
Protection of Fundamental Rights in the Era of Developing a Sui Generis Model for Geographical Indications Protection of Craft and Industrial Products

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Abstract

In the context of the growing importance of intellectual property protection, the issue of safeguarding geographical indications (GIs) and acquired rights related to craft and industrial products plays a crucial role. Geographical indications are a significant component of the intellectual property system, protecting the reputation of products and the interests of producers and consumers. One of the most important challenges in this field is the phenomenon of evocation, which occurs when the use of a designation or term suggests a product's origin, even if it is not explicitly stated. Such practices may mislead consumers about the actual origin of the product while simultaneously infringing upon protected acquired rights.

This article examines the phenomenon of evocation and other forms of misleading commercial practices, with a particular focus on the case law of the European Union and other legal systems. It will specifically discuss the judgments of the Court of Justice of the European Union (CJEU) that have addressed the boundaries between lawful use of geographical names and unlawful evocation, including cases involving food products and alcoholic beverages. The analysis also covers instances where courts have delineated the boundary between infringement and legal use of GIs, considering the indications' phonetic, visual, and semantic similarity.

The paper will also explore potential challenges arising from the introduction of new regulations on the geographical indications for craft and industrial products, in the context of protecting acquired rights based on the specification of example products, such as lace. The subsequent sections will be dedicated to discussing effective strategies for safeguarding acquired rights and geographical indications, including practical solutions adopted by businesses to minimize the risk of infringement. Selected examples of actions taken by consumer protection authorities and enforcement strategies will also be presented, considering the implications of market globalization and trade digitalization.

Keywords: Fundamental rights, GIs of craft and industrial products, specification

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