



GIs and Common Names

Allen Johnson | Consortium for Common Food Names

Let's explore all of the following (in 8 minutes):

1. A review of how the U.S. system works as it relates to GIs and common names, including how it inclusively deals with other countries' products
2. Discussion on some of the trade implications in the current environment
3. Relevance on sustainability and approach in IP
4. How common names can exist with GIs to be inclusive of the interests of all the various stakeholders

GI protection in the United States through the trademark system

U.S. system provides several options:

- 1) **Certification Marks** - certifier sets standards that users must meet
- 2) **Collective Marks** – used by members of a collective
- 3) **Regional Trademarks** – under certain conditions



U.S. Trademark Reg. No.
1266492



U.S. Certification Mark Reg. No.
1414598

“JAMAICA BLUE MOUNTAIN”

U.S. Collective Mark
Reg. No. 0889138
Black Rooster design



Benefits of using an existing trademark system

- Substantive and Formalities Examination process (before publication) was already established:
 - Searching for prior conflicts
 - Analyzing if proposed term is a common name
- Publication providing notice
- Existing appeal/opposition/cancellation proceedings in place that may be used for GIs
- GIs and trademarks are on the same footing

Preserving common or generic terms for use: the international landscape

- TRIPs Article 24.6 “Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Member.”
- NO PROTECTION FOR PROPOSED GIS THAT ARE ACTUALLY THE COMMON OR GENERIC TERMS FOR PRODUCTS IN THE RECEIVING COUNTRY.

Generic / common name analysis

- Before publication: Generic analysis- understanding of relevant purchasers
 - Granting IP rights to private parties necessitates an examination of the impact of that potential grant of exclusivity on customers and others in the marketplace
 - Terms that are descriptive should, and those that are generic must, remain free to be used by all WHO MAKE A PRODUCT so that PURCHASERS MAY RELY ON THEIR COMMON MEANING when making purchase decisions.

Analyzing for genericness/common name

- Evidence must demonstrate public's understanding of the term
 - Customer perception is important
- Proof that a term is generic includes:
 - Competent dictionaries
 - Internet evidence
 - Categories in catalogues
 - How the term is used in the marketplace
 - Actual evidence showing the product with that term comes from beyond the region identified in application
 - Domestic or international standards of identity

Multi-component terms

- What if the GI has distinctive matter in addition to a generic term/common name?
- The answer: **DISCLAIMER**
- “The director may require the applicant to disclaim an unregistrable component of a mark otherwise registrable.”

U.S. Trademark Act Article 6, 15 U.S.C. § 1056

Notice and Transparency for Disclaimers

Use of Disclaimers assist with PROVIDING TRANSPARENCY and notice:

- The public is notified precisely WHAT IS OR WHAT IS NOT PROTECTED.
- Alleviates questions as to the SCOPE OF PROTECTION.
- Helps third parties to decide whether to pursue any action to seek clarification.
- Provides for a more accurate register.

Trademark system reliably works for everyone ...examples of GIs protected



Limiting Competition is not Inclusive and has Real Consequences

- **Producers** – Are limited to only those that can meet a criteria that was set by a select group.
- **Consumers** – Fewer choices, higher prices, lower quality, and get less service and innovation.
- **Private markets** – Up for bid by government-to-government negotiations, that leave out third parties, without compensation...principles of private IP ownership and public domain ignored.
- **IP system** – Damaged as names long in the public domain are lost, fundamentally undermining sacred IP principles in developing economies and globally.
- **Public confidence** – Lost as local investors and producers face uncertainty in the public domain because any foreign power may decide to force the local government to effectively nationalize any product for the benefit of a foreign interest.
- **Trading system** – Undermined as WTO obligations and other trade commitments to third parties are ignored, without the other parties being engaged or compensated.
- **Free Trade Agreement principles** – Reversed as the purpose of FTAs is to open markets but restrictions on common names eliminates competition. This also limits current and future trading partners interest as these common name markets are made unavailable.
- **International product standards** – Ignored, even standards GI-demandeur countries participated in creating.

- The use of GIs has become a contentious international trade issue, particularly for U.S. wine, cheese, and sausage makers involved in trade between the U.S. and E.U.
- Many U.S. food manufacturers view the use of common or traditional names as **generic terms** and the **E.U.'s** protection of its registered GIs as a way to **monopolize** the use of certain wine and food terms and as a form of **trade protectionism**.
- Complicating this issue further are GI protections afforded to registered products in third country markets like Canada, South Korea, and South Africa.



Geographical Indications (GIs) in U.S. Food and Agricultural Trade

“Concerns with the European Union’s aggressive promotion of its exclusionary geographical indications policies persist.”

“The U.S. continues its intensive engagement in promoting and protecting access to foreign markets for U.S. exporters of products that are identified by common names or otherwise marketed under previously registered trademarks.”

“The **EU GI agenda** remains highly concerning because it significantly undermines protection of trademarks held by U.S. producers and imposes barriers on market access for U.S.-made goods that rely on the use of common names, such as parmesan or feta.”

“The EU has granted GI protection to thousands of terms that now only certain EU producers can use in the EU market, and many of these producers then block the use of any term that even ‘evokes’ a GI.”

2025 Special 301 Report



Office of the United States Trade Representative

April 1, 2025

U.S. is countering E.U. GI policies through trade deals, APEC, WIPO, and WTO; goals include

Objective is to ensure fair competition not to ban competitors

| | |
|---|---|
| 1 | Ensuring that the grant of GI protection does not violate prior rights (for example, in cases in which a U.S. company has a trademark that includes a place name) |
| 2 | Ensuring that the grant of GI protection does not deprive interested parties of the ability to use common names, such as parmesan or feta |
| 3 | Ensuring that interested persons have notice of, and opportunity to oppose or to seek cancellation of, any GI protection that is sought or granted |
| 4 | Ensuring that notices issued when granting a GI consisting of multiple terms identify its common name components |
| 5 | Opposing efforts to extend the protection given to GIs for wines and spirits to other products |

The recent U.S. trade deals secured following the imposition of tariffs on April 2, 2025, “achieved long-standing U.S. trade priorities, including the lowering of tariffs on most U.S. exports and elimination of unfair non-tariff barriers. **Specifically, 8 countries have committed to ensure market access for current and future U.S. producers using certain** meat and cheese **terms in the face of the EU’s geographical indications (GI) trade agenda**; 11 countries have agreed to accept U.S. automotive emission and safety standards; and 9 countries have agreed to accept U.S. FDA approvals for new treatments and medicines. We have also received strong commitments from our trading partners to enhance intellectual property protection.”

December 9, 2025

Statement of
Ambassador Jamison Greer
The United States Trade Representative
Before the
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
United States Senate

Do GIs support sustainability?

Is IP the best tool for achieving sustainability objectives?



**NOT
NECESSARILY**



U.S. producers can make parmesan cheese using traditional Italian methods, utilizing a similar breed of cow, within a similar grazing environment/feed mix, that can then be sold locally or regionally in the U.S. and other countries at a lower carbon cost.



U.S. parmesan can be more sustainable than importing parmesan from Italy



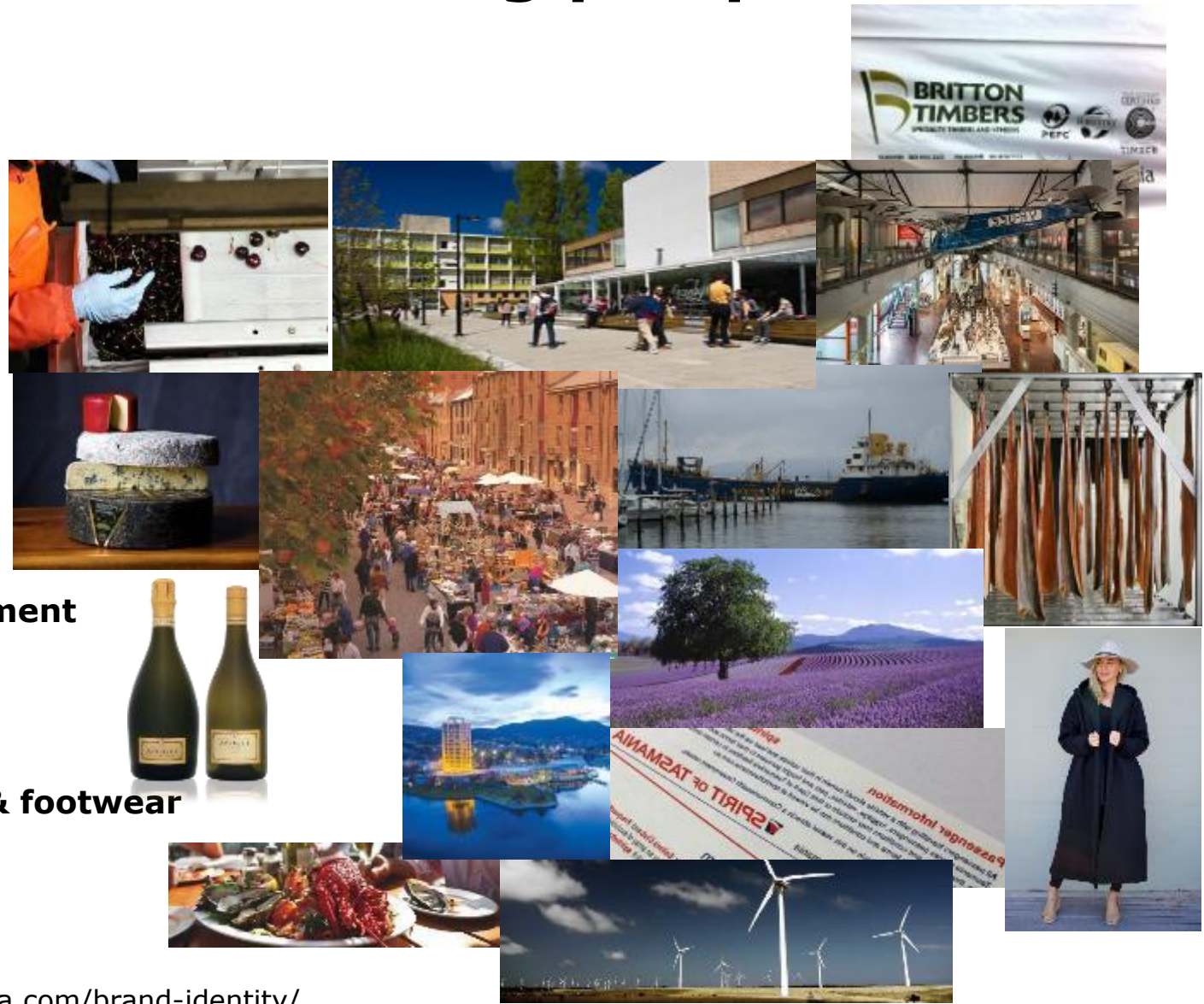
U.S. parmesan is more affordable.

Matching GI design to regional development needs

- Broad trademark classes align better with regional development needs
- Specify minimum production from region
 - simple rules like Australian wine 85%
- Ensure competition authorities monitor distribution of gains along supply chain
- Balance small and large producer needs
- Work with regional development bodies

Tasmania: a branding perspective

- Agriculture**
- Oceans**
- Arts**
- Education**
- Energy**
- Food & drink**
- Forestry & timber**
- ICT**
- Infrastructure**
- Manufacturing**
- Media & entertainment**
- Minerals & mining**
- Research**
- Seafood**
- Services**
- Textiles, clothing & footwear**
- Tourism**



Tasmania: names, regions, brands



Regions: King Island, Huon Valley, Derwent Valley, Bruny Island ...

Industry bodies:



Tasmanian Whiskey Producers Association

Trademarks:



association

Where would GIs fit into this complex situation?

Common names are Inclusive and Sustainable

Intellectual Property

Trademark system is **open to all and works for all** – foreign and domestic

Marketplace

- **All people/consumers** – Options and choices based on their *price, quality, service, etc., including sustainability preferences*
- **All producers** – Produce and *compete based on price, quality, service, innovation, sustainability, etc.* are not excluded based on criteria set by others. *Doesn't disenfranchise and ban producers from making products their family has made for generations and from serving the markets they created through their time, money, effort, passion, and service.*
- **Everyone along the supply chain** – A variety of *choices that allows it to run efficiently and economically in sourcing, producing, and delivering valuable products sustainably.*
- **All retailers** – Have a *large portfolio of products to source from and to offer* to their customers based on their interests, including sustainability.

Rather than being forced to single source monopoly products from select foreign consortiums, resources are efficiently distributed saving money, lowering greenhouse gases, and creating economic opportunities for stakeholders around the world.



Thank you!

