

SCOPE IPR

EU-ASEAN Sustainable Connectivity
Package - Intellectual Property Rights

GI for ASEAN Countries: Prospect and Challenges

The EU Approach: Trademarks and GIs

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FUNCTION

T M

Trade Marks: Indication of origin.

- Well-known signs can have some protection.

G I

Geographical Indications: Specific geographical origin and possess qualities, reputation, or characteristics inherent to that location.

- Registration can only be done at the EU level as an exclusive competence.
- Previous existence before registration: collective private initiative.
- Particular legal regime, with a broad protection.

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PGI and PDO



PGI



PDO

	 PGI	 PDO
Name	Identifies a product originating in a specific place, region or (exceptional for wines) country.	Identifies a product as originating in a specific place, region, or exceptionally country
Link: Product/ Geographical area	<ul style="list-style-type: none">• Quality, reputation or other characteristics• Essentially attributable to its geographical origin	<ul style="list-style-type: none">• Quality or characteristics• Essentially or exclusively due to its geographical origin• Including natural and human factors
Production Steps	<u>At least one</u> in the geographical area	<u>All</u> in the geographical area
Grapes (only for wines)	<u>At least 85%</u> from the geographical area	<u>100%</u> from the geographical area

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SCENARIO 1

Alicante



Art. 7(j) EUTMR
Objection GI

Overcome objection:
limitation of goods

Art. 7 b) and c) EUTMR

Geographical term

How: GI view database



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SCENARIO 2



Wines



Art. 7(j) EUTMR
Objection GI

Overcome objection:
limitation of goods

Art. 7 b) and c) EUTMR

OK in terms of distinctiveness

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CUMULATIVE CONDITIONS

3 conditions

Art. 7 (j) EUTMR

Registered at the EU level

EUTM application must include relevant goods

- goods identical
- goods comparable
- goods in which the GI is a relevant ingredient.

- Direct or indirect use
- Misuse, imitation or evocation of a GI
- Other misleading indications

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USE OF A GI (DIRECT OR INDIRECT USE)

The Office will assess whether an EUTM contains a GI as a whole or a term that could be considered phonetically and/or visually highly similar to.

EUTMs are considered to fall under Article 7(1)(j) EUTMR since they make use of a GI.

GI	EUTM No
CHAMPAGNE (PDO-FR-A1359)	CHAMPAGNE VEUVE DEVANLAY (EUTM No 11 593 381)
BEAUJOLAIS (PDO-FR-A0934)	 (EUTM No 1 561 646)

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MISUSE, IMITATION/EVOCATION

EUTM 'misuses' a GI when it provides false indications as to the geographical source of the goods, with the result that it benefits from the perceived quality of the GI.

Evocation

- **Sufficiently clear and strong link- Global assessment**
- partial incorporation of the GI
- Visual, phonetical or conceptual relationship
- Degree of the proximity of the goods concerned
- Reputation of the protected name

CHAMPAGNE
(PDO-FR-A1359)



(EUTM No 17 962 122)

Imitation

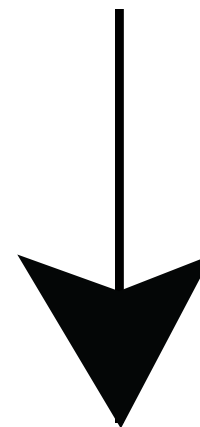
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OTHER MISLEADING INDICATIONS AND PRACTICES

□ Case: 'Scotch Whisky' vs 'Glen Buchenbach'

- An indication is misleading if it includes words or images that give false information about a product's origin, nature, or essential qualities.
- The context not to be taken into account.



Liable to convey a false impression as to (the product's) origin' or to the nature or essential qualities of the product

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THANK YOU

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