

WELCOME TO ...



Adding Value with Collective Marks, Certification Marks and Geographical Indications

**WIPO Training of Trainers Program on Intellectual Property
and Small and Medium Sized Enterprises
Warsaw, Poland
November 22 to 25, 2010**

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Overview

- 1. Introduction: Importance of specific types of “shared” marks for SMEs**
- 2. Collective Marks**
- 2. Certification Marks**
- 3. Geographical Indications**



- 1. Introduction: Importance of specific types of “shared” marks for SMEs**

Why “specific” marks might be of interest for your business?

- SMEs often face double competition from other traditional artisan products and standardized industrial products
- Need to obtain consumer recognition and customer loyalty
- SMEs often find it difficult **individually** to develop a powerful marketing campaign that will enable them to position their products and create a reputation for their goods that will attract consumers



“If you can’t beat them, join them”

- Working **collectively**, SMEs can benefit from economies of scale and broader brand name recognition shifting from just production to the marketing in the same manner as larger companies

- Trade mark

Shared marks:

Collective marks

Certification marks

Geographical Indications

Individual marketing

Joint marketing

reference to the **reputation**
and to certain **qualities**
of the products

Issues to consider:

- The requirements and conditions for protection vary considerably from country to country
- Art of playing on several fronts
- Particular choice - a question of
 - legal feasibility and
 - *the socio-economic priorities of the members*

2. Collective marks

Collective marks

Signes used to distinguish certain valued characteristics common to the products of the **members of an association/cooperative**

e.g. georgaphial origin, material, mode of manufacture

- Registered in the trademarks registry
- Typically, the **owner** of the collective mark is an **association/ cooperative** of which entrepreneurs/ artisans are members
- The association/cooperative uses the mark mainly to advertise and promote the products/services of its members who sell their products under the collective seal
- Poland: Article 136 of the Act of 30 June 2000 on Industrial Property Law

How does a Collective mark work?

- **Rules of use** (regulations governing use of trademarks)
 - persons authorized to use
 - criteria for membership
 - conditions of use
 - e.g. particular features/qualities of the products
 - sanctions against misuse
- **Authorization to use**
 - membership
 - application or automatic
 - comply with the rules
 - no licenses
- **Control**

Collective marks

Cooperation on all stages

- Creation of an association/ consortium
- Set of products characteristics and quality standards
- Set of rules of use the collective mark and sanctions for non-compliance with the standards and regulations
- Common marketing and communication strategy
- Possibility for members to use their own trademarks alone with the collective mark



Benefits for the SMEs

1. **Economies of scale** (registration cost, advertising campaign, enforcement, etc.)
2. **Reputation** acquired on the basis of common origin or other characteristics of the products made by different producers/traders
3. Framework for **cooperation** amongst local producers/traders
4. Collective marks can become powerful tool for **local development** and harmonization of products/services, enhancement of **quality**



Strategic considerations:

- Might be a good strategy that leaves the door open for later protection as GI for various reasons:
- Lack of regulatory framework for GIs
- The mere convenience of being able to operate quickly
- Protection of the market: “Closed” character of the mark
- In cases when products can not apply for GI in a given country

Case Study: South Africa “Capespan”



- Two groups of farmers were formed to take advantage and the reputation and quality of fruits from the Cape region and facilitate the exportation:
- Unifruco with the “cape” brand to market deciduous fruit
- Outspan with the “outspan” brand to market citrus
- The provincial and national government developed breeding programs as well as efficient transport infrastructure for the region and country
- Capespan group possesses the marketing, logistic and technical capabilities
 - for ensuring timely delivery of fruit to the market
 - for maintaining a consistent image of the brands in the minds of consumers



Case Study: Colombia “La Chamba, Tolima”



Chamba ceramics

Added value:

- traditional know-how transferred from generation to generation
- 89%: handwork or with simple tools

Areas of improvements:

- Organization and management
- Exploitation of mines
- Product design and development
- Marketing: Certification “Hecho a Mano” (handmade)
forming an association and registration of a collective mark



2. Certification marks

Certification marks

Distinctive signs used to indicate compliance with **standards and characteristics pre-established by the owner of the mark**

- in respect of origin, materials, mode of manufacture, quality, accuracy or other characteristics

but are not confined to any membership



- Registered in trademarks register
- Owner is usually an **independent** enterprise, institution, governmental entity, etc. that is **competent** to certify the products concerned
- Article 137 of the Act of 30 June 2000 on Industrial Property Law: collective guarantee trademark



How does a certification mark work?

- **Regulation of use** (regulations governing use of trademarks)
 - features of the products that are certified
 - conditions of use
 - control
 - proceedings against unauthorized use
- **Authorization to use**
 - anyone who meets with the prescribed standards
 - not confined to membership
 - generally: licence agreement (fee)
 - owner not allowed to use
- **Control**

Benefits for SMEs

Adding value strategy:

- The message conveyed by a certification mark is that **the products have been examined, tested, inspected, or in some way checked by a person who is not their producer**, by methods determined by the certifier/owner
- Benefit from the **confidence** that consumers place in users of certification mark
- Strengthen **reputation**
- For consumers: **Guarantee** for consumers of certain **quality**

Certification marks

For example, certify that:

- product is handmade
- certain ecological requirements have been respected in the production procedure
- no children were employed in the production process
- products have been produced in specific geographical region
- products are made 100% of recyclable materials
- products are made by indigenous group



Indonesian "Batikmark"



Indian "SILK MARK" and "Handloom" marks

Case Study: “Oeko-Tex”



- **Association for the Assessment of Environmentally Friendly Textiles**
- The Oeko-Tex® system provides the textile and clothing industry with a globally uniform standard for assessment of harmful substances, testing and certification of raw materials, intermediate and end products at all stages of processing throughout the manufacturing chain, including accessories
- The tests for harmful substances in textiles specified in the Oeko-Tex® Standard 100 were first introduced in 1992
- Oeko-Tex® Standard 1000 for production ecology in 1995



Case Study: “Oeko-Tex”



- The Oeko-Tex® Standard 1000 requires that companies:
 - comply with specified criteria to avoid or limit the use of harmful substances in production
 - observe stringent limit values relating to waste water and exhaust air
 - optimise their energy consumption
 - ensure low noise and dust pollution
 - introduce measures to ensure safety at work
- The use of child labour is prohibited



Collective Mark

- Only members that comply
- Control by association
- Simple authorization
- Free use
- Owner allowed to use
- **Cooperation**

Certification Mark

- Anyone who complies
- **Control** by independent entity: stronger
- Authorization through license agreement
- Fee
- Owner not allowed to use

3. Geographical Indications

Geographical indication (GI)

Sign used on goods that have a specific **geographical origin** and possess **qualities, reputation or characteristics** that are essentially attributable to that place of origin

“Champagne,” “Cognac,” “Roquefort,” “Chianti,” “Tequila”,
“Swiss” for watches, Comte and Feta Cheese, Parma Ham,
Tokai,

“Arita” (Japan) for ceramics, “Hereke” (Turkey) for carpets

- **Can only be recognized**



How does a GI work?

- **Authorization to use**

- **Collective** right of use
- Each enterprise located in the area has right to use
 - For products originating from that area → **LINK**
 - Subject to certain **quality requirements**



- **Link between product and place**

- Place where product is produced (industrial products, crafts)
- Place where product is extracted (clay, salt)
- Place where product is elaborated (liquor, cheese)



- **Typical examples: Agricultural products** that have **qualities** that derive from their place of production and are influenced by specific local factors, such as climate, type of soil, altitude, etc



GI – Who does what?

Government:

- supplies the legal framework
- approves GIs, verifies compliance
- “external” (independent) control system + enforcement

Producers groupings:

- **collectivization**
- talk to government
- help define the mandatory specifications to be met
- **“internal” quality control**

The initial external technical, legal, financial and promotional help is essential



How does a GI work?

- Unauthorized persons may not use GIs if such use is likely to **mislead** the public as to the true origin of the product
 - for not originating from geographical place
 - for not complying with prescribed quality standards
 - stronger protection for wines & spirits



Benefits for SMEs

- GIs shift focus of production to **quality and marketing** the products of regional origin
 - economies of scale for small producers
 - increased production
 - local job creation
- Reward **producers** with higher income in return for efforts to improve quality
- Provide **consumers** with high-quality products whose origin and mode of production is guaranteed



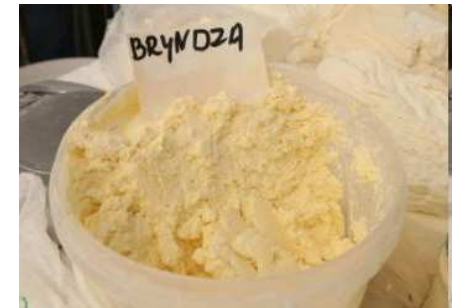
Geographical indication (GI)

- With Poland's accession to the European Union created an opportunity for producers from the **food industry** to protect regional and traditional names through 2 categories of names:
- **Protected Designation of Origin (PDO)**: covers the term used to describe foodstuffs which are produced, **processed and prepared** in a given geographical area using recognised know-how (such as Mozzarella di Bufala Campana).
- **Protected Geographical Indication (PGI)**: indicates a link with the area in **at least one of the stages of production, processing or preparation** (such as Turrón de Alicante).



Geographical indication (GI)

- Advantage of being on the list of EU registered GIs is that a named food or drink registered at a European level will be given legal protection against imitation throughout the EU
- Since 2007: 23 of Poland's local products have obtained EU certificates of Protected Geographical Indication (GPI) with 12 more waiting in line
 - Bryndza Podhalańska
 - Oscypek



Challenges

1. Inconsistent protection
 - a. National Level:
 - Specific Title of Protection
 - Unregistered: through Passing-off, Unfair Competition, Consumer Protection laws
 - Certification marks or collective marks
 - b. International Level
 - Bilateral agreements
 - International treaties (TRIPs Agreement, Lisbon)
2. International protection depends on national protection
3. GIs may become generic terms

GI

- Protects indication that links product's origin and quality/reputation based on that origin
- Most often: public right; owner= State
- Anyone can use
- Proscribed list of unauthorized actions
- Action: private + public

Certification

- Protects certification of product's particular characteristics (not necessarily origin)
- Most often: private right; owner = trade association or producer group
- License needed
- Protection against those who don't have license
- Action: owner of certification

Thank you for your attention!



Any Question?

WIPO's website for SMEs :

www.wipo.int/sme

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