



Ms. Patricia Kelly

Director General
IP Australia
47 Bowes Street
Woden ACT, 2606
Australia

Geneva, 11 June 2018

**RE: Decision concerning the opposition by “Consorzio Per la Tutela Del Formaggio Asiago”
to the registration of trade mark application number 1680928 (29)**

The Organization for an international Geographical Indications network - oriGIn - is the global alliance of Geographical Indications (GIs), representing 500 groups and other GIs institutions from 50 countries. oriGIn advocates for the effective protection and enforcement of GIs at the national, regional and international level.

We write you to respectfully express our concerns for the above-mentioned decision, issued on 04 May 2018. Over the years GIs groups, including “Consorzio Per la Tutela Del Formaggio Asiago” (hereinafter Consorzio), have adopted a pragmatic approach, seeking protection according to the legal instruments available in the jurisdictions where they wish to be protected. By protecting the GIs they represent in export markets, groups defend as well the interests of consumers. While Asiago is recognized as a Protected Designation of Origin (PDO) in the European Union (EU) since 21 June 1996, the Consorzio owns a number of trademarks and certification marks in several jurisdictions around the world, where “sui generis” systems are not available. Such trademarks and certification marks proved to be effective, while sometimes expensive, tools to prevent third parties to register similar or identical trademarks. In that same spirit, the Consorzio registered trade mark n. 1523300 and applied for certification mark n. 1807862 for products of class 29 (dairy products; cheese).

Refusing, in the way the above-mentioned decision does, all the arguments of the opposition produced by the Consorzio amounts to set such a high threshold for the protection of GIs in Australia, which seems to be incompatible with the WTO TRIPs Agreement. Moreover, with specific regard to the argument based on section 61(2)(c) of the Trademark Act, we would like to recall that Intellectual Property Rights (IPRs) and systems are territorial in nature. As a result, any prior use



should be considered exclusively with respect to the jurisdiction at issue, Australia in the present case.

For all the above, I would like to ask you to carefully analyse the consequences (both on the protection of GIs in Australia and on well-established and internationally accepted IPRs principles) of the above-mentioned decision.

Meanwhile, I remain at your disposal for any clarification you might require.

Yours Sincerely,

A handwritten signature in blue ink that reads "Massimo Vittori".

Massimo Vittori
Managing Director
oriGIn