

“Napa Valley” is first non-European geographical indication for wine registered by EU

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On May 10, 2007, the “Napa Valley” American Viticultural Area (AVA), along with the Brazilian appellation “Vale dos Vinhedos,” became the first non-European geographical indications (“GIs”) for wine registered by the European Union (EU).

The journey to registration for “Napa Valley” was long and arduous and has paved the way for the registration of other AVAs and non-European appellations by the EU.

The importance of this registration to American wine regions is significant as AVAs, upon registration in the EU, will now be entitled to absolute protection in the entire European Community.

The road to registration for “Napa Valley” in the EU is instructive, underlining the importance of receiving such registration. In early 2001, the Napa Valley Vintners (NVV) began an international program of policing misuse of the Napa name.

At the international level, one of the most important tools in preventing misuse of an AVA is a provision in the General Agreement on Tariffs and Trade (GATT) Trade Related Aspects of Intellectual Property (TRIPS), which provides that every World Trade Organization member country must provide absolute protection for GIs for wines and spirits and provide mechanisms to prevent such GIs from being used or registered as trademarks for wines not from the area identified by the GI. NVV has relied on this provision of TRIPS to stop misuse of the Napa name in several countries.

In a rather ironic twist, in 2004 NVV attempted to prevent registration of the trademark Napa Ridge in the EU based upon the TRIPS GI provision. However, despite providing significant evidence as to the geographical significance of Napa Valley for wine, NVV’s



napa valley
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request to deny registration was refused on the basis that Napa Valley was not recognized by the EU as a geographical indication pursuant to its wine laws.

While NVV and the applicant for the Napa Ridge trademark eventually resolved their dispute, this incident raised a much larger problem for NVV and its protection of the Napa name in Europe. Accordingly, NVV undertook efforts to seek registration of the Napa Valley GI in the EU. However, there was one small problem: the EU had never registered a non-European GI for wine and there was not even a procedure for non-European GIs to apply for such registration.

Undaunted, in 2005 NVV submitted documents and information to the EU Directorate General for Agriculture indicating that NVV believed that the quality, characteristics, and/or reputation of wine from Napa Valley can be attributed to the Napa Valley origin of the wine and that the Napa Valley name is uniquely associated with the region (the standard for what constitutes a GI under TRIPS).

Shortly thereafter, NVV received word that its request for GI registration was refused on the basis that there was no process for application for non-European GIs, and that a bilateral

agreement between the EU and the U.S. was the only way to obtain GI protection in the EU. Believing this violated the TRIPS treaty and a recent WTO decision on GIs, NVV undertook a lobbying effort that brought it to both Washington, D.C. and Brussels, to convince the relevant authorities that this refusal should be withdrawn and that Napa Valley was entitled to registration as a wine GI in the EU.

In late 2006, NVV received unofficial word that Napa Valley would be the first non-European wine GI recognized by the EU. That recognition became official in May.

NVV can now rely on this GI registration to protect the Napa name in the EU. Any trademarks for wine filed in the EU that encompass the term “Napa” must be limited to Napa wine, based on the presumption that Napa Valley is a GI. NVV need not prove this separately in each case.

Furthermore, any wine being imported into the EU that does not properly use the Napa name may be seized at the border based upon the GI registration. Thus, NVV’s enforcement of proper use of the Napa name has become significantly easier.

Despite the registration of Napa Valley as a GI in the EU, there remains no process for applying to register. The EU has vowed to design such a process; however, the EU has also indicated that the process will be part of its overall reform of the EU wine sector, which could take years.

In the meantime, NVV has paved a road for other AVAs to obtain GI registration in the EU and protect their valuable names before they can be misused by unscrupulous parties. ■

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