

Refusal of collective mark containing PDO ‘Chianti’ upheld on appeal

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- The EUIPO examiner found that the collective mark CHIANTI GRAN SELEZIONE was devoid of any distinctive character for Class 33 goods
- The Board of Appeal confirmed, pointing out that the mark combined a PDO (‘Chianti’) with a manifestly laudatory expression (‘Gran Selezione’)
- The graphic elements were simple and had a negligible impact on the resulting overall impression

In [Case R 1650/2022-2](#), the EUIPO’s Second Board of Appeal has dismissed an appeal against a decision refusing protection to a collective mark under Article 76(1) of Regulation 2017/1001, on the ground that it did not meet the requirements under Articles 7(1)(b) and (2) of the regulation.

Background

Consorzio Vino Chianti (hereafter ‘the Consorzio’) filed a collective trademark application for the following sign, claiming protection for “wine complying with the specifications of the protected and guaranteed designation of origin ‘Chianti’” in Class 33:

Chianti
Gran Selezione

The examiner issued a provisional refusal on the ground that the mark was devoid of any distinctive character in relation to the claimed goods. Despite the Consorzio’s arguments in support of distinctiveness, the decision was confirmed on the following grounds:

- EU collective marks must be capable of distinguishing the goods of the association’s members from those of other undertakings. The relevant public would perceive the sign as a non-distinctive indication, simply referring to wines of the

protected designation of origin (PDO) 'Chianti', which have been selected and have a higher quality. The sign was unable to fulfil its function of designating a collective commercial origin.

- The typeface was simple and unable to identify a specific company origin. Evidence to prove that consumers will link the colour red to the Consorzio was insufficient.

The Consorzio appealed against the decision, requesting its annulment on the following grounds:

- The word element 'Chianti' coincides with the PDO 'Chianti', which is distinctive and capable of identifying the goods as originating from the companies operating in the relevant area and associated with the Consorzio.
- '*Gran Selezione*' would not be considered as merely laudatory information by the relevant public. The regulations of use for the collective mark expressly refer to the product specification of the "Protected and Guaranteed Designation of Origin 'Chianti'" and to the Consolidated Text on Vine and Wine, Law No 238/2016. The trademark unequivocally identified a particular type of wine originating from undertakings associated with the Consorzio.
- The collective mark had a graphic characterisation and the simple typeface was not necessarily devoid of distinctive character.

Decision

The appeal was found admissible but unfounded for the following main reasons:

- The distinctive character of EU collective trademarks must not be assessed differently from that of individual trademarks.
- Article 74(2) does not constitute an exception to the distinctiveness requirements. An association applying for an EU collective mark must ensure that the sign has elements enabling the consumer to distinguish the goods of its members from those of others.
- In accordance with the provisions of Article 76(1), in conjunction with Article 7(1)(b), an EU collective mark must be refused if it is not inherently distinctive.
- The sign did not consist merely of a protected geographical indication, but combined a PDO ('Chianti') with a manifestly laudatory expression ('*Gran Selezione*'). The sign as a whole would be perceived by the relevant public – namely, Italian consumers – as purely laudatory.
- The figurative elements were so minimal that they were incapable of conferring the minimum degree of inherent distinctiveness on the trademark.
- The essential function of a geographical indication is to guarantee to consumers the geographical origin of the goods and its inherent qualities, while the essential function of a collective mark is to guarantee the collective commercial origin of the goods, and not their collective geographical origin.
- The PDO 'Chianti' included in the collective mark was incapable of conferring distinctiveness on it.
- The graphic elements were indisputably simple and had a negligible impact on the resulting overall impression.

The board concluded that the collective mark lacked distinctive character in relation to the claimed goods. The decision to refuse the application under Article 7(1)(b) was upheld and the appeal was dismissed.

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