

Controls of geographical indications & traditional specialties. Food fairs: fake products

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oriGIn: the Global Alliance of GIs



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Controls

- At the production level: verification of compliance with the product specification before a product is placed on the market
- In the market place: surveillance and enforcement by public authorities of the use of protected names (*ex officio* or administrative protection)

Food fairs: we are in the framework of market controls



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Anuga (Cologne, Germany, October 2011)



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What happened

- The “Consorzio del Parmigiano Reggiano” at the fair saw goods labelled as “Parmersan”, “Parmesano” and “Reggianito” produced by US and South American companies
- The lawyers of the Consorzio requested the immediate seizure of the products at issue before the Court of Cologne
- The Court, acting *inaudita altera parte*, authorized the seizure

Case Law

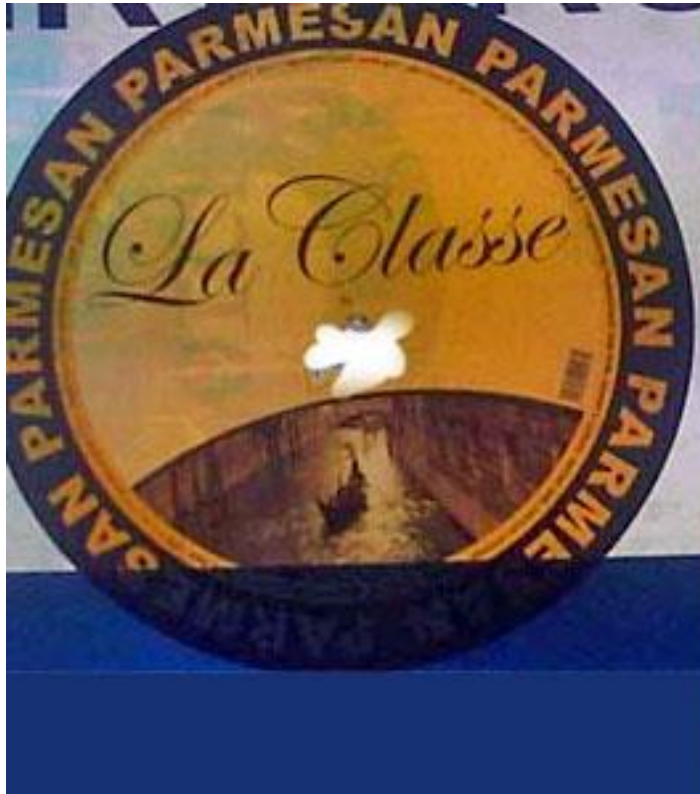
In the EU, “Parmesan” is an evocation of the PDO “Parmigiano Reggiano”

Case C-132/05, European Commission v Federal Republic of Germany, Court of justice of the European communities (Grand Chamber), Judgment of 26 February 2008, paragraphs 48/49: *“That proximity and the phonetic and visual similarities referred to in paragraph 46 above are such as to bring to the mind of the consumer the cheese protected by the PDO ‘Parmigiano Reggiano’, when he is confronted by a hard cheese, grated or intended to be grated, bearing the name ‘Parmesan’. In those circumstances, the use of the name ‘Parmesan’ must be regarded, in the sense of Article 13(1)(b) of Regulation No 2081/92, as an evocation of the PDO Parmigiano Reggiano”.*

Fake products & the territorial nature of GIs (& IPRs in general)

- In the EU (as well as in several jurisdictions where EU GIs are recognised) the use of GI names (or similar ones) in connection with goods not corresponding to the product specifications, represent an infringement (art. 13 of Regulation 1151/2012)
- In some jurisdictions (where protection has not yet been obtained), the use of EU GI names (or similar ones) might be tolerated, as they are considered to have acquired a generic nature

Sial (Paris, France, October 2012)



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What happened

- The “Consorzio del Parmigiano Reggiano” at the fair saw goods labelled as “Parmersan” produced by US and Egyptian companies
- The Consorzio informed the competent French authority for market controls: “Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes” (DGCCRF)
- The French authority invited the interested companies to remove the products at issue. It also invited the Consorzio to initiate a civil action based on IP Code (Article L 722-2).
- The products at issue were voluntarily removed

Sial (Paris, France, October 2016)



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What happened

- The Consorzia of “Asiago”, “Pecorino Romano” and “Parmigiano Reggiano” detected products by American exhibitors which labels infringe the respective PDO
- The Consorzia requested the intervention of the DGCCRF
- The DGCCRF invited the exhibitors to remove the products at issue

Some conclusions

- Fake products and GIs infringements can be detected also in prestigious international food fairs
- *Ex officio* (or administrative) protection is a powerful tool for GIs groups as well as a major achievement of Regulation 1151/2012
- Limitations in the implementation of the *ex officio* protection in food fairs
- Need for GIs groups to remain vigilant, be proactive and work in coordination with national competent authorities

Many thanks for your attention!

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