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Abstract:
Marketing of goods under geographical names has always been common. Aims to prevent abuse have given rise to separate forms of legal protection for geographical indications (GIs) both nationally and internationally. The European Community (EC) has also gradually enacted its own legal regime to protect geographical indications.
The legal protection of GIs has traditionally been based on the idea that geographical origin endows a product exclusive qualities and characteristics. In today's world we are able to replicate almost any product anywhere, including its qualities and characteristics. One would think that this would preclude protection from most geographical names, yet the number of geographical indications seems to be rising. GIs are no longer what they used to be. In the EC it is no longer required that a product is endowed exclusive characteristics by its geographical origin as long as consumers associate the product with a certain geographical origin. This departure from the traditional protection of GIs is based on the premise that a geographical name extends beyond and exists apart from the product and therefore deserves protection itself.
The thesis tries to clearly articulate the underlying reasons, justifications, principles and policies behind the protection of GIs in the EC and then scrutinise the scope and shape of the GI system in the light of its own justifications. The essential questions it attempts to aswer are (1) What is the basis and criteria for granting GI rights? (2) What is the scope of protection afforded to GIs? and (3) Are these both justified in the light of the functions and policies underlying granting and protecting of GIs?
Despite the differences, the actual functions of GIs are in many ways identical to those of trade marks. Geographical indications have a limited role as source and quality indicators in allowing consumers to make informed and efficient choices in the market place. In the EC this role is undermined by allowing able room and discretion for uses that are arbitrary. Nevertheless, generic GIs are unable to play this role.
The traditional basis for justifying legal protection seems implausible in most case. Qualities and characteristics are more likely to be related to transportable skill and manufacturing methods than the actual geographical location of production. Geographical indications are also incapable of protecting culture from market-induced changes.
Protection against genericness, against any misuse, imitation and evocation as well as against exploiting the reputation of a GI seem to be there to protect the GI itself. Expanding or strengthening the already existing GI protection or using it to protect generic GIs cannot be justified with arguments on *terroir* or culture. The conclusion of the writer is that GIs themselves merit protection only in extremely rare cases and usually only the source and origin function of GIs should be protected. The approach should not be any different from one taken in trade mark law. GI protection should not be used as a means to monopolise names. At the end of the day, the scope of GI protection is nevertheless a policy issue.

Keywords: Intellectual property, International law, European Community law, indication of origin