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Champagne's Journey: A Roadmap for the Protection of Foreign GIs in China

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LEI Yongjian and Pu Xiaoning, 31 March 2022, first published by [WTR](#)

Introduction

The Comité Interprofessionnel du vin de Champagne (CIVC) is the trade association representing the interests of independent Champagne producers and Champagne houses. Champagne is known by Chinese consumers as '香槟', one of the transliterations of the French *appellation d'origine contrôlée* (controlled designation of origin). Starting in 1989, when the then China Trademark Office (CTMO) confirmed in two administrative notices that the appellation of origin '香槟' was not a generic name and was thus eligible for protection, up to 2022 when the Beijing Intellectual Property Court ruled that 香槟 was a well-known trademark, the CIVC has been advancing the legal protection of the geographical indication (GI) '香槟' in China for over three decades. This journey outlines a roadmap for the protection of foreign GIs in China.

Progression of protection over past three decades

On 2 August 1989 and 26 October 1989, the CTMO, under the State Administration for Industry and Commerce, issued two administrative notices affirming that '香槟' is a French appellation of origin which cannot be used as a generic name for wine.

On 29 July 1996 the CTMO clarified, in its reply to the Sichuan Provincial Administration for Industry and Commerce, that '香槟' is the transliteration of the French denomination 'Champagne', which refers to a sparkling white wine originating from the Champagne region in France. It is an appellation of origin and a foreign place name that is known to the public. The CTMO reiterated that, as a member to the Paris Convention, China was obliged to protect appellations of origin, which fall under the remit of industrial property.

On 18 January 2012 the former General Administration of Quality Supervision, Inspection and Quarantine issued the "Announcement on Accepting Champagne's Application for Geographical Indication Protection Registration" and, on 11 April 2013, promulgated the "Announcement on Approving the Protection of Geographical Indication Products for Champagne", recognising '香槟' as a GI product entitled to protection in China.

On 20 December 2012 the CTMO approved, in its longest-ever publication, the preliminary examination of the GI collective trademarks CHAMPAGNE and 香槟 in a supplementary *Trademark Gazette*. On 20 March 2013, upon the expiry of the publication period, the two trademarks were approved for registration. This heralded the protection of 'Champagne' and '香槟' as GI collective trademarks in China.

On 10 February 2015 the Beijing No 1 Intermediate People's Court reasoned in a case involving the CIVC and Beijing Sheng Yan Yi Mei Trading Ltd (a seller of soft drinks bearing the name '香槟Champagne') that "the protection of a geographical indication should not be premised on its registration as a collective mark or certification mark in China", and thus ruled that the GI should be protected even though it was not (yet) registered in China (back in 2012 when the case was lodged). This was the first civil case in which 'Champagne' was protected as a GI in China.

Latest decision

On 14 March 2022 the Beijing Intellectual Property Court published an article on its WeChat Official Account, "Intellectual Property Beijing", publicising the court's recognition of the GI collective marks CHAMPAGNE and 香槟 as well-known trademarks in the first instance of a trademark infringement case, *CIVC v Guangzhou Xue Lei*

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Cosmetic Ltd. The court ascertained that use of the wording 'Champagne Life' and its Chinese counterpart '香槟人生' on perfume constituted an imitation of CVC's well-known trademarks, which undermined not only the distinctiveness of the marks, but also the correlation between the marks and wines. Based on this reasoning, the court concluded that trademark infringement could be established. This is the first case in which CHAMPAGNE and 香槟 have been protected as well-known trademarks in civil proceedings in China.

Comments

Under China's unique dual-track administrative protection system, 'Champagne' is registered as both a GI product and a GI collective trademark. In civil proceedings, Champagne was once protected as an unregistered GI; it is now protected as a well-known GI collective trademark. This journey demonstrates the CVC's success in formulating tailored protection strategies, adapting to China's evolving administrative and legislative GI protection landscape.

Wanhuida represented the CVC in the registration of the GI collective trademarks CHAMPAGNE and 香槟, and in the two above-mentioned civil proceedings.