

A Study on the Conflicts and Coordination between Geographical Indication Trademark Protection and the Sui Generis Protection System

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Abstract: China currently adopts a dual-track protection system for geographical indication (GI), comprising trademark-based protection and sui generis protection, with the former serving as the dominant approach. This has led to issues such as the coexistence of multiple rights causing conflicts and inconsistent infringement standards. The core problem lies in the fact that the collective nature of GI cannot fully align with the private rights nature of trademarks, and the objective correlation of “product-place of origin” for GI also struggles to harmonize with the subjective recognition standards of trademarks. From the perspective of domestic industrial development or international competition needs, there is a practical demand for a protection model primarily governed by sui generis legislation. Accordingly, China should enact dedicated legislation on GI, adopt objective criteria as the primary basis for determining infringement, ensure effective coordination between the sui generis regime and the Trademark Law, and establish a specialized authority responsible for GI protection. These measures would help prevent conflicts of rights resulting from the functional overlap between the two protection regimes, enable each regime to perform its respective functions, and ultimately achieve a higher level of protection for GI.

Keywords: Geographical Indication; Trademark Law; Sui Generis Legislation; Conflicts of Rights

1. Introduction

In recent years, the role of geographical indication (GI) in promoting regional economic development, preserving traditional crafts, and revitalizing rural areas has become increasingly prominent. They not only identify the sources of goods and ensure product quality, but have also

become important carriers of local culture and economic competitiveness. However, China's current GI protection system is still characterized by fragmented administration and the coexistence of multiple protection regimes. This results in inconsistencies in the standards used to determine infringement. Although this situation has improved with the gradual introduction of sui generis legislation regulations, further coordination of different protection models is needed to resolve conflicts.

China's GI protection system is complex, and the current protection rules are scattered in the Trademark Law, the Measures for the Protection of Geographical Indication Products, the Measures for the Administration of Geographical Indications of Agricultural Products, and other relevant legal norms.

According to the three different management systems for GI before the reform of the administrative organs of the State Council, some scholars call it the “three-way model”, namely, one is the Trademark Law and the accompanying Measures for the Registration and Management of Collective Trademarks and Certification Trademarks, the second is the Regulations on the Protection of Geographical Indication Products promulgated by the former State Administration of Quality Supervision, Inspection and Quarantine in 2005, and the third is the Measures for the Administration of Geographical Indications of Agricultural Products promulgated by the former Ministry of Agriculture in 2007 [1]. Other scholars believe that the model adopted by China is the “double-track model”, and the latter two legal norms are collectively referred to as the sui generis model, that is, the parallel protection of trademark law and sui generis law [2]. This view is essentially based on the distinction in Article 123 of the Civil Code of the People's Republic of China, which lists GI and trademarks as the object of intellectual property rights. In general, China's GI protection model is a composite

model of trademark law protection and sui generis regulation protection in parallel. After the institutional reform of the State Council in 2018, GI trademarks and GI products were managed by the China National Intellectual Property Administration, and GI of agricultural products were managed by the Ministry of Agriculture and Rural Affairs. In the past, there were still institutional problems in which the three models overlapped and conflicted.

The controversy in the academic community about the protection of GI lies in what kind of protection model should be adopted. Most scholars believe that the coordination scheme of the coexistence of the two protection models should be explored, but there are different views on how to coordinate and which model is dominant. Some scholars believe that the protection of trademark law should be strengthened, with sui generis protection serving as a complementary mechanism [3]. Other scholars believe that a coordinated path dominated by sui generis legislation should be built [4]. The latter point of view is more desirable under the current national conditions of China. As pointed out in the Outline for Building a Powerful Intellectual Property Country (2021-2035), China should “improve the unified GI protection system that coordinates sui generis protection and trademark protection”. Therefore, it is urgent to clarify the dilemma of the protection of GI under the existing institutional system, clarify the limitations of the current protection dominated by trademark law, and how to coordinate it.

There is a certain conflict between the current trademark law protection model and the sui generis law protection model, which is not conducive to achieving a high level of protection of GI. For this reason, starting from the dilemma of the coexistence of China's GI protection model, this article will clarify the conflict arising from the enjoyment of rights of different rights subjects on the same or similar logos, the uneven identification standards for relevant infringement cases in judicial practice, analyze the limitations of the protection model dominated by trademark law, and the necessity of building a sui generis legal protection system as the leader.

2. Predicaments Arising from the Coexistence of Two Geographical Indication Protection Regimes

Although there are both trademark law

protection and sui generis protection, China's GI protection model is still dominated by trademark law in practice. This is attributable to three main reasons. First, the legal hierarchy of the regulations governing sui generis GI protection is significantly lower than that of the Trademark Law, and these regulations primarily address issues concerning administrative protection rather than the establishment and enforcement of GI rights. Second, it is only within the trademark law framework that China has established a GI protection mechanism aimed at preventing the misrepresentation of product origin caused by counterfeit GI products, thereby creating GI rights in the sense of intellectual property law. Although the sui generis protection regime established through administrative regulations resembles the dedicated GI protection system adopted in the European Union in form, the level of protection it provides remains relatively limited [5]. Third, the normative framework under the sui generis protection regime is, in essence, not a property rights regime. Relevant stakeholders of GI cannot obtain corresponding private rights or pursue private-law remedies through this system. In judicial practice, courts generally rely not on the aforementioned administrative regulations, but on the Trademark Law as the legal basis for adjudication in GI-related disputes [6].

2.1 Conflicts Arising from the Coexistence of Multiple Rights

Under China's institutional framework, where two GI protection regimes coexist and trademark-based protection remains dominant, conflicts inevitably arise when different rights holders obtain protection for identical or similar signs under different legal regimes.

2.1.1 Conflicts between Geographical Indication and Prior Registered Trademarks

China's Trademark Law does not prohibit the registration of geographical names below the county level as trademarks and adopts a policy of maintaining the validity of already registered geographical-name trademarks. Such registered geographical-name trademarks may potentially conflict with GIs associated with the corresponding regions, demonstrating the lack of coordination between the trademark system and the sui generis GI registration system.

The conflict between GIs and prior registered trademarks can be illustrated by the Jinhua Ham Case (the dispute between Zhejiang Food Co.,

Ltd. and Shanghai Taikang Food Co., Ltd. and others regarding trademark infringement). In this case, a food company in Zhejiang Province applied for and obtained registration of the trademark “Jinhua Ham” in October 1979, and subsequently transferred ownership of the registered trademark to Zhejiang Food Co., Ltd. in 2000. Thereafter, some authentic ham producers in Jinhua City were unable to lawfully use the designation “Jinhua Ham” on their products because they were unwilling to pay trademark licensing fees. In order to solve this problem, the local government declared the protection of the origin regional product of Jinhua Ham to the former State Administration of Quality and Technical Supervision, so that Jinhua Ham was subject to the dual normative adjustment of trademark protection and GI product protection at the same time, forming a complex situation where two systems coexist and different rights subjects. In 2003, Zhejiang Food Co., Ltd. sued Jinhua Ham Production Enterprise, believing that it constituted trademark infringement [7].

The root cause of this conflict is that the product name of GI is privatized by individuals through trademark registration, which contradicts the public attributes and collectivity of GI. In response to this infringement dispute, the court believes that it should be resolved based on the principles of respect for history, honesty and credit. As the exclusive right holder of a registered trademark, the plaintiff's exclusive right to a registered trademark is protected by law. However, at the same time, the plaintiff has no right to prohibit others from using the logo properly, and GI products should also be protected by law. In other words, due to historical reasons, the different legitimate rights of different rights subjects overlap on the same product. Conflicts should be avoided by reasonable distinction and standardized use, and the relationship between trademarks and GI should be coordinated under the framework of balancing rights and obligations and safeguarding public interests.

2.1.2 Conflicts Among Multiple Geographical Indications Originating from the Same Region

The decentralization of rights types and the diversification of application channels under the existing system, coupled with the lack of an effective coordination mechanism, not only increase the risk of conflict between GIs and place name trademarks, but also may have

several GI marks on products that are essentially the same.

Take “Yangcheng Lake Hairy Crab” as an example, due to several transfers of the registered trademark “Yangcheng Lake,” the complex interrelationship among ownership rights and licensing rights, as well as the adoption of different protection measures by relevant industry associations, a situation has emerged in which trademarks, GI products, and agricultural product GIs relating to “Yangcheng Lake Hairy Crab” coexist. Specifically, the Suzhou Yangcheng Lake Hairy Crab Industry Association obtained recognition of Yangcheng Lake Hairy Crab as a GI product at an early stage, applied for the relevant collective trademark in 2017, and obtained recognition as an agricultural product GI in 2020. Meanwhile, another industry association within the same Yangcheng Lake region also applied for the collective trademark “Bacheng Yangcheng Lake Hairy Crab” [8].

Although, from a theoretical perspective, producers and operators within a designated GI region may be permitted to use the designation “geographical name + generic product name” without authorization, such use may constitute legitimate use. However, in practice, the coexistence of different trademarks or GI product designations resulting from multiple GI protection regimes may not only cause consumer confusion and trigger infringement disputes, but may also undermine the quality-assurance function of GI. In turn, it leads to the lack of unified identification standards for the quality of relevant products, and the frequent occurrence of adverse phenomena such as the sale of inferior “washed” crabs falsely associated with Yangcheng Lake Hairy Crab, which is extremely detrimental to industrial development.

2.2 Inconsistent Standards for Determining Infringement

As discussed above, China's GI protection system is primarily dominated by the trademark law framework. The Provisions on the Protection of Geographical Indication Products, the Measures for the Administration of Geographical Indications of Agricultural Products, and other departmental regulations mainly provide for the administrative protection of GI, making it difficult to achieve comprehensive protection. Consequently, GI rights holders lack independent claims through

which they can preserve the full realization of their rights or obtain corresponding legal remedies. Accordingly, GI rights holders tend to seek protection under the trademark law framework [2]. The coexistence of the two protection regimes has also resulted in inconsistent standards for determining infringement in judicial practice concerning GI-related disputes.

2.2.1 Whether the Scope of “Confusion” Should Be Extended to Geographical Origin and Quality Characteristics

According to Article 57 of Trademark Law of the People’s Republic of China, infringement of ordinary trademarks is determined based on the likelihood of confusion, with the central criterion being whether the relevant public is likely to misidentify the source of goods or services. Any one that is enough to make the public mistakenly think that the product or service is provided by the trademark holder or has a specific connection with it, it constitutes confusion and thus constitutes infringement. However, for the infringement case of GI certification trademarks, some courts have put forward a broader standard in the judgment, that is, examining whether the relevant public misunderstands the origin, quality and other characteristics of the product.

For example, in the case of Wuchang Rice Association v. Jingdong Co., Ltd. for infringement of trademark rights, the court of first instance pointed out that based on the proof that a certification trademark is to indicate the quality of the goods, place of origin and other characteristics, and is different from ordinary commodity trademarks, whether infringement of certification trademark rights should not be based on whether the alleged infringement is easy to cause the relevant public to confuse the source of the goods. Instead, the relevant inquiry should focus on whether such use is likely to cause the public to form a mistaken understanding regarding characteristics such as the geographical origin of the goods. In addition, some courts still adopt confusion criteria. For example, in the case of Wuchang Rice Association v. Mulinson E-Commerce Co., Ltd. concerning trademark infringement, the court held that the defendant’s behavior is easy to cause consumers to misunderstand that there is a specific connection between the goods and Wuchang rice or its trademark holder, causing confusion. The difference between the two standards is whether the object of “confusion”

should be expanded, should it be limited to the source of goods, or should it be expanded to include quality characteristics such as commodity quality.

There is also controversy in the academic community. Some scholars believe that the standard of confusion should not be expanded to quality. On the one hand, it deviates from the original intention of the confusion theory. On the other hand, it believes that the most direct confusion of consumers is the origin, not the quality characteristics. Because GI certification trademarks have the function of ensuring the quality of goods, the confusion of the origin can cover quality and other characteristics [9]. However, relying solely on source confusion as the determining criterion may permit third parties to use GI trademarks while truthfully indicating the actual geographical origin of their products, thereby allowing infringement through imitation or misuse of GI trademarks despite the accuracy of the stated origin. If there is no intervention, the reputation of GI trademarks will be adversely affected.

The essence of the above-mentioned differences in standards is that the quality assurance functions of GI and trademarks are fundamentally different. For the former, a specific quality is one of the key components of GI and the conditions required for confirmation of rights. After confirmation of rights, it must be supervised and managed by relevant departments or institutions to maintain the standard. For the latter, quality assurance is only an auxiliary function generated in market use, and it is an unregulated way adopted by the trademark owner to maintain the reputation of the trademark.

2.2.2 Whether “Unauthorized Use by the Rights Holder” Should be Considered in Determining Infringement

In judicial practice, some courts consider, when determining whether the use of a GI certification trademark constitutes infringement, whether the goods originate from the designated geographical area of the GI and whether they satisfy the relevant quality requirements. In contrast, other courts further examine whether such use of the trademark was conducted without authorization from the rights holder. Some scholars have categorized the former approach as the “two-element test” and the latter as the “three-element test” [10].

Courts adopting the two-element test, such as the

Guangzhou Intellectual Property Court in the case of Jingdezhen Ceramic Association v. Guangzhou Wujia'er Household Products Co., Ltd., held that other entities located in the Jingdezhen region were entitled to legitimately use the geographical name contained in the certification trademark without authorization from the association. By contrast, in the West Lake Longjing Case, the High People's Court of Jiangsu Province held that the defendant's goods neither originated from the production area covered by the GI certification trademark "West Lake Longjing" nor had obtained authorization from the plaintiff. Moreover, the plaintiff has clarified the conditions for the use of the trademark in the relevant use management rules. In this case, it is determined that the defendant's infringement is to adopt the "three elements", that is, to include it in the category of considering infringement without the permission of the right holder.

The second paragraph of Article 4 of the Regulations on the Implementation of the Trademark Law clearly states that for collective trademarks of GI, producers and operators who meet specific conditions can use them properly without permission, while GI certification trademarks are not specified. If the element of the right holder's permission is not considered, the logo can be used properly on any goods that meet specific quality standards in the region, which is not conducive to the right holder's control and grasp of the quality of the goods, and may even cause consumers to misidentify the specific quality of the goods that is contrary to the intention of the GI certification trademark system.

In summary, under the framework of the GI protection system where trademark law protection and sui generis protection coexist, there are many difficulties and conflicts in the model dominated by trademark law. The root cause of these conflicts should be explored, that is, the limitations of this protection model should be clarified, so as to consider the necessity of establishing sui generis legislation to take the lead.

3. Necessity of Establishing a Geographical Indication Protection Model Centered on Sui Generis Legislation

3.1 Limitations of the Trademark Law-Dominated Protection Model

Article 16(2) of Trademark Law of the People's Republic of China defines GI as a sign indicating that a particular product originates from a certain region, where the specific quality, reputation, or other characteristics of the product are primarily determined by the natural or human factors of that region. Under the trademark law framework, protection available for GI mainly takes three forms. First, direct protection is provided by registering GI as a certification trademark or collective trademark, thereby enabling the rights holder to obtain exclusive trademark rights. Second, a form of indirect protection is available for unregistered GI, which may be invoked as a prior right to prevent the registration or use of trademarks by others. Third, GI may obtain specific protection when it meets the requirements for recognition as a well-known trademark [5]. However, the trademark-law-dominated protection model has certain inherent limitations.

3.1.1 The Incompatibility between the Collective Nature of Geographical Indication and the Exclusive Private-Rights Nature of Trademark Law

The fundamental logic of trademark law lies in establishing an exclusive private rights regime aimed at identifying the source of goods. However, whether GI, which possesses an inherently collective nature, can be fully accommodated within such a framework remains subject to considerable debate. From the perspective of the origin and development of GI protection, the establishment of GI protection was not initially intended to protect private rights, but rather to prevent false indications and consumer confusion arising from misrepresentation, with its underlying legal rationale rooted in the law of unfair competition [11].

The early European protection of appellations of origin was likewise, in essence, a mechanism under competition law aimed at maintaining market order and safeguarding public interests. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) establishes the concept of GI, but does not expressly adopt the concept of a "rights holder." Instead, it stipulates that the subject of GI protection is "all parties with interests", while other intellectual property subjects have terms such as "owners" and "legal controllers" and other provisions that can indicate the direct control of the object or the exclusive right to the

object [8]. This difference in normative expression reflects that there are only clear users in the GI protection system, that is, unspecified producers and operators of specific goods in specific areas. The obligation to protect GI stipulated in international conventions, including the TRIPS Agreement, is limited to the prohibition of false source identification, misleading geographical sources and unfair competition, and does not grant exclusive rights to exclusive use. Therefore, the legal interests of GI essentially fall under the competition law to prevent counterfeiting and exclude false sources. However, there is obviously a lack of protection through competition law alone in practice, because GI lack clear rights subjects, and the intervention of public authorities often focuses on monopoly and unfair competition, and there is insufficient intervention in excessive competition such as counterfeiting production areas. In order to prevent the resulting “public land tragedy”, countries put a “private right shell” on GI through the registration system, and local governments, specific organizations or producer groups obtain the status of right holders, so as to transform the responsibility of safeguarding public interests into the main right with the basis of relief rights.

This kind of private right is different from purely individual rights. Some scholars describe it as a “collective right with a private-rights shell” [11]. The core value of GI lies in the collective goodwill and regional reputation created by producers and operators within the relevant geographical area. By granting GI a private-rights appearance, the law enables relevant rights holders to actively prevent counterfeiting and misuse, thereby compensating for the limitations of the passive protection provided by competition law.

In the process of transforming GI into a form of private rights, GI is generally incorporated into the trademark law framework and protected through the establishment of exclusive rights in the form of collective trademarks or certification trademarks. Given the collective characteristics of GI rights holders, GI may obtain protection as a collective trademark. Meanwhile, because GI is capable of indicating the specific geographical origin of goods and demonstrating that certain characteristics of the goods are attributable to the relevant geographical area, it may also be protected as a certification trademark.

However, certain differences exist between

trademarks and GI. For example, the use of a trademark is intended to identify the source of goods, namely, to distinguish goods originating from different business operators. By contrast, the use of GI is intended to distinguish goods originating from a specific geographical area, where the quality and other characteristics of such goods have an objective connection with that geographical area, from goods originating elsewhere. Therefore, even if GI are included in the trademark system, the fundamental differences between the two also determine that there should be differences in their protection.

In China, certification trademarks are the main means of protecting GI under the trademark law system. According to statistics, among the cases involving GI accepted by Zhejiang courts from 2017 to 2021, the number of cases involving certification trademarks and collective trademarks accounted for 74.35% and 14.4% of the total number of cases respectively [12]. Such a gap can reflect that GI certification trademarks, as the main means of protection, are more chosen by the right holder in reality.

Some scholars have proposed that the inclusion of GI in the certification trademark system lacks scientific basis for protection, and there are large obstacles. The biggest dilemma is that the collective characteristics of geographical trademarks make it difficult to be compatible with certification trademarks as individual rights [3]. Although GI have the appearance of private rights, their exclusive effect should be lower than that of trademark rights. When a GI is registered as a certification trademark, it will become the right of individuals, such as specific government departments or organizations, which will affect the producers and operators who create the value of the GI in a specific region, or the real right holder, making them passively licensed and in a position, which will hinder their active exercise of rights or take infringement relief measures to a certain extent. As mentioned above, in the determination of infringement of GI certification trademarks, it remains to be considered whether it should be approved by the right holder. This dispute arises precisely because there is a large difference between the public attributes of GI and the purely private rights under the trademark system, and the two are essentially difficult to fit perfectly.

3.1.2 The incompatibility between the Objective Product-Place Link of Geographical Indication

and the Subjective Standards under Trademark Law

The premise of trademark registration is that it is significant, that is, the trademark needs to be remembered and identified by the public, so as to distinguish the source of the goods or services it marks. This salience is the core element of the legal protection of trademarks, which can be both the inherent salience of the trademark itself and can be obtained through actual use. Subjective criteria are adopted for the judgment of the significance, in other words, for the relevant public, whether the trademark has the function of identifying the source and whether it can distinguish the characteristics of the goods provided by different producers and operators. In contrast, product specificity is the core value and connotation of GI. The reason why products containing place names or with origin identification are special is that the special attribute characteristics of the product come from the objective connection with the place of origin. As explained in the concept of GI, the specific quality, credibility and characteristics of the product depend on the natural or human factors of the region, emphasizing the close relationship between the specific quality of the product and the specific region [13].

The special feature of GI is that their expression is usually composed of “place name + commodity generic name”. Such names are created through the long-term production and business activities of unspecified producers and operators within the region and become commonly recognized through historical development. Therefore, when the connection between the product and its geographical origin gradually weakens, GI may eventually become a generic name [14].

Accordingly, GI certification trademarks or collective trademarks, as a specific category of trademarks, must not only satisfy the requirement of distinctiveness under trademark law but also preserve the indispensable product specificity inherent in GI. The Trademark Examination and Adjudication Guidelines issued by the China National Intellectual Property Administration also provide that, unlike ordinary trademarks, the examination of distinctiveness for GI certification trademarks and collective trademarks requires not only compliance with the general requirements of Article 11 of the Trademark Law, but also conformity with the requirements for GI under Article 16(2).

However, some GIs that are not well-known and not known to consumers will be difficult to apply the subjective standard of significance, so that they cannot obtain direct registration protection.

In addition, in trademark infringement, whether the perpetrator's use of the same or similar logo may cause consumer confusion determines the nature of its behavior. However, the subjective criteria for the possibility of confusion do not exclude the behavior of others using the protected GI trademark without permission and without confusion, so that the producers outside the specific region of the trademark can legitimately use the logo, specifically, which can be used to describe the real source of the product or de-production description, etc. To a certain extent, this behavior will reduce the property incentive effect and corresponding economic benefits of GI, and may also lead to the generalization of GI, which is not conducive to the purpose of GI promoting the development of regional industries [15].

As mentioned above, the GI protection model created by China integrates the concept of GI itself and the relevant rules of trademarks. From an extraterritorial perspective, the United States, which mainly uses trademark law as the main way of protecting GI, only protects GI as certification trademarks or collective trademarks. It does not provide GI with special treatment or establish a sui generis protection regime under trademark law, thereby maintaining consistency with the traditional approach and underlying rationale of trademark protection. By contrast, the requirement of a “product–place” linkage is generally reflected in the sui generis GI protection regimes adopted by jurisdictions such as the European Union.

In summary, the core of GI lies in the linkage between products and their geographical origin. Such linkage should not be determined based on consumers' subjective perceptions, but should instead focus on the objective fact that the specific qualities of products are generated by the natural and human factors of a particular geographical area. Therefore, GI is difficult to fully reconcile with the trademark system, which is fundamentally based on consumers' subjective recognition.

On the one hand, because the trademark system lacks corresponding authorities or inspection bodies responsible for supervising and controlling product quality, it is difficult to

achieve the quality-assurance function inherent in GI protection, thereby potentially undermining the core value of GI. On the other hand, the trademark system is unable to effectively address certain forms of GI infringement, such as the unauthorized use of another party's GI while truthfully indicating the actual geographical origin of the products.

3.2 Practical Necessity of a Geographical Indication Protection Model Centered on Sui Generis Legislation

The fundamental attributes of GI require that the characteristics of GI products depend on the specific region. Such objective linkage, together with the collective nature of GI, reveals the limitations of a GI protection model dominated by trademark law.

First, the high-quality development and modernization of China's agriculture require a GI protection model centered on sui generis legislation. From the perspective of domestic development, although China, as a major agricultural country, ranks among the world's leading countries in terms of total agricultural production, it continues to face structural challenges, including insufficient competitiveness of agricultural products and relatively low added value. According to the major national strategic deployment, accelerating the construction of an agricultural powerhouse is a key requirement for enhancing China's overall international competitiveness and a core task in agricultural modernization.

From a global perspective, agricultural powers can generally be categorized into two types: comprehensive agricultural powers and specialized agricultural powers. The former, represented by the United States, rely on extensive land resources and high productivity to develop large-scale agricultural advantages, whereas the latter, represented by countries such as Germany and Italy, establish differentiated competitiveness through specialized industries including dairy products, flowers, fruits, and vegetables [16].

In comparison, China's geographical conditions are characterized by vast territory, a large population, and limited per capita arable land resources. These conditions make it difficult for China to fully replicate the large-scale development model of comprehensive agricultural powers. Instead, China should draw upon the European experience of specialized

agriculture featuring refinement and branding. Therefore, the focus of China's agricultural development is to improve the quality and market competitiveness of agricultural products. Differentiation and characteristics have become the inevitable direction of agricultural modernization. For this reason, a protection mode dominated by sui generis laws should be adopted.

As an intellectual property subject that connects products with specific geographical natural and human factors, GI not only carry the functional demand of economic development, but also have the social mission of inheriting and carrying forward agricultural culture and promoting the construction of rural civilization. Unlike the United States and other countries, China has vast territory, diverse natural conditions, and rich GI resources, which provides unique advantages for the implementation of differentiation strategies. Therefore, from a broader perspective, establishing a GI protection model centered on sui generis legislation, clarifying the independent legal status of GI, and expanding its scope of protection can not only preserve the specific linkage between geographical names and product quality and provide consumers with more reliable products, but also prevent high-quality agricultural products from being diluted by low-cost imitations in market competition. Such a model is therefore consistent with the strategic objectives of supply-side structural reform and the high-quality development of agriculture.

Furthermore, the cultural, economic, and ecological values embedded in GI create a close relationship between GI protection and intangible cultural heritage. For example, the GI system may contribute to expanding the scope of protection for traditional arts, providing direct protection for certain forms of intangible cultural heritage, and promoting the sustainable development of authentic medicinal resources [17].

Second, the requirements of international competition and international trade call for a GI protection model centered on sui generis legislation. Some scholars have pointed out that GI is essentially a property rights system for symbolic resources. For the protection of GI, it is conducive to the subjects in a specific area to obtain benefits based on the inherent objective correlation between products with specific qualities, reputations, etc. and the human and

natural factors in the region, and thus motivate them to maintain the quality of the products, thus forming a virtuous cycle [1].

From an international perspective, there are different value orientations in the protection system of GI in different countries. The reason is that the industrial model of traditional European countries is different from that of the United States, that is, the difference between traditional production and industrialization. The former has the need to expand income, while the latter hopes to obtain benefits through “hitchhiking”. In other words, traditional European countries maintain product quality and other characteristics and strengthen the connection between products and regions through the use of symbolic resources. On the contrary, new industrialized countries with weak GI resources are more inclined to dispel this connection to promote the development of their own industries.

Under the background of the current deepening globalization and the international trade system, the difference in the level of GI protection has become an important variable in the international competition pattern. Traditional countries represented by the European Union have long advocated the strong protection model of GI, and have continuously expanded the scope of protection of GI products through legislation, agreements and standardization mechanisms. In contrast, industrially developed countries that originally adhered to the trademark path have also begun to re-examine the path of GI protection in response to the actual needs of domestic industrial transformation and international trade negotiations. Providing a high level of protection for GI has gradually become an industrial development trend [7].

In a word, the establishment of objective association standards for GI in sui generis protection model can avoid conflicts with the subjective cognitive standards of trademark law. However, the correlation between the product and the place of origin is, on the one hand, the embodiment of the superiority of the quality of GI products, and on the other hand, it is based on credibility, which also requires the trademark law to delimit the boundaries of rights protection by preventing consumers from confusing.

As a country with a long civilization, a vast territory and extremely rich GI resources, the establishment of a GI protection system

dominated by sui generis legislation is more conducive to strengthening the protection of GI and fulfilling international protection obligations, so as to give full play to the functional value of GI in promoting high-quality agricultural development, cultivating regional brands and promoting rural revitalization.

4. Establishing a Geographical Indication Protection Model Centered on Sui Generis Legislation

Under the background of building a unified GI protection system and improving the relevant legal system, it is necessary for China to establish the legal status of GI as an independent intellectual property type at the legislative level. Based on the basic principle of GI protection, protection standards with objective relevance as the core should be established, so as to meet the institutional needs of China to realize the high-level protection of GI.

4.1 Formulate a Sui Generis Law on Geographical Indications

Under the existing trademark law system, the infringement determination of other people's use of GI trademarks relies on the theory of confusion, but this subjective judgment standard based on consumer cognition may depreciate the economic benefits and cultural value of GI, so the content of the rights of GI should be reasonably determined.

How to clarify the boundaries of rights can refer to the European Union's theory of “evoking association” in the protection of GI. Its relevant legal norms point out that any abuse, imitation or association of registered GI is prohibited. Even if the true source of the product is indicated, it is also prohibited from being translated or attached to similar expressions such as style and type.

This provision clearly restricts the above-mentioned abuse or imitation of some GIs that have not been regulated in China, and even prohibits “evoking association” in order to strengthen protection. The model of absolute protection of similar products of GI and the relative protection of non-products of similar products has room for China to learn from, which can prevent relatively hidden infringements, so as to increase the protection of rights and effectively realize the intention of the establishment of the GI system. In this regard, the relevant confirmation and infringement

determination can be clarified with objective standards in sui generis legislation of GI, the content of the rights of GI can be determined, and it can be connected with the collective trademark and certification trademark system of GI. For example, the confusion standard of GI trademarks can be expanded and interpreted as “likely to cause a mistaken perception regarding specific characteristics of the relevant product.” When determining whether a sign qualifies for protection as GI, an objective standard should be adopted. The determination should depend on whether the products identified by the sign constitute GI products, namely, whether they satisfy the requirements of possessing specific products, specific quality, specific reputation, and a specific geographical environment, with the first three elements being objectively connected with the geographical origin. A specialized examination procedure may therefore be introduced to verify objective facts, including the linkage between product specificity and geographical origin.

4.2 Coordinating the Relationship between Sui Generis Legislation on Geographical Indications and the Trademark Law

Under a GI protection model centered on sui generis legislation and supplemented by trademark law, GI trademarks should return to the domain of commercial designation systems. The distinctiveness of trademarks derives from the trademark owner’s control over the use of the mark, which also functions as a form of certification and endorsement of the goods by the trademark owner. In essence, this mechanism shares certain similarities with the quality certification of GI products conducted by competent administrative authorities. However, the former belongs to the sphere of private rights and is protected under private law, allowing for competition among multiple parties, whereas the latter falls within the scope of public authority. Such differences demonstrate that GI trademarks and GI products should not share the same exclusive designation system [18].

Therefore, signs containing GI elements should be subject to the general rules of trademark law, without requiring trademark law to depart from its traditional doctrinal framework by introducing special mechanisms such as dual examination standards. Existing registered GI trademarks should continue to receive protection; however, similar to GI certification trademarks

and collective trademarks registered thereafter, they should only confer exclusive trademark rights over the registered signs and should no longer simultaneously grant the right to use the exclusive GI designation. In other words, such signs should only receive protection as registered trademarks.

GI-specific sui generis legislation and trademark law should perform their respective functions and achieve coordinated application in order to provide effective protection for GI. Furthermore, under a sui generis protection model, the administration of GI should be entrusted to a specialized institution with unified coordination functions in order to achieve better integration with trademark law. At present, there are different GI examination systems in China, but there are differences in their respective management priorities and operation logic, which may lead to the dispersion of registered subjects, unclear powers and responsibilities, and lack of overall coordination for the same GI product.

China National Intellectual Property Administration is nominally the competent department for the protection of GI, but in practice, there are still some problems in the setting of its internal functions. On the one hand, it has failed to effectively integrate the GI management functions of the former agricultural department; on the other hand, it is also difficult to achieve an effective connection with the GI certification trademark management management under the responsibility of the Trademark Office. In view of this, as the core administrative authority for GI protection, China National Intellectual Property Administration should promote institutional integration and resolve structural contradictions arising from the coexistence of fragmented authority and broad administrative functions.

China can refer to the successful experience of the European Union, France and other countries in the management of GI, combine the actual situation of China's administrative system, clarify the unified competent department for the protection of GI, and set up an independent special agency for the protection of GI. Under the institutional framework of sui generis legislation on GI in the future, the administrative management system should be further optimized and a management pattern led by a single department and coordinated by relevant departments should be established.

5. Conclusion

As an important driving force for rural revitalization and regional economic structure optimization, GI plays an irreplaceable role in promoting the development of characteristic industries and the construction of ecological civilization. At present, although China's GI protection system covers trademark law protection and sui generis legislation protection, trademark law still occupies a dominant position in it. As a result, there is a governance chaos with the coexistence of multiple rights and different standards for infringement recognition, which is extremely detrimental to the protection of GI.

The essential reason behind these phenomena is that trademarks belonging to exclusive private rights are difficult to fit perfectly with collective and public welfare GI. At the same time, it is difficult to truly guarantee the realization of the objective relevance standards of GI under the premise of conforming to the legal logic of trademark law. Therefore, there are relatively limited protection models dominated by trademark law. It is necessary to explore whether the protection model dominated by sui generis laws is more reasonable and feasible, and to coordinate the two protection models on the basis of matching the characteristics of GI, so that they can do their respective functions, and handle them well under the premise of formulating sui generis laws on GI. The connection with the trademark law, and set up corresponding special protection institutions, so as to establish and improve a unified GI protection system.

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