

Worldwide Symposium on Geographical Indications

Marketing and Protecting Geographical Indications
Around the World – The View From The Scotch Whisky
Association



Alan Park

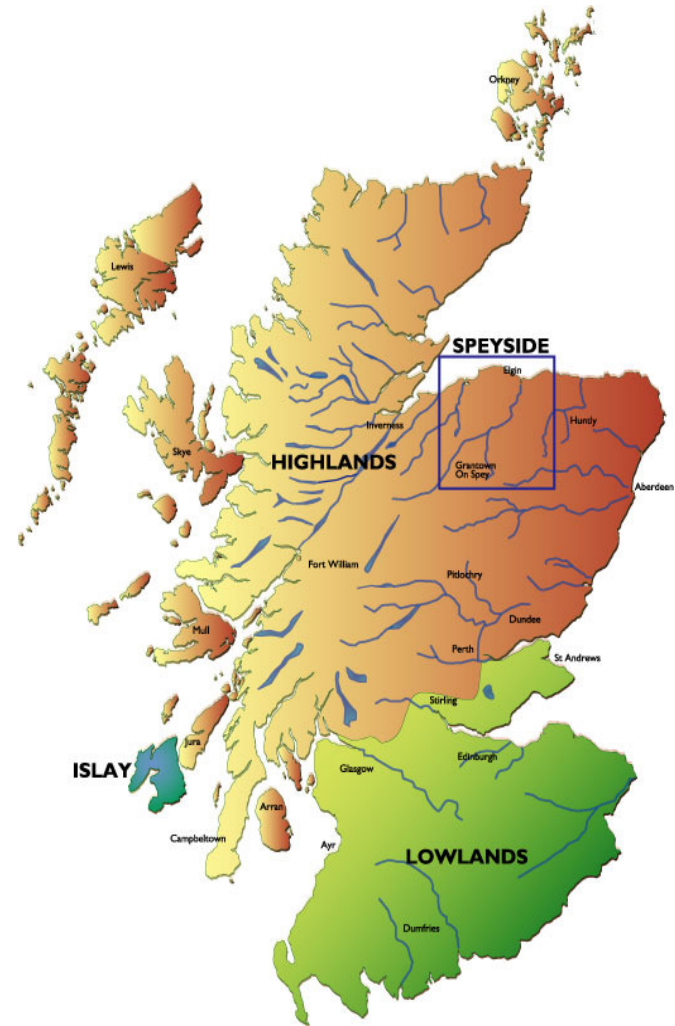
The Scotch Whisky Association

- Origins go back to 1912
- 51 members representing over 90% of the Scotch Whisky industry
- Members include distillers, blenders and brand owners
- Aim is to protect and promote Scotch Whisky at home and abroad



Economic Importance

- 108 distilleries licensed to produce Scotch Whisky
- More than 1,000 million bottles sold each year
- 90% of all sales exported
- Scotch Whisky one of UK's top 5 manufactured exports
- Scotch Whisky supports 1 in 50 Scottish jobs
- Over one million visitors a year to Scotch Whisky distilleries
- In 2011 exports valued at over \$6.6 billion



Protect Early

ROYAL COMMISSION ON WHISKEY AND OTHER POTABLE SPIRITS.

FINAL REPORT

OF THE

ROYAL COMMISSION ON WHISKEY AND
OTHER POTABLE SPIRITS.

Presented to both Houses of Parliament by Command of His Majesty.



LONDON:
PRINTED FOR HIS MAJESTY'S STATIONERY OFFICE,
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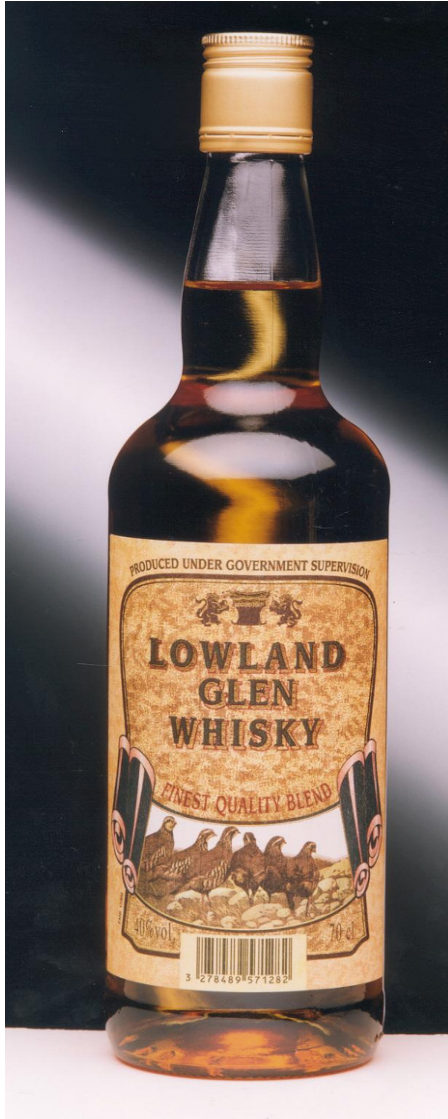
1909.

[Cd. 4796.] Price 5½d.

A Zero Tolerance Policy – Why?

- Consistent action required worldwide
- Prompt action assists speedy resolution
- Unimportant markets may become important
- Inaction encourages, firm action deters
- Counterfeits are traded internationally
- ‘playing safe’ results in erosion of protection

A Zero Tolerance Policy – Why?



Grants Regal Scotch Whisky



Distribution of GRANT'S REGAL



Infringements – what do we do?

- Not brand protection
- Principal function – protection of GI, Scotch Whisky
- Protection from all unfair competition
- Trade mark applications – monitor & oppose
- Around 70 court actions current worldwide
- More than 300 current trade mark oppositions worldwide
- Many other administrative complaints and proceedings
- Hundreds of investigations worldwide

What action do we take?

- Most effective – and cost effective – type of action in each country
- Common law countries – civil action – passing off
- Civil law countries – civil action – unfair competition
- Some common law countries now have unfair competition laws

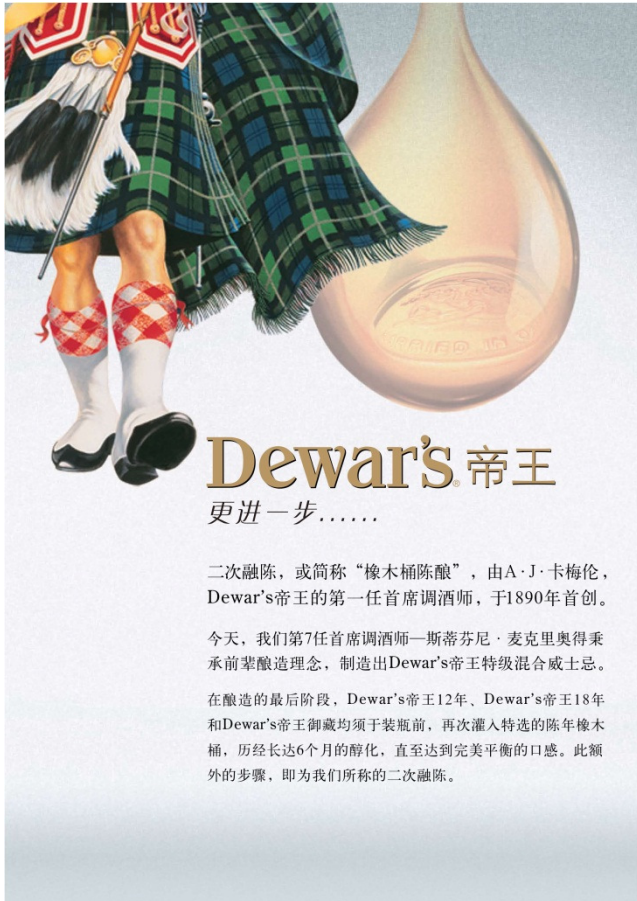


Methods of deception

Description “Scotch Whisky”
itself

Australia

Scottish indications of origin



Dewar's 帝王
更进一步.....

二次融陈，或简称“橡木桶陈酿”，由A·J·卡梅伦，Dewar's帝王的第一任首席调酒师，于1890年首创。

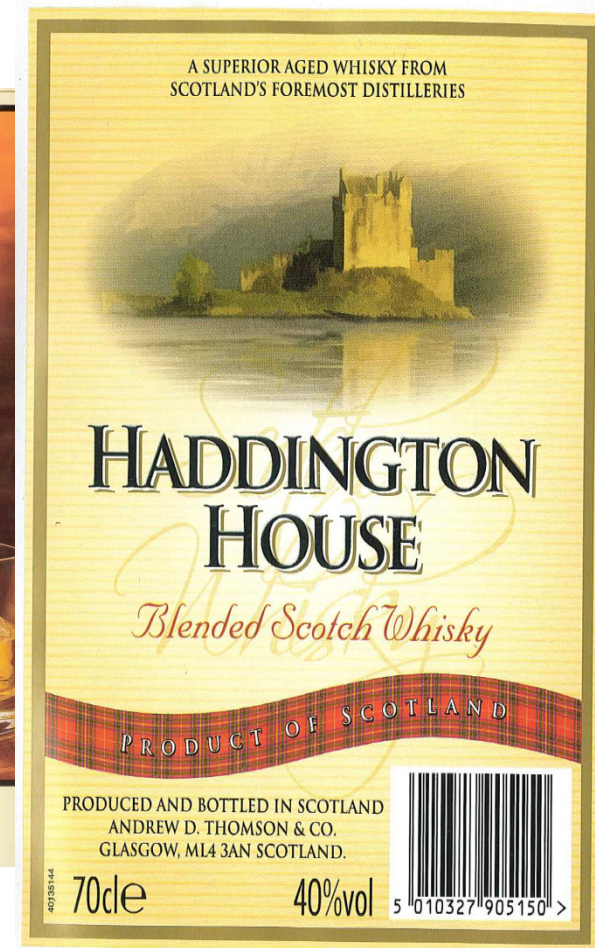
今天，我们第7任首席调酒师—斯蒂芬尼·麦克里奥得秉承前辈酿造理念，制造出Dewar's帝王特级混合威士忌。

在酿造的最后阶段，Dewar's帝王12年、Dewar's帝王18年和Dewar's帝王御藏均须于装瓶前，再次灌入特选的陈年橡木桶，历经长达6个月的醇化，直至达到完美平衡的口感。此额外的步骤，即为我们所称的二次融陈。



Seagram's
100 PIPERS
DE LUXE
SCOTCH WHISKY

Every sip is pure music



A SUPERIOR AGED WHISKY FROM
SCOTLAND'S FOREMOST DISTILLERIES

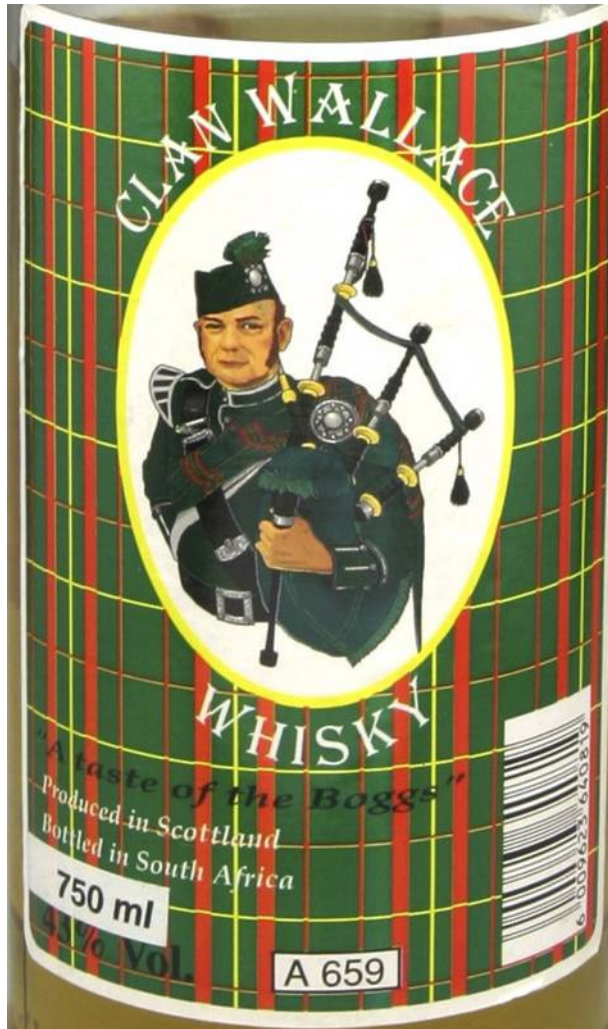
**HADDINGTON
HOUSE**
Blended Scotch Whisky

PRODUCT OF SCOTLAND

PRODUCED AND BOTTLED IN SCOTLAND
ANDREW D. THOMSON & CO.
GLASGOW, ML4 3AN SCOTLAND.

40735144 70cle 40%vol 5 010327 905150 >

Methods of Deception



Scottish names or devices

South Africa

WTO TRIPS Agreement

Article 22.2

- “In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:
 - (a) **the use of any means in the designation or presentation of a good that indicates or suggests** that the good in question originates in a geographical area other than the true place of origin in a manner **which misleads the public as to the geographical origin of the good;**”

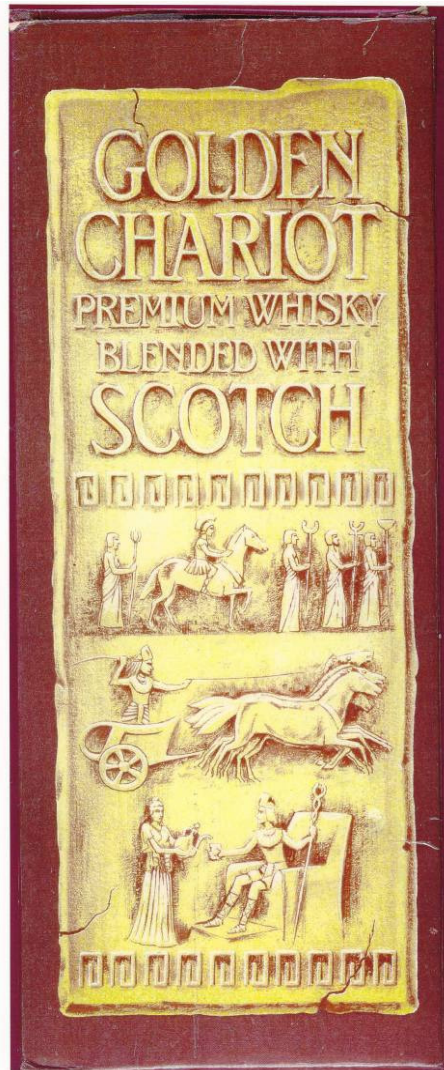
Intellectual Property Court, Bangkok:

“Although Thai people do not descend from Scotland or the United Kingdom, the public are now well educated, increasingly communicate with foreigners, travel abroad, and are able to receive more information from books, the Internet and product advertisements..... This are not limited to know only information relating to Thailand.....The word “Mc” implies a person from Scotland. The facts previously presented show that Scotch Whisky is widely recognised in Thailand and the public realise that Scotch Whisky is related to its origin; i.e. Scotland.....Hence, the Thai public.....who become familiar with whisky can conclude that the prefix “Mac” or “Mc” is used in relation to whisky from Scotland or Scotch Whisky only.”

(Unofficial translation)

Methods of Deception

Selective references to
Scotch Whisky content



India



Belgium



EU definition of whisky

- distilled from cereals
- distilled at an alcoholic strength of less than 94.8% vol. so that it has the aroma and taste derived from the raw materials used
- aged for at least 3 years in wooden casks of 700 litres capacity or less
- retains the colour, aroma and taste derived from the production process
- a minimum alcoholic strength of 40% abv
- contains no added flavouring or sweetening or other alcohol

(Annex II(2) of EC Regulation 110/2008)

Spain



What other action do we take?


- More than 30 countries outside the EU have introduced legislation recognising Scotch Whisky
- In the USA: “a distinctive product of Scotland manufactured in Scotland in compliance with the laws of the United Kingdom”
- Some countries have introduced specific laws protecting GIs
- Sometimes protection requires registration of the GI

Australia



Trade mark monitoring

- intelligence
- pre-emptive action
- defending the principle
- cheaper than cancellation
- useful evidence
- deemed notice
- build up precedents

	Mark Watched	Mark Found
Word Mark:	WHISKY INSTRUCTION	Scottish Bagpiper (device)
Classes:	32-33	32-33
Device Mark:		

Advice on Compliance

- Why necessary?
 - Compliance with the labelling and marketing rules for Scotch Whisky
 - Legislation cannot anticipate every innovation
 - Compliance with traditional practice
- Guidance issued

Protect and Promote

