

Developments in protecting common food names, as well as new threats and restrictions facing food producers globally.



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ALERT

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Chairman's Column

Starting 2016 with a More Productive Dialogue

Last year this time I wrote that CCFN had brought the issue of protecting common food names to international attention. Thanks to consistent pressure this year, we and others have taken our issue to the next step: that is - finally - the opportunity to begin a more productive dialogue on workable, global geographical indications (GIs) policies.



In recent months some key European officials and industry groups have recognized that given pressure from multiple sectors, further dialogue is warranted (or perhaps unavoidable) on how GIs are managed and protected in global trade. The pressure they are feeling came in particular from the allied efforts of the U.S. government and other nations in meetings of the World Intellectual Property Organization (WIPO), the serious challenge posed by the EU's position on GIs in the Transatlantic Trade and Investment Partnership (TTIP) negotiations, continual efforts by CCFN to spotlight the facts, and other positive forces from individual companies.

Here are three examples of the progress we've seen:

- **WIPO Commits to Broader Dialogue** - WIPO, the organization that manages both the Lisbon Agreement and Madrid systems that are pivotal in how GIs are managed in international trade, has agreed to broaden the dialogue on GIs. WIPO has charged the main committee responsible for GIs to take a broader look at the varying ways countries are dealing with GI protections around the world and its leadership has committed to a more inclusive approach to future WIPO programming on this issue.
- **TPP Creates New Template for GI Policy** - A potentially very important regional trade agreement - the Trans-Pacific Partnership (TPP) - has been finalized and includes a new template for GI policy. The new language provides clearer "rules of the road" that we hope will lead to better protection of generic names. In the past the default language on GIs was an EU template that does little or nothing to protect generic names and terms. In addition, all too often GIs were simply dealt with behind closed doors with the EU in their FTA talks and imposed upon trading as a fait accompli. This text aims to move in a more transparent and balanced direction on GIs.
- **High-Profile Dialogues** - This quarter WIPO invited CCFN to participate at the Worldwide Symposium on Geographical Indications on a panel with other groups on all sides of GI policy issues. In addition, for the World General Assembly on GIs at the Milan EXPO, the Italian government invited CCFN to

a panel that recognized the differing sides to the issue; and other parts of the program considered the option of compromise. CCFN also met in Washington, D.C., this quarter with representatives from a major Italian Consortium of GI holders to explore the potential for common ground on GI protections and protection of generic names.

The protection of common food names is not an insurmountable issue. Rational, consistent and fair GI policy is achievable. These new advances provide the prospect for productive dialogue as we move into 2016. Your voice and support will, of course, always be critical to our success.

Wishing you Happy Holidays and a Prosperous 2016,

Errico Auricchio
CCFN Chairman

Support & Successes

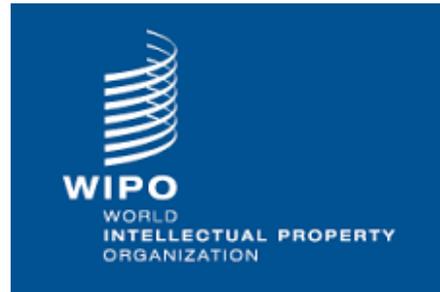
China and U.S. Reaffirm Commitment To Protect Common Names

At the annual meeting of the U.S.-China Joint Commission on Commerce and Trade concluded in late November, the two nations reaffirmed an earlier commitment that product names are not eligible for geographical indications (GI) protections if they are in common use in a particular territory. China and the

United States also confirmed that this applies to all GIs, including those protected under international treaties. In an important commitment to due process, China also agreed to publish for public comment a draft of procedures that provide the opportunity for a third party to cancel already-granted GIs. The commitment helps ensure that the growing Chinese market will remain open to both exports and domestic production of foods and beverages bearing generic names.



WIPO Commits to More Equitable Lisbon Agreement Funding and Broader GI Dialogue



Steadfast efforts by the U.S. delegation during budget talks at the World Intellectual Property Organization (WIPO) in Geneva last month resulted in two important successes in efforts to secure a better approach to management of geographical indications (GIs). First, WIPO has resolved to move towards a more equitable system for funding the controversial Lisbon Agreement, which to date has not covered its own costs, in contrast to similar WIPO programs. Second, WIPO leadership has charged the main committee responsible for GIs to take a broader look at the varying ways countries are dealing with GI protections around the world. CCFN praised the U.S. delegation for its determination and success regarding contentious GI issues during the intense budget deliberations. [Read more](#)

U.S. Patent & Trademark Office (USPTO) Clarifies Asiago Issue



CCFN met with the USPTO in September to discuss the agency's initial rejection issued to a U.S. company petitioning to trademark a product name containing the generic term "asiago". The meeting brought to light the fact that this ruling was inconsistent with recent prior USPTO rulings on "asiago". USPTO subsequently moved swiftly to address this error and ensure consistency in its treatment of this issue in keeping with prior rulings and internal policies for how to handle similar types of trademark applications. At this stage, new trademark applications that include the term "asiago" appear to be on hold pending the results of USPTO's examination of the Italian Asiago Consortium's efforts to secure exclusive usage of that term. In its most recent action on that effort, USPTO last year rejected the Italian Asiago Consortium's petition for exclusive use of "asiago" in the U.S. market, but additional stages of appeal remain possible.

Final Trans-Pacific Partnership (TPP) Deal Creates New Template for GI Policy



The 12 countries negotiating the TPP (the United States, Australia, Canada, Japan, Malaysia, Mexico, Peru, Vietnam, Chile, Brunei, Singapore and New Zealand) successfully concluded negotiations in early October. This represents a significant milestone after more than five years of intensive negotiations, and the agreement includes language on geographical indications (GIs) that indicates a hopeful beginning in terms of the protection of common food names. "TPP's [GI text](#) breaks new ground in an area much in need of clearer rules of the road. These commitments appear to offer us improved tools to work with; we hope that once we test drive the provisions in contested markets that they are effective in practice," said CCFN Senior Director Shawna Morris.

The agreement provides an important first step in establishing more workable rules and procedures on how GI applications should be handled - whether as part of trade agreements or received directly by private applicants. Before this, the primary model for handling GI registrations has been an EU template that does little or nothing to protect generic names and terms. The EU's template has instead been the driver of creeping restrictions on common food names and harmful uncertainty in a number of markets.

CCFN is hopeful that the TPP agreement's language will be particularly helpful in avoiding situations within TPP nations like those seen in the past with Korea, Canada and Morocco, where the EU bilaterally imposed a list of broadly protected GIs without input from other nations that were negatively affected by the provisions. CCFN believes that the very inclusion of the type of language on GIs and common names that appears in the TPP signals that the protection of common names is an appropriate, important issue for TPP parties to continue discussing as a core element of their obligations, rather than only as an ad hoc issue related to the nullification of market access rights, as has generally been the case in the past.

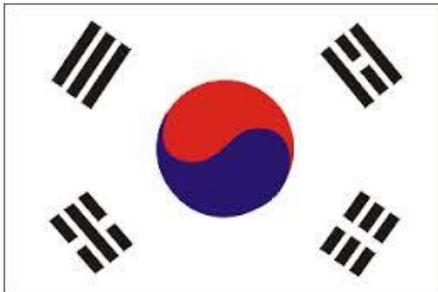
Threats & New Restrictions



CCFN Filing Opposition to Halloumi GI Application

This month CCFN is filing its formal opposition to the application in the EU for GI protection of the name "halloumi". Halloumi is a semi-hard, unripened brined cheese that has a high melting point, allowing it to be fried or grilled. Its

name is believed to derive from ancient Egyptian Arabic; the cheese is popular in many Middle Eastern countries. The EU published the application in late summer to register the names 'Χαλλουμι' (Halloumi)/'Hellim', in Greek and Turkish, as a protected designation of origin for a cheese produced on the island of Cyprus. Defending the generic name "halloumi" within the EU is especially important for CCFN's members in Australia and New Zealand, two important markets where several cheese producers make and sell the cheese.



Korea Makes Shift Toward Heightened Enforcement Against Use of Common Terms

CCFN has noted with concern a shift in how Korea is more actively enforcing some GIs as part of its trade deal with the EU. While terms such as "parmesan" that derive from compound GIs (e.g., "Parmigiano Reggiano") appear to

remain regarded as generic due to the U.S.'s proactive work to secure a clear understanding on those terms four years ago, Korea's FTA with the EU also included restrictions on the use of several common names including "fontina", "gorgonzola", "asiago" and "feta". In recent months Korea has begun taking heightened steps to enforce these restrictions, impacting CCFN member exports to Korea and providing a fresh reminder of the impact the EU's FTAs can have in constraining competition from other suppliers in growing markets.



CCFN Takes Action in Mexico

Non-Italian producers of asiago who are exporting the cheese to Mexico have been warned to stop selling the cheese under that name, due to Italy's filing of the name under registrations within the World Intellectual Property Organization

(WIPO). The term "gorgonzola" is also potentially threatened for the same reason. Earlier this year CCFN filed formal oppositions to the actions, and is analyzing legal options. It has also met with Mexican intellectual property officials to determine the scope of the threat and next steps to be taken.



U.S. Dairy Industry Tags GIs as a Major Trade Concern

The issue of GIs and protection of common food names was spotlighted extensively in comments filed recently by the U.S. dairy industry to the U.S. government as part of the National Trade Estimate Report on Foreign Trade Barriers. Similar points were also echoed by the Grocery Manufacturers Association, and the Wine Institute flagged the related issue of the EU's limits on the use of so-called "traditional

terms" on alcohol products which impacts wine-makers abilities to use common terms such as "ruby, chateau and clos". Public comments are accepted each year as the Office of the U.S. Trade Representative provides its annual report on trade barriers facing U.S. businesses. Joint comments by the U.S. Dairy Export Council and National Milk Producers Federation; comments by the International Dairy Foods Association; and comments by GMA and the Wine Institute can all be read on the [CCFN News Room page](#) under "Background Items of Interest."

Items of Interest

EU Parliament Asks for Legislation to Create Non-Food GIs

In October the European Parliament (EP) passed by a wide margin a resolution supporting the creation of EU-wide non-agricultural GIs. The concept is that GI protections could be expanded to include regionally and locally manufactured goods and handicraft products, to "support local economic development, boost tourism, strengthen consumer confidence and help preserve cultural heritage and traditional know-how," according to an EP press release. The resolution calls on the European Commission to propose legislation to extend EU-wide GI protection to include such products as Bohemian glass, Scottish tartan and Carrara marble.



Protecting Scottish Tartan

The press release notes that the expansion could help preserve cultural heritage, add great economic potential and "enable the EU to enjoy the same protection for such products outside the EU in the framework of international trade negotiations." At the moment, there is no unitary GI protection for non-agricultural products at the EU level. However, 15 EU member states have specific national legislation on GI protection for non-agricultural products resulting in different degrees of protection in the member states. (See [EP press release](#))

CCFN submitted comments to the European Commission last year on this proposal pointing out the potential for this extension of the GI system to compound the problems inherent in the current program. As part of that submission CCFN advocated for revisions to EU GI regulations - both existing ones and the proposed non-agricultural ones - to avoid impacts on common names and to bring much-needed clarity to the scope of protection for GIs within the EU. (See comments on [CCFN News Room](#) page under Background Items of Interest.)

CCFN and the Global Conversation on GIs

The efforts of CCFN and its members in 2015 have clearly raised to a new level the issue of protecting common food names, reflected in a noticeable increase in high-level conversations and meetings.

CCFN representatives have been busy this quarter meeting with a number of key officials, including:

~ CCFN representatives are meeting this month in Alexandria, VA with the U.S. Patent and Trademark Office's (USPTO) international attachés to update them on current GI activities and threats to common food names. The office's Overseas Intellectual Property Attaché program works to improve intellectual property systems internationally for the benefit of U.S. stakeholders.



USPTO

~ CCFN representatives, members and allies also met last month with Director General Francis Gurry of the World Intellectual Property Organization (WIPO), as part of continuing dialogue with the organization on how CCFN interests can be better represented as GI issues are discussed and policies set. As part of that dialogue CCFN also traveled to Geneva multiple times this fall to engage in discussions with various countries' WIPO delegates regarding GIs and common food names as WIPO prepared for its General Assemblies meetings, at which GIs were a point of heated debate.

~ CCFN also met in Washington, D.C., last month with representatives from a major Italian Consortium of GI holders to explore the potential for common ground on GI protections and protection of generic names. CCFN was founded to devote itself to fostering these types of constructive discussions and as such plans to continuing its engagement with the Italian Association of Geographic Indication Consortia on this important issue.

CCFN has also been speaking at major international GI forums:

~ For the Worldwide Symposium on Geographical Indications in October in Budapest, Hungary, WIPO invited CCFN to participate on a panel entitled "Where to Go from Here". The panel was organized as an open discussion and included CCFN and other non-governmental organizations (OrigIn, MARQUES and INTA) to exchange views on the legal, economic and administrative aspects of GI policy, and where future efforts should be placed.

~ For the high-level World General Assembly on GIs in October at the Milan EXPO, the Italian government invited CCFN to a panel entitled, "The Stakeholders - two opposite approaches", featuring CCFN Executive Director Jaime Castaneda and Giuseppe Liberatore, president of AICIG (the association of consortiums for the protection of geographical indications). The program also featured speakers from the Office of the U.S. Trade Representative and the European Commission, among others, exploring a "Way forward for a compromise".



Dissenting Voices in the EU

A Not-So-Italian-Sounding Italian Cheesemaker

Roberto Brazzale, CEO of Gruppo Brazzale, a company with operations in Europe, Brazil and China, provides an interesting perspective on Italy's "Italian sounding" efforts, which he believes are misguided. The excerpts below are from the October 29, 2015, issue of [EXPO magazine](#).



Roberto Brazzale

A more extensive translation of the article can be found [here](#).

Here are excerpts from EXPO's interview:

Roberto Brazzale is an unconventional Italian and a global farmer. A descendent of an ancient family of farmers of the Veneto region and an agricultural entrepreneur abroad, he produces PDO [Protected Designation of Origin] cheeses in Italy but also "Gran Moravia", a hard cheese similar to Grana Padano but made in Czech Republic. His company also has beef operations in Brazil.

Mr. Brazzale, tell us about yourself: Who are you and what do you do?

Since 1700 and for seven generations, we have been producing butter and cheeses. Today we own brands such as "Burro delle Alpi", "Gran Moravia", "Alpilatte", "Zogi" and many others. We originally come from the Asiago Mountains where over a century ago our ancestors moved there from Zanè, near Thiene, to build our first industrial plant. Today the company has production plants in Italy, Czech Republic and Brazil. We also have a cheese factory in China producing fresh cheeses for that market. We continue to make products of our tradition, developing them both in the recipes and in the most suitable areas in the world, especially through supply chains that are at the forefront in sustainability, outside and beyond the PDO systems. We

have developed our retail chain, comprised of 18 shops, with more soon to come, in the Czech Republic and China, where we sell mostly products produced in Italy. Our driving principle is to do things that focus on improvement, in order to provide consumers with better tasting and more convenient products.

How do you respond to those who accuse you of "Italian sounding"?

The concept of "Italian sounding" is the ultimate, desperate card for those claiming for protection. It is portrayed as an illicit conduct when it is simply indicating the use of an Italian word for products that already have their common denomination in the Italian language or are inspired by it, or the evocation of Italy and its tradition.

Italian sounding does not violate GI norms nor does it constitute misleading practices - otherwise the appropriate legal remedies would be activated. It is a normal commercial practice that has always concerned the whole world: Witness the use of terms such as hamburgers or würstel: is it German sounding? Or chewing gum and hot dog, is it American sounding? Or vodka, is it Russian sounding? And these are just the first examples that come to my mind. Nobody has even dreamed of forbidding their use. When it is not illicit, "Italian sounding" is a necessary and appropriate practice to inform the consumer about what kind of product he or she is buying, or what tradition it is inspired by, even if it does not necessarily originate from that country....

The hostility towards Italian sounding is ridiculous if we think how the use and the evocation of Italian names and symbols helps to maintain the interest in our nation and its original products, preventing them from being forgotten or becoming irrelevant. Italian sounding is a great driving force for the exports of our original products. Problems arise when these products do not possess distinctive characteristics compared to foreign ones, those that justify higher prices.

And here is where the shoe pinches: The producers that are not able to be on the market without public and political support demand to be protected by law from competition - not from illicit practices, at the expense of offering variety to the consumer.

In the case of our Gran Moravia (the grana cheese produced by Brazzale SpA in Czech Republic), of course we use the Italian language! We use Italian because it's our mother tongue, together with the Veneto dialect, and the language of most of our consumers. I am not aware that the right to use the language of Manzoni (an Italian writer) has been granted exclusively to some GI consortium. Should I have used a Czech word? And how would the Italians understand that our grana is made in Moravia, if I don't tell them in Italian?

About CCFN

The Consortium for Common Food Names (CCFN) is an independent, international non-profit alliance that represents the interests of consumers, farmers, food producers and retailers. We are working to protect worldwide the right to use common food names.

www.CommonFoodNames.com

Join our mailing list

Pass it Along!

Help spread the word by passing this newsletter on to other companies affected by the attack on common food names!



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