

ALERT 4th Quarter 2017

Chairman's Message

Corporate Identity Theft

One of the biggest U.S. news stories of 2017 was the shocking breach at Equifax, one of the three major U.S. credit reporting agencies, which affected 143 million consumers. This is identity theft, when unscrupulous perpetrators steal personal information such as your full name or social security number, in order to commit fraud and drain away cash based on the credit you've built up over the years.



It's not too great a leap to consider our issue a kind of identity theft. Because, let's face it, someone is trying to steal the name of my product, and benefit from my "credit" – that is, the market I helped build for that product. Sure, the efforts by the EU and some organizations to prevent me from using a common name like "asiago" is not technically illegal, but I would point out that, 1) the common name "asiago" is integral to my company's identity and has been for decades; and 2) there are concerted, brazen efforts underway to take that away from my company and others – and in fact to take it away from millions of asiago-loving consumers.

In "stealing" these identities, the EU is throwing existing rules and regulations to the side. This is especially true now that the EU has ignored the Codex Cheese Standards that it helped forge and approve just 10 years ago. In October, the EU allowed Denmark to register a GI for "danbo", a name that has an international Codex standard (see the story below). This takes the EU's abuse of GIs to a new low, and should not be tolerated. If Codex Standards are now meaningless to the Europeans, it opens the door for such common names as "mozzarella" and "cheddar" to be stolen, as well; a pending "havarti" GI is expected to move soon.

As Phillip Turner of Fonterra in New Zealand told a reporter recently, "We would like to stop the creep of this European campaign and see accepted rules in place... We think [this] is a bit out of control."

This "creep" is only accelerating as the EU seeks ownership of generic names within China, Mexico and Japan in trade agreements, as well as the quickly moving Mercosur-EU Free Trade Agreement (see below), not to mention an aggressive play for full rights to "gorgonzola" in

Canada. Yes, let's call it what it is: brazen and unscrupulous identity theft, perpetrated for unfair economic gain.

We are calling the EU out on these transgressions, and defending existing rules and regulations. We're having a positive impact in key places while waging active battles in others. There is a right way forward, and CCFN will continue to fight for it!

Errico Auricchio, CCFN Chairman

EU Turns Its Back on Codex Cheese Standards by Approving GI for Generic Name

The European Union (EU) in October tossed overboard its commitment to international standards by approving a new GI that grants Denmark sole use of a common cheese name: "danbo". Unlike other GI registrations, "danbo" already holds the status of a generic term according to Codex Alimentarius, one of the leading international standards-setting bodies. Moreover, both the EU as a whole and Denmark individually participated in and approved the process to preserve the inclusion of "danbo" in the Codex cheese standards, a process that was finalized just a decade ago, in 2007.

"The EU has thumbed its nose at its World Trade Organization commitment to respect international standards. This is an extremely alarming precedent that shows the EU breaking commitments in order to create its own international standard – with the aim to monopolize use of a term and gain an unfair advantage in the marketplace," said CCFN Executive Director Jaime Castaneda.

"The European Commission has stated numerous times that its only goal is to protect a handful of names and leave generic terms alone. But this action suggests that this is not so, and we once again respectfully request that the EU put in writing all the generic food names and terms that are in jeopardy in its ongoing 'name grab'," he added. "By approving a GI for an internationally standardized term, the EU demonstrates that all names are in question, including numerous names long covered by those international Codex standards – from mozzarella to cheddar."

Danbo, a semi-soft cheese, is produced in numerous countries, including Uruguay, Argentina and South Africa, among others.

"It is inconceivable that the EU is proceeding with this step when Argentina and other nations are current producers of danbo," said Osvaldo Capellini of the Federacion Panamericana de Lecheria (Panamerican Dairy Federation) and the Centro de la Industria Lechera Argentina



Danbo is produced in South Africa, Uruguay and other countries.

(Argentina Dairy Association). “What is even more astonishing is that the EU is ignoring our interests even as they are seeking to negotiate on trade issues with Argentina and other Mercosur nations. This is not a positive beginning.”

These sentiments were echoed by the Uruguayan Dairy Association and by the Dairy Companies Association of New Zealand.

“Can we now expect the EU to seek similar protection for other common cheese names, which have been manufactured and exported by producers in New Zealand and elsewhere for many years?” asked [DCANZ](#) Executive Director Kimberly Crewther. Dairy cooperative Fonterra of New Zealand, one of the largest dairy exporters in the world, also decried the move in a [trade publication article](#).

“What’s really at stake here isn’t about intellectual property, or GIs, or protecting traditions. It’s all about money,” wrote Dick Groves, editor of the U.S. publication [Cheese Reporter](#). He added that the “EU is making a mockery of GIs and Codex.”

Castaneda noted that a fair solution regarding “danbo” would have been to include the geographical component of the name, which is done through compound terms such as “Provolone Valpadana” or “Prosciutto di Parma”. Multiple other GIs have employed this compound formulation, coupled with a clear reassurance that the generic portion of that name – such as “prosciutto” or “provolone” remains generic for general use.

“One need only look at an approved name like ‘Gouda Holland’ to know that a better solution exists. ‘Danish Danbo’ would be a legitimate GI that includes the geographic location in its name,” he said.

“An equitable approach to GIs is possible, but food industries, farm organizations and governments – even individual nations within the EU itself – need to stand up to these EU encroachments to maintain fair competition in the global marketplace,” Castaneda said. “We invite all those who care about the importance of preserving a level playing field through international standards and commitments established under the WTO agreement to join with CCFN in insisting on a better way forward on GIs.”

CCFN Urges Mexico and Japan to Reject EU Attempts to Confiscate Generic Food and Wine Names

In two separate, extensive filings, CCFN in October provided comments to the governments of Japan and Mexico concerning each nation’s pending agreements with the EU on lists of GIs to be granted protection as part of trade negotiations. CCFN insisted that Mexico and Japan protect the interests of its



consumers and producers, and maintain a competitive marketplace, by striking several generic names from the GI lists. CCFN also pursued clarification on how some terms will be protected within the EU's agreement with the two nations, in order to safeguard the food's common name.

In both Mexico and Japan, the EU is seeking sole ownership of such common cheese names as "feta", "asiago" and "gorgonzola". Common terms such as "mozzarella" and "bologna" are also potentially at risk if it is not specified that they are protected only when used within a compound term, such as "Mortadella Bologna". In fact, CCFN commented that the EU should only be permitted to protect legitimate specialty names used in full – usually compound names that contain a geographic region, such as "Prosciutto Toscano", "Mozzarella di Bufala Campana" or "Gouda Holland". This approach could work for other GIs, too, such as through protection of "Greek Feta". CCFN's comments also supported the filings of the Wine Institute, which objects to the creation of restrictions on various common wine terms and seeks clarification regarding specific terms such as "sherry", "chablis", and "port".

The Japanese and Mexican EU-GI lists stirred significant concern from the U.S. government, and among U.S. producer and industry groups. In late September, U.S. dairy groups sent a [letter](#) to the Japanese Minister of Agriculture reminding Japan to respect current market access agreements with its trading partners, including the United States, when reviewing the GI list proposed by the EU.

Shortly thereafter, in early October, a group of U.S. producers and manufacturers sent a [letter](#) to President Trump urging the U.S. government to immediately impress upon Japan, Mexico and the Mercosur nations that the lists of GIs they are considering for approval with the EU – or will soon be considering – must not include common food and beverage terms such as "parmesan," "vintage" and "bologna." The letter was signed by CCFN as well as the American Farm Bureau Federation, Brewers Association, Grocery Manufacturers Association, International Dairy Foods Association, National Council of Farmer Cooperatives, National Milk Producers Federation, North American Meat Institute, United Fresh, U.S. Dairy Export Council, USA Rice and Wine Institute.

Later that month, after his meeting with Japanese Deputy Prime Minister Taro Aso in October, U.S. Vice President Mike Pence released a press statement noting that "Japan committed to ensure meaningful transparency and fairness in its system for geographical indications in accordance with its domestic law and procedures, including those receiving protection through international agreements."



CCFN praised Mexico and Japan for providing review protocols and asking for comments on the proposed GI lists.

“We encourage them now to maintain healthy trade and competition within their markets, which benefits their consumers, retailers and producers, and maintains fair trade with their trading partners,” said CCFN Executive Director Jaime Castaneda. “If Japan and Mexico follow common sense and the rules of trade, then common names will be safeguarded for all to use.”

Throughout the process in each country, CCFN has stressed its support for legitimate GIs that protect genuinely unique regional terms; what is objectionable is an approach that would impact others’ rights to continue to sell products bearing widely used names.

Pan American Dairy Federation Issues Resolution Condemning EU’s Aggressive GI Practices

CCFN worked with the Pan American Dairy Federation (FEPALE) last week to safeguard the interests of common food name users across the Latin American region. Those efforts resulted in a strong [resolution](#) rejecting the EU’s aggressive stance regarding the treatment of geographical indications (GIs), a topic of increasing relevance across major Latin American markets as the EU negotiates GIs with Mexico and the Mercosur bloc of countries while preparing to launch talks with Chile in the near future. (See related stories this issue on Mexico and Mercosur.)



The resolution, which was issued during FEPALE’s General Assembly last week in Cuba, addressed current, past and future negotiations with the EU and called for no new GI restrictions on the use of commonly used terms of importance to any country in the hemisphere. Representatives from more than a dozen Latin American countries attended the FEPALE meeting, including representatives from multiple CCFN member organizations.

“The EU’s GI scheme significantly threatens the sale of products using common names, at great harm to local producers and their trading partners around the world,” said CCFN Executive Director Jaime Castaneda, who attended the meeting to work closely with FEPALE’s members on this and other issues of mutual interest. “We are very pleased that FEPALE recognized the danger and took a strong stand on this important issue.”

Castaneda noted that some Latin American nations have led the way in standing up against the EU and in support of its local producers. One example is Guatemala, which last week again rejected EU attempts to claim sole use of the common name “parmesan”, despite repeated efforts by the EU to restrict this term in Guatemala.

CCFN Briefs U.S. Senate Judiciary Committee Staff on Threats to Global Trade of Common Name Products

Representatives from CCFN and U.S. wine, food and manufacturing industry associations, as well as from the U.S. Patent and Trademark Office (USPTO), briefed staff of the U.S. Senate Judiciary Committee in September on geographical indications (GIs), and the imminent threat if Mexico, Japan and China allow the European Union (EU) to confiscate generic terms as part of their current trade negotiations. The briefing was co-hosted by the offices of the committee's Chairman Charles Grassley (R-IA) and Ranking Member Dianne Feinstein (D-CA).



“The EU has routinely attempted to slip GI protections into trade negotiations without a nation’s thorough review of the impact on common food and beverage names – everything from the generic terms ‘feta’ and ‘bologna’, to ‘sherry’,” CCFN Senior Director Shawna Morris told the committee staff. “These past few months, we have found ourselves in a whirlwind of activity concerning major GI lists in review in some of the most important trading markets in the world – China, Japan and Mexico. We continue to stress to government leaders that the EU should not be given blanket approval for protections of every term on these lists, which would be a clear over-reach that treads on the rights of non-EU food producers.

“The U.S. government can play a key role at this moment, helping to remind these nations of their trade commitments to the United States and the need to safeguard common names for a fair and competitive marketplace,” Morris said.

USPTO staff kicked off the briefing and provided a [helpful background](#) on the issue. In comments to the Chinese, Japanese and Mexican governments, CCFN has noted that common names such as “feta” and “gorgonzola” should not be allowed to stay on the GI lists, which contain hundreds of names. CCFN has also called for clarity in how compound terms such as Prosciutto di Parma are handled – that is, to ensure that a component term (like “prosciutto” in this example) remains generic.

“Countries are realizing that it’s against their best interests to rubber-stamp these complex EU requests without public input and protection of generic terms. Now the challenge is to ensure that China, Japan, Mexico and other nations respond to the evidence given in public comment, and prevent the EU from monopolizing common terms that should be free for all to use,” said Morris.

During the industry portion of the panel, CCFN was joined in the briefing by the International Dairy Foods Association, the Wine Institute, the North American Meat Institute and the National Association of Manufacturers, who also expressed concerns if the EU’s sweeping GI lists are accepted as-is by key trading partners.

USPTO Rejects Italian Application for U.S. Trademark on “Romano”

The U.S. Patent and Trademark Office (USPTO) has rejected an application by Italy’s Pecorino Romano Consortium (Consorzio Per La Tutela Del Formaggio Pecorino Romano Consortium Italy) to trademark the name “Pecorino Romano” in a way that would have impacted use of the common term “romano”. CCFN had been concerned that if the application were accepted as initially applied for, both the terms “pecorino” and “romano” would be at risk for generic use within the United States.



PTO gave several grounds for the refusal, noting primarily that the request was inconsistent with an already existing certification mark for “Pecorino Romano” and that the names “pecorino” and “romano” independently are effectively common names. USPTO noted that the Consorzio is free to file a response to the office action by submitting evidence and arguments in support of registration. CCFN was pleased that USPTO rightfully noted the widespread use of both terms in the U.S. marketplace. Although GI holders should have the ability to register their GIs in the United States, such registrations must not infringe on others’ rights to continue to use common names.



Pecorino Romano from Italy and Romano from Wisconsin

Italian Cheesemakers Continue To Target U.S. Market and Marketing Practices

In a [presentation](#) this fall at an Italian food convention, the president of the Parmigiano Reggiano Consortium said that the United States is the number one export market for Parmigiano Reggiano, and that the Consortium will continue to fight against the use of the generic term “parmesan” and so-called “Italian-sounding” or “Italian-looking” marketing within the United States in an effort to reduce competition and increase sales of the Italian cheese. Nicola Bertinelli said that “clearer and more transparent regulations” in the U.S. would allow the Consortium to increase the size of its market in the U.S. by more than 50 million Euros.



“Our objective shall be to demonstrate that the word ‘parmesan’ is an evocation of the Parmigiano Reggiano designation and that using it for cheeses not compliant with our production specifications violates our Protected Designation of Origin.”

He said the consortium will continue to promote its product and monitor for “imitators” in the United States. “However, to reach our objectives, we need the



Award-winning parmesan from Italy and the U.S.

help of lawmakers.... Regulations able to eliminate practices that are misleading for consumers, in particular the use of geographical names, images and brands evocative of Italy to advertise products that have absolutely nothing to do with our country, the most shameless form of unfair competition and fraud to consumers in the agri-food sector,” he said.

Noted CCFN Senior Director Shawna Morris, “This is a reminder to U.S. cheese companies that the fight for common names is also taking place on U.S. soil, and in a direct attempt to eradicate U.S. sales of key products – it’s not just about exports. Given that the United States is home to almost [16 million people](#) that trace their family lineage to Italy, the fact that people would commonly use generic terms and images that overlap with those used by Italian companies should hardly be surprising. We continue to believe there’s room enough for all to fairly compete in the U.S. marketplace.”

Meanwhile, separately, the [Washington Post](#) ran a full spread in its October 3rd Food section on how American artisan cheeses are competing head-to-head with old masters in Europe. “There were plenty of positive signs about the state of American cheese,” the reporter notes. “For instance, more and more artisan cheese is being exported, almost 10 percent — something unimaginable a decade ago.”

The article quotes Simone Ficarelli, marketing and communications manager for the - Parmigiano-Reggiano consortium, saying, “This should be a warning to the Italian people. We can’t get lazy. We should be concerned about the Americans making better cheese than us.”

The title of the article? “How good has U.S. cheese become? Good enough to worry the Italians.”

Also...

- **Mercosur Nations Publish EU-GI Lists:** CCFN is working to defend common names in Mercosur nations (Brazil, Argentina, Uruguay and Paraguay) as the EU rapidly moves to approve GI lists of names for protection as part of the Mercosur-EU trade talks, which have been proceeding for several months. Brazil, Argentina, Paraguay and Uruguay published GI lists in November with just 30 days for opposition filings; CCFN filed comments in the first half of December. Of the roughly 350 terms on the list, CCFN focused on 24 at-risk generic names: asiago, black forest ham, bologna, brie, camembert, chorizo, edam, emmental, feta, fontina, gorgonzola, gouda, grana, gruyere, mortadella, mozzarella, parmesan, pecorino, pancetta, prosciutto, provolone, romano, salami/salamini and manchego. CCFN also submitted a [letter](#) supporting the opposition filing of the Wine Institute concerning such common wine terms as “sherry” and “chianti”. “We are working hard to keep these key markets in South America open for common name products,” said CCFN Executive Director Jaime Castaneda. Read the CCFN press release [here](#).



- **Informing U.S. Visit to EU** - CCFN sent a [letter](#) in October to the U.S. Secretary of Agriculture Sonny Perdue in advance of his visit with the European Commission, encouraging him to stress the position that the United States: 1) will reject the EU's attempts to use GIs as a non-tariff barrier to trade; 2) stands firm with its trading partners that any new or renegotiated free trade agreements with the EU must preserve common food and beverage names; and 3) will reject any attempt by the EU to erect competition-distorting GI policies within the United States.



USDA's Sonny Perdue

- **Canadian Battle on Gorgonzola** – The Italian Gorgonzola Consortium has filed an application for a trademark for sole use of “gorgonzola”. If granted, the application would negate the grandfathering provisions in the Canada-EU Trade Agreement that allow for existing manufacturers of gorgonzola to continue using its name in Canada. CCFN worked with several CCFN members, a Canadian gorgonzola producer and the Dairy Processor Association of Canada (DPAC) to challenge the application and fight restrictions on the use of the term. Oppositions were filed October 31 with Canada's patent and trademark office.



- **U.S. Maintains Voting Status in WIPO** - The U.S. Chamber of Commerce reports that the United States has paid most of its overdue dues to the World Intellectual Property Organization (WIPO) in order to preserve its voting rights and in recognition of the steps the United Nations agency has taken to deal with past irregularities and whistle blower issues. CCFN signed on to a trade group appeal to the U.S. State Department this summer requesting the United States maintain its voting status. CCFN and others believe that U.S. representation in WIPO is critical in the efforts to promote fair GI policies and protect common food names worldwide.
- **CCFN Participates in U.S. Workshop in the Philippines** - The U.S. Food and Agriculture Service's (FAS) Manila division joined with the Philippine Intellectual Property Office in September to host a one-day workshop on common food names and GIs. The workshop was designed to inform officials in that nation as they work to develop GI laws and regulations. The audience included Philippine government officials, industry representatives and congressional staff. A speaker from the U.S. Patent and Trademark Office demonstrated how a sound trademark system balances branding goals with safeguards for common food names. CCFN was invited to speak at the event to provide the industry perspective on the importance of preserving common food names in order to facilitate trade, support the development of sales opportunities for local businesses, and avoid consumer confusion. An FAS summary of the event can be found [here](#).
- **CCFN Meets with Chinese Officials** – CCFN Executive Director Jaime Castaneda traveled to China in November to meet with China's Trademark Office, as well as the Chinese

Commerce Department, which is managing current trade negotiations with the EU. Castaneda took the opportunity to emphasize key points in the objections CCFN filed with the Chinese government in August regarding specific common cheese, meat and wine names and terms that the EU is seeking to confiscate as part of a bilateral agreement with China. Castaneda also took the opportunity to visit with local law firms that CCFN works with in legal cases and the opposition filings.

- **Strained Relations Over Greek Yoghurt** – Tensions are rising between Greece and the Czech Republic as Greeks protest the continued use of the term “Greek yogurt” or “yoghurt” by its fellow EU member. In 2015 the Czech government adopted requirements for dairy products that included standards for the commonly used term “Greek yoghurt”. Despite the ubiquity of the term to describe a kind of yogurt produced in numerous markets around the world, the Greek government has protested several times since then. In response to that internal pressure to restrict competition, the EU informally recommended to the Czech government that it amend its regulations, but the Czech government – recognizing the lack of consumer confusion in its marketplace – has apparently not moved to do so to date.

[EURACTIV](#) now reports that the EU is currently examining two letters of complaint from the Greek government and the Greek dairy industry. The term “Greek yogurt” is not currently restricted by a GI. But Greece argues that both “Greek yogurt” and “Greek-style yogurt” run contrary to an EU regulation that says consumers should not be misled in product marketing. To CCFN’s knowledge, no clear proof of consumer confusion has been offered by Greece to support its call for restricting the marketplace. Nonetheless, in July a European Commission spokesperson told [EURACTIV](#) that, “[U]sing the term ‘Greek yoghurt’ for products produced outside Greece would deceive consumers and would create unfair competition in the EU market.”



What say the Czechs? Pavel Vybíral, CEO of Polabské mlékáren, which is one of the Czech companies producing Greek yogurt, told the [Czech publication E15.CZ](#), “The name ‘Greek yoghurt’ is now used worldwide -- it does not refer to the origin of the product but to technology and composition. In Greece itself, the name *straggisto* is used for this type of product.”

Straggisto – or in translation, “strained yogurt”. The name “straggisto” is actually derived from a Turkish verb, “to thicken”. But don’t remind the Greeks.

UnCommon Hero: Fermo Jaeckle, CEO Intercibus Inc.

Intercibus, Inc., based in Brookside, New Jersey, USA, provides sales, marketing and financial assistance in support of new entrants to the ever-changing U.S. specialty cheese market. CEO Fermo Jaeckle has a long successful history with the U.S. specialty cheese sector, including co-founding and leading Roth Kase USA, a Monroe, Wisconsin-based company that became one of the top 10 U.S. producers of specialty cheese, winning numerous awards in national and international cheese competitions. The company was acquired by Swiss company Emmi in 2009, and is now called Emmi Roth USA.



“Twenty-five years ago, few if anyone foresaw today’s vibrant artisan cheese market with the consumer’s demand for locally sourced product,” Jaeckle says. “Yet here we are. Feta produced in Wisconsin, gouda from New York state, parmesan from California. As a fourth-generation member of a family that has been involved in the production and distribution of cheese, I am grateful for the efforts of the Consortium for Common Food Names to protect open markets for generic food names in recognition of the investments that have been made by many previous generations.”

“I’m not opposed to GIs per se, but I believe that the U.S. Patent and Trademark laws offer plenty of possibilities for identity protection to producers without creating barriers to trade,” said Jaeckle. “And when it makes the wrong call initially – as any system does occasionally – there are ways for the public to point out that problem and help it course-correct.”

Jaeckle says that the European Community along with producer organizations in certain other countries are attempting to confiscate international trademark rights on product categories that have long since passed into the public domain. Chefs, food writers and other food professionals acknowledge that many of the products for which the EU is seeking GI protection have been made for generations outside their original production areas, he says.

“The fact that many of these products have longstanding international standards of identity verifies that these terms are generic,” he says. “Where do we draw the line? Must all ‘swiss’ cheese be made in Switzerland? Under the pretexts of those promoting GIs the answer must be, yes! – but this is an untenable and indefensible position.”

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