Do you know the difference between Roquefort and blue cheese? Roquefort is produced in a particular geographical area conveying the cheese unique characteristics and reputation.

Such quality and/or reputational link is protected as a geographical indication (GIs) and allows Roquefort producers to compete in the market against numerous similar and undifferentiated products trading primarily on price. The European IPR Helpdesk decided to dedicate this Bulletin issue to geographical indications, as an important tool for producers to differentiate themselves and to communicate such differences to consumers in global, national and regional markets.

Our first article will introduce you to this intellectual property right including information on how to protect GIs at national, international and European Union level.

Continuing through the pages, you will discover the relationship between GIs and trade marks in European Union. In his article Mr Giancarlo Moretti provides useful information on how to avoid any possible conflict between the two intellectual property rights.

A contribution from the Organization for an International Geographical Indications Network (oriGIn) underlines the current challenges in GIs protection: Internet sales and enforcement.

Following a well-established tradition, you will find our Bulletin interview section. This time, an interview with Mr Simone Calzi, Head of Legal Department at Consorzio del Prosciutto di Parma (Parma Ham Consortium) illustrates the experience of the famous consortium in protecting the geographical indication “Parma Ham”.

This issue also provides information and statistics on infringement of geographical indications in the European Union. Based on a report published by the European Union Intellectual Property Office (EUIPO), this article reveals that the value of GI infringing products in the EU was approximately 4.3 billion euros in 2014.

Following this, a contribution from the Consumers, Health, Agriculture and Food Executive Agency (CHAFEA) will inform you about the recently reformed EU policy for promotion of agricultural products aiming to increase the awareness and recognition of EU quality schemes.

Discover how to search for a GI by reading our article illustrating the different online GI databases available and test your patent and GIs searching skills by solving our quizzes.

Wishing you inspiring reading!
Your Editorial Team
Protecting Geographical Indications

What do Champagne, Roquefort, Chianti, Porto, and Parma Ham have in common?

They are all examples of names commonly associated with products enjoying qualities and reputation strictly linked to their geographical origin. Consumers are paying more and more attention to the geographical origin of products and many of them care about specific characteristics present in the products they buy. In some cases, the place of origin suggests to consumers that the product will have a particular quality or characteristic that they may value. Such a special "link" between the quality and/or reputation of a product and its geographical origin is protectable as a geographical indication.

What is a geographical indication?

A geographical indication (GI) is a sign used on products having a specific geographical origin and whose qualities and/or reputation are attributable to that origin.

In order to function as a GI:
1. the sign must identify a product as originating in a given place (e.g. Chianti identifying a wine originating in the Italian region Chianti);
2. the qualities, characteristics or reputation of the product should be due to the place of origin (the qualities of Chianti are due to the grapes grown in the soil of that specific Italian region).

How are geographical indications protected?

Protection for a GI is obtained by acquiring a right over the name that constitutes the indication (e.g. Chianti).

This right can be a specific right designed for GIs (a sui generis protection of GIs) which, depending on the different jurisdiction, may be called a protected GI, a denomination of origin or an appellation of origin.

In many countries, a right to the indication can also be acquired, in application of the relevant trade mark law, through the registration of a collective trade mark and/or a certification mark.

While collective trade marks and certification marks are generally protected for renewable ten-year periods, protected GIs are not subject to a specific period of validity. This means that the protection will remain valid unless the GI registration is cancelled.

GI sui generis protection systems

Like all other intellectual property rights, GIs are governed by the "territoriality principle".

Thus, where a sui generis right over a GI is obtained in one jurisdiction, it is protected there but not abroad.

In order to protect a GI abroad, depending on the different national, regional and international legislation, there may be a requirement to protect the GI in the country of origin first.

GIs do not confer individual rights (such as in the case of patents and trade marks) but rather "collective rights". Indeed, once protected, the exclusive right to use the geographical indication belongs to all producers in a given geographical area, who comply with the specific conditions of production for the product.

1 A collective trade mark is registrable at European Union level as a European Union collective trade mark or at international level under the Madrid System. Further information on European Union collective trade marks is available on the EUIPO website. Further explanations on collective trade marks are available on the WIPO website.

2 Although certification marks already exist in some national intellectual property systems, from October 1, 2017 it will be possible to register a European Union (EU) certification mark granting protection in the whole territory of the European Union. Further information can be found on the EUIPO website. Further explanations on collective trade marks are also available on the WIPO website.
country can be found through the WIPO lex database.

At European Union level...

A *sui generis* protection system exists in the European Union with regard to GIs for wines and spirits, agricultural products and foodstuffs. In particular, two types of GIs, indicating different levels of connection with a geographical area, confer exclusive rights on geographical names in the whole territory of the European Union: protected designations of origin (PDO) and protected geographical indications (PGI).

**Protected designations of origin (PDO)** identify products that are produced, processed and prepared in a specific geographical area, using the recognised know-how of local producers and ingredients from the region concerned. These are products whose characteristics are strictly linked to their geographical origin and they must adhere to a precise set of specifications and may bear the PDO logo.

Therefore, products bearing PDO logo have proven characteristics resulting solely from the terrain and abilities of producers in the region of production with which they are associated. PDO products thus require all stages of the food production process to be carried out in the area concerned. There must be an objective and close link between the product’s features and its geographical origin.

Examples are “Huile d’olive de Nyons”, “Queijo Serra da Estrela” or “Shetland lamb”. In other words, only olive oil from a recognised area in the vicinity of Nyons in France, cheese from the designated area of Serra da Estrela in Portugal, and lamb born, raised and slaughtered in the Shetland Islands in the United Kingdom, all meeting exact requirements, can qualify to use these names and the logo.

**Protected geographical indications (PGI)** identify products whose quality or reputation is linked to the place or region where it is produced, processed or prepared, although the ingredients used need not necessarily come from that geographical area. All PGI products must also adhere to a precise set of specifications and may bear the PGI logo.

Therefore, products bearing the PGI logo have a specific characteristic or reputation associating them with a given place, and at least one stage in the production process must be carried out in that area, while the raw materials used in production may come from another region.

Examples are “Clare Island Salmon”, “Arancia Rossa di Sicilia” or “Dortmunder Bier”. The only foodstuffs which can bear these names and the PGI logo are salmon from Clare Island in Ireland, blood oranges from Sicily and beer from the Dortmund area of Germany, all meeting particular quality specifications.

To apply for a PDO or PGI:

1. A group of producers must define the product according to precise specifications.
2. An application must be filed. For this purpose,
   - if you are a producer in the EU, you should send your application to your national authority: List of EU national authorities.
   - if you are a producer outside the EU, and if the name of the product is protected in your country, you can send the application directly to the European Commission or via your national authority by e-mail.

Further information is available in the Guide for applicants published by the European Commission.

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4 Geographical indications are often place names. However, non-geographical names can also be protected if they are linked to a particular place. For example Feta cheese is not named after a place but is so closely connected to Greece as to be identified as an inherently Greek product.

5 In this respect, PGI wine products represent an exception. EU legislation, indeed, requires that at least 85% of the grapes used for their production come exclusively from the relevant geographical area and the other 15% from the same EU Member State (100% of the grapes is required for PDOs).
At international level...

The Lisbon Agreement provides for an international protection system (i.e. the Lisbon System) of appellations of origin, i.e. “geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors”.

The Lisbon System, administered by the World Intellectual Property Organization (WIPO), offers a means of obtaining protection for an AO already protected in one contracting party in the territories of all other members. This can be done through a single registration called “an international registration”.

How does it work? Once protected in the country of origin, the holders of the right to use the appellation of origin may request their Government to file an application for international registration under the Lisbon Agreement. Once the international registration takes place, WIPO then notifies the competent authorities of the other Contracting Parties to the Lisbon Agreement of any new international registration of an AO.

The total number of contracting parties of the Lisbon Agreement is 28. Among the EU Member States, only Bulgaria, Czech Republic, France, Greece, Hungary, Italy, Portugal, Romania, Slovakia and Spain signed the agreement, becoming part of the so-called Lisbon Union. The full list of members of the Lisbon Union is available on the WIPO website.

Why protect GIs?

Geographical indications are valuable intangible assets and, due to their attractiveness for the consumers, they can lead to:

- Competitive advantage
- More added value to a product
- Increased export opportunities
- A strengthened brand

If not protected, they could be used without restriction and their value diminished and eventually lost.

Protecting a geographical indication (GI) enables those who have the right to use the indication to take measures against others who use it without permission and benefit from its reputation (“free-riders”).

An example is Trojanska Keramica protected for particular ceramic objects manufactured in the area close to the city of Trojan in Bulgaria.

The Lisbon System allows the protection as an AO of non-agricultural products.

For example, in the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude use of the term “Darjeeling” for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication.

Protecting a GI is also a way to prevent registration of the indication as a trademark by a third party and to limit the risk of the indication becoming a generic term.

GI Enforcement

When a GI product is counterfeited in the EU, there are a wide range of actions that can be taken. In general, civil and/or penal actions can be taken. However, procedure and sanctions vary from one Member State to the other.

Furthermore, one effective tool against counterfeiting offered by European legislation is represented by the EU customs actions, enabling right holders to request customs authorities to prevent the entry into European Union Member States of goods infringing their intellectual property rights (including GIs). In particular, customs authorities can seize products that seem to violate GI rules and can keep them in custody and destroy them, provided that the owner or the declarant of the seized goods does not oppose the destruction within ten working days from the notification of the seizure (3 days for perishable goods).

Are you interested in GIs protection outside Europe? Have a look at the following resources made available by the other IPR Helpdesks:

China IPR SME Helpdesk: Guide to Geographic Indications in China

Latin America IPR SME Helpdesk: Geographical Indications and Appellations of Origin in Chile

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6 Further information on the Lisbon System is available at WIPO website.
7 When a GI has become the common name of an agricultural product or a foodstuff/wine/spirits, its registration will be refused. On the contrary, once the GI is registered, it cannot become generic. For further information on generic geographical indications and on conflicts between trade marks and GIs, read “The relationship between Trade Marks and Geographical Indications in European Union” on page 5 of this Bulletin.
9 For further information read “EU IP customs action: a cost-effective weapon against counterfeiting” on page 5 of our Bulletin No 17.
The Relation between Trade Marks and Geographical Indications in the European Union

Giancarlo Moretti
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The number of consumers searching for agricultural products and foodstuffs incorporating particular qualities and authenticity has risen tremendously over the last few decades. Often, these products are protected by way of a specific system, which protects them as geographical indications (GIs). Specifically, it aims to protect geographical names that indicate that a product bears qualities, other characteristics or reputation due to its geographical origin. Hence, this legislation – currently covering agricultural products, foodstuffs, wines and spirits – regulates the use of geographical names within the market place.

Conversely, geographical names are prima facie not registrable as trade marks. Indeed, trade marks aim to identify a product or a service as emanating from a given enterprise. However, geographical names are registrable insofar as they have acquired distinctiveness through their use and they identify a particular product or service. In any case, they shall not indicate any geographical origin. Furthermore, they must not be able to be used in future as possible indication of origin by other undertakings.

In such a context, therefore, GIs and trade marks are two systems aiming to regulate the use of names and signs in the marketplace. Both of them signal the origin of a product, but in different ways. While a trade mark signals the commercial origin of a product or a service, GIs indicate the qualified geographical origin of a product. Due to their functions, conflicts between trade marks and GIs may arise. The legal rules concerning their relationship are set forth by a regulation concerning the protection of agricultural products and foodstuffs as well as in other sectorial instruments dealing with wines and spirits protection and by EU trade mark legislation.

Prior GI vs later trade mark

In the specific case of a prior GI and a later trade mark, the conflict is resolved by applying the classic principle of priority. If a prior GI is registered (or registration has been applied for), it prevails over a later trade mark. It entails that if an applicant requires the registration of such a name as a trade mark or as a part of a trade mark, already entered into registration as a GI, the application would be rejected. Once a GI is registered, it enjoys an absolute protection. Indeed, in accordance with the Quality Scheme Regulation, any unlawful use of the name is forbidden, even in absence of a proof of confusion.

Finally, statutory provisions concerning the relationship between GIs and trade marks are also laid down by the new Trade Mark Directive and the EU Trade Mark Regulation.

Indeed, they stipulate as absolute and relative grounds of refusal the presence of registered GIs not only protected at a EU level, but also covered at a national level given that “designation of origin or geographical indication confers the right to prohibit the use of a subsequent trade mark”.

Prior trade mark v later GI

This second case could raise more concerns, since the current EU legislation mandates the co-existence between an earlier trade mark and a GI, in accordance with this provision, once a GI is registered, the senior trade mark has to co-exist with it, unless it is proved that once a geographical indication is registered, it enjoys an absolute protection.

Indeed, in accordance with Article 13 of the EU Regulation No. 1151/2012, GIs are protected against (a) any direct or indirect use of names in respect of products not covered by the registration, and comparable to those registered and when the reputation of the protected names is exploited; (b) any misuse, imitation or evocation even if the actual origin is indicated, and, in any case, the use of the name is forbidden in association with expressions such as “style”, “type”, “method”, “as produced in”, “imitation” or similar; (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product in relation to its packaging and appearance; and (d) any other practice capable of misleading consumers.

1 Currently, a name can be protected as a protected designation of origin (PDO) in the case of a stronger geographical linkage with the territory, or as a protected geographical indication (PGI). In this latter case, the link is weaker as reputation suffices to gain protection. This dichotomy reflects the different legal traditions in France – stronger link based on milieu géographique – and in Germany and the United Kingdom – where protection has been traditionally accorded via unfair competition and passing off.
2 For more information on the current coverage, see http://ec.europa.eu/agriculture/quality/.
6 Article 8(4a) of EU Trade Mark Regulation and Article 5(3)(C).
7 See Article 14 of Quality Scheme Regulation.
it has been registered in bad faith. Specifically, the Court of Justice of the European Union (CJEU) ruled that the trade mark Bavaria may co-exist with the protected geographical indications (PGI) Bayerisches Bier8.

Nonetheless, the principle of priority finds application again in the case of a mark with reputation. In this latter case, a trade mark will prevail if, given the trade mark’s reputation among the public and the length of time for which it has been used, registration of the name proposed as protected designation of origin (PDO) or protected geographical indication (PGI) would be liable to mislead the consumer as to the true identity of the product.

**Generic names**

Similarly to trade marks, a generic name cannot be registered as a GI. Nonetheless, differently from trade marks, once a name is registered as a GI, it is prevented from becoming generic. However, the assessment of generic status is narrower than that of trade mark. In order to assess genericness, the following shall be taken into account: the areas of consumption and production, the situation in member states, and the EU legislative framework9. Moreover, alongside these requirements, other relevant factors to be considered are the persistence of geographic connotation and the conditions under which is marketed. The practical implication of this approach is that, in order to be registered as a GI, a name is sufficient to retain at least a minimum of power of evocation of its place of production. Pursuant to these requirements, names widely used and deemed as quasi-generic in the most part of the EU such as Feta, Parmesan and Grana have been held not to be generic and they are currently registered as GIs.

**Practical implications**

The use of geographical names, once registered as GIs, becomes quite burdensome. Indeed, due to the lack of any defence provision - containing for instance, descriptive uses - there is wiggle room for its use even as a part of a trade mark or in association with some products.

Therefore, before applying for a trade mark or using a geographical name, it should be checked if a name is protected as a GI. In order to carry out this check, the EU has set up two databases, DOOR10 and E-Bacchus11, respectively dealing with agricultural products and foodstuffs, and with wines. Nonetheless, some issues may arise in relation to GIs not regulated at an EU level, such as in the case of non-agricultural products. In this latter case, an applicant should perform a check in all the 28 EU jurisdictions. These operations could potentially involve an increase of time and costs relating to the registration process.

Another relevant issue to be considered when using a geographical name – even if in accordance with another trade mark – deals with the wide scope of protection accorded by EU legislation. In fact, a mere evocation without the necessity of proving confusion is sufficient in order to trigger an infringement. Moreover, due to the current standards relating to examination of genericness, it should be borne in mind that a name that might be perceived as generic in one country could be registered and even the mere use in translation would be unlawful under the current framework12.

In conclusion, for putting into market products bearing geographical names, it is essential for a trader to be aware of the complex relation between trade marks and GIs and of its regulation. The principle of co-existence and the assessment of generic status need to be known in order to avoid any possible disputes concerning registration refusal, invalidity and infringement proceedings. Furthermore, their understanding is fundamental in order to promote efficient and effective branding strategies to avoid possible risks connected to re-labelling of products bearing GIs.

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9 Article 41 of Quality Scheme Regulation.
10 See [http://ec.europa.eu/agriculture/quality/door/list.html](http://ec.europa.eu/agriculture/quality/door/list.html).
Geographical Indications: an amazing journey yet to be completed

Massimo Vittori
Organization for an International Geographical Indications Network (oriGIn)

Geographical indications (GIs) are often associated with amazing journeys. While today you can easily buy unique products identified by GIs in a shop close to you or even online, traveling to the places where they are made to discover the places, the people and the culture making those products unique remains a magical charm.

From China, to enjoy a cup of Longjing tea, to Scotland for a glass of Scotch whisky. From the provinces of Parma, Reggio Emilia, Modena, Bologna and Mantova in Italy to taste the unique Parmigiano Reggiano, to Nariño in the western part of Colombia to discover the local coffee, passing by Napa in California for a glass of Napa Valley wine and, why not, by Cameroun, for a spoon of miel d’Oku in the forest of Kilum-Ijim.

What has been already accomplished

Likewise, if one looks at GIs from a historical perspective, another incredible journey has been made. Focusing on the last 20 years, here are some examples: The increasing interest showed by consumers worldwide for quality products deeply rooted in specific geographical locations; The recognition of GIs as a category of intellectual property rights within the World Trade Organization (WTO) and the adoption of a large number of national legislation specifically conceived for GIs (so-called sui generis systems). The recognition of an increasing number of GIs at the national level: GIs have become a truly global concept, with an estimated number of 9,000 GIs currently recognized around the world (just to mention some example outside the European Union: some 2,000 in China, 400 in South American countries and some 300 in the US considering the American Viticultural Areas and the geographical certification trademarks). Likewise, the solid GIs protection achieved through bilateral agreements covering more and more products from all sectors.

Last, but not least, the adoption of the Geneva Act of the Lisbon Agreement within the World Intellectual Property Organization (WIPO) in 2015 might pave the way to the establishment of a truly international registry for the recognition and protection of GIs.

Remaining challenges

As a matter of fact, tremendous progress has been accomplished. But the journey is far from being completed. Important challenges will have to be faced by GIs in the years to come.

a) Bilateralism v. multilateralism

First of all, the problem of compatibility of international rules. The proliferation of bilateral and plurilateral agreements covering GIs might generate conflicts of norms and problems needing reconciliation at the multilateral level. This might create legal uncertainty detrimental to business and consumers.

To some extent, there is the challenge of ensuring that trademark offices around the world correctly and consistently apply the relevant laws concerning the management of trademark applications conflicting with previously recognised GIs.

b) Enforcement

Enforcement is another serious issue for GIs, with growing misappropriations having a major impact in terms of reputation and legal costs for GI groups around the world.

According to a recent study by the European Union Intellectual Property Office (EUIPO), the infringement of European PDO/PGI and GIs totaled approximately 4.3 billion euros in 2014, corresponding to 9% of the total products’ market. Mechanisms of
Unity is strength

To respond in a pragmatic and coherent way to these and other challenges and continue the incredible journey represented by GIs, a strong coordination and cooperation among the sector’s major stakeholders will be required. GI groups from different countries and sectors, associations, foundations, academia and public authorities must work together with renewed coordination and enthusiasm to pursue such goals.

c) The Internet

Within the framework of enforcement, the Internet poses numerous challenges as well. On the one hand, e-commerce represents a tremendous opportunity for GIs. Meanwhile, growing risks arise in terms of counterfeiting and infringements. In this respect, the Italian Ministry of Agriculture has pioneered an interesting agreement with eBay. In the framework of the Verified Rights Owner (VeRO) programme, when an unauthorised use of Italian geographical indication is detected on the e-Bay platform, the Ministry – by its own initiative and/or at the request of an Italian GI groups – sends eBay an infringement notice and the products at issue are successfully removed from the platform. Such an agreement represents an interesting model for other relevant actors.

In another area related to the Internet – the generic top-level domains attributed by the Internet Corporation for Assigned Names and Numbers (ICANN) – the road to follow is less clear. The recent process of attribution of new generic top-level domains, managed by ICANN – a not-for-profit private corporation operating outside the supervision of international organisations – has dramatically increased the challenges in terms of counterfeiting and misappropriation for GIs (e.g.: new delegated strings such as “food”, “pizza”, “wine” and “coffee” just to name a few). The major challenge here is to promote – in the context of the Internet governance debate – a thorough discussion on ICANN governance as well as on the most effective ways to ensure the effective protection of GIs at the global level. In particular, both new generic top-level domains – including the system of traditional ones such as “.com”, “.int”, “.org”, etc. – should fully take into account GIs as prior rights deserving protection in case of uses infringing GIs rights as second level domains.

d) Non-agricultural GIs

Finally, at the European level several challenges still have to be faced. One in particular is represented by the harmonisation of rules concerning non-agricultural GIs, unique handicrafts such as “vetro di Murano” and “Harris Tweed”.

On 6 October 2015, the European Parliament adopted a resolution on the possible extension of GI protection to non-agricultural products. The time seems to be ripe for the establishment of a community system for the recognition and protection of GIs for non-agricultural products. Nevertheless, it will be a challenge to ensure a simple and transparent system which recognizes the link with the territory of production as an essential element, and does not create confusion with the existing European GIs systems.

Administrative protection (so-called ex officio) are therefore crucial for GIs, especially for the majority of small producers. The expression “ex officio protection” commonly refers to an active role played by the public authorities of a given country to ensure the respect of the rights deriving from GIs.

Such authorities must offer adequate guarantees of objectivity and impartiality and shall have qualified staff and resources necessary to carry out such functions at their disposal.

As a way of example, Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, in its article 36, provides that each EU Member States had to designate its competent authority/ies in charge of monitoring the use of PDO/PGI on the market, in conformity with the protection conferred to them by Article 13 of the same Regulation.
What is the value of GIs for businesses?

Geographical indications are invaluable tools and have priceless value for the exploitation of the product itself and the quality that stands behind the product. Prosciutto di Parma production and commercialisation, being a PDO product, have to strictly respect a rigid range of laws and regulations (national and European) that require attention, discipline, passion and true commitment of the companies, that are subject to many controls.

In the light of the above, GIs need and deserve to be safeguarded by specific laws and regulations that allow the Consorzio – and the local authorities in the EU can directly act against GI misuses. With specific reference to the modus operandi of the Consorzio del Prosciutto di Parma, we structure our protection approach through several inspections, conducted over all European markets, thus evaluating any violation detected in order to decide the proper action to be taken. In this regard, the Consorzio’s main goal is to “educate” both purchasers and consumers to recognise the real Prosciutto di Parma in order to allow the latter to make their choices with awareness.

What could be an effective strategy to protect GIs in Europe?

This is a very delicate topic. As I explained, geographical indications do not represent only a product or a company; they embody – and therefore protect – the private interests linked to the PDO production, but also the value of the tradition, the territory, the history and the quality. Prévost du Parma production and commercialisation, being a PDO product, have to strictly respect a rigid range of laws and regulations (national and European) that require attention, discipline, passion and true commitment of the companies, that are subject to many controls.

In the light of the above, GIs need and deserve to be safeguarded by specific laws and regulations that allow the Consorzio – and the local authorities – to perform inspections and take all the necessary actions in the case of violations.

Nowadays, thanks also to EU Regulation n. 1151/12, we can count on the effective help of the so-called ex officio procedure, whereby the local authorities in the EU can directly act against GI misuses. With specific reference to the modus operandi of the Consorzio del Prosciutto di Parma, we structure our protection approach through several inspections, conducted over all European markets, thus evaluating any violation detected in order to decide the proper action to be taken. In this regard, the Consorzio’s main goal is to “educate” both purchasers and consumers to recognise the real Prosciutto di Parma in order to allow the latter to make their choices with awareness.

We also work together with other GI consortia: AICG (Associazione Italiana Consorzi Indicazioni Geografiche, Italian Association of Geographic Indication Consortia), that is also committed to the promotion and protection of Geographical Indications, and of course with the institutions, such as the Italian Ministry of Agriculture (Ministero delle politiche agricole alimentare e forestali), Carabinieri del Nucleo Anti Softstazione (NAS, the Food Law Enforcement Department of the Italian Carabinieri) and Nucleo Anticontraffazioni (NAC, the anti-counterfeiting squad of the Italian Carabinieri).

What is nowadays the biggest challenge in fighting infringement of GIs? Can you explain the strategy of the Consorzio?

From our experience, the biggest challenge that GIs are currently facing is to be effectively protected in the third countries where GIs are not recognised and where the misuse and evocation of the PDO designation is, unfortunately, more recurrent than in EU countries. In these cases, the lack of legal (and institutional) recognition of PDO products necessary implies a different approach, mainly grounded on different IP rights – such as trademarks – that are not sewed up on GI and that, therefore, is less effective than if there was a proper legislation dedicated to GI protection. Consequently, in those countries a concrete and appropriate monitoring activity entails a strong local surveillance, but, unfortunately, the Consorzio(s) often do not have enough human and economic resources to face these needs. A similar series of difficulties arises also on the internet, where it is hard to guarantee a suitable level of surveillance, considering the speed that characterises the web.

However, the Consorzio – with its legal offices worldwide – is working to strengthen the level of Parma Ham PDO protection through specific legal activities and promotional campaigns aimed to “educate” both purchasers and consumers to recognise the real Prosciutto di Parma.
Infringement of Protected Geographical Indications for wine, spirits, agricultural products and foodstuffs in the European Union

European Union Intellectual Property Office (EUIPO)

A report on Infringement of Protected Geographical Indications for wine, spirits, agricultural products and foodstuffs in the European Union was published by the European Union Intellectual Property Office (EUIPO) in April 2016.

In the European Union (EU), Geographical Indications (GIs) for wine, spirits, agricultural products and foodstuffs are protected as sui generis intellectual property rights that act as certification that certain products possess particular qualities, characteristics or reputation essentially attributable to their geographical origin and method of production.

A list of nearly 3,400 EU-registered GI names can be accessed via four databases maintained by the European Commission: DOOR for foodstuffs, E-BACCHUS for wines, E-SPRITS-DRINKS for spirits, and the file of Aromatised Wines. In addition, information regarding GIs protected under international agreements can be found in a dedicated section of the European Commission website.

GIs act as a signalling device and play an important role in the market as they convey information to consumers. False or misleading use of a protected GI and the marketing of GI products that do not actually originate in the place indicated by the GI in question however can have significant negative effects for consumers.

The main objective of the EUIPO study was to assess the size and value of the EU GI product market and the proportion of products in that market that infringe GIs protected in the EU. The impact of these infringements on EU consumers was also estimated.

To achieve these objectives, estimates of GI product consumption in the Member States were first produced, through the identification of domestic sales and imports. Next, the size and the extent of infringement of GIs in each Member State were estimated, through the use of Member State consumption shares and infringement sampling data and lastly, examination of the impact on consumers, through the calculation of premiums paid for GI products over and above that of equivalent non-GI products, was assessed.

Consumption of GI products per capita varies significantly across the EU. For instance consumption per capita in France and the Netherlands, countries with similar purchasing power, stood at 234 euros and 34 euros respectively in 2010, whilst in Portugal the level stood at 137 euros, more than half of which is imported.

Nearly 32% of EU GI products are sold in France and more than 20% of EU GI products are exported to non-EU countries.

Consumption activity depends on GI “culture” and attachment to regional products in different countries and, for producer countries, consumption tends to be concentrated on their own products. Little evidence of infringing sales in countries with low GI product consumption was found.

The value of GI infringing products in the EU was approximately 4.3 billion euros in 2010, which is approximately 9.0% of the EU GI product market. Consumer loss, defined as the price premium unjustly paid by consumers in the belief that they are buying a genuine GI product, is estimated at up to 2.3 billion euros, representing approximately 4.8% of total GI product purchases. Infringement rates vary considerably by GI product:

- 12.7% Spirits
- 11.5% Fruits, vegetables and cereals
- 11.0% Fresh meat and meat products
- 10.6% Cheeses
- 08.6% Wines
- 00.1% Beers

These estimates are constructed using data from 17 Member States, representing approximately 82% of the EU GI product market. Approximately 100,000 products were checked for GI compliance in shops, markets, vending machines, bars, restaurants, food sold on trains, ships and other transportation, and products sold on the Internet.

The EUIPO’s study is the first attempt to assess the dimension of GI infringements in the EU as a whole. It clearly indicates that the issue has a relevant dimension in terms of negative impact, corresponding to 9% of the total GI product market and valued at 4.3 billion euros.

EU consumers lose 2.3 billion euros annually by paying a premium price for what they believe to be a genuine GI product while in fact they are victims of deception.

Given the very low number of GI-infringing products recorded by EU customs, it may be assumed that most of the infringements of GIs identified in this study originate primarily within the EU. There is, however, no concrete evidence or reliable data allowing to identify precisely the origin of these infringing products. Compiling and analysing such data would shed further light on this issue.

In the future, the study could be extended to include the international aspect of EU GIs infringements in third countries. As the protection of GIs is expanded through, inter alia, bilateral trade agreements, it should become possible to expand the scope of this research by studying infringements at a more global level.

The full study is available on the EUIPO website.
The European IPR Helpdesk
N°22, July - September 2016

EU funding for campaigns featuring European Union quality schemes

The Consumers, Health, Agriculture and Food Executive Agency (Chafea)

The EU protects Europe’s food heritage by highlighting its diversity and emphasising the qualities associated with the origin of its products or its production processes. To this end, the EU has created quality schemes to reward producers for their efforts to produce a diverse range of quality products.

However, a lack of awareness of the qualities of these specific products has been recognised as one of the challenges of the EU agricultural sector. Recently reformed EU policy for promotion of agricultural products implemented in the internal market and in non-EU countries aims to increase the awareness and recognition of EU quality schemes. Based on a strategy established at European level under the slogan “Enjoy, it’s from Europe”, the policy aims to help the sector’s professionals break into international markets and make consumers more aware of the efforts made by European producers to provide quality products.

According to the special Eurobarometer (No 440) published in October 2015 and focusing on “Europeans, Agriculture and the Common Agricultural Policy”, 20% of European consumers now recognise the PDO logo. This fact is particularly interesting given that over one-third of EU citizens (37%) are aware of the non-EU Fairtrade logo and less than a quarter (23%) are aware of the EU’s Organic farming logo.

In order to address this challenge, the Union is co-financing campaigns providing information on and promoting EU quality schemes. The expected end result is to enhance the competitiveness and consumption of products registered under an EU quality scheme, raise their profile and increase their market share.

In the period from 2001 to 2014, 16% of the budget available under the promotion policy was dedicated to information on and promotion of EU quality schemes (including PDO/PGI/TSG as well as organic farming). The 2016 call for proposals for simple programmes ring-fenced 10 million euros for multiannual information campaigns on EU quality schemes taking place in the internal market. At the same time, potential applicants wishing to promote products carrying EU quality logos outside the EU, were able to compete for funding within other topics of the call for proposals.

Example of co-financed campaign: “Vinho Madeira – 500 anos de historia e sabor”

This 3-year campaign was implemented in the markets of USA and Japan in the period 2011-2013 with a total EU contribution of 380,000 euros. Its main objective was to promote the EU wines with designation of origin and featured Madeira wines as the products depicting those schemes. The actions ranged from points of sale and social media activities to wine seminars and visits to Portuguese wineries for professional buyers and journalists.

The overall impact exceeded the expectations: between 2010 and 2013, exports of Madeira wine to USA increased by 27% in volume and 52% in value. Similarly, exports to Japan increased by 26% in volume and 31% in value in the same reference period. This reflects the fact that the producers succeeded in repositioning their product and in increasing its average sales price.

The Consumers, Health, Agriculture and Food Executive Agency (Chafea) is responsible for publication of calls for proposals, evaluation of proposals and management of multi-country projects.

It also organises business delegation visits to third countries in which individual producers can take part.

For more information on the funding opportunities within the EU policy for information provision and promotion measures concerning agricultural products, visit ec.europa.eu/chafea and ec.europa.eu/agriculture/promotion.
Geographical names are commonly used in business to describe and promote the features of products or services offered in the marketplace. Indeed, many products display a reference to a geographical origin in their trade mark or packaging.

Since such use can conflict with a registered geographical indication and in order to avoid any conflict, several online databases are available to find out if a geographical indication is protected in a certain territory.

At national level...

Some national Intellectual Property Offices (IPOs) provide databases including a list of geographical indications that are protected within the national territory.

Therefore, if you want to perform a search at national level, you can contact the relevant IPO, which (or may not) offer a searchable database of registered GIs. A directory of IP offices is available on the WIPO website.

At European Union level...

A list of nearly 3,400 EU registered GIs can be accessed via four databases maintained by the European Commission:

- **DOOR** for foodstuffs,
- **E-BACCHUS** for wines,
- **E-SPRIT-DRINKS** for spirits
- the file of Aromatised Wines.

**DOOR ("Database Of Origin and Registration")** includes product names for agricultural products and foodstuffs registered as:

- Protected Designation of Origin (PDO),
- Protected Geographical Indication (PGI) and
- Traditional Speciality Guaranteed (TSG).

The database is available in 22 languages.

To perform a search:

1. fill in one or more available search field(s) (country of origin, name, class of products, etc.);
2. click "Search";
3. once you have obtained the list of results, click the icon to access detailed information on the specific GI.

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1. For further information concerning the relationship between a trade mark and a GI, please see “The Relation between Trade Marks and Geographical Indications in the European Union” on page 5.
2. Aromatised wines are products obtained from products of the wine sector that have been flavoured. For further information concerning their protection as a GI in the European Union, see Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products.

3. The Traditional Speciality Guaranteed (TSG) is not a geographical indication as such, but focuses the spotlight on tradition. It identifies products of a traditional character, either in the composition or means of production, without a specific link to a particular geographical area.

4. When selecting the class of products, please consider that two different lists of classes are available: one for PDOs and PGIs, and one for TSGs.
The database provides information on all the appellations of origin entered, in accordance with the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, in the international register kept by the WIPO.

The database is available in English, French and Spanish.

Searches can be easily performed by filling in one or more search field(s) and by clicking “Search”.

At international level...

You can consult WIPO’s LISBON EXPRESS to search GIs protected under the Lisbon System.

E-BACCHUS is the database of geographical indications protected in the European Union for wines originating in Member States and third countries.

The database is available in 24 languages.

To perform a search:

1. Access the database by clicking “European Union” or “Third Countries”, depending on the origin of the wine;
2. fill in one or more available search field(s);
3. click “Search”.

E-SPRIT-DRINKS is the database of geographical indications protected in the European Union for spirits originating in Member States and third countries.

To perform a search:

- Access the database by clicking “Geographical indication” at the top of the homepage;
- fill in one or more available search field(s);
- click “Search”.

The list of the Aromatised wines protected as a geographical indication in the European Union is available at the following link.
Workshop on Patenting practices and procedures in the field of food technology in Belgrade (Republic of Serbia)

European Patent Office (EPO)

The agro-food industry plays a great economical role in Serbia. Recognising the need for improved knowledge of patent issues in that field, the Intellectual Property Office of Serbia (IPO) organised a workshop in collaboration with the European Patent Office (EPO) on 31 May and 1 June 2016, which was coordinated by Mr Vladimir Marić and Mrs Mirjana Jelić, acting Director and assistant Director at the IPO, and Mr Niels Stevnsborg, European Patent Academy, EPO.

During the first day of the workshop, patent examiners from the IPO met with colleagues from the EPO. Technical presentations by Ms Dominika Barać and Mr François Couzy, patent examiners from the EPO, on classification, search practice, and examination in the field of food technology, as well as on the EPO Case Law relevant to food technology, and on the practice in Serbia for patenting in the field of food technology, by Mrs Nada Pavlović, patent examiner at the IPO, offered a review of procedural and patentability issues that apply to food technology.

A round table discussion on representative cases, where EPO examiners were coaches, allowed the sharing of views and finding common ground on practical issues commonly encountered by examiners, and a discussion on best examination practice according to the European patent convention and Serbian patent law and the interest of the applicants.

During the second day the needs of industries and inventors from the Republic of Serbia was addressed by a public event including representatives of the Serbian industry, academia and patent attorneys. This meeting, which was moderated by Mrs Mirjana Pesić, Assistant Professor at the University of Belgrade Faculty of Agriculture, first allowed the audience to obtain technical information about patenting issues and procedures.

The procedures for obtaining a patent in the Republic of Serbia or at the European Patent Office were reviewed by Ms Jelena Tomić-Keser, head of the Chemistry department at the IPO, and Ms Dominika Barać. Further information on key patentability issues was presented by Mr François Couzy. The highlight of the day, in the second part, was without contest the very lively presentations made by several invited inventors and heads of food businesses, who stimulated the audience with their drive for innovation and business development, and their experiences in overcoming many roadblocks.

Thanks to its excellent preparation and coordination, the Serbian gastronomy, which bodes well for the future of that industry in Serbia, and last but not least the very warm hospitality at the IPO, the workshop should in fact be considered a “recipe for success” for the harmonisation of examiner’s work across patent offices in Europe, and for information sessions for inventors who need to secure their IP rights in an optimal and uniform manner across Europe.

All presentations of the event in ZIP file can be downloaded here.
The European IPR Helpdesk on tour: Take a look at a selection of our recent events

In the last three months the European IPR Helpdesk Team participated in a number of IP events all over Europe, and provided several IP workshops building capacities in IP management among SMEs and researchers.

Meet us at these upcoming conferences
- 26-27 September 2016, Bratislava / Slovakia
  ICT Proposers’ Day 2016

Upcoming IP training events
- 30 September 2016, Porto / Portugal
  International Open IP Training

Upcoming webinars
- 07 September 2016:
  Presentation of the services of the European IPR Helpdesk
- 14 September 2016:
  Introduction to IP
- 05 October 2016:
  IP in EU-funded Projects/Horizon 2020

Places the training team visited:
- Glasgow, UK
- Copenhagen, Denmark
- Dublin, Ireland
- Alicante, Spain
- Prague, Czech Republic
- Paris, France
- Cologne, Germany
- Salzburg, Austria
- Munich, Germany

For further information, please have a look at our online event calendar.
A Successful Start: New EU IPR Helpdesk Representation in Brussels

One step closer to the European pulse and a good reason to celebrate: Since June 2016, we have a new Helpdesk representation in the heart of Brussels. Our new communication office at Rue du Trône 98 will be used for individual meetings, workshops and information sessions as well as individual IP support by our Helpline team.

The inauguration was already a great success: For the official launch event on the 20th of June, we were pleased to welcome more than 70 stakeholders from the European Commission and renowned key institutions in the field of IP and innovation. The invitation list included representatives of EASME, INTA, EARTO and EUIPO as well as national and regional research institutes, trade agencies and Enterprise Europe Network members from all over Europe.

We felt especially honoured by the presence and active contributions of Jean Bergevin, Head of Unit Intellectual Property and Fight against Counterfeiting at DG Growth, and Marco Malacarne, Head of Department A at EASME of the European Commission.

In their opening remarks, the speakers outlined recent EU policies and trends in the field of IP enforcement within EU Internal Market strategies as well as aspects of entrepreneurship and SME development in the EU. They strongly emphasised the meaning of proper IP management in the EU innovation support activities.

The new premises will extend our portfolio of on-site and online training and support services and facilitate communication paths with EU institutions and stakeholders based in Brussels.

And you can finally meet our Helpline team in person: For the first time, the IP advisors of the Helpline will also be available on-site on fixed dates. They will provide free-of-charge first-line support and information on IP issues.

Following a successful trial session in the Brussels office on June 30, we will provide our new on-site service on a regular basis and announce the upcoming dates through our website www.iprhelpdesk.eu.

The next Helpline hours after the summer break are:

• 22 September 2016
• 20 October 2016

Please check our website and subscribe to our weekly newsletter for regular updates on networking and training events, upcoming Helpline hours and more information related to our Brussels office. We are looking forward to meeting you!

“Even though all of our materials and many of our support services are available online, we value the importance of on-site training and networking events. The new premises in Brussels will serve as a central meeting point for stakeholders, experts and EU institutions and strengthen our presence in the European IP and innovation community.”

Jörg Scherer, Head of Communications and Training European IPR Helpdesk
Fancy a little quiz?

As you know in every issue we include a quiz to help you develop your patent searching skills using Espacenet. Why don’t you try using Espacenet today?

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**Follow your shoes**

Stop staring at your mobile phone to find your way, just follow what your shoes say.

This revolutionary system makes your shoe vibrate to tell you which direction to turn. A buzzing right shoe means turn right, a buzzing left shoe tells you turn left.

Try finding patents covering similar concepts using [Espacenet](https://www.espacenet.com).

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**GIs QUIZ**

*Develop your GI search skills and answer the following questions by using the online databases available at European Union and International level.*

1. The marketing department of a food company operating in Ireland has come up with the following brand new trade mark to sell cheese:

   **Silter**

   *Check if using Silter for cheese in Ireland could give rise to a conflict with a protected GI in the European Union.*

2. How many wines originating from Luxembourg are protected as a PDO in the European Union?

3. An Italian company producing vodka wants to display on its vodka bottle the following label:

   **Italian Vodka**

   *Check if Italian Vodka is a spirit drink protected as a GI in the territory of the European Union and discover if the proposed label can conflict with a pre-existing GI.*

4. How many appellations of origin are protected under the Lisbon System in the category of beers?
Step one: To find similar patents, identify the most pertinent aspects of the invention — common technical features that may be found in related patents — and for each aspect, define a comprehensive set of synonyms. To perform the search, the following concepts — groups of synonyms covering the different aspects of the invention — can be defined:

- car vehicle
- park
- registration plate
- camera
- street

Several combinations have to be tried to eventually find some interesting results:
camera street park* plate yield the following list.

Out of which you will find:
US2005111699 (A1) - Suite of parking regulation control systems

Which is covering the searched concept.

US2013266190 (A1) - System and method for street-parking-vehicle identification through license plate capturing

This one relates to fixed cameras like the following one: KR100751498 (B1)...

You can now move to the second step using classification symbols assigned to the relevant documents.

One relevant classification is G08G1/0175 Traffic control by photographing vehicles, e.g. when violating traffic rules

Combining this classification with park* and camera results in the following list out of which additional documents can be retrieved:
GB2527093 (A) - Vehicle enforcement system

The vehicle enforcement system comprises a mobile camera operable to capture an image of a vehicle number plate and communicate the captured image to an automatic number plate recognition system in order to retrieve the vehicle number mark using optical character recognition. The system further comprises a GPS unit connected to the mobile camera configured to communicate the GPS coordinates of the mobile camera when the image is captured and a clock connected to the mobile camera configured to communicate the time when the image is captured. A data processor is configured to receive the vehicle number mark from the captured image and GPS coordinates of the mobile camera at the time the image was captured and compare these with a predefined list of vehicle number marks and, if no match or a match is determined (depending on the contents of the list), highlighting the location of the captured image.

US2002145664 (A1) - Parking violation recording system

US2007085704 (A1) - Parking violation recording system and method

Checking the cited documents in this record one more relevant patent document can be found.

US6081206 (A) - Parking regulation enforcement system

It cannot be asserted that this search is comprehensive, but it shows that there are several patents covering this invention.

A comprehensive search would require more iterations using other classification symbols and keywords.
The scientist portrayed in the blurred picture published in the previous issue is Marie Skłodowska Curie, a physicist and chemist who conducted pioneering research on radioactivity. She was the first woman to win a Nobel Prize and the first person and only woman to win it twice.

Under the HORIZON 2020 framework programme, the Marie Skłodowska-Curie actions (MSCAs), named after her, allow researchers at all stages of their careers, to go abroad and collaborate with private companies with the chance to acquire competences for a successful career.

Further information on MSCAs is available on the European Commission website.

Your IPR queries matter to us: Ask the Helpline

The European IPR Helpdesk Helpline answers your questions concerning intellectual property (IP) within three working days. You get practical, first-line support directly from our IP experts, and free-of-charge.

If you are curious about the type of IP queries that the Helpline has recently been dealing with, these are shown in this illustration.

If you would like to talk to one of the IP experts of our helpline, please dial +352 - 25 22 33 – 333

www.iprhelpdesk.eu/helpline
EU Funding

Our company is the coordinator of a HORIZON2020 project, and we need to hire several subcontractors (both enterprises and RTD centers). What should we include in a subcontractor agreement?

Drafting an efficient subcontracting agreement may be a complex matter and should be entrusted to a commercial lawyer, in order to avoid any pitfalls and ensure that the interests of both parties are secured (in particular regarding warranties and liability). Nonetheless, your agreement shall cover at least the following points:

- Identification of the parties
- Definitions
- Purpose of the agreement: subcontracting agreement signed in the context of project XXX regarding YYY
- Obligations of the parties: precise description of the tasks entrusted to the subcontractor, and relevant milestones or timeframe; the beneficiary may also have some obligations (e.g. to provide specific input or guidance)
- Price and payment modalities for the work that will be performed, and relevant milestones or timeframe
- If relevant, monitoring mechanisms (e.g. checking that the work is correctly performed before each payment instalment is made)
- Ownership of the work and related intellectual property rights: this part should mention which party (beneficiary or subcontractor) retains the intellectual property rights (IPR) over the subcontracted work. In principle, the beneficiary should acquire ownership of the results and related IPR developed under the subcontracting agreement, or at least appropriate user rights (please see further explanations below)
- Confidentiality clause
- Liability and warranties clause - relates to the liability of either party to the other for breach of the obligations under the agreement
- Duration of the Agreement - the agreement should include provisions on the date when it enters into force, the duration and the forms of termination
- Law and jurisdiction clause
- Signatures and date

Regarding intellectual property rights, please keep in mind that in Horizon 2020, subcontractors are third parties to the grant agreement and as such have no specific, automatic ownership rights to the results. Therefore the involvement of subcontractors in a project should not hinder the implementation of this project, and any rights that they require should not deprive project partners of the possibility of fulfilling their obligations under the project: performing their tasks, granting access rights, disseminating their results, exploiting them, etc.

For this reason, the Horizon 2020 Rules for Participation (RfP) provide that “if [...] any party working for a participant [is] entitled to claim rights to results, the participant concerned shall ensure that it is possible for those rights to be exercised in a manner compatible with its obligations” (see article 41.3 RfP). That is why it is generally recommended that project beneficiaries which resort to subcontractors make it clear, in the subcontracting agreement that the ownership vests in the beneficiary and not the subcontractor. This is usually the most straightforward solution. If the subcontractor insists on getting ownership of the work performed, the project partner would at least need to negotiate all appropriate licensing rights in order to be able to access and use the results in the same way as if it owned them. In that case, the terms of the licence should be sufficiently broad to allow the beneficiary to perform all its obligations under the grant agreement – during project implementation and the exploitation phase alike. Do not hesitate to contact us again should you need more clarifications on this particular point.

IP in General

Can you please inform me how I could conduct preliminary patent searches of my own?

First of all, you can consult the following tutorial and brochure, which can help you to conduct an efficient patent search by using Espacenet.

For a more efficient search, the European IPR Helpdesk has developed a fact sheet on patent searching, which you can download from our online library:

- How to search for patent information

Another fact sheet related to patent “Automatic Patent Analysis” can also be useful to analyse patent search results. The EPO Register is also a source of finding patent applications. You can access the Register here.

We would also like to draw your attention to the fact that it is sometimes worthwhile to conduct a due diligence on the company’s structure. Check, for instance, if this company has subsidiaries or whether there are companies affiliated to it. Patent applications may be filed on behalf of this company by such subsidiaries or affiliates. Consequently, we advise you to expand your patent searches to these entities (if they exist). Finally, you may search for inventions that are not identical but similar to yours.

More specifically, you may use the “classification search” by typing the classes you are interested in. For instance, in the content you have sent us, the international classes under which the patent is filed are A61K 31/00, A61K9/48, A61K9/50.

In case you are interested in the same classes, you should search what has been recently applied for particularly in these classes.
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