



**European Union Intellectual Property Office
Grand Board of Appeal
Alicante, Spain**

RE: Case R 1946/2024-1

DATE: October 31, 2025

Amicus Brief (Third Party Observations) – International Trademark Association

The International Trademark Association (“**INTA**”) has prepared this brief in relation to *Case R 1946/2024-1, Consorzio Tutela Salva Cremasco / EUIPO* pending before the Grand Board of Appeal of the European Union Intellectual Property Office (“**GBoA EUIPO**”).

Art 37(6) of Commission Delegated Regulation (EU) 2018/625 of 5 March 2018 supplementing Regulation (EU) 2017/1001 of the European Parliament and of the Council on the European Union Trade Mark and repealing Delegated Regulation (EU) 2017/1430 (“**EUTMDR**”) allows for intervention of interested groups or bodies in EUIPO appeal proceedings referred to the EUIPO Grand Board of Appeal.

ABOUT INTA

1. INTA is a global association of brand owners and professionals dedicated to supporting trade marks and related intellectual property (IP) to foster consumer trust, economic growth, and innovation. Members include nearly 6,500 organizations, representing more than 34,350 individuals (trade mark owners, professionals, and academics) from 185 countries, who benefit from the Association’s global trade mark resources, policy development, education and training, and international network. Founded in 1878, INTA is headquartered in New York City, with offices in Brussels, Santiago, Beijing, Singapore, Santiago de Chile, Dubai and Washington, D.C. Metro Area, and a representative office in New Delhi. An important objective of INTA is to protect the interests of the public by the proper use of trade marks.
2. In this regard, INTA strives to advance the development of trade mark and related IP and unfair competition laws and treaties throughout the world, based on the global public interest in avoiding deception and confusion. INTA has been an official non-governmental observer to the World Intellectual Property Organization (WIPO) since 1979 and actively participates in all trade marks related WIPO proposals. INTA has influenced WIPO trade

mark initiatives such as the Trademark Law Treaty, and also is active in other international arenas, including the Asia Pacific.

3. The present brief was drafted by INTA independently of the parties in the case at issue.

INTA'S INTEREST IN THE CASE

4. INTA is not a party in the case but believes that the case is significant to the development of trade mark law and presents itself as an *amicus curiae* ("friend of the court") in the matters raised therein, as it has done in the past (see Annex A listing previous *amicus* interventions by INTA before the EUIPO, the General Court of the European Union and the Court of Justice of the European Union).
5. Through its International Amicus Committee, INTA provides expertise concerning trade mark and other IP-related laws to courts and trade mark offices around the world through the submission of *amicus curiae* briefs or similar filings. Through these kinds of filings, INTA takes advantage of procedures that allow an independent third party to a proceeding to voluntarily offer an opinion on a legal matter, such as the proper interpretation or application of the law, or an explanation for why certain policies are superior.
6. The purpose of INTA's intervention in such cases is to ensure that the court or tribunal is fully informed about the relevant issues that may impact the law in a given jurisdiction. Unlike the parties in litigations, who typically focus on the specific facts of a case and argue for a particular outcome, INTA plays a neutral role, addressing only the legal issues. INTA hereby acts in the interest of the represented manufacturers, producers, suppliers of services, traders, or consumers, who are affected by the various issues of concern in this case regarding registrability of marks.
7. INTA hopes that this submission may be of assistance to the GBoA.
8. In particular, INTA considers it worth intervening in these proceedings, given the importance for the trade mark world of the case at issue, which deals with the registrability of geographical indications as collective marks, and the equal treatment of geographical indications which are applied for as word EU collective marks, on the one hand, and logos, on the other hand.

PROCEDURE FOR INTERVENTION

9. Article 37(6) EUTMDR provides for intervention in cases referred to the EUIPO Grand Board of Appeal as follows:
10. Groups or bodies representing manufacturers, producers, suppliers of services, traders or consumers which can establish an interest in the result of a case on appeal or a request for a reasoned opinion brought before the Grand Board, may submit written observations

within two months following the publication in the Official Journal of the Office of the decision of referral or, as the case may be, the request for a reasoned opinion. They shall not be parties to the proceedings before the Grand Board and shall bear their own costs.

11. The referral decision was published in the EUIPO Official Journal on September 3, 2025, so the two months deadline to submit written observation ends on November 3, 2025.

THE RELEVANT LEGAL PROVISIONS

12. The following legal provisions are to be taken into account:

REGULATION (EU) 2024/1143 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 April 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2019/787 and (EU) 2019/1753 and repealing Regulation (EU) No 1151/2012

Whereas:

(...)

(18) Ensuring uniform recognition and protection throughout the Union for the intellectual property rights related to names protected in the Union is a priority that can be effectively achieved only at Union level. A unitary and exhaustive system of geographical indications therefore needs to be provided for in Union law. Geographical indications are a collective right held by all eligible producers in a designated area willing to adhere to a product specification.

(19) Producers acting collectively have more powers than individual producers and take collective responsibilities to manage their geographical indications, including responding to societal demands for products resulting from sustainable production. Similarly, the collective organization of the producers of a product designated by a geographical indication can better ensure a fair distribution of the value added amongst the actors in the supply chain, to provide a fair income to producers, which covers their costs and allows them to invest further in the quality and sustainability of their products. The use of geographical indications rewards producers fairly for their efforts in producing a diverse range of quality products. At the same time, that can benefit the rural economy, which is particularly the case in areas with natural or other specific constraints, such as mountain areas and remote regions, including the outermost regions, where the farming sector accounts for a significant part of the economy and production costs are high. In that way, quality schemes are able to contribute to and complement rural development policy as well as market and income support policies of the common agricultural policy (the CAP). In particular, they may contribute to developments in the farming sector and, especially, disadvantaged areas. The Commission communication of 30 June 2021 entitled ‘A long-term vision for the EU’s Rural Areas — Towards stronger, connected, resilient and prosperous rural areas by 2040’ recognizes the key role of geographical

indications among the flagship initiatives that promote rural areas, in view of their contribution to the prosperity, economic diversification and development of rural areas and the strong association between a product and its territorial origin. A Union framework that protects geographical indications by providing for their inclusion in a register at Union level facilitates the development of the agricultural sector, since the resulting, more uniform approach ensures fair competition between the producers of products bearing such indications and enhances the credibility of products from the perspective of consumers. The system of geographical indications aims at enabling consumers to make more informed purchasing choices and, through labelling and advertising, helping them to correctly identify their products on the market.

Article 31

Relationship between geographical indications and trade marks

(...)

5. Without prejudice to Regulation (EU) No 1169/2011, the guarantee or certification marks referred to in Article 28(4) of Directive (EU) 2015/2436 and collective marks referred to in Article 29(3) of that Directive, as well as collective marks as referred to in Chapter VIII of Regulation (EU) 2017/1001 may be used on labels together with the geographical indication.

Article 36

Right to use

A registered geographical indication may be used by any operator marketing a product that complies with the corresponding product specification.

Member States shall ensure that operators are covered by the verification of compliance with the product specification established in accordance with Article 39 of this Regulation or Article 116a of Regulation (EU) No 1308/2013, as applicable.

In the event that a geographical indication consists of or contains the name of the estate of a single applicant producer, that shall not prevent other operators from using the registered geographical indication provided that it is used to designate a product that complies with the product specification.

REGULATION (EU) 2017/1001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on the European Union trade mark

Recitals

(45) In order to ensure the effective and efficient registration of international trade marks in a manner that is fully consistent with the rules of the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989 ('Madrid Protocol'), the power to adopt acts in

accordance with Article 290 TFEU should be delegated to the Commission in respect of specifying the details on the procedures concerning the filing and examination of an opposition, including the necessary communications to be made to the World Intellectual Property Organisation (WIPO), and the details of the procedure concerning international registrations based on a basic application or basic registration relating to a collective mark, certification mark or guarantee mark.

Article 4 EUTMR

Signs of which an EU trade mark may consist

An EU trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colors, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

(a) distinguishing the goods or services of one undertaking from those of other undertakings; and

(b) being represented on the Register of European Union trade marks (the Register'), in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

Article 7 EUTMR

Absolute grounds for refusal

1. The following shall not be registered:

(a) – (b)

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the (...) geographical origin (...) of the goods or of rendering of the service, (...);

(d) – (f) ...

(g) trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service;

(h) – (i) ...

(j) trade marks which are excluded from registration, pursuant to Union legislation or national law or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications;

(k) – (m) ...

2. – 3. (...)

Article 74 EUTMR

EU collective marks

1. A European Union collective mark ('EU collective mark') shall be an EU trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of the association which is the proprietor of the mark from those of other undertakings. Associations of manufacturers, producers, suppliers of services, or traders which, under the terms of the law governing them, have the capacity in their own name to have rights and obligations of all kinds, to make contracts or accomplish other legal acts, and to sue and be sued, as well as legal persons governed by public law, may apply for EU collective marks.

2. By way of derogation from Article 7(1)(c), signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute EU collective marks within the meaning of paragraph 1. An EU collective mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that he uses them in accordance with honest practices in industrial or commercial matters; in particular, such a mark shall not be invoked against a third party who is entitled to use a geographical name.

3. Chapters I to VII and IX to XIV shall apply to EU collective marks to the extent that this section does not provide otherwise.

Article 75 EUTMR

Regulations governing use of an EU collective mark

1. An applicant for an EU collective mark shall submit regulations governing use within two months of the date of filing.

2. The regulations governing use shall specify the persons authorized to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark, including sanctions. The regulations governing use of a mark referred to in Article 74(2) shall authorize any person whose goods or services originate in the geographical area concerned to become a member of the association which is the proprietor of the mark.

3. The Commission shall adopt implementing acts specifying the details to be contained in the regulations referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 207(2).

Article 76

Refusal of the application

1. In addition to the grounds for refusal of an EU trade mark application provided for in Articles 41 and 42, an application for an EU collective mark shall be refused where the provisions of Articles 74 or 75 are not satisfied, or where the regulations governing use are contrary to public policy or to accepted principles of morality.

2. An application for an EU collective mark shall also be refused if the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be something other than a collective mark.

3. An application shall not be refused if the applicant, as a result of amendment of the regulations governing use, meets the requirements of paragraphs 1 and 2.

[...]

THE BACKGROUND OF THE MATTER

Preliminary Remarks

13. The present matter concerns the relationship between the protection of geographical indications by the EU Commission based on the Regulation (EU) 2024/1143 of April 11, 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products ("EUGIR")¹, and of EU collective marks according to Article 74 et seq. of Regulation (EU) 2017/2001 of 14 June 2017 on the European Union trade mark ("EUTMR")². Geographical indications can be registered as a protected designation of origin ("PDO"; Art. 46 [1] EUGIR) or a protected geographical indication ("PGI"; Art. 46 [2] EUGIR).
14. Geographical indications (GIs) establish intellectual property rights for specific products, whose qualities are specifically linked to the area of production. The mandatory official logos which must be used together with the PDO and the PGI are as follows:



15. According to Article 74(1) EUTMR, the essential function of European Union collective marks is to distinguish the goods or services of the members of the association that is the proprietor thereof from those of other undertakings. Under Article 76(2) EUTMR the examiner must refuse the application of a collective mark if the public is liable to be misled as regards the character or the meaning of the mark, in particular if it is likely to be perceived as something other than a collective mark.
16. The EUIPO Guidelines³ state that this refers to the situation where the mark will not be perceived as a collective mark by the public but rather as an individual or certification mark. The Guidelines explain that, for instance, a collective mark would be misleading to the public if it gives the impression that it is available for use by anyone meeting certain objective standards. However, per the Guidelines, a collective mark, by nature, cannot be

¹ REGULATION (EU) 2024/1143 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 April 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2019/787 and (EU) 2019/1753 and repealing Regulation (EU) No 1151/2012.

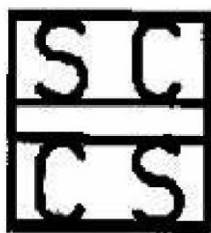
² REGULATION (EU) 2017/1001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on the European Union trade mark.

³ Guidelines for examination European Union Intellectual Property Office (EUIPO), edition 2025, Section 4 Absolute grounds for non-registrability, Chapter 15, European Union collective marks, point 15.3.1, Deceptive character or meaning of the trade mark.

used by non-members of the association (e.g. third party users, licensees, etc.). The regulations governing use contain a clear indication of who is entitled to use the collective mark (any member of the association or if additional requirements for members are in place) and, therefore, they grant to members the status of authorized users of the collective mark. If the regulations governing use permitted use of the collective mark by non-members of the association, this would not comport with the character of the collective mark.

The Registration for Salva Cremasco as a PDO

17. The European Commission, on December 23, 2011, registered the geographical indication *Salva Cremasco* as a PDO under the file number PDO-IT-0639, by Regulation (EU) No. 1377/2011 of 20 December 2011⁴, still based on the former Council Regulation (EC) No. 510/2006⁵. According to the single document (product specification) of the PDO registration, *Salva Cremasco* PDO is a soft table cheese made exclusively from raw, whole cows' milk. It is supposed to have a minimum maturing period of 75 days, during which time its rind is periodically washed. *Salva Cremasco* cheese is supposed to have a pleasant, intense flavour that becomes stronger as it becomes more mature. The flavour, according to the single document (product specification), is closely linked to the maturing process, being not very salty, having a slightly bitter taste reminiscent of green grass, in particular near the rind. Its aroma is mainly reminiscent of citrus fruit and melted butter, with a hint of sour milk, and when pressed between the fingers, *Salva Cremasco* is not very springy but rather crumbly and even slightly floury. The production area of *Salva Cremasco* PDO covers the entire areas of the provinces of Bergamo, Brescia, Cremona, Lecco, Lodi and Milan in Italy. While *Salva Cremasco* is registered as the geographical name in word format, the single document (product specification) under #3.7. includes specific rules concerning the labelling. Thereafter, when *Salva Cremasco* PDO cheese is released for consumption, the labels on all wrapping and/or packaging must bear the words *Salva Cremasco* PDO together with the EU logo and the logo of the protected product, which is square-shaped and has the following letters arranged on the inside as shown below:



18. *Salva Cremasco* PDO was applied for and is administered by the producer group *Consorzio Tutela Salva Cremasco* ("the Consorzio"), and on the website of the Consorzio

⁴ COMMISSION IMPLEMENTING REGULATION (EU) No 1377/2011 of 20 December 2011 entering a name in the register of protected designations of origin and protected geographical indications [*Salva Cremasco* (PDO)]

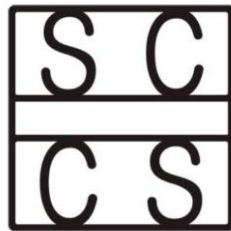
⁵ COUNCIL REGULATION (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs; repealed by REGULATION (EU) No 1151/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 November 2012 on quality schemes for agricultural products and foodstuffs; the latter repealed by REGULATION (EU) 2024/1143 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 April 2024 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products.

at www.salvacremasco.com, one can learn that the square-shaped logo mentioned in the single document (product specification) is embossed in the rind of the cheese:



The Application at Issue

19. On 9 January 2023, the Consorzio filed an application to register the following logo



with the EUIPO as a collective mark for the following goods:

Class 29: Cheese sauces; cheese-based snacks; cheese-based spreads; all the aforesaid goods based on 'salva cremasco' (GI) cheese; 'salva cremasco' (GI) cheese.

The Decision of the Examiner

20. With decision of August 5, 2024, the Examiner refused the application in its entirety pursuant to Article 76(2) EUTMR, mainly with the argument that the collective mark at issue would mislead the public. The Examiner, as summarized by the Board in the Referral Decision (page 3, last indent), has argued as follows:

In that sense, the collective mark at issue in this application misleads the public in that it gives the impression that it can be used by anyone who meets the production criteria laid down in the product specifications for the PDO, when in reality it can only be used by authorized parties belonging to the association. If the regulations governing use permitted the use of the collective mark by those who were not members of the association, this would not be consistent with the nature of the collective mark.

The Referral Decision

21. This decision was appealed by the Consorzio, and the First Board of Appeal with an interim decision of July 7, 2025⁶ referred the matter to the Grand Board, because the issue of the potentially misleading character of a figurative sign which was applied for as a collective mark, and which was identically contained in the product specification of a geographical indication, would be particularly sensitive, and the examination of the issue would likely raise further legal questions relating to the scope of protection and the specific functions of these different categories of rights (para. 16 of the Referral Decision). Namely, because the applicant had confirmed, that there would be a possibility – albeit currently only theoretically – that the logo applied for may be used for the production or marketing of cheese by operators not belonging to the Consorzio, provided that they are part of the certified production network of the *Salva Cremasco* PDO, the question would arise whether this situation would be compatible with the applicable EU scheme on simultaneous protection by PDOs and collective marks (para. 17 of the Referral Decision).
22. The Board in the Referral Decision has also pointed to the Office's Guidelines currently refusing such registrations on the ground that they are misleading, but also stressed that the EUTMR would not appear to contain any explicit restriction on the collective nature of the ownership of collective marks for the logo that is the subject of the application, nor would it address the question of whether an association or regulatory body, such as a consortium, may hold such signs as collective marks (para. 19 of the Referral Decision).
23. Additionally, the Board has pointed to a previous decision of the 5th Board of Appeal of November 15, 2023 in case R 1073/2022-5 (**Grana Padano**), which has involved a logo containing the *GRANA PADANO* PDO and where the 5th Board of Appeal lifted the rejecting decision of the examiner and accepted the application for the collective mark as being registrable. However, in that matter the logo was only similar, but not identical to the logo mentioned in the single document (product specification) of the *GRANA PADANO* PDO, so that the 1st Board of Appeal thought that it would also for this reason be appropriate to ask the Grand Board how to deal with such collective mark applications in cases where the signs were entirely identical (para. 20 of the Referral Decision).
24. Finally, the Board in the Referral Decision has emphasized that the applicant had stressed that a reason why the application of the collective mark is needed is to provide additional protection to geographical indications, in particular outside the EU, where they are neither recognized nor protected as such (para. 21 of the Referral Decision), namely, the applicant could base an application for an International Registration according to the Madrid Protocol on the EU collective mark designating such jurisdictions outside of the EU.

⁶ EUIPO, interim decision of the 1st Board of Appeal of 7 July 2025 in Case R 1946/2024-1.

Registrations of Geographical Indication as Collective Marks on the EUIPO Register

25. In searching the eAmbrosia database – the European Union register of geographical indications – and the EUIPO's database, INTA has detected the following geographical names which are either registered as a PDO or a PGI, and in parallel also as EU (word) collective marks:
- *Aceto Balsamico di Modena* – PGI-IT-0430 and EUTM 017087123 (collective)
 - *Dresdner Christstollen* – PGI-DE-0704 and EUTMR 000262949 (collective)
 - *Halloumi* – PDO-CY-01243 and EUTM 001082965 (collective)
 - *Madeira* – PDO-PT-A0038 and EUTM 003540911 (collective)
 - *Prosciutto di Parma* – PDO-IT-0067 and EUTM 001116458 (collective)
 - *Turron de Alicante* – PGI-ES-1564 and EUTM 002067031 (collective)
 - *Vino Nobile di Montepulciano* – PDO-IT-A1308 and EUTM 003742971 (collective)
26. The Consorzio, however, does not seem to own or have applied for an EU (word) collective mark for the geographical name *Salva Cremasco*.

INTA'S POSITION

27. The European Union legal system allows geographical names to be registered as geographical indications by the EU Commission, and parallelly also as EU collective marks by the EUIPO, Art. 31(5) EUGIR. To make such a parallel registration possible, Article 74(2) EUTMR provides for an exception from the absolute ground of refusal of Article 7(1) (c) EUTMR, allowing also indications of geographical origin to constitute EU collective marks. Both, a geographical indication registered by the European Commission, and a collective mark registered by the EUIPO, are applied for and owned by an association of producers, irrespective of its legal form. Since the EU legislator did not want to urge producers to become a member of such an association, a registered geographical indication may be used by any operator marketing a product that complies with the corresponding product specification (Article 36[1] EUGIR), and also an EU collective mark shall not entitle the proprietor to prohibit a third party from using such signs or indications in accordance with honest practices in industrial and commercial matters, in particular if the third party is entitled to use the geographical name (Article 74[2] EUTMR). The EUIPO has consequently allowed geographical names, which are registered by the European Commission as Protected Designations of Origin (PDO) or Protected Geographical Indications (PGI), to be registered parallelly as EU (word) collective marks, as the examples for *Aceto Balsamico di Modena*, *Dresdner Christstollen*, *Halloumi*, *Madeira*, *Prosciutto di Parma*, *Turron de Alicante* or *Vino Nobile di Montepulciano* listed above in para. 21, show.

28. Geographical names protected as a PDO or a PGI on the one hand, and EU collective marks protecting a geographical indication on the other hand, are governed by distinct legal regimes and pursue different aims. Namely, whereas a geographical indication is a name that identifies a product originating in a specific geographical area, whose quality, reputation or other characteristics are essentially attributable to its geographical origin, and at least one of the production steps of which take place in the defined geographical area, the EU trade mark is a sign capable of distinguishing the commercial origin of goods or services (CJEU, judgement of September 20, 2017 in joined cases C-673/15 P to C-676/15 P, the Tea Board v. EUIPO, para. 62 – *Darjeeling*). Consequently, while the essential function of a geographical indication is to guarantee to consumers the geographical origin of the goods and the specific qualities inherent in them (CJEU, judgement of September 20, 2017 in joined cases C-673/15 P to C-676/15 P, the Tea Board v. EUIPO, para. 56 – *Darjeeling*), the essential function of an EU collective mark protecting a geographical name is to guarantee the collective commercial origin of the goods sold under that mark, and not their collective geographical origin (CJEU, judgement of 20 September 2017 in joined cases C-673/15 P to C-676/15 P, the Tea Board v. EUIPO, para. 57 – *Darjeeling*).
29. While Article 7(1)(c) EUTMR, in the public interest, excludes indications of the geographical origin from being registered as an individual mark, Article 74(2) EUTMR explicitly opens the registration of geographical names as an EU collective mark.
30. At the same time, Art. 74(2) EUTMR takes the public interest into account by allowing any third party to use the geographical indication covered by the collective mark in accordance with honest practices, especially if the third party is entitled to use the geographical name (CJEU, judgement of 20 September 2017 in joined cases C-673/15 P to C-676/15 P, the Tea Board v. EUIPO, para. 59 and 60 – *Darjeeling*).
31. As outlined beforehand, and as emphasized by the Court of Justice in the aforementioned *Darjeeling* decision, the European Union legislator wanted to explicitly allow geographical names to be registered as EU collective marks. However, in order to observe the public aim to not unduly limit the use of a geographical indication, the European Union legislator has explicitly created an exception from the exception: while Article 7(1)(c) EUTMR explicitly excludes descriptive indications of the geographical origin from being registered as an individual mark, Article 74(2), first sentence, EUTMR explicitly allows descriptive geographical indications to be registered as an EU collective mark, but third parties remain entitled to use the geographical name in accordance with honest practices, under Article 74(2), second sentence, EUTMR. Furthermore, a registered geographical indication according to Article 36 EUGIR may also be used by any operator marketing a product that complies with the corresponding product specification, without having to be a member of the producers' group being the proprietor of the respective registration as a PDO or a PGI. Consequently, an outsider who is not a member of the producers group owning the PDO or the PGI, or the corresponding EU collective mark, in the geographical name, can use the geographical name in accordance with honest practices, and as long as its product complies with the product specification of the PDO or the PGI. This also means that, in the examples for parallel registrations above in para. 21, any outsider not being a member of the associations owning the respective PDOs or PGIs, and collective mark registrations, may use *Aceto Balsamico di Modena*, *Dresdner Christstollen*, *Halloumi*, *Madeira*,

Prosciutto di Parma, *Turron de Alicante* or *Vino Nobile di Montepulciano*, if the respective products comply with the respective product specifications. However, any such use would necessarily not be in line with the essential function of the EU collective mark, which, according to the Court of Justice of the EU, is not to guarantee the geographical origin of the product, but the collective commercial origin (CJEU, judgement of September 20, 2017 in joined cases C-673/15 P to C-676/15 P, the Tea Board v. EUIPO, para. 57 – *Darjeeling*).

32. INTA sees no distinction between registering a geographical name as an EU collective mark in word form and registering a logo included in the product specification of a PDO or PGI, which must be used alongside the geographical name. Namely, if one were to argue that a collective mark is potentially misleading within the meaning of Article 76(2) EUTMR because it could be used by anyone who meets the production criteria laid down in the products specifications for the PDO or the PGI, even if not a member of the producers group owning the mark, then by the same logic any collective mark protecting a geographical name within the meaning of Article 74(2) EUTMR would be misleading as well. This, however, was obviously not the intention of the European Union legislator as it has explicitly allowed the registration of such collective marks.
33. One could consider that Article 74(2) EUTMR only applies to geographical names, and not to logos connected to the geographical indication because of the labelling conditions provided for by the registration as a PDO or a PGI. It is likely that, in the GRANA PADANO case, the issue at stake did not arise because the sign in question was not the logo connected to the geographical indication by virtue of the labelling conditions provided for by the PDO registration, but rather a similar one.



34. Having said that, it remains that Article 74(2) EUTMR does not specifically refer to geographical names as words only, but to any signs or indications which may serve, in trade, to designate the geographical origin of the goods. Since, according to Article 4 EUTMR, signs within the meaning of the EUTMR include in particular words, designs, letters, numerals, colors, even the shape of goods or of the packaging of goods, there is no reason to assume that the signs mentioned in Article 74(2) EUTMR would not include logos. Therefore, also an EU collective mark protecting a logo as the one applied for and mentioned in the registration for Salva Cremasco PDO, would fall under the exception of Article 74(2), second sentence, EUTMR, and it could be used by any third party not being a member of the Consorzio provided that it is used in accordance with honest practices, especially as long as it is used in line with the Salva Cremasco PDO.

35. Consequently, the absolute ground for refusal in Article 76(2) EUTMR, that the collective mark is liable to be misleading as regards to its character, cannot apply to a situation which is explicitly referred to and allowed by the law in Article 74(2) EUTMR. Furthermore, since this consequence applies to any signs or indications which may serve, in trade, to designate the geographical origin of the goods which are registered as an EU collective mark, there can be no difference in the treatment of words and logos.
36. Indeed, what the Examiner stated as reasoning regarding the logo at hand was inter alia, the following:

Hence the confusion created as to the collective nature of the sign applied for. While the collective mark may be used only by members of the applicant association to distinguish their products and authorized to do so by the regulations governing use, the PDO and the logo provided for in the product specification as mandatory for packaging may be used by any person producing cheese in compliance with that specification. In that sense, the collective mark referred to in the present application would mislead the public because it gives the impression that it can be used by anyone who meets the production criteria laid down in the PDO specification, when in fact it can be used only by authorized persons who are members of the association. If the regulations governing use allowed the collective mark to be used by persons who are not members of the association, that would be inconsistent with the nature of a collective mark.

(p. 3 of the Referral Decision).

37. Misleading character in the above sense would apply a fortiori to word marks which are registered as a PDO or a PGI, and these are explicitly allowed for registration by the EUTMR. It follows from the above, that applying the Examiner's rationale would lead to any geographical names also being excluded from registration, a result which is contrary to the letter of the law.
38. The BoA found in Grana Padano (par. 21), that

in any case, the similarity of the signs is not sufficient in itself to confuse the consumer with regard to the nature of the trade mark in question, but will be perceived as a further reassuring of the fact that the packaged 'Grana Padano' cheese originates from the Consortium sector and therefore inherently falls under the processing standards of the Consorzio, complementary to the guarantee of quality provided by the geographical indication,

INTA does not support that a logo *similar* to the GI product specification logo (as was the case in Grana Padano) and a logo *identical* to the product specification logo should be treated differently. In both cases what is at issue is a logo contained in the product specification of a GI (and not the GI itself) and the Board of Appeal has already confirmed that such similar logo can be registered as a collective mark and is not misleading (Grana Padano). If a similar logo is not misleading an identical logo would not be misleading either.

39. Lastly, if the GI product specification logos were to be considered as ineligible for registration as collective marks, they would be left with limited protection, given that they are not the PDOs or PGIs themselves and that they could not be registered as individual

trade marks either⁷. This would give rise to imitations to the detriment not only of the GIs rightsholders but also of consumers.

40. INTA would also like to note that the EUIPO is bound by the principles of equal treatment and sound administration, and must take into account decisions already taken in respect of similar applications, considering with special care whether it should decide in the same way or not, consistent with respect to the principle of legality (permanent case-law, see recently only General Court, judgement of 23 July 2025 in case T-472/24, *Summer Fridays v. EUIPO*, para. 34 – JET LAG). Since Article 74(2) EUTMR explicitly provides for a sign which may serve to designate the geographical origin of the goods to constitute an EU collective mark, the EUIPO, also following the principles of equal treatment and sound administration, must treat logos which serve to designate the geographical origin in the same way as a geographical name as such.
41. Finally, with respect to the argument that the collective mark would be needed to provide additional protection to geographical indications by applying for an International Registration according to the Madrid Protocol, INTA has doubts whether this can be a viable argument. Although Recital 45 EUTMR stresses that it shall ensure the effective and efficient registration of international trade marks also in relation to collective marks, INTA considers that the effective protection for geographical indications also outside of the European Union is rather a political task which should be solved on a different level than in administrative procedures before the EUIPO.

CONCLUSION

42. In summary, INTA takes the following position:
 - The European Union legal system allows geographical names to be registered as geographical indications by the EU Commission as PGIs and PDOs and parallelly also as EU collective marks by the EUIPO.
 - Both legal systems provide for producers' groups to apply for the respective protection, but allow outsiders not being members of the respective producer groups to nevertheless use the geographical name if the product and the use of geographical name are in line with the product specification of the geographical indication, and in line with honest practices. The EUIPO has consequently allowed geographical indications, which are registered by the European Commission as a PGI or a PDO, to be registered parallelly as EU word collective marks.
43. If the EU legislator has explicitly provided in Art. 74(2) EUTMR, that outsiders not being a member of the producers' association owning the collective mark may use the geographical indication in accordance with honest practices, in particular if the outsider is entitled to use the geographical name, then the EU legislator, facing a conflict between indications of geographical and commercial origin, has explicitly accepted an exception to the principle

⁷ However, these logos could receive an indirect protection because they can fall into the scope of protection of the geographical name registered as a PDO or a PGI according to Art. 26 EUGIR.

of collective marks functioning as indications of commercial origin in order to resolve this conflict.

44. Consequently, the ground for refusal in Art. 76(2) EUTMR, when it comes to collective marks with geographical indications and names, as invoked by the contested decision cannot apply. The application of this ground would be indeed contrary to the aim of the EU legislator to allow geographical indications to be registered by producer groups as collective marks, but to not urge all producers or other participants in commerce who are entitled to use the geographical indication to also become a member of the producers group.
45. Art. 74(2) EUTMR applies to all *signs* within the meaning of Art. 4 EUTMR, and thus to words and to logos, with no differentiation between them, and thus no different standards apply.
 - Consequently, the EUIPO has to treat geographical indications as words in the same way as geographical indications which are connected to logos, and cannot reject the application for the trade mark at issue with the argument that it would have a potentially misleading character within the meaning of Art. 76(2) EUTMR because it could be taken as not fulfilling its essential function to indicate the membership of an association.
 - Finally, also the principles of equal treatment and sound administration require that the EUIPO treats applications for geographical indications as EU collective marks in the same way, if the geographical name is applied for as a word collective mark, or as a logo.

ANNEX A

INTA's *amicus*-type submissions in cases before European courts/bodies:

- Third Party Observations on January 7, 2025, in case R 50/2024-2, *Johannes Hendricus Maria Smit v EUIPO*
- Statement in Intervention of July 17, 2024, in case T-38/24, *OMV AG v EUIPO*
- Third Party Observations on June 1, 2024, in case R 497/2024-G, *Nightwatch*
- Statement in Interventions of September 11, 2023, in cases T-105/23 and T-106/23, *Iceland Foods Ltd. v EUIPO*
- Statement in Intervention of June 7, 2023, in case C-337/22P, *EUIPO v. Nowhere*
- Letter of Submission of September 29, 2022, in case C-361/22, *Industria de Diseno Textil, S.A. (Inditex) v. Buongiorno Myalert, S.A.*
- Letter of Submission of September 1, 2022, in case C-334/22, *Audi AG v. GQ*
- Third Party Observations on June 3, 2022, in case R-260/2021-1, *Matthias Zirnsack v. EUIPO*
- Letter of submission of January 10, 2022, in case C-175/21, *Harman International Industries*
- Letter of submission of December 2, 2021 in case C-472/21, *Monz Handelsgesellschaft International mbH & Co. KG vs. Büchel GmbH & Co. Fahrzeugtechnik KG*
- Letter of submission of August 16, 2021, in case C-112/21, *X BV v Classic Coach Company and Others*
- Third Party Observations on July 2, 2021 in cases R 1613/2019-G, *Iceland Foods Limited v. Icelandic Trademark Holding ehf* and R 1238/2019-G *Iceland Foods Limited v. Islandsstofa (Promote Iceland), The Icelandic Ministry for Foreign Affairs and SA - Business Iceland*
- Letter of submission of June 28, 2021, in case C-62/21, *Leinfelder Uhren München*
- Third Party Observations on April 1, 2021 in case R 964/2020-G, *EUROMADI IBERICA, S.A./ Zorka Gerdzhikova*
- Third Party Observations on March 3, 2021 in cases R 1719/2019-G and R 1922/2019-G, *The Estate of the Late Sonia Brownell Orwell ./. EUIPO*
- Third Party Observations on February 24, 2021 in case R 2248/2019-G, *The Estate of the Late Sonia Brownell Orwell ./. EUIPO*
- Letter of submission of December 23, 2020, in case C-421/20, *Acacia*
- Third Party Observations on December 1, 2020 in case R 1304/2020-G, *Der Grüne Punkt Duales System Deutschland GmbH ./. Halston Properties, s.r.o. GmbH*

- Letter of submission of September 28, 2020, in joined Cases C-253/20 and C-254/20, *Novartis AG v. Impexco NV and Novartis AG v. PI Pharma NV*
- Letter of submission of August 27, 2020, in joined cases C-147/20 and C-224/20, *Novartis Pharma GmbH v. Abacus Medicine A/S and Merck Sharp & Dohme B.V. et al. v. Abacus Medicine A/S et al.*
- Statement in Intervention of January 6, 2016, in case T-142/15, *DHL Express (France) v EUIPO*
- Statement in Intervention of April 25, 2014, in case C-445/13P, *Voss of Norway v OHIM24*
- Written Observations of March 16, 2010, in case C-495/09, *Nokia*
- Letter of submission of August 23, 2012, in case C-252/12, *Specsavers International Healthcare Limited & others vs Asda*
- Letter of submission of September 5, 2007, in case C-252/07, *Intel Corporation*
- Letter of submission of June 12, 2007, in case C-102/07, *Adidas and adidas Benelux*
- Letter of submission of April 25, 2006, in case C-17/06, *Céline*
- Submission as intervener to the English Court of Appeals on October 16, 2006, in case *Special Effects v L’Oreal SA* (HC 05C012224, Court of Appeal 2006 0744)
- Letter of submission of June 17, 2005, in case C-108/05, *Bovemij Verzekeringen*
- Letter of submission to of December 5, 2003, in case T-133/03, *Schering-Plough v Commission and EMEA*
- Letter of submission of April 4, 2003, in case EFTA Court E-3/02, *Paranova A/S v. Merck & Co., Inc, Merck, Sharp & Dohme B. V. and MSD (Norge) A/S*
- Letter of submission of March 20, 2003, in case C-418/02, *Prakiker Bau- und Heimwerkermärkte*
- Letter of submission of November 1, 2001, in case C-283/01, *Shield Mark*
- Letter of submission of July 6, 2001, in case C-104/01, *Libertel*
- Letter of submission of October 10, 2000, in case C-143/00, *Boehringer Ingelheim and Others*