



Organization for an International
Geographical Indications Network

Highlight of the month

Bavaria Case: a GI and a pre-existing trademark can co-exist

"Bayerischer Brauerbund", a German association of brewers in Bavaria, has been producing "Bayerisches Bier" since 1968. The name was granted protection in Europe as a PGI in 2001. In 2004, "Bayerischer Brauerbund" filed a case before an Italian Court to stop the Italian and Dutch brewers 'Bavaria NV' from marketing beers under the name 'Bavaria'. 'Bavaria NV' owns several trademarks containing the word "Bavaria" dating back to 1947. The lawsuit was successful but 'Bavaria NV' appealed the decision. Then, the Italian Court of Appeal referred the case to the European Court of Justice (ECJ) to clarify whether the registration of "Bayerisches Bier" as PGI was valid as well as whether protecting a GI within the EU affects previously registered similar trademarks.

In a nutshell, the ECJ ruled that the PGI was valid but that the Dutch brewers were entitled to carry on using their trademark, unless it could be shown that they had applied for it in bad faith. The case now goes back to the Italian Court of Appeal.

This decision clarifies the relations between trademarks and GIs and confirms the value of a GI if registered after a similar trademark. Moreover, it stresses the need for national courts to verify that pre-existing trademarks (protected before a GI application) were registered in good faith.

EU Policy Developments

GI Policy

Adoption of the implementing rules of the regulation on PDO/PGI wines

On 24 July, the Commission regulation (EC) n°607/2009 of 14 July 2009 *laying down certain detailed rules for the implementation of Council Regulation (EC) n°479/2008 as regards to protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products* was published in the Official Journal of the EU. Regulation n°607/2009 was adopted at the unanimity by the Member States and entered into force on 1 August. It is based on Regulation n°1898/2006 on the rules of implementation on the protection of PDO/PGI for agricultural products and foodstuffs. This new Regulation is very important for GI wines and concerns the registration, modification and cancelling procedure of GI wines, as well as the control of the specifications. For further information, please consult: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:193:0060:0139:EN:PDF>

European Agricultural Policy

Discussion of the First Farm Council

On 13 July, the first Farm Council took place. The main items on the agenda were the milk crisis and the adaptation to the climate change.

Adoption of a roadmap for the development of the European agro-food industry

On 6 July, the High Level Group on the Competitiveness of the Agro-Food Industry in Europe, which was established by the Commission on 28 April 2008, adopted a Roadmap. Concerning GIs, this Roadmap recommends to:

- Establish a market surveillance mechanism of counterfeiting to ensure that third countries comply with their international obligations in respect of intellectual property rights protection, and;

➤ Set up national organisations representing producers with the task of reporting PDO and PGI counterfeiting.

For further information concerning the recommendations, the report and the roadmap, please see:

http://ec.europa.eu/enterprise/sectors/food/competitiveness/high-level-group/documentation/index_en.htm

Reform of the CAP: creation of a French German Working Group

On 2 July, France and Germany announced that they created a joint Working Group on the reform of the Common Agricultural Policy (CAP) after 2013. The working group is open to other Member States. It is expected to publish its first guidelines before the end of the year. The Commission should table its first ideas on CAP reform in September 2010.

In the meantime, France, which is the main beneficiary of the CAP budget, has expressed its priorities which are: more regulation, stable income for farmers, transparent price formation (the French Minister for Agriculture suggested the setting-up of a European observatory to monitor price trends in the EU) and more innovation and investment in the agri-food sector.

Report on the dairy market situation

On 22 July, the European Commission published a report on the dairy market situation. This report was supposed to be published at the end of the year but following the milk crisis and the decrease of the prices paid to the farmers, the Commission decided to anticipate the publication.

In this report, the Commission presents a few measures to help the sector. It is said that the Commission will continue to use instruments such as intervention, private storage aid and export refunds. Member States will have the possibility to redistribute aid to the dairy sector under the Health Check agreement.

In the meantime, the Commission will continue its examination of potential anti-competitive practices in the food supply chain.

For further information on the available measures, please consult: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0385:FIN:EN:PDF>

€ 28 million EU support for the promotion of agricultural products on the internal market

On 13 July, the European Commission has approved 16 programs of promotion of agricultural products in the EU, worth € 62.1 million, presented by 12 Member States. The concerned products are notably dairy products, meat, wine and fruit and vegetables.

The measures that can be financed within this framework are as follows: public relations' activities, promotional campaigns concerning EU products. Moreover, the activities can cover, amongst others, information campaigns on the EU system of PDO/PGI.

For further information, please see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1186&format=PDF&aged=0&language=EN&guiLanguage=en>

Fears about the feed supplies

The EU is currently facing a crisis on the feed supplies because of its zero tolerance policy on the presence of GMO in the feed. Indeed, South American soya stocks are lower than usual and the EU industry will have to import US soya. However, some US soya producers affirmed that they will freeze exports to the EU because of its zero tolerance policy, after US soya have been denied entry to the EU because of the presence of GMO in a non GMO shipment. As there are few alternative of supply, the EU industry fears higher prices for soya imports. Following a letter of 9 EU food and feed organisations, among which the COPA COGECA and the CIAA, Commissioner Fischer Boel questioned the rationale of the EU policy. This subject will be on the agenda of the next Farm Council. A proposal could be tabled by DG Health and Consumers which would allow a 'contamination rate' between 0.1 and 0.5%.

DG Agriculture Report on Foodstuff Trade

On 2 July, DG Agriculture published a Report on Trade which highlights that the EU remains the world's leading importer and exporter of agricultural products. However, after a brief period of net exportation in 2006, the farm trade will be in deficit in 2008. For more information, see:

http://ec.europa.eu/agriculture/publi/map/02_09.pdf

A separate DG AGRI report on the Medium-Term World Agricultural Outlook affirms that the agri-food sector is likely to cope better than other sectors with the financial crisis. Until 2011, prices are expected to be above the 1996-2006 average. For Further details, see: <http://ec.europa.eu/agriculture/publi/map/brief9.pdf>

International Affairs

G8 in Italy: 20 billion US\$ for food security

At the July G8 meeting in Italy, leaders decided to commit financial resources and improve coordination of international initiatives to help the most vulnerable. To that end, they pledged US\$20 billion over the next 3 years to address food security in developing countries through the "L'Aquila Food Security Initiative". For further information, please consult: http://www.g8italia2009.it/static/G8_Allegato/factsheetsfood%20EN.pdf

WTO: no progress on GI extension but consultations will continue in autumn

On 27 July, Director General Pascal Lamy stated that, the informal consultations on intellectual property rights did not make substantial progress. In the field of GIs, the opponents admitted that the so-called "GI extension" does not require major implementation costs in national jurisdictions. However, according to the opponents, the case to extend the protection of article 23 beyond wines and spirits was not made, notwithstanding the various practical cases presented by the

Countries supporting GI extension. The consultations will resume after the summer break. The meeting with a group of 17 WTO members (Argentina, Australia, Brazil, Canada, Chile, India, Egypt, the EU, Japan, New Zealand, Norway, Peru, Switzerland, Tanzania, and the United States) will take place in Geneva on 8 October.

ACTA: 5th round of negotiations

On 16 – 17 July, the 5th round of negotiations of the Anti-Counterfeiting Trade Agreement (ACTA) was held in Rabat, Morocco. Australia, Canada, the European Commission, the EU Presidency (Sweden), the EU Member States, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland, and the USA participated in this round. The discussions focused on International Cooperation, Enforcement Practices and Institutional Issues. The next round will take place in Korea in November 2009.

Conclusion of the EU - South Korea Free Trade Agreement

On 13 July, South Korea and the EU concluded the negotiations of the Free Trade Agreement. The signature should take place before the end of the year and the Agreement should enter into force in 2010. For the EU, this Agreement will be the first such deal with an Asian country.

Switzerland – Japan Free Trade Agreement

The Free Trade Agreement between Switzerland and Japan, which was signed in February, will take effect on 1 September. It will be Switzerland's biggest free trade deal since the one it signed with the EU. It will cut tariffs on goods and services in a range of sectors and within ten years, 99 % of all trade will be duty free. The agreement will also ease regulations on intellectual property rights, notably GIs.

News of the institutions

Formation of the committees of the European Parliament

On 13 July, the committees of the European Parliament (20 standing committees and 2 subcommittees) were formed and elected their Presidents and Vice-Presidents. Two committees are important for GIs: Agriculture and International Trade.

There are 85 deputies in the Agriculture committees. Its President is Paolo De Castro (S&D, Italy) and its Vice-Presidents are Rareş-Lucian Niculescu (PPE-DE, Rumania); José Bové (Greens, France); Janusz Wojciechowski (ECR, Poland) ; and Marit Paulsen (ALDE, Sweden).

The International Trade committee is composed of 55 members. Its President is Vital Moreira (S&D, Portugal) and its Vice-Presidents are Cristiana Muscardini (PPE-DE, Italy); Robert Sturdy (ECR, UK); Paweł Ksawery Zalewski (PPE-DE, Poland); Yannick Jadot (Greens, France). For further information on the members on the committees, please go to the following website and select a committee:

<http://www.europarl.europa.eu/activities/committees/committeesList.do?language=EN>

The Vice-Presidents of the Parliament were also elected: Giovanni Pittella (S&D, IT), Rodi Kratsa-Tsagarapoulou (EPP, EL), Stavros Lambrinidis (S&D, EL), Miguel Ángel Martínez Martínez (S&D, ES), Àlejo Vidal-Quadras (EPP, ES), Dagmar Roth-Behrendt (S&D, DE), Libor Roucek (S&D, CZ), Isabelle Durant (Greens/EFA, BE), Roberta Angelilli (EPP, IT), Diana Wallis (ALDE, UK), Pál Schmitt (EPP, HU), Edward McMillan-Scott (ECR, UK), Rainer Wieland (EPP, DE), and Silvana Koch-Mehrin (ALDE, DE).

Lisbon Treaty: German law and Irish referendum

On 30 June, the German Constitutional Court decided that the Lisbon treaty is compatible with the German constitution if a national law clarifying the right of co-decision of the German Parliament is adopted. On 18 August, the political parties reached an agreement which plans

that the government will have to hear the Parliament but will not be bound by its opinion. It will also have to inform the Parliament on the international trade negotiations of the EU.

In the meantime, the Irish government affirmed that Ireland will hold a referendum on the Lisbon Treaty on 2 October.

New Agriculture Ministers in Bulgaria, France and Luxembourg

Bruno Lemaire has been appointed Minister of Food, Agriculture and Fisheries after the reshuffle of the French government.

Romain Schneider has been appointed Minister of Agriculture, Viticulture & Rural Development in the newly appointed Luxembourg government.

Miroslav Naidenov is the new Bulgarian Farm Minister.

News on GI registrations

Registration

- "Melton Mowbray Pork Pie" (PGI) – 29/06
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0020:0021:EN:PDF>
- "Aceto Balsamico di Modena" (PGI) – 03/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:175:0007:0011:EN:PDF>
- "Brněnské pivo ou Starobrněnské pivo" (PGI) – 23/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:192:0011:0012:EN:PDF>
- "Nocciola Romana" (PDO) – 25/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:194:0005:0006:EN:PDF>
- "Pan de Cruz de Ciudad Real" (PGI) – 07/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:206:0011:0012:EN:PDF>

- "Ciauscolo" (PGI) – 11/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:207:0008:0009:EN:PDF>
- "Batata doce de Aljezur" (PGI) – 18/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:213:0008:0009:EN:PDF>

Amendments publication

- "Pecorino Toscano" (PDO) - 11/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:188:0030:0034:EN:PDF>
- "Prosciutto Di Carpegna" (PDO) – 12/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:189:0023:0028:EN:PDF>
- "Monti Iblei" (PDO) 22/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:198:0023:0029:EN:PDF>
- "Grana Padano" (PDO) 25/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:199:0024:0033:EN:PDF>
- "Aceite Campo De Montiel" (PDO) – 15/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:162:0017:0019:FR:PDF>
- "Sedano Bianco Di Sperlonga" (PGI) – 07/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:185:0013:0016:EN:PDF>
- "Farine De Petit Epeautre De Haute Provence" (PGI) – 07/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:185:0017:0021:EN:PDF>
- "Chorizo Riojano" (PGI) – 08/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:186:0014:0019:EN:PDF>
- "Ricciarelli Di Siena" (PGI) – 08/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:186:0020:0022:EN:PDF>
- "Patata Di Bologna" (PDO) – 08/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:186:0023:0027:FR:PDF>

Registration request

- "Kabanosy" (TSG) – 09/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:156:0027:0032:EN:PDF>
- "Farine de Blé Noir de Bretagne" ou "Farine de Blé Noir de Bretagne — Gwinizh Du Breizh" (PGI) – 10/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:157:0014:0017:EN:PDF>
- "Kielbasa Jałowcowa" (TSG) – 11/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:158:0024:0030:EN:PDF>
- "Kielbasa Myśliwska" (TSG) – 14/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:160:0012:0018:EN:PDF>
- "Irpinia — Colline Dell'ufita" (PDO) – 14/07
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:160:0019:0022:EN:PDF>
- "Alubia De La Bañeza-León" (PGI) – 08/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:186:0028:0033:EN:PDF>
- "Prosciutto Di Sauris" (PGI) – 11/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:188:0035:0037:EN:PDF>
- "Yorkshire Forced Rhubarb" (PDO) – 12/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:189:0029:0032:EN:PDF>
- "Chirimoya De La Costa Tropical De Granada-Málaga" (PDO) – 21/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:197:0010:0013:EN:PDF>
- "Colline Pontine" (PDO) – 21/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:197:0014:0018:EN:PDF>

- “Pommes Des Alpes De Haute Durance” (PGI) – 25/08
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:199:0019:0023:EN:PDF>