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



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#### **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



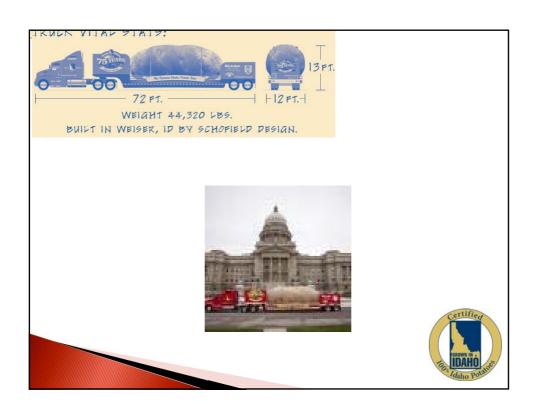
# **EXAMPLES OF THE PROBLEM:**

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



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





#### Trivia. This Tater...

- •<u>Video: How we built it!</u>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.