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CARIFORUM



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**TRADEMARKS OR GIs:
IDENTIFYING THE
MOST SUITABLE IP
TOOL**

CONTENT

1. Interest of Origin Linked Products (OLP)

2. Why IPR might be of interest for OLP?

3. Overview of the legal means of protection

4. Benefits of OLP strategies

1. INTEREST OF ORIGIN LINKED PRODUCTS

WHAT IS AN OLP?

Origin-linked products can be defined as

- local products based on a territorial identity and reputation, and/or
- products based on specific modes of production and
- whose quality, reputation or any other characteristics are attributable to their geographical origin.



WHAT IS AN OLP?

- Origin-linked products can be defined as products that might be eligible for GI or Trademark protection
- Examples include Italy's famous Parmigiano-Reggiano cheese, Argan oil from Morocco; Blue Mountain Coffee from Jamaica and Chulucana pottery from Peru.



OLP CRITERIA

- Product(s)
- Link with an origin: know-how, quality, specificities, reputation, etc...
- Men/Women/Institutions
- A territory
- Some tools
- A strategy/ A project



INTEREST OF COLLECTIVE BRANDING





**OBJECTIVE : GETTING ADDED
VALUE & PROMOTION OF THE
PRODUCT(S), THE ACTORS AND
THE TERRITORY**

2. WHY IPRs MIGHT BE OF INTEREST FOR OLPS?

Small producers, micro enterprises & SMEs often face competition from standardized industrial products

Need to obtain consumer recognition and customer loyalty

SMEs often find it difficult individually to develop a powerful marketing campaign that will enable them to position their products and create a reputation for their goods that will attract consumers



THE INTEREST OF THE "COLLECTIVE"

Working **collectively**, SMEs & small producers can benefit from **economies of scale**, **broader brand recognition** and a strategic focus on both production and marketing in the same manner as larger companies



OLP = the truth about the origin/qualities of the products!



Consumers are interested in real products



Brand recognition



OLP convey information about the origin-bound characteristics of a product

**MARKETING
STRATEGIES TO
DIFFERENTIATE
OLPs**



Identify the company and / or its products for the consumers



For the owner : **it is a way** to **capture market share** and gain consumers trust



Valuing one's existence and avoiding confusion with competitors

= protect themselves



Communicate **about** the product = marketing tool

IPR COLLECTIVE SIGNS : WHAT ARE THEY FOR?

STRENGTHS OF COLLECTIVE SIGNS

Individual TM

- **Individual marketing**

Collective signs:

- **Joint marketing**
 - reference to the **reputation**
 - and to certain **qualities** of the product



3. OVERVIEW OF THE LEGAL MEANS OF PROTECTION

3.1. TRADEMARKS

- OLPs can be protected by trademark law
 - Verbal trademarks
 - Semi-figurative trademarks
- In practice, registration of a word mark with a geographical name may be difficult to secure.
- Many producers have raised concerns about the costs of enforcing trademark rights



INDIVIDUAL TRADEMARKS



INDIVIDUAL TM



FAIR TRADE – INDIVIDUAL TM BUT SEGMENTATION



COLLECTIVE TRADEMARKS



COLLECTIVE TRADEMARKS

- General Definition: A **collective trademark** is a form of trademark or service mark **owned by a collective (e.g. an association, cooperative etc.)**, whose members use the collective mark to identify their goods and services and to distinguish their goods and services from those of non-members, and to indicate membership in the group.



Be stronger together!

COLLECTIVE TRADEMARKS



Registered in the trademarks' registry, following the trademark registration process + definition of rules of use



Typically, the **owner** of the collective mark is an **association/ cooperative** of which entrepreneurs/artisans are members



The owner does not use the mark for commercial purposes, but to advertise and promote the products/services of its members who sell or promote their products under the collective seal

STRATEGIC CONSIDERATIONS

- CTM including information on origin of the OLP might be a good strategy that leaves the door open for later protection as a GI for various reasons:
 - Lack of regulatory framework for GIs
 - The mere convenience of being able to operate quickly
 - CTM allow for communicate on visual elements
 - Protection of the market: In cases when OLP producers cannot apply for a GI in a given country
- CTM shall be renewed each 10 years
- CTM protection can be costly

SAVON DE MARSEILLE

MARSEILLE SOAP



CERTIFICATION TRADEMARKS



CERTIFIED

CERTIFICATION TRADEMARKS

- General Definition: A **certification mark** is a form of trademark used to **identify** goods and/or services that **meet certain standards or specifications**.
- These standards or specifications include: quality, accuracy, place of origin, raw materials, mode of manufacture of goods or performance of services and other specified properties.....

CERTIFICATION TRADEMARKS



The **owner** of a certification trademark **provides control over the use of the mark** and **ensures the standards have been met**.



Owner is usually an **independent** enterprise, institution, governmental entity, etc. that is **competent** to certify the products concerned



Because the sole purpose of a certification mark is **to indicate that certain standards have been met**, use of the certification trademark is by others.



No membership compulsory

HOW DOES A CERTIFICATION TRADEMARK WORK?

- **Regulation of use**
 - features of the products that are certified
 - conditions of use
 - control
 - proceedings against unauthorized use
- **Authorization to use**
 - anyone who meets with the prescribed standards
 - not confined to membership
 - generally: license agreement (fee)
 - owner not allowed to use
- **Control (= control plan)**



BENEFITS FOR SMES



- The message conveyed by a certification mark is that the products have been **examined, tested, inspected**, or in some way **checked** by a person/independent body who is not their producer, by methods determined by the certifier/owner
- Benefit from the **confidence** that consumers place in users of certification mark
- Strengthen **reputation**
- **Guarantee** for consumers of a certain **given quality**
- **Same limits as for collective trademarks**

3.2. GEOGRAPHICAL INDICATIONS



GIs AND IP PROTECTION

- Protection of the **name** linked with specific product
- Valuable **IPR**. Applies to **any operator** within the geographical area respecting product specification.
- **Collective open IPRs.**



GEOGRAPHICAL INDICATIONS

➤ What are Geographical Indications?

*Roquefort, Monserrat Hills, Bordeaux,
Jamaica, Cuba etc....*

➤ The restricted use of a public name

➤ Forbidden for names which have become
generic

Ex : Feta, Camembert

THE RELEVANCE OF GI PROTECTION

GIs are an IP tool
with multifunctional
character



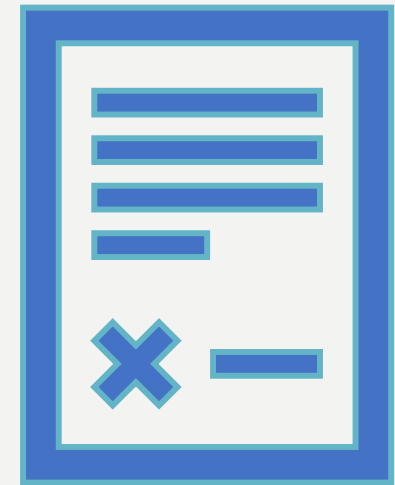
It is not possible to
change the name of
the GI



The value of the GI
results from the
exclusive link
between the name
and the product

HOW TO PROTECT GIs?

- Specific protection through registration,
- Product specification:
 - description of the product
 - definition of geographical area
 - description of methods of obtaining the product
 - Link between the product and its geographical area ...
- Control
- Protection activities

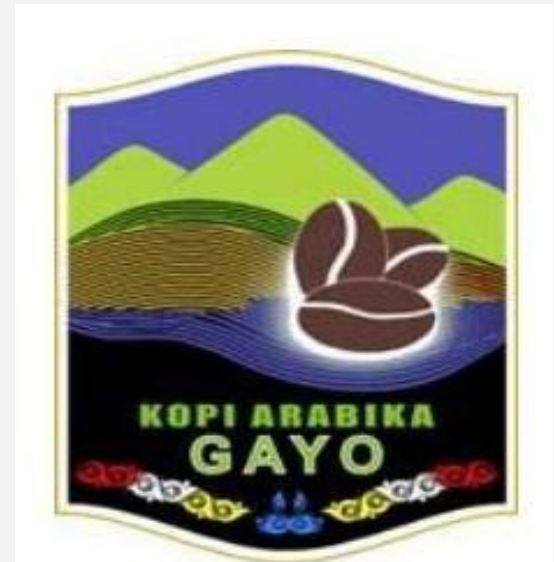


3.3. GIS AND TRADEMARKS

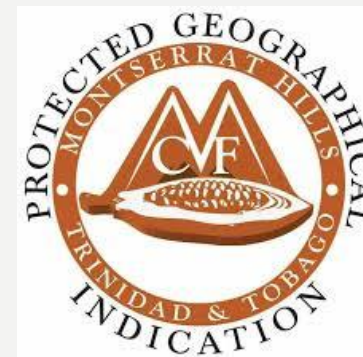
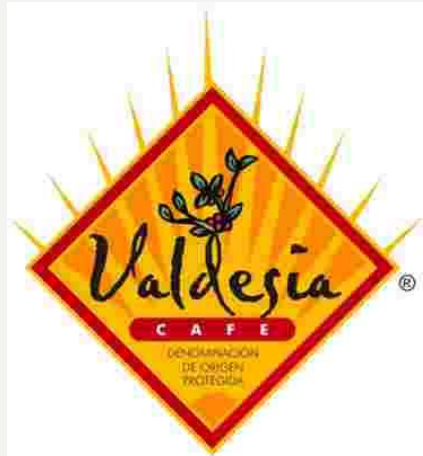


IN PRACTICE....

- GIs protect a name/denomination
- TM protect a name and/or designs
- A GI cannot exist in the course of trade without logo or communication tools



SOME EXAMPLES OF GOOD COLLABORATION





COLLECTIVE TRADEMARKS, A SOLUTION FOR SMALL ASSOCIATIONS

4. POSITIVE IMPACTS OF OLP'S STRATEGIES



Need of strategies to
involve producers



Protection tools:
protecting the producer
and the consumer



Economic development
tools linked to a
commercial strategy

**A GROWING
INTEREST IN
DIFFERENTIATION ...**



Quality approach



Development of diversified
productions



Market(s) access



Maintaining know-how



Heritage



Consumers' demand

KEY ISSUES



Valuation of products,
intangible elements of
territorial development



Products' strategies
integrated in territorial
development
approaches



A sustainable vision ...

LOCAL DEVELOPMENT





THANK YOU
GRACIAS
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