

NEEDS AND EXPECTATIONS OF THE GI SECTOR IN THE USA IN TERMS OF MULTILATERAL TRADE RULES AFFECTING GI'S



Presented by: Patrick J. Kole

IDAHO POTATO COMMISSION
661 South Rivershore Lane, Suite 230
Post Office Box 1670
Eagle, ID 83616
Telephone: (208) 334-2350
Facsimile: (208) 334-2274

OVERVIEW

1. Status of Protecting GI's in the US
2. Producers Realization That Systems Other than Trademarks Exist
3. Organization of Producer Groups
4. Organization of Groups of Producer Groups
5. Developing Legally Sound Research to Support a GI Proposal
6. Where to Next



U.S. TRADEMARK AND COMMON LAW

- ▶ US uses trademark system rather than a sui generis system
- ▶ Can be registered as collective marks, trademarks and certification marks
- ▶ Are protectable under common law as well



OBSTACLES FACING CREATION OF A GI PROTECTION SYSTEM IN THE US

- ▶ Firm Opposition from Large Producer and Supplier Groups
- ▶ Extension Issue (From Wine & Spirits to Food and Other Products)
- ▶ Limited Participation to Date by US Producers who might qualify as GI's in the US



RECENT DEVELOPMENTS IN THE US

Academic Papers: some examples

- ▶ *“Criteria for US Geographic Indications”* by Tara Capsuto
- ▶ *“Geographic Indications in the US: Developing a Preliminary List of Qualifying Product Names”* by Richard Mendelson and Zachary Wood
- ▶ *“American Origin Products: Protecting a Legacy”*
E. Barham, Editor



Producer Groups Participating in ORIGIN
(e.g., Napa Valley Vintners, Idaho®
Potatoes, etc.)

Formation of American Origin Products
Association (AOPA)



REVIEW OF THE PRELIMINARY LIST OF GI CANDIDATES FROM MENDELSON

- ▶ Assumed that All American Viticulture Areas (AVAs) would qualify
- ▶ Reviewed 5,810 Registered US Certification Marks
- ▶ Identified Marks that might be geographically based for goods
- ▶ Narrowed to 319 certification marks



MARKS EVALUATED USING TRIPS SECTION 3, ARTICLE 22:

- ▶ A good originating in a territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin
- ▶ Authors concluded that approximately 51 Candidate GI's were likely to meet the criteria for inclusion
- ▶ But, because there is no "Official List" there are no incentives to describe goods in a manner allowing GI status to be easily deciphered



CIRCULAR CONUNDRUM

- ▶ Organizing Producers is difficult due to the very nature of the type of goods most likely to qualify as GI's
- ▶ US Agriculture is Heavily Geared towards Mass Commoditization/Production
- ▶ To Date US/EU Negotiations Unproductive



US PRODUCERS NEEDS

- ▶ Some Type of Register
- ▶ Some Requirement for Reviewing Existing Registers
- ▶ Some Negotiated Resolution of the GI Issue



EXAMPLES OF THE PROBLEM:

- ▶ Idaho® in Turkey
- ▶ Napa Valley Wines in China



Does the Transatlantic Trade and Investment Partnership (T-TIP) Provide A Possible Path Forward?




TRUCK WITH A TATER!



72 FT. 12 FT. 13 FT.

WEIGHT 44,320 LBS.
BUILT IN WEISER, ID BY SCHOFIELD DESIGN.



Trivia. This Tater...

- [Video: How we built it!](#) would take more than 10,000 years to grow.
- weighs six tons (12,130 pounds), which is equal to 32,346 medium-sized Idaho® potatoes.
- is 1,102 times heavier than the largest potato ever grown, which weighed 11 pounds.
- would take 2 years and 9 months to bake.
- would make 30,325 servings of mashed potatoes. Pass the gravy!
- would easily make over 1,500,000 average-sized french fries.