

The background features abstract, overlapping green geometric shapes in various shades, including light lime green, medium green, and dark forest green, creating a modern, layered effect.

The Scope of GI Protection

Le Champ de la Protection des IG

AIDV International Conference, Napa Valley, October 2018

Geographical Indications and Certification Marks for GIs: Different Scope of Protection?

- ▶ Use of the name of a genuine GI product, used as an **ingredient** in another product, in the presentation of that other product (« Champagne sorbet »)
- ▶ Use of a geographical name in the presentation of **different** products (e.g., « Rioja », « Brie », « Modena »)
- ▶ How do they compare in case the GI is considered **well-known**?

French
Champagne
Balsamic
Vinegar
Artfully
Blended with
Italian
Balsamic
Vinegar
from Modena,
Italy



GIs shall be protected against use in respect of goods of the same kind not originating in their geographical area of origin (Art.11 Geneva Act)

- ▶ The Geneva Act further specifies that such protection also applies to use of a GI amounting to its **imitation**, even if the GI is used in translated form or is accompanied by delocalizing or genericizing terms
- ▶ Protection under Art.11 against use in respect of goods that are not of the same kind or services depends on the **reputation** of the GI
- ▶ However, it is also specified that a finding of infringement cannot be based on an element in the GI that is considered **generic**
- ▶ How does the protection of **certification marks for GIs** compare with this?

Indications or Allegations Used in Commerce Liable to Mislead the Public

- ▶ These are acts of **unfair competition**, if they concern the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods (**Art.10bis Paris Conv.**)
- ▶ **Art.22(2)(b) TRIPS** requires protection of GIs against acts of unfair competition within the meaning of the Paris Convention, i.e. including, in particular, indications liable to mislead the public as to the **origin-based characteristics** of the goods
- ▶ Does 'liable to mislead' not inherently imply a certain degree of reputation? or well-knownness?