

## EUIPO AND GIs

### Report on AREPO-EUIPO webinar for AREPO technical group

**18 March 2022**

#### **List of participants from AREPO:**

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Ms Hannah LINDERMAYER, Bayern - Region

Ms Valérie DOMINÉ, Occitanie - Region

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Mr Filippo ARFINI, Emilia Romagna - Scientific Council

Ms Claire DURAND, Pays de la Loire - Scientific Council

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Ms Audrey AUBARD, Nouvelle Aquitaine - Associate Member

Mr Laurent GOMEZ, Secretary General of AREPO

Ms Francesca ALAMPI, Policy Officer of AREPO

Mr Matteo PONZA, Intern at AREPO

### **List of participants from EUIPO:**

Mr Sandris LAGANOVSKIS, Director, Institutional and Cooperation Department (ICD)  
Mr Dimitris BOTIS, Director, Legal Department (LD)  
Ms Maria CHIODO, Acting Head of Service, Institutional Relations Service (ICD)  
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Mr Antonios PROTOPALTOU, Business Analysis Service, Digital Transformation Department (DTD)  
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The webinar was held on 18 March 2022 via the Zoom platform, and interpretation was provided in four languages (EN-ES-FR-IT).

The webinar moderator was Mr Sandris LAGANOVSKIS, Director of the Institutional and Cooperation Department (ICD) at EUIPO.

Starting from the framework of the revision of the EU GI system, where several competences might formally be transferred to EUIPO, this meeting aimed to better understand the competences that EUIPO has developed on GIs and its relation with DG Agri of the European Commission.

To participate in this exchange, AREPO asked its members to express their interest in order to assemble a technical group that could discuss specific aspects of the work carried out by EUIPO on GIs.

Laurent Gomez, Secretary General of AREPO, introduced the webinar by presenting AREPO, its structure and main missions.

## **INTERPLAY BETWEEN TRADEMARKS AND GEOGRAPHICAL INDICATIONS**

**Ms Katarina KOMPARI, representant of the Legal Practice Service (LD),** explained the relationship between Trademarks-TMs and GIs.

EUIPO's legal department is responsible for classifying products of origin and trademarks in the EU. This process protects businesses producers and facilitates trade at EU and non-EU levels.

### *Legislative framework for the registration of new GIs*

**TMs are classified as individual, collective and certification marks.** On the other hand, Geographical indications are assessed according to the nature, the meaning of protection, and the purpose of protection.

- **The individual TM** distinguishes the goods or services of an undertaking from those of other undertakings. Its essential function is **commercial**, and it has **no geographical allocation terms**. The rights of use are reserved for **the owner and the licensees**.

- The definition of a **collective mark** is based on Article 74(1) [EUTMR](#) " A European Union collective mark ('EU collective mark') shall be an EU trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of the association which is the proprietor of the mark from those of other undertakings. Associations of manufacturers, producers, suppliers of services, or traders which, under the terms of the law governing them, have the capacity in their own name to have rights and obligations of all kinds, to make contracts or accomplish other legal acts, and to sue and be sued, as well as legal persons governed by public law, may apply for EU collective marks."

The collective mark is the trademark that must be registered under EU law for the sale of a product and can be used by several individuals. The collective mark must have a definition and an ownership right and **comply with a use regulation**. Together with the individual mark, the collective mark indicates the undertaking **belonging to a specific association, identifying the origin of G&S but the collective origin**. Its function is **collective commercial** and is linked to **geographical constraints**. **Members of an association or bona fide third parties** are entitled to use them.

- **Certification marks** are based on the same rules as collective marks and are defined as in Art. 83 (1) EUTMR: "An EU certification mark shall be described as such [...] and is capable of distinguishing goods or services which are certified by the owner of the mark in respect of material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, with the of geographical origin, from goods and services not so certified. Any natural or legal person may apply [...] provided that such person does not carry on a business involving the supply of goods or services of the kind certified."

The certification TM ensures that the product follows the certification scheme and is linked to **the geographical origin in national terms**. The use rights are held by **certified users, bona fide third parties but not the owner**.

As far as geographical origin is concerned, there is a specific exception in the derogation of Article 7(1) (C), which mentions "signs or indications that may serve, in trade, to designate the geographical origin of the goods and services may constitute EU collective marks subject to a safeguard declaration.

- **The GI** is the name or indication that identifies a product with a specific geographical origin and can be used by any operator respecting the specifications. The protection gives a valid **collective intellectual property** to protect a name against misuse, imitation or evocation or other practices liable to mislead the consumer.

The name is **reserved for products that comply with public authorities' administrative protection specifications and benefit**.

On the legal level, GIs can conflict with collective and certification TMs. The EUIPO office handles applications for the registration of new GIs in order to avoid these conflicts.

Specifically, since the application for a new GI is received when it is officially published to allow the opposition process to take place, the EUIPO assesses conflicts with any other GIs already in existence according to Article 7(1)(j) EUTMR. The assessment serves to avoid conflicts or problems for other trademarks already registered. After the opposition period, the registration phase proceeds.

For food products, spirits and aromatized wines, reference is made to **EU law, including international agreements concluded by the EU**.

Examiners assess compliance with **EU legislation** (2013 Regulation (EU) No 1308/2013 -wines, Regulation (EU) 2019/787 - spirit drinks, Regulation (EU) No 1151/2012 -agricultural products and Foodstuffs).

The legislators also take into account **trade agreements** for which GIs **from third countries** are protected (e.g., GIs registered directly, Tequila [PGI-MX-01851], Café de Colombia [PGI-CO-0467], Darjeeling [PGI-IN-0659], Napa Valley [PDO-US-17738], Basmati [Published: PGI-IN-2425], International Agreements with EU (1,554), Villa Alegre, Wine, Chile). In addition, Council Decision (EU) 2019/1754 of 7 October 2019 approving the accession of the EU to the **Geneva Act of the Lisbon Agreement** on marks of origin and GIs, which entered into force on 26 February 2020, is assessed. GIs from non-EU countries protected at the EU level via the Geneva Act can form a basis for objections according to Article 7(1)(j) EUTMR and can be relied on in oppositions under Article 8(6) EUTMR.

In addition, EUIPO refers to **national laws for craft and industrial products, including international agreements concluded by MS.**

#### *Exclusion criteria*

According to the exclusion criteria, registration can be refused if **the GI already exists and is registered on Giview**, if there is a **conflict with other marks** of any kind already existing, and **if the good** to be registered is **identical or comparable to a product already covered by a GI or a TM.**

From a legislative point of view, the exclusions for GIs refer to Article 13 of EU Regulation 1151/2012, Article 103 of EU Regulation 1308/2013 and Article 21 of Regulation 2019/787.

The criteria relate to **direct and indirect commercial use, misuse, imitation and evocation** and the use of **false and misleading claims and practices.**

The product is not accepted if it has something to do with existing TM and GIs, if It is in the graduated list of prohibited conducts (from least to most subtle link with GIs), if the EUIPO interpretation sets a high degree of GIs protection or if formal objections are valid.

Currently, applicants may overcome the objection by **limiting the identical goods and/or goods where a GI is a relevant ingredient to comply with the product specifications of the GI.** Furthermore, no limitation is possible for comparable goods as they cannot comply with the product specifications.

**The new proposal instead suggests a simplification and homogenization of the wording of limitations suggested by Absolute Grounds examiners and greater flexibility as to the wording of the limitation.**

## EUIPO ACTIVITIES ON GIS

The EUIPO office has been working on GIs in cooperation with the Commission for about four years. The cooperation started in September 2018.

To date, EUIPO has been working with the Commission under a four-pillar system:

- **Examination**, GI capacity building
- **Training**, GI knowledge expansion
- **Cooperation**, GI promotion and dissemination
- **GIVIEW**, GI IT tools & database

### *EXAMINATION*

Within EUIPO, a working group has been set up, trained and dedicated to GIs. **The group is called G-ICE** and is made up of **12 people** (trademarks lawyers) who follow specific training courses on the subject, in

collaboration with DG AGRI. Training is also given to people not belonging to the group to have more support in case of a high influx of applications to be examined.

The working group's structure mirrors that of DG Agri, **including peer reviews** on all dossiers. The G-ICE unit usually dedicates 2/3 days per week to discuss exclusively the files coming from Dg Agri. The examination takes place according to the legal criteria specified above. The examination period **lasts, on average, one month** and considers the whole context for each evaluation.

Since the start of the collaboration, 1,239 files have been examined. In 2021 alone, a total of 352 files were examined.

**EUIPO examination simply applies the existing legislative framework provided by the European Commission which remains in charge of the policy itself.** EUIPO's competence involves examining applications, supporting DG Trade for international exchanges, and integrating GIView.

### *TRAINING*

DG AGRI mainly provides training to G-ICE staff for what concerns the EU context and WIPO for all aspects involving the Geneva Act.

In addition, **webinars** on related topics such as GIs, recent GIs cases, law, relationships with TMs are organized every Tuesday ([webinars](#) are available on the EUIPO website). The office also organizes **conferences** on GIs. The last ones were held in 2018 and 2020.

### *COOPERATION*

**EUIPO is responsible for providing support and training to EU competent authorities and IP Organisations on GIs.** To promote and disseminate information on GIs, EUIPO cooperates with various institutions within and outside the EU. In four years, EUIPO has organized more than ninety initiatives closely related to GIs. At an institutional level, it cooperates with the Commission, DG AGRI, DG GROW and DG TRADE.

At the non-EU level, EUIPO supports [IP KEY](#) on GIs with many countries.

### *GIVIEW*

The database was presented by Mr PROTOPSALTOU Antonios, **Business Analysis Service, Digital Transformation Department (DTD)**

[GIView](#) is a tool launched in cooperation with the European Commission in 2020. **It collects official data** from the eAmbrosia database, bilateral agreements and the Member States. The tool provides easy access to registered data, details of international agreements and extended data. In addition, the site provides support in the examination of TMs and for enforcing authorities.

There are currently 5317 GIs registered on the platform. For each product entered in the database, it is possible to find legal, technical and extended data (competent authorities, legal registration, producer groups, map, photographs, product history etc.). The platform also fosters collaboration in the social field by providing information to the public, regulators, producers, and the access to the **Intellectual Property Enforcement Portal - IPEP link**.

EUIPO also provided 13 training sessions in 27 MSs addressed to the relevant actors on how to interact with the platform and update data. **The data for updating GIView are certified and sent from the national authority.**

The platform will be upgraded to provide greater clarity of data reporting in future updates.

## OBSERVATORY ACTIVITIES AND IPEP

**Ms Nicole SEMJEVSKI, Enforcement and SMEs Services, Observatory (OBD)**, took the floor and presented [The European Observatory on Infringements of Intellectual Property Rights](#).

**The Observatory is a network that monitors non-compliance with European regulations and thus controls the presence of counterfeit products on the EU market.**

The Observatory connects all EU MS and links 68 EU and international private sector associations with nine consumer and civil society representatives. It also cooperates with 5 MEPs, the European Commission, the Council of the EU, European agencies, and international organizations.

The Observatory is following the 2025 strategic plan and annual work programmes to **strengthen networking and international cooperation**. The objectives are to provide evidence to support effective policies, create tools and resources to improve the fight against IP infringements and raise awareness of the importance of IP and the adverse effects of counterfeiting and piracy.

The Observatory has published more than 100 studies on topics such as the contribution of IP, the quantification of infringements, and IP perception.

The Observatory provides various tools and resources to promote IP protection:

- [Case Law DB on IPR enforcement](#)
- [Agorateka](#)
- [Out-of-Commerce Works Portal](#)
- [Orphan Works DB](#)

And

- [IP Enforcement Portal - IPEP](#)

**IPEP is a secure platform enabling a real-time exchange of information between right holders and enforcement authorities.**

The platform allows producers and other actors in the IP protected product chain to inform each other, exchange information and directly notify infringements to competent authorities, **especially customs authorities**. Control authorities have access to exchange information and collect notifications. A dedicated scheme exists for GIs.

**Documentation for offence notifications can be accessed through the Customs Application or Action - AFAs tool.**

The platform is active for 27 MSs and is the only one that allows the intervention of customs authorities through the AFAs online system.

In terms of support, information, and training activities with enforcement authorities, EUIPO and the Observatory aim to strengthen good practice by developing new tools and stimulating exchanges of ideas with other systems. These are **Judges Network/EIPPN, Eurojust, Europol and OLAF pre-operations**. The European platform is the only one that allows applications for action by customs authorities. The EUIPO calls on national authorities to train producers on this issue and on the use of the platform to strengthen GI systems by avoiding fraud and misconduct.

The Observatory also works by investing in [IP education](#) through collaboration with education systems, training, and platforms, through grants and bilateral meetings.