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Common Names or Protected Property? A US Perspective on Strengthening GI Protection

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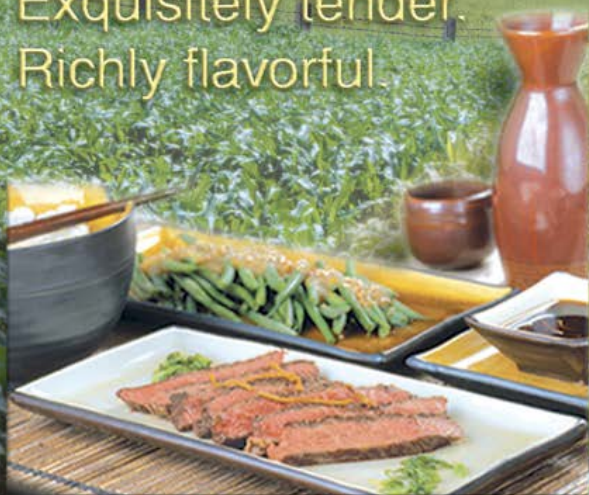
US Perspective?

- My background
 - Always lived in the US
 - Written articles about GI's
 - Consumed a lot of GI's
 - Consumed a lot of good food from many countries
 - Developed a GI in Iowa (Iowa 80 Beef)



Iowa-80 Beef is corn fed on Iowa family farms and ranches.

Exquisitely tender.
Richly flavorful.



Early 2000s attempt
to de-commoditize
low margin
agriculture in US
Midwest.

Iowa-80 Beef Certification

The Iowa-80 Beef program is a pilot project that allows Iowa farmers and ranchers to produce top-quality, corn-fed beef that is age- and source-verified and linked to the state of Iowa through a certification brand.

Certification of animals and beef products through the Iowa-80 Beef program allows U.S. and international consumers to identify and purchase high-quality beef that has been produced and processed in the state of Iowa according to carefully controlled specifications and quality standards.



What drives US negotiating position about food and agricultural GI's?

- Mercantilist:
 - How can commercial interests of US industry be supported?
- Fairness:
 - Not fair to put GI protection on par with trademark protection of existing products
- Legal precedence:
 - Must maintain current system of trademark protection
- Lack of consistency in EU negotiating position

What Does Not Concern the US?

- Protection of existing GI's that do not conflict with existing trademarks owned by US companies



What Does Not Concern the US?

- Protection of new GI's that do not conflict with existing trademarks owned by US companies



Established in 2014, Cumbria, England



What Does the US Want?

- Protection for current US owners of trademarks that overlap with EU protected GI's.
- Ability to use US trademarked names in third-party countries.
- Ability to use US trademarked names in the EU.

Where do conflicts arise?

- Cheese
 - Parmesan, havarti, feta, asiago, provolone, fontina, gorgonzola, muenster
- Seemingly not too much disagreement in terms of the current number of products
- But the list keeps changing.....

What are the conflicts?

- Not in the US market where trademarks exist

...even if the trademarks seem deceiving

Looks like a Gl....



But *Italia* trademark owned by old
Wisconsin company



BelGioioso, Green Bay, Wisconsin

- In 1979 Errico Auricchio moved from Italy to Wisconsin to make Italian cheese in the US.
 - Mauro and Gianni, master cheesemakers joined him.
- In 1979
 - GI's were not protected,
 - Parmesan, provolone, havarti, and romano were styles of cheese



*Gianni and Mauro, the cheesemakers
who came from Italy*

What did 95% of US consumers know about parmesan in the 1970s?



Established in 1945, Kraft parmesan is an American iconic brand.

Introduced large US market to parmesan cheese

Italian or American Parmesan?



KEEP REFRIGERATED

MADE IN THE USA

ESTABLISHED IN EASTERN AMERICA

PARMESAN CHEESE

BELGIOIOSO®

The "King of Italian Cheeses." Grate or shred for a fresh, unbeatable taste, or cube for an elegant snack. Enjoy on pastas, breads, soups, salads, pizzas and vegetables. Aged a minimum of 10 months.

Crafted in Wisconsin from cultured milk, enzymes, salt

Belgioioso.com - BELGIOIOSO CHEESE INC. DENMARK, WI 54208

Nutrition Facts - Serving Size: 1 oz. (28g/about 1 inch cube) Servings Varies Amount per Serving: Calories 110, Fat 6g, Total Fat 7g (11% DV), Sat. Fat 4g (20% DV), Trans Fat 0g, Cholest. 25mg (5% DV), Sodium 260mg (11% DV), Total Carb. 0g (0% DV), Fiber 0g (0% DV), Sugars 0g, Protein 10g, Vitamin A (4% DV), Vitamin C (0% DV), Calcium (35% DV), Iron (0% DV). Percent Daily Values (DV) are based on a diet of cheese.

Italian or American Parmesan?



What Resonates Politically in US?

- In 2011, U.S. cheesemaker Sartori Foods won “Best Parmesan” at the Global Cheese Awards. But the next year, the category replaced with “Parmigiano Reggiano” category



Sartori Cheese

- Started in 1939 by Paolo Sartori and Louis Rossini, when they founded S&R Cheese Corp in Plymouth.
- Leading producer of artisanal cheese in the US.





GI's as a trade barrier?

- Provolone is a type of cheese, not a GI
- Provolone Valpadana is a protected GI



Recent Action in Costa Rica

- Citing brand infringements, an official communiqué from the European Union (EU) on Wednesday notified Costa Rica's Foreign Trade Ministry (COMEX) that Italy has blocked implementation of a trade association agreement between Central America and the EU set for Aug. 1." (Tico Times, 22 July 2013)
- "Costa Rica and Italian firm De Tullio & Partners have helped the European Union and Italian cheese producer Consorzio Provolone Valpadana win a judgment preventing a Costa Rican company from producing a type of cheese trademark protected under EU law." (Latin Lawyer 27 march, 2015)

Costa Rica produces Provolone Valpadana?

- Established in 1953 by American Quakers
- First cheese was a gouda
- Fostered development by buying milk from local farmers
- Now employs 300 people and works with 250 farms
- Produces 1,550 kg of cheese per day including gouda, swiss, provolone and parmesan



Protection for provolone?

- "Particularly, there are several reasons for which the term "provolone", including the international area, cannot be considered as a generic term, but is associated in exclusive manner to the Geographic Indication "PROVOLONE VALPADANA", even when used singularly." (EU filing in Costa Rica court case)
- What's next?
 - Mozzarella (Mozzarella di Bufala)?
 - Havarti (almost done)?

CODEX STANDARD FOR HAVARTI

- Havarti is a ripened firm/semi-hard cheese in conformity with the *General Standard for Cheese* (CODEX STAN 283-1978). The body has a near white or ivory through to light yellow or yellow colour and a texture suitable for cutting, with plentiful, irregular and coarse large rice seed sized (or mostly 1–2 mm in width and up to 10 mm in length) gas holes. The shape is flat cylindrical, rectangular or of a loaf shape. The cheese is sold with or without a slightly greasy smear ripened rind, which may be coated.

US Priorities

- Don't use TTIP to give EU more leverage to promote their GI's
- Prevent EU from using bilateral agreements to block current and (more importantly) future US exports of provolone, parmesan, Havarti, feta, etc.
 - Allow free trade in generics

Importance of GI's in Improving Product Quality

- US demand for artisanal food growing rapidly
 - Some with geographical indications

Cowgirl Creamery, Pt Reyes Station, California



Mt Tam

Our most popular cheese is named for a Northern California landmark: the majestic Mt. Tamalpais. Made from Straus Family Dairy's fresh organic milk, this elegant triple cream was our first foray into aged cheeses.

Flavor notes: cultured butter with hints of white mushroom

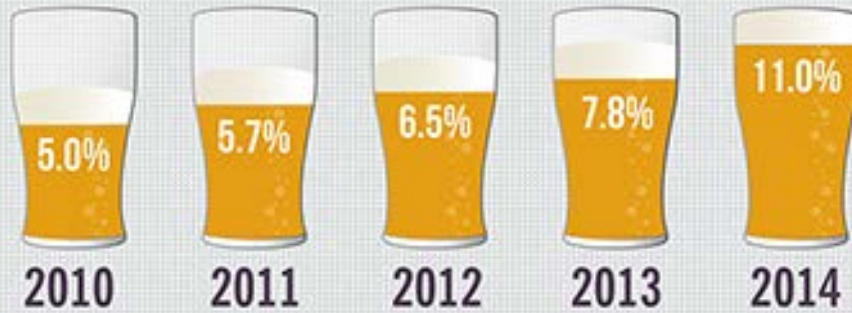
But geography is not necessary

- Niman Ranch is a San Francisco Bay Area based ranch, meat processor and distributor of high quality "natural" beef, lamb, and pork



Few GI's in rapidly changing in US beer market

Volume Share for Craft Brewers



Even animal welfare concerns are being reflecting in products



Wrapping up

- On the surface, seemingly little space between US and EU positions
 - Both support protection of brands including GI's
 - Both recognize that generics in common use should not be given protection
 - Both recognize a handful of conflicting products

But....

- US commercial interests threatened by
 - Inconsistency in EU lists of generic terms
 - Use of bilateral agreements to expand protection of EU GI's at the expense of current and future US market access of branded products
 - Discrimination against US branded products that have greatly expanded the consumption and visibility of product categories
 - Mozzarella, parmesan

Outlook

- Protection of GI's in TTIP a relatively minor source of disagreement.
- No reason it should keep an agreement from happening
- Much larger issue is harmonization of regulatory standards in food and agricultural commodities (animal welfare, GMOs, livestock production practices)