by erecting overly expansive GI restrictions and how to best work together to combat those challenges.



CCFN praised efforts in some of the countries where negotiators have successfully pushed back on EU over-reach related to GIs. With others it highlighted the benefit of more transparent review of terms within GI policies, and the need to be vigilant in free-trade negotiations to prevent harm to domestic markets and consumer choice in each specific country.

Also...

- **CCFN Beats Back Asiago Trademark Application in Canada** - The Italian asiago consortium has withdrawn its trademark application for “asiago” after CCFN and the Dairy Processors Association of Canada opposed the application this spring. The win comes on the heels of another victory in Canada earlier this year, when the Italian gorgonzola consortium did not oppose CCFN’s objection to the trademark application for “gorgonzola”. CCFN watches these applications carefully in key markets, said CCFN Executive Director Jaime Castaneda. “We continue to provide solid, irrefutable evidence about the generic nature of these names.”
- **CCFN Defends Parmesan in Guatemala:** CCFN counsel in Guatemala recently presented arguments to the Constitutional Court to defend against an appeal on the genericness of “parmesan” filed by the EU and the Italian parmesan consortium. This follows CCFN’s victory earlier this year when the Supreme Court ruled to maintain the generic use of parmesan, in response to CCFN filings. The Constitutional Court is the final chance for review in the Guatemalan system.
- **Success for Mozzarella and Cheddar in Vietnam:** The Vietnamese trademark office has agreed to require that disclaimers be added to a company’s new marks that include the generic terms “cheddar” and “mozzarella”. The disclaimers clarify that the Vietnamese company will not have exclusive rights to these terms and therefore won’t pose a threat to future use



and registration of other marks that include the terms “cheddar” or “mozzarella”. The success comes in response to an opposition CCFN launched in late 2016, when we learned of the trademark applications through our extensive trademark monitoring process.

- **Italian Publication Crosses the Line with “Fake” Slur:** CCFN is calling out Italian publication ItalianFood.Net for repeatedly and incorrectly describing as “fake” U.S. cheeses that bear the common names “parmesan” and “asiago”. In a recent letter to the editor of the publication, which is based in Parma, Italy, CCFN Executive Director Jaime Castaneda noted that, “To the extent the publication is distributed in the U.S. or directed to business conducted in the U.S., the generalized accusation that cheese in the categories of parmesan and asiago are ‘fake’ if not from a particular geographic origin runs afoul of U.S. advertising laws.” The language used by the publication “incorrectly maligns the quality of U.S.-made products,” the letter notes, particularly considering that several years ago – the last time an EU-based international cheese competition allowed for head-to-head competition of parmesan produced in various locations, including Italy – a U.S. parmesan took home top honors. “We expect that the writers at ItalianFood.Net will be able to find a more accurate and honest way to describe these product categories in the future,” Castaneda concluded.



- **CCFN Discusses Equitable Approaches to GIs with FAO:** CCFN has been talking with the United Nations Food and Agriculture Organization (FAO) about ensuring that FAO programs take common name issues into account whenever geographical indications (GIs) are discussed. CCFN is concerned that FAO not pursue policies and activities that intentionally or unintentionally, directly or indirectly, promote illegitimate EU GIs. CCFN Senior Director Shawna Morris met with an FAO executive in Washington, D.C., in April. In addition to providing valuable background on the issue to FAO officials, CCFN participated in the FAO’s conference in May, “Geographical Indications for Food Symposium: Exploring Local Origin, Community Development and Intellectual Property Rights”.



- **Europe’s Proposed GI Policy Modifications are Problematic:** The European Union (EU) should reconsider its proposed technical modifications to its policies for granting geographical indications (GIs), and instead engage with other interested parties to ensure that its system for granting GIs also protects the rights of common name users. This was the message CCFN sent the EU last month via comments as part of the EU’s proposed GI policy modifications. CCFN drafted the comments, which were then filed by the U.S. Dairy Export Council’s European office, a CCFN member; as a procedural matter, only registered entities with the European Commission may file comments. “The current process is already biased against common name users and the opponents of new GI applications. The proposed process seems to expand and



accelerate this bias by effectively diminishing the role of the [European] Commission in the screening process and shortening the time opponents have to state their case at the EU level,” the comments note. “At the same time, it is requiring opponents to monitor a number of government institutions at the Member State level and respond to decisions on applications and amendments in every jurisdiction. Once an unjustifiable GI is granted, the consequences are expanded to not just cover products sold in the EU but even those simply passing through or ultimately marketed on the internet for sale in other destinations.” CCFN also submitted comments to the World Trade Organization (WTO) registering support for the Wine Institute’s and WineAmerica’s submissions concerning proposed regulatory changes to GIs and traditional terms for wine. The comments warn that some proposed provisions are ambiguous, which could lead to future problems. The wine industry noted that there were outstanding applications and procedures that had not been resolved, including how to guarantee consistency of usage in EU Member States. Overall, CCFN used the comment period to insist on transparency; fair due process for GI oppositions; and objective, intellectual-property based analysis. The comments stress the need for new traditional term applications to be notified to the WTO given that these product standards could impact trade. CCFN also repeated previous calls for the EU to provide clarity regarding the scope of protection for compound-term GIs that include a generic term.



UnCommon Hero

Mauro Montalto, Director, Florida Cheese (Australia)



Almost 70 years ago, when Mauro Montalto, his wife Carmela and their three young sons emigrated from Sicily to Australia, they brought with them aspects of Italian culture that allowed them to survive and feel at home in a new environment. This included the cheesemaking skills handed down from family-to-family in their home town of Florida, Sicily. Settling into Melbourne life, the elder Mauro started making traditional ricotta over a wood fire in his backyard for his family, then for neighbors and friends, and finally for the local grocer. From these humble beginnings grew Florida, which now sells award-winning cheeses into the retail, foodservice and industrial markets throughout Australia and in numerous international markets, including Malaysia, Indonesia, Singapore and Hong

Kong. Florida also still operates delivery vans in the Melbourne metropolitan area to serve loyal, home-town customers.

Along with brother Daniel and sisters Lisa and Rose, namesake grandson Mauro Montalto now heads up the family business, which operates under the tagline, “Traditionally Italian - Proudly Australian”. Montalto’s continuing attention to quality has earned him the title of Champion Cheese Maker in 2018 and 2017 from the Australian dairy industry – with Florida’s ricotta netting the highest score for an Italian cheese in 2017. The company has also garnered recent

honors for its casalingo, pecorino, parmesan and buffalo mozzarella. Not surprisingly, Montalto feels strongly about the need to protect common food names.

“Our lives have been built around these names. This is our livelihood,” he said.

If his company were to lose the ability to use generic names, he said, “I seriously doubt if we would survive, and more than 60 years of family heritage and tradition would be lost. In comparative terms, we are a small cheese producer. Our products are based on traditional Italian cheese varieties, so we don’t have the luxury of adjusting our sales mix to less affected varieties and cheese names.

“We applaud the CCFN for the work it’s doing in focusing global attention on this important issue and going in to bat for people like us in opposing the European Union’s abuse of geographical indications,” he added. “We are a small family business with limited resources and we rely on groups such as CCFN to help spread the word.”

The issue is top of mind for Floridia given the start of the EU-Australian trade talks, and with the EU’s geographical indications (GI) demands already a strong point of contention, especially with the Australian dairy industry.

“If the [EU’s GI demands] are enforced in the Australian market, we see that our business model will be unsustainable, as we could no longer use long-established branding and product names,” Montalto said, adding that it’s not just about names, but about the “human know-how” behind those names. “We strongly argue that the skills in the manufacture of cheese and the cheesemaking process are critical to the success of the final product – and that’s deeply reflected in the development of our business.”

Without the use of common names like “ricotta” and “parmesan”, Floridia fears it would have limited ability to build or maintain future sales, because it would need to re-name and re-market its products, particularly in export markets.

“This would result in a progressive reduction in future sales opportunities,” Montalto said. “At a bare minimum, we would incur significant re-branding, re-marketing and consumer education costs in order to keep operating. In addition, we could potentially face reduced consumer demand and sales, if they adjust at all, to new names and new branding. And there is the potential for significant sales losses to importer competition in Australia from European brands that would be able to use those common names that consumers are used to seeing.”

Floridia also objects to the attempt by some Italian groups to oppose branding images that evoke the Italian heritage. “This would create unwelcome uncertainty for our business in terms of planning and investment decisions,” he said.

For Montalto, the EU shouldn’t focus on trying to gain market share by claiming ownership of names, but rather by skill and dedication of the cheesemaker.

“One rule my grandfather said to me was, ‘You make a really good cheese. You won’t even be the biggest and you won’t be the richest, but there will always be someone that will buy your cheese. Or you can just make [ordinary] cheese and fight on that level, and I can guarantee you’ll never last.’”

“And that is our philosophy,” Montalto said. “To make delicious-tasting cheese while never forgetting our family’s Italian cheesemaking heritage.”

<http://www.floridiacheese.com>

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