







OVERVIEW

Geographical Indications

- Article 7(1)(j)
- Possible conflict





Article (1)(j), (k) and (l) and GI Regulations:

- Regulation (EU) 1151/2015
- Regulation (EU) 1308/2013
- Regulation (EC) 110/2008
- Regulation (EU) 251/2014







Product Areas	PGIs under EU law*	PGIs under national law**
Foodstuffs, Agricultural products, Wines, Spirit drinks and <i>Aromatised wines</i>	Yes	no
Non-agricultural field (e.g. handicraft)	n/a	Yes

^{*}Including international agreements concluded by the EU **Including international agreements concluded by MS







Three cumulative conditions for Article 7(1)(j) to apply:

- Registered PDO/PGI
- Conflict with PDO/PGI
- Identical/comparable goods







Registered PDO/PGI

- Wines incl. traditional terms for wines (TTWs) E-Bacchus
- Spirits E-Spirit-Drinks
- <u>Agricultural products and foodstuffs</u> (including beer, flowers, essential oils, cork) incl. traditional specialties guaranteed (TSGs) **Door**
- Aromatised wines: no database. There are only 5

Nürberger Glühwein, Samoborski bermet, Thüringer Glühwein, Vermouth de Chambéry, Vermouth di Torino







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- 3. EUTM application contains or consists of an **imitation** or **evocation** of a PDO/PGI;
- Other misleading indications and practices;
- 5. Use of the EUTM application would exploit the **reputation** of PDOs/PGIs





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PDO/PGI	European Union trade mark	
MADEIRA	MADEIRA	
(PDO-PT-A0038)	(Collective EUTM No 3 540 911)	
MANZANILLA	MANZANILLA	
(PDO-ES-A1482)	(Collective EUTM No 1 723 345)	
DRESDNER CHRISTSTOLLEN	DRESDNER CHRISTSTOLLEN	
(DE/PGI/005/0704)	(Collective EUTM No 262 949)	
PROSCIUTTO DI PARMA	PROSCIUTTO DI PARMA	
(IT/PDO/0117/0067)	(Collective EUTM No 1 116 458)	





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Situations covered by EU Regulations

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Definition of evocation:

where the term used to designate a product incorporates part of a protected designation, so that when the consumer is confronted with the name of the product, the image triggered in his mind is that of the product whose designation is protected (C-75/15 Verlados at §21)

A <u>link</u> must be made with the product whose designation is protected but there is **no need** for likelihood of confusion!



- 3 EUTM application contains or consists of an imitation or evocation of a PDO/PGI
- a) Incorporates the significant part of a protected GI

PDO 'CHIANTI CLASSICO'

PAZIENDA
PER PARIA
PER PAR

PDO 'GORGONZOLA' → 'CAMBOZOLA'





- 3 EUTM application contains or consists of an imitation or evocation of a PDO/PGI
- a) Incorporates the significant part of a protected GI
- b) Contains an equivalent adjective/noun



PDO 'Mel do Alentejo'

→ 'Mel alentejana'

SICILIANO

PDO: Sambuca di Sicilia

PDO: Sicilia

PGI: Terre Siciliance





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- a) Incorporates the significant part of a protected GI
- b) Contains an equivalent adjective/noun
- c) Translations

PGI 'Pâtes d'Alsace' → Alsatian Pasta

PGI 'Cognac' → KONJAKKI (FI)

PDO 'Bourgogne ordinaire' →







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- a) Incorporates a significant part
- b) Contains an equivalent adjective/noun
- c) Translations
- d) De-localizers:

'style', 'type', 'method', 'as produced in', 'imitation', etc.

PDO 'Feta' → Plain feta as produced in Greece PDO 'Rioja' → Rioja Style Red Wine







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- d) De-localizers: 'style', 'type', 'method', 'as produced in', 'imitation', etc.

EUTM triggers in the consumer's mind a link with the product whose designation is protected

Criteria taken into account by the Court:

- Whether there is a visual, phonetic or conceptual relationship between the terms;
- Degree of closeness of the goods concerned;
- Whether the part of the PDO/PGI which is included in the trade mark forms a logical and conceptual unit within the mark or not. If so, evocation is dismissed;





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European Union trade PDO/PGI mark (invented examples)		Explanation	
PORTO (PDO-PT-A1540)	EUTM depicting the 'Dom Luís I Bridge' in the city of Porto	A picture of the Dom Luís I Bridge and its riverside is a well-known emblem of the city of Porto. Use of this image for <i>wines</i> other than those covered by the PDO 'Porto' would fall under Article 103(2)(c) and (d) of Regulation (EU) No 1308/2013.	





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Not taken into account in AG





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Limits to the scope of protection:

- Descriptive terms;
- Generic terms (camembert, brie, gouda...);
- Terms commonly used in trade;
- Surnames or family names;
- Names of countries







Trade marks in conflict with two or more Gls

Term	Products	Example	Relevant PGI/PDO	Outcome
Different	Identical	RIOJA RIBERA DE DUERO Wine	Rioja (PDO) Ribera de Duero (PDO)	No limitation possible
Identical or similar	Identical	MARIOLA MODENA Vinegar	Aceto Balsamico di Modena (PGI) Aceto Balsamico Tradizionale di Modena (PDO)	Limitation (either, or for both)
Identical or similar	Different	MALLORCA SUN Meat, bread, pastry	Sobrasada de Mallorca (PGI) Ensaimada de Mallorca (PGI)	Limitation (for both)
Identical or similar	Comparable	AXN MODENA Meat	Prosciutto di Modena (PDO) Zampone di Modena (PGI) Cotechino di Modena (PGI)	Limitation (either or for all, deceptive goods deleted)
Homonyms	Identical	PISCO MISTRAL GRAN NOBEL (fig) Pisco	PISCO (Peru) PISCO (Chile	Limitation (one or the other)







Relevant Goods under EU Regulations

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 - 1. Identical products specifications
 - 2. Comparable products
 - 3. Ingredients
 - 4. How to restrict







Relevant Goods under EU Regulations

WAY TO RESTRICT (ingredients)

 Consider items in the list goods applied for that can contain the product protected by the PGI/PDO as ingredient

Example

EUTM **ABC Hajdusa** applied for *vegetables*, *condiments*, *mustard* PGI 'Hajdusagi Torma' protects *horseradish*.

Horseradish, condiments containing horseradish and mustard containing horseradish, all the aforementioned goods complying with the specifications of '*PGI Hajdusagi Torma*'





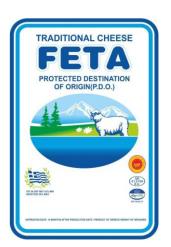
y la cooperación

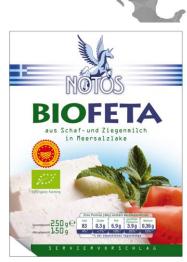
Geographical Indications - Examples



Propiedad Intelectual: Clave para la innovación, el crecimiento económico y la cooperación

Geographical Indications - Examples















Propiedad Intelectual: Clave para la innovación, el crecimiento económico y la cooperación

Geographical Indications - Examples





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THANK YOU





