

May 18, 2023

Ms. Kathi Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314

Dear Director Vidal,

On behalf of American food and beverage producers, we are writing to express our deep concern regarding the World Intellectual Property Organization (WIPO) and its role in facilitating the European Union's ongoing common name confiscation campaign. We ask the U.S. Patent and Trademark Office to take a firm stance in insisting that WIPO not use general budget investments – funds derived in key part from the U.S. government and U.S. trademark applicants – to further support the WIPO Lisbon Agreement for geographical indications (GIs).

Over the past decade, the European Union has deliberately and systematically used its political and economic influence to claim common food and beverage terms – such as “parmesan,” “chateau” and “bologna” – as geographical indications, which can then only be used by European producers. This misuse and abuse of the global GI system has created de facto monopolies on specific products in certain markets, which has resulted in fewer choices and higher prices for consumers, and critical market losses for American farmers and manufacturers.

WIPO has an important and unique responsibility to educate its members, which includes policymakers from around the world, with objective, unbiased, balanced, transparent, and complete information on geographical indications, common names, and the best practices for balancing the interests of the two sides. Unfortunately, WIPO has to date failed to strike that balance, and instead acted as a strong promoter of GIs.

Now, WIPO is planning to raise funding for the Lisbon Agreement and Geneva Act by approximately 25 percent and ask non-Lisbon Agreement members to help pay for it. This is simply an untenable proposal. First, these are harmful agreements, which the vast majority of WIPO members, including the United States, have not joined and have no input in their decisions. These non-participant members should not have to subsidize the agreements' activities – many of which, ironically, are used to deprive their own producers of their rights.

Secondly, these agreements' programs have been negligent in providing balanced information on what common names are, their history, role, importance, or why it is essential to protect them and how to protect them. This failure directly contradicts WIPO's mission and obligation to promote balanced and well-functioning intellectual property systems.

We are asking the U.S. government to be unambiguous, determined and strong in demanding that the WIPO budget:

1. Require funding for the Lisbon Agreement and Geneva Act to be self-funded by Parties to those agreements. WIPO must adopt a fully self-sustaining funding model for these programs in order to put a stop to all cross-subsidization of their activities from WIPO general funds.
2. Treat common names equitably relative to GIs in all programs, processes, activities, and policies.
3. Establish an independent office within WIPO with the budget and staff necessary to carry out foods and beverages common name educational and research activities and to advocate for their fair treatment. This office should not have any conflicts of interest and therefore cannot be part of or report to WIPO personnel responsible for GIs.

In addition to this upcoming budget, the United States should insist that WIPO update its processes to include the proposed food and beverage common name office in the development, planning, and implementation of all programs and policies. Currently, GI interests still command the lion's share of WIPO attention and staffing, while common name users receive minimal support from WIPO staff and WIPO programming.

Given the influence of WIPO in the international development of common name and GI laws and regulations, it is critical that members are fully educated and informed on the importance of common names protections and impact of illegitimate GIs on farmers, consumers, manufacturers, and exporters around the world.

We look forward to working with you on this important issue to ensure that WIPO's budget and processes are fair, transparent and in line with its mission moving forward.

Sincerely,

Consortium for Common Food Names

National Association of State Departments of Agriculture

National Council of Farmer Cooperatives

National Milk Producers Federation

North American Meat Institute

U.S. Dairy Export Council

USA Rice

The Wine Institute

CC:

Ambassador Katherine Tai, Office of the United States Trade Representative

Secretary Tom Vilsack, United States Department of Agriculture

U.S. Senate Finance Committee Chair Ron Wyden and Ranking Member Mike Crapo

U.S. Senate Agriculture Committee Chair Debbie Stabenow and Member John Boozman

U.S. Senate Judiciary Committee Chair Dick Durbin and Ranking Member Lindsey Graham

U.S. House Ways & Means Committee Chair Jason Smith and Ranking Member Richard Neal

U.S. House Agriculture Committee Chair Glenn Thompson and Ranking Member David Scott

U.S. House Judiciary Committee Chair Jim Jordan and Ranking Member Jerrold Nadler