

Marques 2018: The scope of GI protection

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To violate a geographical indication (GI) in the EU, the disputed mark must trigger the consumer's association with the GI-protected product—it is not sufficient that the geographical area alone is brought to mind, an industry conference in Paris heard.

In a discussion held at the [2018 Marques Annual Conference](#) yesterday, September 20, John Colbourn, partner at [Wiggin](#), explained that this rule was [determined](#) earlier this year by the Court of Justice of the European Union (CJEU) in a case where the Scotch Whisky Association had accused a German man of violating its GI.

The case centred on whether the designation 'Glen' triggers images of Scotland in the mind of consumers. The Regional Court of Hamburg, Germany, asked Europe's highest court to clarify the requirements of evocation when it comes to GI violations.

As explained by Colbourn, the CJEU said that disputed marks must evoke thoughts of the GI-protected product itself, not just the area that it is produced in or affiliated with.

Also at yesterday's workshop was Alessandro Francesco Sciarra, associate at [Bird & Bird](#).

Sciarra discussed another CJEU decision, this time in a [dispute](#) between supermarket Aldi and the [Comité Interprofessionnel du Vin de Champagne](#), the trade body that protects France's Champagne wines.

As a protected designation of origin (PDO), Champagne can only be produced at certified vineyards and by specific methods in the Champagne region of France.

Aldi had been selling 'Champagner Sorbet' in packaging that depicted a cork and a half-full glass of what was presumed to be Champagne, and the Comité believed that the retailer was taking undue advantage of its PDO.

Sciarra said the dispute demonstrated the issues which may arise when the name of a GI is used in the presentation of a particular product.

The CJEU held that the quantity of Champagne in Aldi's sorbet is a significant but not sufficient factor in determining whether the retailer was exploiting the reputation of the PDO. As such, Aldi must show that the taste of Champagne is an essential characteristic of the sorbet.

Sciarra said that the CJEU's decision has opened up further issues in the realm of GIs, rather than solving them. For example, what exact taste should we be looking for in the sorbet? Is it determined by the tasting notes of the Champagne, or the result of a certain combination of ingredients?

The following people also spoke about GIs, PDOs, and other related matters in yesterday's workshop: Paulo Monteverde, partner at [Baptista, Monteverde & Associados](#); Ortrun Günzel, partner at [Taylor Wessing](#); Miguel Ángel Medina, associate partner at [Elzaburu](#); Ozlem Futman, founding partner at [Ofo Ventura](#); and Jürg Simon, co-head of IP at [Lenz & Staehelin](#).

The 2018 Marques Annual Conference ends today, September 21.