

1 Introduction: locating geographical indications

This book is concerned with the origins of Geographical Indications (GI) protection and the process by which they have emerged as a distinct category of subject matter within international Intellectual Property (IP) law. It sets out to locate GIs within the ‘webs of significance’ spun across the legal discourse of a century, by pursuing two interrelated questions:

- (1) Under what circumstances were signs which indicate the geographical origin of products incorporated within international IP law?
- (2) What can this usefully tell us about the present international regime governing their use and misuse?

These questions are important because the law in this area is a mess. In fact, it has been spectacularly messy for over a century. Despite the popularity of wines from Champagne, Colombian coffee, Darjeeling tea and other such regional products,¹ the nature, scope and institutional forms of protection available vary considerably across jurisdictions. Notwithstanding a century of harmonisation efforts, a consensual basis for granting rights to a particular group to use a geographical designation and the extent to which third parties should be excluded continues to prove elusive. This state of affairs is undesirable since an ever-expanding range of stakeholders – producers, consumers and policy makers – have an interest in the regulation of these signs. The debates grind on, generating abundant heat but far less light. The TRIPS Agreement² has emerged as the site where these arguments coalesce, during attempts

¹ For the purposes of this book, regional or local products are those where the region of origin has added significance in the marketplace. See A. Tregear, ‘What is a “Typical Local Food”? An Examination of Territorial Identity in Foods Based on Development Initiatives in the Agrifood And Rural Sectors’, Centre for Rural Economy, Working Paper 58 (January 2001), 1. While the usage is most commonly found in the agricultural foodstuffs and beverages sectors, it extends beyond this to include crafts, textiles and other sectors.

² Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, in the Marrakesh Agreement Establishing the World Trade Organization, Annex 1C (1994) 33 ILM 1125, 1197 (hereafter, TRIPS).

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to clarify its existing provisions or reform its architecture. Although there are several points of disagreement, a central puzzle relates to the differential treatment sought for GIs by their proponents. These geographical signs appear functionally analogous to trade marks, a more familiar category of subject matter protected by IP law. Both categories signal the (commercial or geographical) origin of goods in the marketplace and sustain valuable reputations. Granting exclusive rights over such signs ensures uncluttered signalling in the marketplace, with consumers as well as legitimate producers benefiting from this. Yet despite the apparent similarities, advocates of GI protection seek enhanced international standards, which would proscribe a broader range of uses by third parties. The epistemic basis for this differential treatment rests upon the claim that a distinctive or unique link exists between a certain category of products and their regions of origin. The most influential articulation of this link is encapsulated in *terroir*, an expression associated with the French wine industry. However, the international reference point is found in Article 22.1 of TRIPS:

Geographical indications are, for the purposes of this Agreement, *indications which identify* a good as originating in the territory of a Member, or a region or locality in that territory, where a given *quality, reputation or other characteristic* of the good is *essentially attributable to its geographical origin* (emphasis added).

This link between product, producers and place therefore grounds attempts to carve out a distinct niche for GIs within the IP canon. In the following pages, the functional significance of this link is unpacked as it fluctuates over several decades. It is only by first locating the historical basis of GI protection that we can meaningfully evaluate contemporary attempts to relocate GI protection. These attempts either awkwardly straddle distinct epistemic paradigms or occasionally generate entirely new normative accounts that cannot readily be integrated within the current framework.

1. The mess: conceptual, institutional and epistemic

Having set out the central axis of enquiry, it is necessary to expand upon the initial diagnosis in order to more fully appreciate the task that lies ahead. Let us begin by making some sense of the mess we are in, disentangling its component strands along the way. The muddle is primarily conceptual and relates to the identification of appropriate subject matter. An unmistakable symptom is the terminological diversity in this area. Several categories of signs are conventionally understood to fit within the broad heading of ‘GIs’ as a category of IP. With due apologies

for the servings of alphabet soup, the list begins chronologically with the Indication of Source (IS) explored further in Chapter 2. It then incorporates the Appellation of Origin (AO) and its inspiration, the French *Appellation d'Origine Contrôlée* (AOC) reviewed in Chapters 3 and 4. Subsequently Chapters 5 and 6 consider the EU's Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI), the World Intellectual Property Organization (WIPO) attempt at establishing the Geographical Indication (GI), followed by the TRIPS definition of the GI already introduced above. This is only a limited selection of the major contenders. The most comprehensive WTO survey of national laws to date identifies twenty-three distinct national definitions applied in this area.³ It is recognised that because 'of the diverse ways in which the protection of [GIs] has evolved under national laws, there is no generally accepted terminology' in this area.⁴ This is in marked contrast to the other domains of IP. 'The protection of GIs, unlike that of patents or trade marks, is not an IP system whose variants, which are more or less similar – or at least comparable – to each other, are applied throughout the world'.⁵ The lack of a common conceptual framework leads to co-ordination difficulties,⁶ with one commentator suggesting that we are 'confronted with a tower of Babel'.⁷ According to Norma Dawson, throughout the twentieth century GIs have been 'an intellectual property right in the making surrounded by a complex debate lacking common terminology'.⁸ Opposing sides therefore tend to talk past one another during international negotiations. The judiciary has joined this concerned chorus on occasion, with Advocate General Jacobs noting that 'the terminology used in this area itself risks being a fruitful source of confusion'.⁹ Since these terms usually originate within the context of specific multilateral treaty

³ See Annex B to the WTO, 'Review under Article 24.2 of the Application of the Provisions of the Section of the TRIPS Agreement on Geographical Indications', 24 November 2003 (IP/C/W/253/Rev.1).

⁴ G. B. Dinwoodie, W. O. Hennessey and S. Perlmutter, *International Intellectual Property Law and Policy* (Lexisnexis, New Jersey 2001), 315. See also C. M. Correa, *Trade Related Aspects of Intellectual Property Rights: A Commentary on the TRIPS Agreement* (Oxford University Press 2007), 211 ('There are few areas of [IP] law where definitions are as diverse as in the area of [GIs]').

⁵ A. Jokuti, 'Where is the What if the What is in Why? A Rough Guide to the Maze of Geographical Indications' [2009] EIPR 118.

⁶ F. Gevers, 'Topical Issues in the Protection of Geographical Indications', October 1997 (WIPO/GEO/EGR/97/5), 2 (also referring to GIs as the 'sleeping beauty' of IP on this basis).

⁷ M. Ficsor, 'Challenges to the Lisbon System', 31 October 2008 (WIPO/GEO/LIS/08/4), [5].

⁸ N. Dawson, 'Locating Geographical Indications: Perspectives from English Law' (2000) 90 TMR 590.

⁹ *Schutzverband gegen Unwesen in der Wirtschaft eV v. Warsteiner Brauerei* (C-312/98) [2000] ECR I-9187, [2] (AGO).

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obligations, the WTO Secretariat navigates this minefield by adopting the neutral terminology of Indications of Geographical Origin (IGOs) as a common denominator.¹⁰ The Secretariat's umbrella term is adopted for the duration of this book, where *the IGO refers to a category of sign denoting the geographical origin of the associated product and that category has previously figured within the IP discourse*, making it relevant for our purposes. It is hoped that this will avoid the artificial backward projection of the GI in TRIPS onto categories which are not functional analogues.

The preceding paragraph suggests that the only reliable functional baseline for IGOs is that they operate as signs indicating geographical origin in the marketplace. Yet this also lays the foundations for a variety of additional messages to be communicated. For instance, are they signs which indicate (1) merely a product's origin, (2) its reputation associated with a specific origin, (3) its distinctive qualities associated with origin, or (4) its unique qualities that are reliant upon origin? Once we add time and space into the mix, matters get more complicated. What if a sign fulfils one of these functions, but only in a particular jurisdiction? Should we pre-emptively reserve its ability to do so elsewhere? It is evident that this terminological diversity corresponds to divergent expectations about the communicative work these signs are supposed to do and the ensuing scope of protection. There is a general understanding of what we mean by the 'protection' of such signs,¹¹ but on what basis should we define its scope?

Geographical designations, like many other forms of identifier, also touch a wide variety of interests and sensitivities that range from our most basic territorial instincts to more sophisticated conceptions of market and cultural justice. While the misuse of geographical attributions may offend many feelings, only certain types of such misuse are sanctioned by the law.¹²

Identifying suitably qualified signs, types of undesirable misuses and proportionate legal responses has proven enduringly divisive. There is a narrow consensus around the proposition that the use of a geographical sign will be prohibited where it results in consumers being misled or confused as regards the origin or qualities of the product. But beyond this, to what extent should any geographical reference on a product

¹⁰ WTO, 'Review under Article 24.2', [6].

¹¹ J. Audier, 'Protection of Geographical Indications in France and Protection of French Geographical Indications in Other Countries', October 1997 (WIPO/GEO/EGR/97/8 Rev), 7 ('Protection is a term with several meanings and there are many reasons for it. Generally speaking, protection means "right to use" a geographical name ... Protection also means a right to prevent illegal use of geographical names').

¹² WIPO, *Report of the Second WIPO Internet Domain Name Process – The Recognition of Rights and the Use of Names in the Internet Domain System* (3 September 2001), [205].

by third parties be deemed illicit? The ambiguity leaves a number of unsettled controversies in its wake. Should only Greek producers be allowed to make Feta? Should French producers have exclusive rights to the use of Champagne, overriding the protests of Californian and Australian wine-makers? To what extent do we protect GIs from developing countries – regional specialities consisting of coffees and crafts, toys and textiles? Whose interests do we accommodate in these balancing acts? As we will see in Chapter 4, the categories of misuse under consideration can be parsed into: (1) misleading or confusing uses; (2) allusive uses which relate to other types of harm, such as third party use leading to the erosion of the distinctiveness of an IGO, or the tarnishment of its reputation; (3) misappropriation or ‘free riding’ on another’s efforts; and (4) ‘absolute’ protection, which *presumes that any use* of a geographical sign by those based outside the eponymous region ought to be prohibited. One line can be drawn between the first category (universally accepted) and the other three (which remain controversial). Another demarcates the first three (where audience perceptions matter) from the fourth (more formalistic and less context sensitive in its approach). This suggests the need for an overarching enquiry. How are we to decide these questions of scope? What are the epistemic frameworks – the background benchmarks for separating true from false claims – that operate in this area?

The tentative terminology and epistemic uncertainty also leads to an assortment of institutional arrangements at the national level. Since a number of different legal regimes encompass origin marking for disparate reasons, this adds yet another layer of complexity. WIPO notes that the variety of different legal concepts surrounding GIs ‘were developed in accordance with different national legal traditions and within a framework of specific historical and economic conditions’.¹³ Given the variety of forms of protection in this area, which institutional configurations are optimal? A long-standing obstacle to harmonisation efforts has therefore been ‘the diversity of various national concepts. [GIs] are addressed in laws concerning unfair competition, trade marks, advertising and labelling, foods and health, as well as in special regulations’.¹⁴

¹³ WIPO, ‘Document SCT/6/3 Rev. on Geographical Indications: Historical Background, Nature of Rights, Existing Systems for Protection and Obtaining Protection in Other Countries’, 2 April 2002 (SCT/8/4), 4.

¹⁴ A. Conrad, ‘The Protection of Geographical Indications in the TRIPS Agreement’ (1996) 86 TMR 11, 14. For other surveys of the legislative variety, see A. Devletian, ‘The Protection of Appellations of Origin and Indications of Source’ (1968) *Industrial Property* 107, 111–13; O’Connor & Co, *Geographical Indications and TRIPS: 10 Years Later ... Part II – Protection of Geographical Indications in 160 Countries around the World* (Report commissioned for European Commission (DG Trade) 2007).

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If the expectation is for IP rights to be bureaucratically channelled through an Intellectual Property Office or Patent Office at the national level, IGOs – even those formally recognised as categories of IP – are sometimes lodged elsewhere.¹⁵ GIs are defined and regulated by the Consumer Code in France,¹⁶ registered as protected names by the Department for the Environment, Food and Rural Affairs (DEFRA) in the UK¹⁷ and have been governed by aspects of Agricultural Law in Switzerland.¹⁸ For several decades revenue laws have played a significant role in this area.¹⁹ Surveys indicate that IGO protection ‘is provided through a variety of laws and regulations, including laws against unfair competition, fair trade practices laws, marketing and labelling laws, consumer protection laws, laws for the protection of appellations or origin and national and regional registration systems for geographical indications’.²⁰ An explanation for the existence of multiple, often overlapping forms of protection is offered in Chapter 2, which recovers the origins of this heterogeneity. In response, there are periodic attempts to tidy up this profusion into analytically useful categories:

The first [category] relates to laws focusing on business practices. Typically, the issue at stake in legal proceedings regarding the use of a [GI] under such laws is not whether the GI as such is eligible for protection but, rather, whether a specific act involving the use of a GI has contravened the general standards contained in laws covering unfair competition, consumer protection, trade descriptions, food standards etc. The second category concerns protection through trade mark law ... On the one hand, protection may be provided against the registration and use of GIs as trade marks. On the other hand, protection may be provided through collective, guarantee or certification marks. In contrast to the general means of protection of the first and second

¹⁵ I. Kireeva and B. O'Connor, ‘Geographical Indications and the TRIPS Agreement: What Protection is Provided to Geographical Indications in WTO Members?’ (2010) 13 JWIP 275, 284 (‘In some EC member states such as Italy, Spain, Greece, Ireland and Finland, the competent authorities are the Ministries of Agriculture, which have a principal role [along] with the European Commission in verifying applications’).

¹⁶ Arts. L 115–1 to L 115–33 of the Code de la Consommation.

¹⁷ See www.defra.gov.uk/food-farm/food/protected-names/.

¹⁸ See Art. 63 of the Federal Law on Agriculture adopted on 29 April 1998. For the French text, see WTO, ‘Main Dedicated Intellectual Property Laws and Regulations Notified Center Art. 63.2 of the Agreement’, 7 July 2003 (IP/N/1/CHE/G/6). See also F. Brand, ‘Protection of Geographical Indications: The Experience of Switzerland’, 18 November 2003 (WIPO/GEO/DEL/03/3).

¹⁹ Legislation would often define such regional products with an eye to duties based on origin marking. For example Scotch whisky was initially defined by statute in s. 24 of the Finance Act 1933 and subsequently in s. 243(1)(b) of the Customs and Excise Act 1952. See *John Walker & Sons Limited v. Henry Ost and Co Ltd* [1970] FSR 63, 67.

²⁰ WIPO, ‘Protection of Geographical Indications: General Introduction, International Protection and Recent Developments’, June 2001 (WIPO/GEO/CIS/01/1), [28].

categories, the third category of protection concerns means specifically dedicated to the protection of GIs. Some of these means provide *sui generis* protection for GIs that relate to products with specifically defined characteristics or methods of production; other means apply without such specific definitions.²¹

It is worth mentioning that each technique selected ‘reflects a particular approach to reconciling the various interests engaged by GI protection that may suit the particular needs of a specific community, but may not deliver identical outcomes to the different legal means used in other jurisdictions’.²² To this terminological jumble, epistemic ambiguity and variety of legal instruments, we must add the relative obscurity of this area of the law. It has been referred to as ‘the untended patch of the [IP] garden’,²³ having a tangled and ‘cobweb like texture’²⁴ and an area ‘long considered to be exclusively of interest to some few wine and cheese producing countries and, besides that, to be that kind of intellectual property nobody really understood and therefore to be left to a handful of specialists’.²⁵ There is a sense that ‘the conceptual underpinnings of GIs have not been rigorously examined’.²⁶ The heterogeneity of concepts and forms coupled with scholarly neglect also precipitates a more fundamental question. GIs continue to be regarded by some as offshoots of consumer protection law, tools of agricultural policy or aspects of food quality regulation and therefore a questionable presence within IP regimes. There are some who challenge the inclusion of such subject matter within the recognised categories of IP. The question is most directly posed by Stephen Stern but is also taken up by other commentators.²⁷ It is a fair question to ask and one that this book sets

²¹ D. De Sousa, ‘Protection of Geographical Indications under the TRIPS Agreement and Related Work of the World Trade Organization (WTO)’, November 2001 (WIPO/GEO/MVD/01/2), 4–5.

²² A. Taubman, ‘The Way Ahead: Developing International Protection for Geographical Indications: Thinking Locally, Acting Globally’, November 2001 (WIPO/GEO/MVD/01/9), 10. Unsurprisingly, the institutional form adopted depends on the underlying subject matter interest. See G. R. d’Imperio, ‘Protection of the Geographical Indications in Latin America’, November 2001 (WIPO/GEO/MVD/01/5), 2 (‘Thus, whereas in some countries protection is granted ... for viticultural and agricultural products, in others the economic interest ... has led to protection being given to non-agricultural products such as mineral waters, beers, porcelains and semi-precious stones’).

²³ B. O’Connor, *The Law of Geographical Indications* (Cameron May, London 2004), 21.

²⁴ Jokuti, ‘A Rough Guide to the Maze’, 118.

²⁵ WIPO, ‘International Protection of Geographical Indications: The Present Situation and Prospects for Future Developments’, 1 September 1999 (WIPO/GEO/CPT/99/1), [1].

²⁶ K. Raustiala and S. R. Munzer, ‘The Global Struggle over Geographical Indications’ (2007) 18 *European Journal of International Law* 337, 339–40.

²⁷ S. Stern, ‘Are GIs IP’ [2007] EIPR 39. See also J. Belson, *Certification Marks* (Sweet and Maxwell, London 2002), 23; W. van Caenegem, ‘Registered Geographical Indications: Between Rural Policy and Intellectual Property – Part II’ (2003)

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out to answer. IP rights are fundamentally exclusionary and need clear justifications because they affect ‘what [people] may do, how they may speak, and how they may earn a living’.²⁸ Otherwise they remain vulnerable to allegations of protectionism and the selective favouring of certain interests. Such allegations do make frequent appearances during the international deliberations on this topic.

2. Controversies and interests

If the conceptual and institutional ambiguity provides the fuel, it is the actual or potential value of IGOs that sparks off controversies. ‘The economic and political significance of [GIs] has been growing in recent years as the use of distinctive or quality signs has promoted the demand for products of a specific geographical origin’.²⁹ While value is usually measured in economic terms within the context of international trade negotiations, their heritage value or value as vectors of rural development is gaining in prominence. Cumulatively, these raise the stakes and the ‘debate about [GIs] has proven to be intractable, ill-defined, and at times passionate’.³⁰ The sensitivities surrounding the current regime in TRIPS stem from the growing ‘recognition of the commercial significance of [GIs], in particular in respect of agricultural and food products, for exporting countries that may rely upon the added value that [they] may bestow’.³¹ For that reason, IGO protection is situated within the framework of international trade strategies and constraints.³² To take

6 JWIP 861, 874; E. Meltzer, ‘Geographical Indications: Point of View of Governments’, 30 June 2003 (WIPO/GEO/SFO/03/3), [12]; J. Hughes, ‘Champagne, Feta, and Bourbon – The Spirited Debate about Geographical Indications’ (2006) 58 *Hastings Law Journal* 299, 331–4. H. Ilbert and M. Petit, ‘Are Geographical Indications a Valid Property Right? Global Trends and Challenges’ (2009) 27 *Development Policy Review* 503. For a response to Stern, see D. Rangnekar, ‘The Intellectual Properties of Geography’ [2009] EIPR 537.

²⁸ J. Waldron, ‘From Authors to Copiers: Individual Rights and Social Values in Intellectual Property’ (1993) 68 *Chicago–Kent Law Review* 841, 887.

²⁹ Communication from New Zealand, ‘Geographical Indications and the Art. 24.2 Review’, 18 September 2000 (IP/C/W/205), [3].

³⁰ Taubman, ‘The Way Ahead’, 2; See also L. Bendekgey and C. Mead, ‘International Protection of Appellations of Origin and Other Geographical Indications’ (1992) 82 TMR 765; L. Beresford, ‘Trade Marks and Geographical Indications 101: What Trade Mark Owners Should Know’ (2008) 1 *Landslide* 19 (‘One of the most controversial subjects facing the IP world today is the treatment of [GIs]’).

³¹ De Sousa, ‘Protection of Geographical Indications under the TRIPS Agreement’, 2.

³² W. van Caenegem, ‘Registered GIs: Intellectual Property, Agricultural Policy and International Trade’ [2004] EIPR 170; A. F. R. de Almeida, ‘The TRIPS Agreement, the Bilateral Agreements Concerning Geographical Indications and the Philosophy of the WTO’ [2005] EIPR 150; T. Josling, ‘The War on *Terroir*: Geographical Indications as a Transatlantic Trade Conflict’ (2006) 57 *Journal of Agricultural Economics* 337.

one example, the major part of the annual production of Darjeeling tea is exported,³³ which underlines the need for an international regime regulating the misuse of such designations. An important factor here is the territorial nature of IP rights. IGOs may be recognised within the legal system of their 'home' country,³⁴ but recognition and protection is confined to that national jurisdiction.³⁵ Bilateral treaties and international conventions are adopted to work around this limitation, by establishing minimum standards of protection or reserving the use of certain terms identified in lists exchanged between signatories. The awareness of this value and the desire for greater international protection has drawn a number of new participants into these debates, beyond a core group of European countries with experience in this area. As we will see in Chapter 6, over one hundred WTO Members now support proposals to increase the international scope of protection and institutional recognition for GIs. 'Behind these negotiations is an increasing perception that localisation of the signified source of products is associated with increased value and reach into global markets. In effect, export-focussed producers learn to act globally by thinking locally. This has increased the sense of what is at stake in the identification and protection of [GIs]'.³⁶ Meanwhile the additional values associated with GI protection are being explored in earnest. 'The importance of GIs in Asia, however, goes beyond trade and commerce. It has to be understood in the wider context of protecting and preserving intellectual property pertaining to traditional cultures, assets, and production methods in some of the world's oldest human settlements. GIs ... can serve key development objectives'.³⁷ The entry of these new players, many of whom are from the Global South, has resulted in the absorption of new interests, arguments and dynamics into the existing stock.³⁸ This opens up the space to fundamentally reassess the basis as well as techniques for GI protection, as newer entrants will need

³³ N. K. Das, 'Protection of Darjeeling Tea', 3 July 2003 (WIPO/GEO/SFO/03/8), [26].

³⁴ For the duration of this book, 'home country' is shorthand for the state or legal jurisdiction within which the GI's region of origin is located.

³⁵ A. Kamperman Sanders, 'Incentives for Protection of Cultural Expression: Art, Trade and Geographical Indications' (2010) 13 JWIP 81, 84.

³⁶ Taubman, 'The Way Ahead', 7.

³⁷ S. Wagle, 'Protection of Geographical Indications and Human Development: Economic and Social Benefits to Developing Countries', November 2003 (WIPO/GEO/DEL/03/7), 3.

³⁸ Ilbert and Petit, 'Are Geographical Indications a Valid Property Right?', 516; S. Escudero, 'International Protection of Geographical Indications and Developing Countries' Working Paper No. 10, South Centre (July 2001); D. Rangnekar, 'Protecting Indications of Geographical Origin in Asia: Legal and Practical Issues to Resolve', in R. Meléndez-Ortiz and P. Roffe (eds.), *Intellectual Property and Sustainable Development: Development Agendas in a Changing World* (Edward Elgar, Cheltenham 2009), 273.

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to adapt or even fundamentally reinvent European *sui generis* GI models.³⁹ For instance, they may have a greater interest in crafts and textiles, alongside agricultural products and alcoholic beverages, or the nature of state involvement in the process of recognition and protection may differ.

If one side of the story celebrates the growing interest in GIs within the TRIPS membership, it is matched by a counter-narrative of concern, if not downright hostility, directed towards *sui generis* GI protection systems. The opposition stems from the apparent prioritising of GI producers' interests over others within these systems. In particular, the interests of trade mark registrants or those who use geographical terms in a generic manner appear to be threatened. Under certain conditions, geographical signs can be registered as individually owned trade marks, which could result in conflicting claims over the use of the same sign in a given jurisdiction.⁴⁰ If subsequently recognised GIs are allowed to trump prior trade mark rights, this endangers established proprietary interests.⁴¹ Opponents also wish to preserve the freedom to use a geographical term in a generic manner, to designate a type of product irrespective of its place of origin. There is broad agreement that cheddar is the generic expression for a kind of cheese, while there is vigorous international disagreement about the status of Feta or Parmesan.⁴² Much turns on the legal status of these expressions, as illustrated in a statement by the Director of the Grocery Manufacturer's Association (GMA) of America before the US House of Representatives, during a series of formal hearings on international GI protection.

[Even] the loss of one name (e.g., parmesan) could represent hundreds of millions of dollars to GMA member companies. Companies would be forced to repackage products, and, more importantly, re-educate consumers through re-branding campaigns. GMA is concerned that the very companies that created the value in many goods may be forced [to] renounce their claim on these

³⁹ M-C. Wang, 'The Asian Consciousness and Interests in Geographical Indications' (2006) 96 TMR 906; D. Marie-Vivien, 'The Role of the State in the Protection of Geographical Indications: From Disengagement in France/Europe to Significant Involvement in India' (2010) 13 JWIP 121.

⁴⁰ D. Gangjee, 'Quibbling Siblings: Conflicts between Trade Marks and Geographical Indications' (2007) 82 *Chicago-Kent Law Review* 1253.

⁴¹ J. Phillips and I. Simon, 'Geographical Indications: The Biggest Threat to Trade Marks?' *Marques Newsletter* (Spring 2004), 2; H. Harte-Bavendamm, 'Geographical Indications and Trade Marks: Harmony or Conflict?', September 1999 (WIPO/GEO/CPT/99/6); WIPO, 'Possible Solutions for Conflicts between Trade Marks and Geographical Indications and for Conflicts between Homonymous Geographical Indications', 8 June 2000 (SCT/5/3).

⁴² See Chapter 5, Section 6 for further details.