

The TTIP: expectations of Eu GI cheese producers.

A special focus on Parmigiano Reggiano and Gorgonzola cheeses producers.

Dear ladies and gentlemen,

thank you very much for the opportunity to be here and give you a short overview of the expectations about TTIP of the producers, and their groups, of two of the most well-known and historical designations of origin for cheese: Parmigiano Reggiano and Gorgonzola.

First of all we shall remind that most of U.S. dairy industry concerns regarding names considered at risk are absolutely not justified, as most of those names are pacifically deemed as generic also in the European union.

On the other hand, indeed, on a limited number of names we disagree: we do not understand how it may be affirmed that such names have become generic in the U.S., where firstly they are often used together with references (words, flag, symbols, landscapes, etc.) to the relevant European Union country of origin (Italy, France, Greece, Spain etc.).

According to U.S. Dairy Export Council and Consortium for Common Food Names, Parmigiano Reggiano cheese producers should not be concerned, as U.S. dairy stakeholders declared that "*Christopher Columbus's relatives in the Old World can keep their Parmigiano-Reggiano*".

The same, however, claim the right to make and market a cheese under the name Parmesan, affirming its genericness, not only in the U.S., but all around the world.

Why Parmigiano Reggiano cheese producers should therefore not be concerned about TTIP?

Parmigiano Reggiano cheese producers are very puzzled about the U.S. dairy stakeholders approach. We would have some questions for our friends from the U.S.:

- 1) If Parmesan has become the common name of a kind of cheese in the U.S., why many stakeholders use often the name Parmesan together with references (words, flag, symbols, landscapes, etc.) to an Italian origin? **(Picture)**
- 2) If Parmesan has become the common name of a kind of cheese in the U.S., why sometimes stakeholders use express references to the GI Parmigiano Reggiano (e.g. "*made like Parmigiano Reggiano*", images of Parmigiano Reggiano cheese wheels, etc.) to describe cheese named Parmesan in the U.S. territory? **(Picture)**

- 3) Don't you think that the primary goal of TTIP should be the consumer's protection against any risk of being misled as to the origin of the product, in line with the spirit of the Agreement on Trade-Related Aspects of Intellectual Property Rights TRIPS's?

Moreover, in spite of their public declarations, during the registration proceeding for the designation of origin Parmigiano Reggiano within the EU and the Central American region Association Agreement, U.S. Dairy Export Council maintained the genericness not only of the name Parmesano, but also of the name Parmigiano, which is far from reality, as U.S. stakeholders know very well.

Luckily, as concerns the U.S., Parmigiano Reggiano cheese producers were very forward-looking in the past and the protection of the name Parmigiano Reggiano, was safeguarded in the U.S. through the certification trademark system, the only possible way to get some level of protection. But the certification system did not provide adequate protection in our experience. Furthermore it proved to be expensive, with very high administrative costs and prohibitive judicial ones. The American Intellectual Property Law Association (AIPLA) often conducts a survey of attorneys regarding the average costs of litigation for intellectual property matters (1) through discovery and (2) through the end of the trial. An AIPLA survey from 2011 estimates that for a trademark case with less than \$1MM in controversy, the average costs through discovery is \$216,000 and the average costs through the end of the trial is \$384,000.

And with respect to Gorgonzola cheese, a few questions as well:

- 1) If Gorgonzola has become generic the common name of a kind of cheese in the U.S., why a very well-known US operator, about its Oregonzola cheese, says that "*The smooth and yielding texture of the paste and clearly defined blue veins are reminiscent of the great Gorgonzola; Oregonzola is sweet and savory, and reminiscent of classic Italian blue*"?
- 2) If Gorgonzola has become generic the common name of a kind of cheese in the U.S., why U.S. operators differentiate between 'Italian Gorgonzola' and 'Domestic Gorgonzola' (**picture**)? And why stakeholders use the name Gorgonzola together with references (words, flag, symbols, landscapes, etc.) to an Italian origin (**picture**)?

U.S. stakeholder maintain the position that not only the EU institutions, even the Courte of justice of the European union would have had an important role to restrict the use of some allegedly common names for foods, such as Parmesan and Feta for instance. As mentioned before, U.S. stakeholders forget that so many names have undoubtedly become generic in the EU, and when the Court has taken its decisions supporting the lack of genericness of Parmesan and Feta, those were based

uniquely on EU legislation, perfectly consistent with TRIPS's agreement. So any idea of EU GIs as an expression of EU alleged protectionism may not be understood nor accepted.

As well known, the question concerning the possible genericness of a name should follow all times a case by case approach, for each country, based on the IP principle of territoriality, and several grounds should be studied and justified in order to ascertain the genericness of a name. It's simply not possible to affirm that a name has become the common name of a food.

There are around 50.000 people involved in the production chain of Parmigiano Reggiano cheese, with 1.119 million euro rating business to production and 1.924 million euro rating business to consumption; as to Gorgonzola cheese, about 10.000 people are involved in the production chain, with 550 million euro rating business to consumption; further so many U.S. operators involved in the import, distribution and selling activity of Parmigiano Reggiano and Gorgonzola cheeses in the U.S. market: all of those operators shall be guaranteed against unfair competition acts in the U.S. market. And all U.S. consumers shall be guaranteed against any risk of being misled as to the origin of the product, including counting on the intervention of Public Authorities to prevent misleading uses of Geographical Indications: this should be the final primary goal, and obligation, of TTIP, in order to be in line with TRIPS' Agreement!

A final consideration: are we so sure that U.S. consumer are not very interested in products with Geographical Indications? Why this U.S. operator is using the EU Protected Designation of Origin symbol for a cheese named Parmigiano Reggiano that has been shredded and packaged in the U.S. (picture)?

Perhaps the U.S. consumers are willing to become more acquainted with Geographical Indications and to consume products bearing a specific Geographical Indication, originating in the EU, in the U.S. and in any other territory of the world: in any case, they have the right to be safeguarded from any risk of being misled as to the origin of the product. TTIP shall give this guarantee!

Thank you very much.