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Study calls for shake-up of geographical indications to forge path towards universal trademark system

- **New paper suggests transformed system related to indications of geographical origin**
- **Author tells *WTR* new system could help bridge GI divide between EU and US**
- **Move would be 'small step' towards a universal trademark system, author adds**

A new study has looked at how the current system of indications of geographical origin (IGOs) could be transformed to end the “25-year long stalemate” on the treatment of GIs between the EU and the US. In conversation with *WTR*, the academic behind the research says a shake-up in GIs could be the first step towards the “high ideal” of a universal trademark system.

The study, entitled '[Grafting the Old and New World: Towards a Universal Trademark Register that Cancels Generic IGO Terms](#)', was released earlier this month. It was written by [Dr Danny Friedmann](#), senior lecturer and researcher at Peking University School of Transnational Law, and explores why the territoriality of trademark law is “problematic and leads to many conflicts in the era of globalised trade and e-commerce” – and claims that the recognised system of geographical indications (within the provisions of the TRIPs agreement) is the “legal result of a political compromise between Old and New World countries” and that a new system should be considered for GIs.

A key issue with the protection of IGOs, Friedmann argues in the study, is that it has become a mishmash of different agreements and has been further modified (or curtailed) due to different free trade agreements being signed with two key parties: the European Union (which requests strong protection of registered GIs in trade deals) and the United States (which has a well-known scepticism for GI protection). One example, he adds, is the government of China signing a bilateral GI agreement with the EU in 2019 and a trade agreement with the US in 2020, which could lead to “an interesting cross-pollination” of these rights.

Due to the various concerns outlined in the study, Friedmann tells *WTR* that a new process for IGOs should be considered. “Indications of geographical origin are in the best position to develop into a universal system, due to a particularity of the TRIPs agreement,” he explains. “Namely, Article 23.4 of TRIPs provides a mandate for a multilateral system of notification and registration for wines and spirits. However, due to the entrenched positions of the EU on the one hand and the US on the other, this has led to a 25 year long stalemate. By applying the [Hegelian approach](#) of thesis, antithesis, synthesis, a breakthrough and a better system is possible.”

Therefore, he proposes a ‘universal wines and spirits IGO register’ (formed of certification or collective trademarks “with a high external and internal enforcement standard”) as a “first step” to a broader universal system. It would mean such IGOs would be protected against “confusion, deception, imitation, usurpation, evocation and free-riding” but would be cancelled if they become generic. The World IP Organisation (WIPO) “is well positioned” to administer such a register, he adds, because of its current experience with similar registers (eg, Lisbon System, Madrid System, Hague System), and would be financially sustainable “if IGO proprietors had to pay renewal and maintenance fees”.

Friedmann’s hope, then, is that this small first step could bridge the current divide between the EU and the US. “A universal wines and spirits register that conforms to Article 23.4 of TRIPs would be the best test for countries to learn to cooperate together in a truly universalist way,” he tells *WTR*. “This would support harmonisation in the longer run.” He further suggests that two organisations that are focused on geographical indications but from very different viewpoints – OrIGin (which broadly supports stronger GI protection) and the CCFN (which opposes the protection of perceived generic food terms) – could “start a conversation” about the proposed universal register (the two organisations debated their GI position in [a previous *WTR* article](#)).

It is unclear whether the creation of a wine and spirits IGO register is feasible at the moment, especially with the current economic relationship between the EU and US being particularly fraught. However, Friedmann says that it should be just the first step of a wider transformation of brand rights. “I am dedicated to the sublimation of trademark law towards a universal trademark system,” he tells us. “This high ideal is far away, of course: trademark law is path dependent and the principles of territoriality and specificity still reign supreme, despite the new demands of e-commerce and globalisation for a universal system with unique marks. For that reason, I picked the lowest hanging fruit where a universal system could be established.”

It is a bold proposal that would require a major shift in how IGOs are protected. Time will tell whether Friedmann’s vision will be realised.

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