Geographical indications from the Greek law perspective: practical implications for legal practitioners and their clients

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Current legal protection of GIs in Greece

Dual system of protection:

A. Direct protection: Sui generis EU legislation on geographical indications and appellations of origin

B. Indirect protection:
   • Trademark law
   • Unfair competition law
   • EU legislation on customs enforcement
Sui generis EU law

- EU Regulation 1151/2012 on quality schemes for agricultural products and foodstuffs
- EU Regulation 1308/2013 on the common organization of the market in agricultural products (wines)
- EC Regulation 110/2008 on the protection of geographical indications of spirit drinks
- EU Regulation 251/2014 on aromatized wine products
Sui generis EU law

• Definition of protected geographical indications and protected designations of origin
• Registration procedure
• Establishment of conditions for the protection of PGIs and PDOs
Greek authorities’ role in the registration procedure and the protection of PGIs and PDOs

- Ministry of Agriculture: joint role with the European Commission in receiving and verifying the applications
- Greek Agricultural Organization (ELGO) “Dimitra”: verifies the compliance with legal requirements related to the quality schemes
National (sui generis) law on GIs?

- Regulations on the implementation of the EU legislation
- No merely national procedure on protection of GIs
- No national PDOs and PGIs Register
- Previously existing national legislation (e.g. on the appellations of origin for olive oils) abolished since implementation of EU law
- Not a member of the Lisbon Union (no ratification)
Sui generis law: International agreements

- Bilateral trade agreements signed between EU and third parties, e.g.:
- EU agricultural GI agreements with Switzerland, Moldova, Georgia
- EU Free Trade agreements with Korea, Colombia, Peru, Central America
- EC-South Africa Agreements, EC-US Wine Agreement, EC-Canada Agreement
Indirect protection of GIs

- Greek trademark law 4072/2012, as amended, via its provisions on absolute grounds (Art. 123)
- Greek unfair competition law 146/1914: protection of GIs against deceiving practices, without any distinction between registered PDOs / PGIs and GIs in general
- Customs enforcement of IPR through EU Regulation 608/2013
GIs in Greek trademark law

- Registration refused for TMs including or consisting of GIs for wines or agricultural products protected under EU law, if products do not come from protected region ➔ No protection for spirits / wine drinks or other products
- Registration refused for TMs deceiving the public as per geographical origin
- Registration refused for TMs consisting exclusively of signs indicating geographical provenance of product/service
GIs in Greek trademark law

- Article 124 on relative grounds: no registration for TMs being contrary to non-registered marks or distinctive signs used in trade, provided that their proprietor may prohibit the use of later mark
- Inactive provision (no case law)
- No explicit reference to GIs
GIs in Greek trademark law

- No certification marks in Greek law
- Filing of collective marks allowed: they may indicate the geographical origin of the products or services of the members of the association that files the mark
- But the collective mark consisting of GI does not prevent third parties from using it, if third parties “use the mark in accordance with honest practices in trade”
GIs in Greek trademark law: the future

- Amendment expected in view of the implementation of the EU Directive 2015/2436 into Greek law
- Significant expansion of protection of GIs expected: No registration of TMs which are “excluded from registration pursuant to EU or national law or international agreements”
- Protection of GIs even for non-agricultural products?
- Deadline for implementation: January 14, 2019
Practical problems for GI owners and TM applicants

- Trademarks Office Examiners do not always consult publicly available EU GIs Registers (DOOR, BACCHUS, E-SPIRITS)
- No close cooperation between Trademarks Office and authorities involved in GIs registration and compliance checks

⇒ TM registrations that consist of or include registered GIs but do not comply with the legal requirements of protection for GIs
Practical problems for GI owners and TM applicants

- TM Registrations containing registered GIs, designating products that are obviously not compliant with legal requirements for specific GI (e.g. TMs containing the word “FETA” and protecting “cheese” or “milk products”)

  • However: Recent change in the Examiners’ practice: limitation of products so as to protect the specific GI
Some examples of filed (and registered?) trademarks in Greece (Quiz!)

- PORTO MARATHOS (filed on 8/02/2013, also wines in class 33)
- MIA FETA FETA BAR BY KOURELLAS & dev. (filed on 04/02/2014, “feta cheese pdo” in class 29)
- ΦΕΤΑ ΠΑΡΓΑΣ (FETA PARGAS) (filed on 27/05/2015, “cottage cheese, Roquefort cheese, low fat cheese, white cheese, cheese fondue etc. in class 29)
- ΜΑΣΤΙΧΑ ΜΕΖΕΔΟΠΩΛΕΙΟ ΜΠΑΡ & dev. (MASTICHA RESTO BAR & dev.) (filed on 26/01/2016, classes 29, 41 and 43)
Practical problems for GI owners and TM applicants

- Enforcement of rights in the online environment: .gr domain name UDRP procedure
- .gr UDRP Regulation: protection for prior “national or EU right” (without explicit reference to GIs)
- However: protection fails if the domain name registrant has a “legitimate interest” in the disputed domain name (Association of “feta” producers will succeed in cancelling or transferring the feta.gr domain name, if held by a producer of feta products?)
Recommendations to TM applicants

• Conduct a preliminary TM search in the Greek TMs Registry and the eSearch plus database of EUIPO

• Conduct a preliminary search in the DOOR, E-BACCHUS AND E-SPIRITS databases

• Get local advice from experts in GI and TM law and practice
Recommendations to GIs owners

- Conduct regular searches in the Greek TM Registry for filings that may infringe your rights
- Consider double registration (GI and collective mark)
- Consider the registration of the basic geographical name as a PGI or PDO and logos, composite marks etc. as trademarks
Recommendations to GIs owners

• Conduct regular investigations with respect to possible infringing use of your GI, online and offline
• Alert the local compliance authorities, if you encounter infringing use
• Use the EU customs enforcement procedure, to protect your GI at the border
• Get local advice from experts in GI and TM law and practice
Thank you for your attention!

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