



ევროკავშირი  
საქართველოსთვის  
The European Union for Georgia



# IP ENFORCEMENT FORUM

## Misleading use of a mark

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## MISLEADING USE OF A TRADE MARK

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- Georgia / EU : comparing trade mark laws
- EU case studies:
  - LA IRLANDESA
  - JAPAN WHITE
  - DANISH BY DANISH CROWN

## Georgia / EU : comparing the TM laws

Georgia	EU
Article 27(2)(c) - Grounds for <i>cancellation (ex nunc)</i>	Article 58(1)(c) - Grounds for <i>revocation (ex nunc)</i>
if the use of the trademark by the trademark holder or with his/her consent <b>is misleading</b> consumers as to the kind, feature, quality, value, geographical origin or other characteristics of the goods.	if, in consequence of the use made of the trade mark by the proprietor of the trade mark or with his consent in respect of the goods or services for which it is registered, the trade mark <b>is liable to mislead</b> the public, particularly as to the nature, quality or geographical origin of those goods or services.

## Georgia / EU : comparing the TM laws

Georgia	EU
Article 4(1)(h) – Absolute Grounds for refusal	Article 7(1)(g) - Absolute Grounds for refusal
sign which is <b>likely to deceive</b> the public as to the feature, quality, geographical origin or other characteristics of the goods	signs which are of <b>such a nature as to deceive</b> the public, for instance as to the nature, quality or geographical origin of the goods or service
Relevant ground for <i>annulment (ex tunc)</i> : Article 28(1)(a)	Relevant ground for <i>invalidity (ex tunc)</i> : Article 59(1)(a)

02/03/2020, R 1499/2016-G, LA IRLANDESA 1943 (fig.) – Invalidity, Grand Board of Appeal



Class 29

Meat, milk and milk products, etc.

The relevant consumers are likely to believe that goods covered by it come from **Ireland**.

The **evidence** demonstrates that the goods traded by the TM holder were coming from or typically produced in other countries.

Indicia of the misleading nature of the mark is provided by **decisions** issued by Spanish authorities and the EUIPO.

→ DECEPTIVE

# JAPAN WHITE

The relevant consumers are likely to perceive the sign as indicating that the goods are of a white colour and originating from Japan

→ DECEPTIVE for 'brown rice'

Class 30

Rice, **brown rice**, cereal preparations etc.

23/07/2019, R 911/2016-1, DANISH BY DANISH CROWN (fig.)– AG examination, First Board of Appeal



Classes 29, 30, 43  
foodstuff, catering and restaurant services

At least a significant part of the relevant consumers are likely to perceive the sign as giving a firm impression of authorisation, official approval, or quality control of the Danish government or monarchy

→ DECEPTIVE



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