



*Final 25-26/11/2020*

## BACKGROUND PAPER

### PANEL: IP PROTECTION OF GIs

#### 1. OBJECTIVES

This panel will discuss the legal framework for the intellectual property (IP) protection of Geographical Indications (GIs).

The legal debate around GIs as IP rights has always been lively and sometimes controversial. While GIs internationally date back to the Paris Convention of 1883, the protection began at EU level in the 1970s. In 1992 the first GI regime comprising national and EU level scrutiny, opposition and registration, was established. And only in 2020 (in March) were all the 4 regimes of agricultural products and foodstuffs, wines, spirits, and aromatised wines GIs, unified under one electronic register – [eAmbrosia](#).

#### 2. CHALLENGES / TOPICS

Some of the challenges and topics that can be addressed in this panel include:

- Legal similarities and differences between ‘labelling protection’, ‘certification schemes’ and ‘GIs as IP rights’;
- Definitions of PDO, PGI and GI and the ‘high level protection’ applied to GIs.
- Significance in IP law of the ‘right of use’ that GIs enjoy;
- Scope of protection of GIs relating to components of compound-GI-name, uses of GIs as ingredients in a processed product, and protection in respect of services;
- GIs in IP processes – both GI approvals, oppositions and upholding GI rights in trade mark examination processes
- Registration applies the IP protection to the product described in the product specification. Applicants sometimes include references to labelling, marketing restrictions and other rules. What is the risk that the IP registration inadvertently side-steps those rules?

- Notion how far GI protection applies to comparable or similar products and the role of reputation in enhancing extent of protection of a GI.

### **3. QUESTIONS**

- (1) What are the main similarities and differences between GIs and labelling or certification schemes?
- (2) What are the pros and cons of using the GI instrument or EU trade marks to protect product names?
- (3) How far should GI definitions, rights and application procedures be harmonized?
- (4) Operators have a right to use a GI provided it is in respect of the authentic product. What is the extent of this right in terms of coexistence with other rights and uses in respect of ingredients?