



Living with “Nero Lifestyle” (or How to Prevent “Delimited” Trade Marks From Burning Geographical Indications Down)

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Abstract The long-awaited decision by the EU General Court in the “*Nero Lifestyle*” case sets an important precedent in the problematic relationship between subsequent trade marks and Geographical Indications (GIs), more precisely for the case of trade marks “delimited” to compliant products. Although in the end the EU judges annulled the contested “*Nero Champagne*” trade mark, the decision produces more questions than answers for the future registration of trade marks incorporating GIs. On the one hand, the decision aggravates the uncertainty related to the grounds for protection of GIs, especially regarding the issue of exploitation of or prejudice to reputation, let alone evocation. On the other hand, the decision creates an imbalance in the burden of proof and control placed on legitimate GI producers, in the face of a certain “institutional disengagement” by EUIPO. This article aims to tackle such problematic implications from both perspectives. After presenting the policy options, the reconstruction will focus on a more pragmatic solution within the existing legal framework: the proposal is to extend by analogy the regime of notification for prepacked food using GIs as an ingredient, in order to avoid a potential scenario where the uncontrollable explosion of trade marks incorporating GIs burns the system down.

Keywords Geographical indications · Trade marks · Reputation · Registration · Limitation · Notification

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1 Introduction

The long-awaited decision by the EU General Court in the “Nero Lifestyle” case sets an important precedent in the problematic relationship between trade marks and geographical indications (GIs).¹

In brief, the issue concerns the possibility of registering a trade mark incorporating a certain GI to be used for the relevant GI products and associated services, even if the applicant is not the responsible producer group or not even a legitimate GI producer. Such a practice is generally admitted by the EUIPO based on a corresponding restriction (or “delimitation”) of the trade mark classes to goods complying with the product specification of the GI in question. However, GIs reflect a more complex system in terms of protection and controls, which clashes with this rather formal approach.

Although in the end the EU judges annulled the contested “Nero Champagne” trade mark, the decision produces more questions than answers. Actually, a scenario of great uncertainty opens up, if not the very risk – in the most negative perspectives of an uncontrolled explosion of trade marks – that the GIs system could burn down.

It goes without saying that the focus is on the EU system, not only because it is where the issue ignited, but also because the EU system remains, in general, the paradigmatic model for this *sui generis* intellectual property right.² Having said that, this article aims to tackle the issue according to the following structure.

After framing the problematic relationship between GIs and trade marks “delimited” to compliant products (Section 2), a brief resume of the “Nero Lifestyle” decision will follow (Section 3). Then, the relevant critical implications will be analysed, in terms of substantive uncertainty in applying the codified grounds for protection of GIs (Section 4), and procedural imbalance in the burden of proof and control (Section 5). Moving to a constructive approach, a possible remedy will be proposed: after considering the policy options (Section 6), the reconstruction will focus on a more pragmatic solution, looking within the existing legal framework at the new notification system for prepacked food in cases where GIs are used as ingredients (Section 7). Hence, the extension of this regime to delimited trade marks incorporating GIs will be considered in its potential as a – perhaps less ideal, but practicable – solution to remedy the said uncertainty and imbalance (Section 8). Finally, some concluding remarks will be formulated about the need for institutional commitment on the part of the public authority itself, including the EUIPO, to ensure consistency with the trust promise enshrined in GIs (Section 9).

¹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638. For a first comment see Fontaine and Martin (2025).

² Please concede the reference to Calabrese (2026).

2 Geographical Indications and “Delimited” Trade Marks: A Peculiar Kind of Conflict

The relationship between trade marks and GIs has always been controversial. This is particularly true at the international level, characterised by the conflict between the jurisdictions where GIs originate and those where prior trade marks were already using such geographical names.³ However, such an intricate and age-old issue will not be addressed here. Instead, the analysis will focus on the more peculiar situation of subsequent (individual) trade marks that directly incorporate a GI to identify a commercial activity concerning compliant GI products.⁴

In principle, the regulatory framework seems sufficiently straightforward. In the case of subsequent trade marks, EU law recognises the primacy of GIs against any sign that infringes the relevant grounds for protection.⁵ This seems even more true looking at the previous norms, which were connected to certain conflicting situations, regarding a product “of the same type” and/or “which does not comply with the product specification concerned”.⁶ After the latest reform, the EU legislator actually eliminated all such references, so that the prohibition in favour of GIs now operates in an absolute sense against any conflicting trade mark.⁷

In fact, this apparent linearity is complicated by the EUIPO’s practice. In implementing these rules, the Office has developed a specific approach to registration according to the so-called “limitation theory”.⁸ more precisely, the registration of trade marks incorporating a GI is generally permitted, provided that such trade marks are correctly restricted to only compliant GI products in terms of

³ Among a vast literature, Blasetti (2024), Bonadio et al. (2024), Gangjee (2023), Goebel and Groeschl (2016), Calboli (2015), Knaak (2015), Heath and Marie-Vivien (2015), Kur and Cocks (2007), Hughes (2006).

⁴ Therefore, the issue does not concern geographical collective marks usually registered by the responsible producer group of the GI for institutional purposes: further on such complementarity Knaak (2015), Song (2018). In this regard, very recently EUIPO, Grand Board of Appeal, 14 May 2026, Case R 1946/2024-G (“SCCS”).

⁵ See Art. 7(1)(j) of Regulation (EU) 1001/2017, as an absolute ground for refusal, together with Art. 31(1) of Regulation (EU) 1143/2024 for agricultural GIs and Art. 44(1) of Regulation (EU) 2411/2023 for craft and industrial GIs; in addition, see Art. 8(6) of Regulation (EU) 2017/1001, as a relative ground for refusal, still to be read in conjunction with the hypothesis of protection under Art. 26(1) of Regulation (EU) 1143/2024 for agricultural GIs and Art. 40(1) of Regulation (EU) 2411/2023 for craft and industrial GIs; therefore, this is not the case of prior trade marks, for which it applies the different regime of “good faith coexistence” under the conditions of Art. 31(3) of Regulation (EU) 1143/2024 for agricultural GIs and Art. 44(4) of Regulation (EU) 2411/2023 for craft and industrial GIs.

⁶ See respectively Art. 14(1) of Regulation (EU) 1151/2012, and Art. 102(1) of Regulation (EC) 1308/2013; by the way, for a complex issue of applicable law following the evolution in time of the GIs regime (for wine) in a trade mark dispute, recently CJEU, C-341/24, *Duca di Salaparuta SpA v. Consorzio volontario di tutela dei vini DOC Salaparuta*, ECLI:EU:C:2025:693.

⁷ The idea of the EU legislator that in this way the relationship between trade marks and GIs “should be clarified”, as declared in Recitals 38–39 of Regulation (EU) 1143/2024 for agricultural GIs and Recital 42 of Regulation (EU) 2411/2023 for craft and industrial GIs, seems now out of tune after the judgment in question and the uncertainty it creates (as it will be discussed further).

⁸ The expression “limitation theory” is directly reported by the judgment at hand: GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 41.

goods or services classes.⁹ That is why the issue of what might be called “delimited” trade marks has arisen in EU law.

In particular, this approach is an additional construction that does not result from the normative provisions. As mentioned, EU law regulates the conflict between GIs and (subsequent) trade marks according to a more direct relationship of non-violation. Nevertheless, in order to affirm the possibility of legitimately using GIs in trade marks, EUIPO relies on the existence of a “right to use” the GI for any compliant product, as codified in broad – and indeed rather ambiguous – terms by the latest reform.¹⁰

In this regard, it should be noted that this is not a question of descriptive or referential use, according to the terminology of trade mark law, on which GI regulations are still critically silent.¹¹ On the contrary, and somehow even more critically, it is a question of the direct use of GIs within (and so as) trade marks,¹² what is more in favour of any third-party operator who abides by such delimitation.

It is clear that the EUIPO’s position was at odds with the interests of GIs producers, and especially producer groups, who advocate for a restrictive policy on the use of these protected names. This inevitably led to disputes, one of which eventually reached the EU judges.¹³

⁹ EUIPO, Guidelines for examination, 1 May 2025 (hereinafter “Trade Mark Guidelines PRE-2026”), p. 664 (“Objections raised under Article 7(1)(j) EUTMR may be waived if the relevant goods are restricted to comply with the specifications of the GI in question”), and even more strongly p. 1322 (“The scope of protection of GIs under EU regulations cannot exceed what is required to safeguard the function of the GI, which is to designate goods as being from a particular geographic origin and as having the special qualities connected therewith. Unlike other signs, GIs are not used to indicate the commercial origin of goods and afford no protection in this regard. Therefore, where the specification of an EUTM application is limited, in relation to goods identical to the product covered by the GI, to goods in conformity with the specification of the relevant GI, the function of the GI in question is safeguarded in relation to those products. This is because the EUTM application only covers products from the particular geographic origin and the special qualities connected therewith. Consequently, an opposition against an EUTM application that has been appropriately limited will not succeed”). In this regard, EUIPO is going to maintain the limitation theory after the judgment at hand with the relevant adjustments: EUIPO, Guidelines for examination, 1 July 2026 (hereinafter “Trade Mark Guidelines POST-2026”), p. 699 and 1380.

¹⁰ EUIPO, Trade Mark Guidelines PRE-2026, p. 664: “GIs may be used by any operator marketing a product that complies with the corresponding product specification”, directly quoting the wording of Art. 36(1) of Regulation (EU) 1143/2024 for agricultural GIs, which actually mirrors the previous Art. 12(1) of Regulation (EU) 1152/2012, but now explicitly indexed as “right to use”; as a confirmation of the said ambiguity of such normative wording, Art. 47(1) of Regulation (EU) 2411/2023 for craft and industrial GIs formulates differently the same “right to use” a GI in favour of “any producer of a product that is compliant with the corresponding product specification”. Interestingly, such reference to the “right to use” is going to be deleted and substituted by a direct recall of the judgment at hand in EUIPO, Trade Mark Guidelines POST-2026, p. 699.

¹¹ More broadly on this point Kur (2023), Dijkman (2023), Heath and Marie-Vivien (2015), as well as Calabrese (2024).

¹² In case law, applying GIs protection in this situation of trade marks as direct use, CJEU, C-4/10 and C-27/10, *Bureau national interprofessionnel du Cognac v. Gust. Ranin Oy*, ECLI:EU:C:2011:484.

¹³ For similar disputes of this kind, EUIPO, Opposition Division, 16 October 2020, Case B 2 935 669 (“Skinny Cava”).

3 The “Nero Lifestyle” Case Before the EU General Court: the Rise and Fall of “Nero Champagne”

The case at hand involves – once again¹⁴ – the most famous GI for wine, the French PDO “Champagne”, this time against an Italian company offering a vast array of business services, “Nero Lifestyle”, which applied for the registration of “Nero Champagne” as a trade mark before EUIPO.¹⁵ The importance of the case lies in the fact that Nero Lifestyle followed the said “limitation theory” according to the guidelines of the Office, so that – after some correction in the internal appeal phase – the trade mark was finally registered for goods and services related to compliant GI products, notwithstanding the objections by the *Comité*.¹⁶

The dissatisfaction with this outcome led the GI producer group, supported by France, Italy and also – as proof of the relevance of this case – the international association of GIs producers “oriGIn”,¹⁷ to challenge the EUIPO decision before the EU General Court, in order to contest more generally such an approach taken by the Office in favour of trade mark registration.

The EU judges resolved the claim for annulment with quite a structured reasoning.

Firstly, the General Court recalled the rationale of GI protection, pivoting on a guarantee of local quality, integrated with multifaceted objectives of territorial preservation and promotion. Then, the General Court recognised that trade marks incorporating GIs are not precluded from registration as such, arguing *a contrario* from the normative ban that impedes registration only on condition of GIs violation.¹⁸

After these preliminary statements, the judgment reconstructed the admissibility of EUIPO’s “limitation theory” as a matter of principle. In particular, a distinction was drawn depending on whether the delimitation in question is considered as a rebuttable or non-rebuttable presumption for the validity of the trade mark

¹⁴ Just limiting to EU case law, e.g. CJEU, C-783/19, *Comité Interprofessionnel du Vin de Champagne v. GB*, ECLI:EU:C:2021:713; CJEU, C-393/16, *Comité Interprofessionnel du Vin de Champagne v. Aldi Süd Dienstleistungs-GmbH & Co. OHG*, ECLI:EU:C:2017:991; CJEU, C-381/05, *De Landtsheer Emmanuel SA v. Comité Interprofessionnel du Vin de Champagne and Veuve Clicquot Ponsardin SA*, ECLI:EU:C:2007:230; for further examples see Kur and Cocks (2007).

¹⁵ From the company website, with a language that appears quite ironic for intellectual property scholars, “NERO Lifestyle represents the pinnacle of Italian hospitality, a curated collection of extraordinary hotels situated in the world’s most coveted destinations. It is a union of luxury brands and exclusive events, all bound by a single mission: to craft unforgettable experiences that evoke emotions and leave an indelible mark” (<https://www.nerolifestyle.com/en/about-us>).

¹⁶ EUIPO, Board of Appeal, 17 February 2023, Case R 531/2022-2 (“Nero Champagne”).

¹⁷ As stated in the relevant press release by oriGIn itself (<https://www.origin-gi.com/26-06-2025-origin-successfully-supports-comite-champagne-and-inao-before-the-eu-general-court-nero-champagne-refused-as-an-eu-trade-mark-for-champagne-wine-and-related-services/>).

¹⁸ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 34; even if the judgment referred to certain literal details of the previous formulation of Article 102(1) of Regulation (EU) 1308/2013, the argument is substantially replicable also for the new “clarified” norms regulating the conflict between subsequent trade marks and GIs under Art. 31(1) of Regulation (EU) 1143/2024 for agricultural GIs and Art. 44(1) of Regulation (EU) 2411/2023 for craft and industrial GIs.

incorporating a GI.¹⁹ If it were non-rebuttable, such a presumption would be incompatible with EU law, which expressly grants protection to GIs against the registration of subsequent trade marks that violate the relevant hypotheses. If, instead, the limitation theory operates as a rebuttable presumption, there is no incompatibility with EU law, as interested parties can still demonstrate that a delimited trade mark infringes the *sui generis* rights.

More precisely, the judgment affirmed that this kind of presumption in favour of trade marks is well-founded, since the requested delimitation implies that the goods and services provided under that commercial sign are compliant with the product specification, and so with the GIs quality guarantee.²⁰ At the same time, it cannot be excluded that such a delimited trade mark, even if covering only compliant products, could unduly exploit the GI reputation, so that EUIPO should permit overturning the presumption in the specific case based on relevant evidence.²¹

Having clarified that, the judgment moved to verify if EUIPO correctly respected this “rebuttability” of the presumption in practice. In this regard, the EU General Court censured the contested decision, finding that it failed to take into account the evidence provided by the appellants in support of the French PDO.²² But the EU judges moved even further, proceeding directly to the annulment of the controversial trade mark based on some of the objections already raised: in particular, it recognised the misleading nature of the sign “Nero Champagne”, which could lead to an erroneous perception by the public regarding the colour of the grape variety used, if not of the very same typical product (which “nero” – i.e. “black” – cannot be according to the product specification).²³

Apparently, the judgment resolved the dispute in a rather proactive and definitive manner. However, although the reasons of “Nero Lifestyle” were eventually rejected, this tentative intervention by the EU General Court as an “extinguisher” leaves the danger of a fire still burning for the GIs system.²⁴

¹⁹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 45–46, underlining the ambiguity of EUIPO’s position on this point.

²⁰ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 57–58.

²¹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 59.

²² GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 66, where however the General Court just ascertained the breach by EUIPO of the procedural obligation to state reasons, without appreciating the merits of the evidence produced by the *Comité*.

²³ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 84.

²⁴ As already shown by a very recent decision after the judgment at hand: EUIPO, Board of Appeal, 9 September 2025, Case R 1119/2022-2 (“VEGA DEL OBISPO BIO Jaén PRODUCTOS ECOLÓGICOS”).

4 The Substantive Implications of “Nero Lifestyle”: Uncertainty in Grounds for Protection

The impact of this judgment goes well beyond the single dispute, with critical implications both in substantive and procedural terms.

From the substantive point of view, the EU General Court dismisses a preliminary issue that was (and to a certain extent still is) more controversial than it appears: that is, the actual possibility of incorporating GIs in (individual) trade marks in order to be used as such. By answering in the affirmative, the EU judges take a clear position, relying on the structure of the normative text.²⁵ However, no real certainty is offered beyond this statement of principle.

In fact, the judgment avoids the problem by taking the easiest (and least credible) escape route on deceptiveness to annul the contested trade mark,²⁶ without addressing the most delicate points of the relationship between trade marks and GIs. Actually, once this compatibility is admitted in principle, the question remains of how to coordinate in practice the lawfulness of delimited trade marks with respect to GIs, in the application of the relevant grounds for protection.

This is not so much a problem for the hypotheses of deceit, where the scrutiny focuses on more contextual aspects. More precisely, it has to be checked if the sign and its conveyed message entail a false or erroneous communication regarding the characteristics of the good or service provided under the trade mark, which goes beyond the fact that compliant GI products are concerned.²⁷

²⁵ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 31–34. It should be reiterated that the *ratio decidendi* is entirely applicable also for the new relevant norms after the reform under Arts. 26(1) and 31(1) of Regulation (EU) 1143/2024 for agricultural GIs, as well as Arts. 40(1) and 44(1) of Regulation (EU) 2411/2023 for craft and industrial GIs.

²⁶ The reasoning on deceit is difficult to agree with, especially about the wine colour, which (at least for any native Italian speaker) sounds very far-fetched (GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 74–84); by the way, “Nero” could be referred also to the latin *nomen* of the famous Roman emperor, as in the wordplay conceded here, to emphasise the fact that multiple meanings of protected names remain a very debatable aspect: in this sense see the epitome of the PDO “Porto” and the relevant case law by CJEU, C-56/16 P, *EUIPO v. Instituto dos Vinhos do Douro e do Porto*, ECLI:EU:C:2017:693, as well as more recently GCEU, T-23/24, *Instituto dos Vinhos do Douro e do Porto v. EUIPO – Vinhoel-Vinhos Oscar Quevedo*, ECLI:EU:T:2025:182; on the fact that fortuitous connections must be taken into account in the context of GIs infringement CJEU, C-75/15, *Viiniverla Oy v. Sosiaali- ja terveystieteiden tutkimuskeskus*, ECLI:EU:C:2016:35, paras. 30–40.

²⁷ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 82–84. For example, this could concern trade marks that convey a misleading message in terms of nationality, as an hypothetical “Italo Champagne” displaying Italian flags in the logo or in the packaging, which, however delimited to compliant GI product, would well constitute “any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging” as well as “any other practice liable to mislead the consumer as to the true origin of the product”, under Art. 26(1)(c)–(d), of Regulation (EU) 1143/2024 for agricultural GIs and Art. 40(1)(c)–(d) of Regulation (EU) 2411/2023 for craft and industrial GIs; in this sense, EUIPO is going to assume a position for GIs that departs from the established approach for trade marks, considering such a misleading nature quite in the abstract without requiring “the existence of actual deceit or a sufficiently serious risk of deceit” (EUIPO, Trade Mark Guidelines POST-2026, p. 678).

Rather, the problem arises for those hypotheses that theoretically do not rest on this element of confusion or deceit, namely, exploitation of or prejudice to reputation, as well as evocation.²⁸

In this regard, the judgment sketches out a significant connection between GIs protection and their functions. At first approximation, this is done by recalling the multifaceted objectives of the EU regime, where the centrality of a “pure” quality guarantee is surrounded by further “protective” instances related to geographical reputation and economic value.²⁹ But when it comes to its concrete application, the judgment remains more cryptic, affirming that delimited trade marks are basically respectful of the essential quality function of GIs, so that it can be presumed that also their reputation is not exploited, save for the fact that this could nonetheless occur in practice.³⁰ Apart from this laconic statement, no insight is given about the actual relevance of the elements raised in support of the alleged violation of GI reputation in the case.³¹

²⁸ Art. 26(1)(a)–(b), of Regulation (EU) 1143/2024 for agricultural GIs and equally Art. 40(1)(a)–(b) of Regulation (EU) 2411/2023 for craft and industrial GIs. In case law, CJEU, C-783/19, *Comité Interprofessionnel du Vin de Champagne v. GB*, ECLI:EU:C:2021:713, para. 68; CJEU, C-490/19, *Syndicat interprofessionnel de défense du fromage Morbier v. Société Fromagère du Livradois*, ECLI:EU:C:2020:1043:484, paras. 28–29.

²⁹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 24, to be read in conjunction with Art. 4 of Regulation (EU) 1143/2024 for agricultural GIs and Art. 2 of Regulation (EU) 2411/2023 for craft and industrial GIs.

³⁰ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 58 (“it can be presumed that a trade mark that contains or consists of a PDO, registered solely in respect of products complying with the specification of that PDO or for related services, will not unduly exploit the reputation of that PDO, [...] since it will only be deemed to be used, on the market, in respect of products complying with the quality standards relating to that PDO or in respect of services relating to such products. Therefore, the objective of protecting the quality of goods covered by a PDO [...] is presumed to be fulfilled in that situation”) and 68 (“the mere fact that the products and services relating to such products comply with the specification is not sufficient *ab initio* to conclude that a trade mark registered in respect of such products or services is not capable of taking unfair advantage of the reputation of the PDO [...], without having specifically examined the particular characteristics of that mark and all the relevant circumstances of the case”).

³¹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, paras. 64 (“[t]hose elements include (i) the outstanding reputation of the PDO ‘Champagne’; (ii) the argument that a service cannot, by definition, comply with the product specification of a PDO, with the result that the ‘limitation theory’ cannot apply to services; (iii) the reference to the fact that the mark applied for is a word mark, which can therefore be used in many different ways on the market, including in a manner contrary to the objectives of the PDO; (iv) the arguments claiming, in essence, that the term ‘nero’ qualified the word ‘champagne’ within the mark applied for; and (v) the arguments relating to the labelling of the goods marketed by Nero Lifestyle”) and 66 (“regardless of the merits of the arguments and elements raised by the applicants and listed in paragraph 64 above, [...] the Board of Appeal was in breach of its obligation to state reasons in the light of the case-law [...], in that it did not sufficiently explain how the elements produced by the applicants were not capable of overturning, in the present case, the presumption”).

This is where the judgment becomes problematic, because it ends up hiding behind the apparent tautology that exploitation of GIs reputation is unlawful when it is “undue”.³² The same reflection can be made for evocation, even though the judgment does not directly address this hypothesis:³³ indirectly, confirmation can be found in case law, where similar tautological wording is used.³⁴

Such reticence cannot be acceptable once the limitation theory is overcome, since in this way the EU General Court opened up the possibility of challenging delimited trade marks without offering any real indication. For borderline cases, such as a hypothetical “Vero Champagne”, the evaluation of the lawfulness of the sign would concern not so much the possibility of consumers being misled about the “true” origin of the GI product, but rather the indirect message of superior authenticity.³⁵ To exemplify further this ambiguity, it could be asked what would have been the outcome for a trade mark consisting of a more neutral sign, aptly delimited, like a hypothetical “Fiero Champagne” expressing quality “pride”.³⁶ In fact, the absence of any risk of deceit reveals the lack of guidance from the judgment on the fundamental question of how to establish a reputational violation of GIs in the case of compliant products used in the business.³⁷

Moreover, it is sufficient to think of such trade marks that evoke a GI (such as “Champanillo” or now even “BBQLOUMI”) and ask equally whether they might

³² GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 52: “it follows from the case-law that exploitation of the reputation of a PDO [...] entails use of the PDO that seeks to take undue advantage of the reputation enjoyed by the PDO”.

³³ Paradoxically, the term evocation is used only once in an improper manner in relation to the misleading nature of the contested trade mark in terms of grape varieties (GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 81).

³⁴ CJEU, C-783/19, *Comité Interprofessionnel du Vin de Champagne v. GB*, ECLI:EU:C:2021:713, para. 50, saying that the GIs system “provides for wide-ranging protection which is designed to extend to all uses which take advantage of the reputation enjoyed by products covered by one of those indications”; although this passage of the “Champanillo” case does not specifically concern evocation, this quoting is recalled by EUIPO specifically in the context of this hypothesis, as a demonstration of what argued here (EUIPO, Trade Mark Guidelines PRE-2026, p. 641, and equally EUIPO, Trade Mark Guidelines POST-2026, p. 671).

³⁵ Beyond the rhyme, in Italian “vero” means “true”, so it could be imagined a claim for a violation *a contrario* of the GI, assuming that the (inexistent) more authentic nature of the products sold under that trade mark would both cause consumer confusion and reputation exploitation or prejudice. On this line of “unfair” comparative advantage for laudatory trade marks referred to GIs see District Court of Venice, 24 October 2017, confirmed by Court of Appeal of Venice, 10 October 2019, No. 4333, both in *Rivista di Diritto Agrario*, 2020, II, 147.

³⁶ Again, rhymes apart, in Italian “fiero” means “proud”, so its neutral meaning appears more challenging, since it can escape also from prohibitions of laudatory terms provided by certain GIs product specification: see again District Court of Venice, 24 October 2017, confirmed by Court of Appeal of Venice, 10 October 2019, No. 4333 (just cited above).

³⁷ As a confirmation, see the very vague explanation by EUIPO, Trade Mark Guidelines POST-2026, pp. 1375–1376.

be considered respectful of the GI reputation if the business uses only products that comply with the relevant PDOs (Champagne and Halloumi).³⁸ In this regard, the EUIPO excludes evocation from the scope of its limitation theory, accepting delimited trade marks only in case of non-altered use of the GIs.³⁹ As much as this position rests on the rationale that any distorted use is detrimental to the perception of GIs in the market, it can be considered consistent with the idea of preserving their inherent value.⁴⁰ However, looking from a quality function perspective (as the one that inspires EUIPO's practice), the position becomes less solid. In fact, for the sake of the argument, one could note that evocation is based on a "sufficiently clear and direct link between the contested sign and the GI":⁴¹ but then, if the delimited "evoking" trade mark actually concerns compliant products, the very same mental link is the counterproof of a genuine appreciation of GIs quality.⁴² Provocations apart, this is just to show that the judgment did not provide any clear answer for application purposes.

It is evident that the core question of what constitutes an "undue" advantage or prejudice in relation to GIs raises some very delicate issues, which were already present in the debate and that the judgment does not help to resolve.⁴³ Although the EU General Court tried to ground the reasoning in the functional foundation of GIs, the result is that it has remained stuck between the belief that GIs protection rests on an objective guarantee of quality, where the advantage deriving to delimited trade marks would then be "fair",⁴⁴ and the tendency to recognise such extracted advantage as "unfair" even in the absence of any actual damage to GIs quality.⁴⁵

³⁸ The case "*BBQLOUMI*" was decided in terms of likelihood of confusion under trade mark law (GCEU, T-328/17 RENV, *Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v. EUIPO*, ECLI:EU:T:2021:16), but in the abstract the example remains relevant considering that now Halloumi is protected as a PDO (https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1623); for a broader reflection about the role of geographical collective marks after such decision Kyrylenko and Zafrilla Díaz-Marta (2025)).

³⁹ EUIPO, Trade Mark Guidelines POST-2026, p. 700.

⁴⁰ Further in this sense Fontaine and Martin (2025), p. 762.

⁴¹ CJEU, C-44/17, *Scotch Whisky Association v. Michael Klotz*, ECLI:EU:C:2018:415, para. 53.

⁴² EUIPO, Trade Mark Guidelines POST-2026, p. 671: "What matters, in particular, is that an association of ideas regarding the origin of the products is not created in the mind of the public, and that a trader does not take undue advantage of the reputation of the protected geographical indication. For evocation, a link must be made with the product whose designation is protected".

⁴³ With specific reference to GIs and services please see Calabrese (2024); more generally see Zappalaglio and Bosse (2026).

⁴⁴ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 58; for a parallel with trade marks, CJEU, C-63/97, *Bayerische Motorenwerke AG (BMW) and BMW Nederland BV v. Ronald Karel Deenik*, ECLI:EU:C:1999:82, paras. 53 and 63.

⁴⁵ Again, GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 68; equally, for a parallel with trade marks, CJEU, C-487/07, *L'Oréal SA v. Bellure NV*, ECLI:EU:C:2009:378, para. 41. Underlines this tendency of GIs to combat "pure" free-riding Gangjee (2023) p. 379; for further scrutiny of such rationale Song (2024), Zafrilla Díaz-Marta and Kyrylenko (2021), Rubino (2019); in this sense, it should be recalled the express qualification of evocation as a hypothesis of protection "broader" than unfair competition by CJEU, C-783/19, *Comité Interprofessionnel du Vin de Champagne v. GB*, ECLI:EU:C:2021:713, para. 69.

(not to mention the profile of tarnishment in relation to GIs image of alleged prestige).⁴⁶

All this creates serious uncertainty in terms of application. Without overlooking the importance of more in-depth theoretical reconstructions, the impression is that some effort is needed to reconcile the conflicting interests between delimited trade marks and GIs in the real market. This will be addressed after analysing also the procedural implications of the judgment.

5 The Procedural Implications of “Nero Lifestyle”: Imbalance in Burden of Proof and Control

Even if one were to admit that the substantive solution offered by the judgment were easily applicable, the problem of its procedural implications would remain. As mentioned, the judgment does not close the door to the protection of GIs towards delimited trade marks, by means of the rebuttability of the relevant presumption of non-violation. However, by developing this solution apparently balanced in theory, the EU General Court overlooks the imbalance it entails in practice.

In particular, this compromise stratagem ends up placing the entire burden of control on legitimate GI producers (and especially the responsible producer group). If this can be agreed in principle, based on the due distribution of roles between the interested parties, the outcome seems excessive in concrete terms.

This is true from a quantitative point of view, because the potential numbers to be controlled are unmanageable, considering that no subjective restriction is actually imposed on third parties applying for delimited trade marks.⁴⁷

This is also true from an evidential point of view, in terms of proof proximity, which is in fact quite “distant” from legitimate GI producers with respect to third-

⁴⁶ The inclusion in the normative wording of prohibited uses that are “detrimental” to GIs reputation was added by the latest reform (Art. 26(1)(a) of Regulation (EU) 1143/2024 for agricultural GIs and Art. 40(1)(a) of Regulation (EU) 2411/2023 for craft and industrial GIs), while uses that “weakens or dilutes” such reputation were already added by the previous reform of Arts. 1(26) and 2(8) of Regulation (EU) 2117/2021: however, following the logic of the judgment, also these further violations of GIs reputation would now be relevant for delimited trademarks. On such aspects in relation to the thorny and overlooked issue of exhaustion in GIs please *see* again Calabrese (2024); more broadly, on the issue of trade mark tarnishment, recently Sevastianova (2025).

⁴⁷ Just to give an idea, the problem would also exist if registration is limited to single legitimate producers, considering the numbers of certain GIs: *e.g.* the more than 4,000 certified producers of the PGI “Agnello di Sardegna” (<https://www.qualigeo.eu/prodotto-qualigeo/agnello-di-sardegna-igp/>).

party applicants.⁴⁸ In this regard, it is enough to recall the emphasis posed by the EU General Court on the need for “concrete, substantiated and consistent elements” of proof.⁴⁹ Actually, applicants could easily demonstrate the compliance of their business model carried out under the delimited trade mark, in terms of products used as well as market presentation: but the current mechanism only imposes a mere bureaucratic formality in order to benefit from the said presumption.⁵⁰

Furthermore, considering also a post-registration scenario, it should not be forgotten that the delimited trade mark remains at the full disposal of the rightholder, who can manage it in a rather “variable” manner, both in terms of productive standards and of circulation of the right itself through licences or assignments, again in the absence of any form of control.⁵¹ It is certainly true that such deviations would cause revocation or invalidity of the delimited trade mark, but it is equally true that the relevant initiatives are again entirely left to the “unaware” interested parties, which further demonstrates the excessive burden of control placed on legitimate GI producers.⁵²

This is not to say that GIs producers (and especially producer groups) should be exempted from diligent surveillance, alongside market verification and enforcement by national public authorities.⁵³ Nor is it to say that the EUIPO should be entrusted with tasks beyond its institutional competences. At the same time, the current approach regarding delimited trade marks is disproportionate, creating a procedural imbalance that risks undermining the GI system. This is all the more so considering a sort of “reverse” Brussels effect, in the sense that European rules, for better or for worse, represent the international reference model: therefore, it is easy to foresee how problematic the situation becomes – even beyond the substantial issues described above – if the scope of such control burden is multiplied on a global scale following similar permissive practices abroad, especially in legal orders that are historically less prone to protect GIs.⁵⁴

⁴⁸ About such general principle in EU law, Volpin (2014).

⁴⁹ GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 59.

⁵⁰ There is not even a minimal commitment to comply with this duty, like the – indeed very bland – “declaration of independence” for certification marks under Art. 17(b) of Implementing Regulation (EU) 626/2018, in connection with the relevant neutrality requirement under Art. 83(2) of Regulation (EU) 1001/2017; on this special kind of trade marks and certain critical practices Mogyoros (2025).

⁵¹ Arts. 20 and 25 of Regulation (EU) 1001/2017. In general, Kur and Senftleben (2017), p. 491.

⁵² Respectively, depending on the violation being original or subsequent, under Arts. 58(1)(c) and 59(1) of Regulation (EU) 1001/2017; this situation is already envisaged – and to a certain extent admitted – by EUIPO, Trade Mark Guidelines POST-2026, p. 711.

⁵³ For this recognized complementarity, Art. 32(2)(b) together with Art. 42 of Regulation (EU) 1143/2024 for agricultural GIs, and Art. 45(2)(b) together with Art. 54 of Regulation (EU) 2411/2023 for craft and industrial GIs.

⁵⁴ On the complexity of the international GIs system see recently Marie-Vivien (2025).

6 How to Remedy the Critical Implications of “Nero Lifestyle”: The Policy Options

Without limiting to a critical analysis, a constructive remedy is proposed.

In this sense, the necessary premise is that different solutions may be envisaged, depending on policy preferences towards GIs protection, as already emerging from national experiences.⁵⁵

This derives from the proverbial *sui generis* nature that characterises GIs. Concerning their function, there is a constant tension between the primary guarantee of objective quality and the protection of reputation, encompassing broader aspects of commercial promotion and cultural preservation within the founding rationale of GIs. Their structure also reflects this ambivalence, being GIs definable as a hybrid between a private collective trade mark and a public certification scheme.⁵⁶

Along these lines, the private collective dimension pushes for the need to authorise any further use of the sign, by reason of the exclusive control so granted, also in defence of reputation.⁵⁷ Conversely, the public certification dimension tends to a more open approach, based on objective compliance for the relevant product “labelling”.⁵⁸

The former approach would lead in the opposite direction from EUIPO’s limitation theory, restricting the use of GIs within trade marks exclusively in favour of the local community of legitimate producers, if not solely to the responsible producer group.⁵⁹

The latter approach appears to support the logic behind EUIPO’s limitation theory, in conformity with the quality function of GIs to be respected by any interested operator. However, this interpretation seems to go too far.

On closer inspection, such a public certification dimension does not mean that the relevant sign can be freely used by anyone in any case: in fact, it always requires a form of positive control that works upstream as an authorisation for the compliant

⁵⁵ In Italy, the registration of trade marks incorporating (agricultural) GIs should now be subject to the previous positive approval by the Ministry (of Agriculture), verifying that there is no infringement: *see* Art. 170(2) of Legislative Decree 30/2005; for a brief overview of different national approaches Fontaine and Martin (2025), p. 762.

⁵⁶ Please *see* further Calabrese (2026).

⁵⁷ Obviously, this does intend ignoring the indeed *sui generis* nature of GIs, as reflected also in the special statute regulating geographical collective marks under Arts. 74(2) and 75(2) of Regulation (EU) 1001/2017.

⁵⁸ In this sense, the EU scheme for organic production represents an emblematic example: *see* Art. 30(2) together with Art. 3 No. 52 of Regulation (EU) 848/2018.

⁵⁹ The role of producer groups as “the institutional guardian of GI” has been highlighted to allow the registration of geographical collective marks for figurative signs imposed by GIs product specifications in the recent decision by EUIPO, Grand Board of Appeal, 14 May 2026, Case R 1946/2024-G (“SCCS”), para. 72.

operator. In this sense, it must be recalled that the added value of GIs, if not their very credibility, rests on a system of qualified and stringent certification controls at the production level.⁶⁰ Moreover, any public certification entails a guarantee function that is grounded in the same form of *ex ante* control implemented by the relevant authority.⁶¹

Actually, this deeper understanding of the public certification dimension can better justify restrictive policy positions about the use of GIs within trade marks. In particular, such options in favour of GIs would respond not only to the interest of preserving the commercial value of the *sui generis* rights, but also to the need of assuring consumer trust about the guarantee conveyed by the quality scheme,⁶² as well as to a systematic objective of diminishing entropy and any consequent risk of interference with such public “non-appropriable” signs.⁶³

From this point of view, the rationale underlying the restriction on trade mark registration for emblems of public interests – such as the PDO and PGI symbols themselves – seems inspiring.⁶⁴ With all due caution, and far from disregarding the difference between the protected name and the official symbol, the principles established in case law – distinguishing the authorised use of the guarantee sign as such from its use as a trade mark, and recognising the threat to reliability that the incorporation of the guarantee sign into a trade mark might entail – may well apply *mutatis mutandis* to GIs.⁶⁵ All in all, GIs also express a message of institutional

⁶⁰ Art. 39 of Regulation (EU) 1143/2024 for agricultural GIs and Art. 52 of Regulation (EU) 2411/2023 for craft and industrial GIs; that is why the alternative procedure of “self-declaration” for craft and industrial GIs provided by Art. 51 of Regulation (EU) 2411/2023 is very controversial (and in all honesty can be admitted only as a temporary exceptional measure for promotional reasons). For similar critical concerns Montero Garcia-Noblejas (2025). In general, the importance of controls for GIs is widely recognized: in this sense, within a deeper critical reflection, Gangjee (2017a).

⁶¹ Again, for the EU organic certification *see* Art. 34 of Regulation (EU) 848/2018

⁶² Recital 51 of Regulation (EU) 1143/2024 for agricultural GIs, and Recital 50 of Regulation (EU) 2411/2023 for craft and industrial GIs.

⁶³ In this sense Albisinni (2015), pp. 467–469; such positions rests on the typical rationale of *sui generis* GIs as special rights being “an expression of a regional or national cultural heritage and a common good that is somehow superior to the individual private property right contained in a brand protected through a registered trade mark”, as underlined by Goebel and Groeschl (2016), p. 365.

⁶⁴ Art. 7(1)(h) and (i) of Regulation (EU) 1001/2017; about the protection of the EU institutional symbols of GIs under such absolute grounds for refusal *see* EUIPO, Trade Mark Guidelines POST-2026, p. 648.

⁶⁵ In this sense, regarding a case where the trade mark application included the PGI symbol in addition to the relevant protected name, GCUE, T-700/20, *Gabriele Schmid v. EUIPO – Landeskammer für Land- und Forstwirtschaft in Steiermark*, ECLI:EU:T:2021:851, para. 45: “the fact, assuming it to be established, that, on the date of filing of the application for registration, the goods designated by the contested mark met the conditions [...] in order to benefit from protection under protected geographical indications, has no bearing on that examination. First, such a fact means only that [...] the operator marketing those goods may use the geographical indication at issue, which does not, however, entitle him or her to use such an indication as a trade mark. Secondly, the goods in question may cease to meet those conditions in the future. Even in that case, the trade mark concerned would continue to include the PGI symbol and would, as the case may be, be more likely to mislead the public as to the origin or properties of the goods which it designates”.

“approval” by the EU legal order,⁶⁶ which establishes the relative consumer trust in the quality so “sealed”.⁶⁷

In this sense, EUIPO’s limitation theory disregards this inseparable connection between certification and control. This fallacy can be appreciated already from the basic argument about the “right to use” a GI. Apart from the possible objection of referring it only to legitimate GI “producers”,⁶⁸ the law itself expressly grounds this subjective right on effective “verification of compliance” procedures.⁶⁹ However, rightholders of delimited trade marks are not subject to any control of this kind.

The fact that EUIPO disregards this essential element of control should be criticised. In this sense, EUIPO, as the EU public authority entrusted with trade mark registration, has an institutional duty to ensure the general consistency of the system within its competences. To a certain extent, this already emerged in case law, where it was affirmed that the Office “is bound to apply” trade mark regulations “in such a way as not to affect the protection granted to” GIs.⁷⁰ This is all the more true now that the EUIPO has acquired new specific competences in the field of GIs.⁷¹ In fact, it seems almost surprising that, in the development of the limitation theory, these arguments remained completely neglected by EUIPO.

By the way, this is true *a fortiori* for “pure” public certifications promoted by the EU itself, like the one for organic products, which are equally – critically – left undefended in terms of trade mark registration. From this point of view, the rather permissive approach by EUIPO should be criticised as well: it seems excessively naive to conclude that potential and even partial compatibility in the abstract is sufficient to exclude deceptiveness, and for example allow the registration of a trade

⁶⁶ Again, GCUE, T-700/20, *Gabriele Schmid v. EUIPO – Landeskammer für Land- und Forstwirtschaft in Steiermark*, ECLI:EU:T:2021:851, para. 28: “Such protection must also apply where the public may believe that, because of the presence in the trade mark of such reproduction or imitation of a badge, emblem or escutcheon, the goods or services have the approval or warranty of the authority to which that badge, emblem or escutcheon refers”.

⁶⁷ In this sense, it should be reminded that, save some exceptions (like spirit drinks under Art. 37(4) of Regulation (EU) 1143/2024, as well as craft and industrial products under Art. 54(2) of Regulation (EU) 2411/2023), the display of the PDO and PGI symbols is generally mandatory for GIs: Art. 37(3) of Regulation (EU) 1143/2024 for agricultural GIs.

⁶⁸ Literally Art. 47 of Regulation (EU) 2411/2023 for craft and industrial GIs.

⁶⁹ Art. 36(2) of Regulation (EU) 1143/2024 for agricultural GIs (and similarly Art. 47(2) of Regulation (EU) 2411/2023 for craft and industrial GIs, also remembering that in this case such a “right to use” is already more restrictive in its direct reference just to “producers”).

⁷⁰ GCUE, T-291/03, *Consorzio per la tutela del formaggio Grana Padano v. OHIM*, ECLI:EU:T:2007:255, para. 55, as highlighted by Fontaine and Martin (2025) pp. 763–764.

⁷¹ In more bureaucratic terms of register maintenance under Art. 22(2) of Regulation (EU) 1143/2024 for agricultural GIs, and even in more substantial terms of registration approval under Art. 9 of Regulation (EU) 2411/2023 for craft and industrial GIs.

mark containing “bio” or similar reserved synonyms under Art. 30(2) of Regulation (EU) 848/2018, without any proof of the actual legitimacy of its use by the applicant.⁷² Conversely, such principles of systemic consistency recommend institutional care to safeguard the trustworthiness of a public EU scheme in the market, following the same logic indicated for GIs.⁷³

However, leaving aside policy preferences as well as more profound theoretical discourses,⁷⁴ it seems quite unrealistic to predict an upcoming change in EU law. In all truth, a restriction in favour of GIs would require the legislator, first, to take the time to intervene on a reform just enacted, and second, to openly challenge EUIPO’s limitation theory, thereby also rejecting the admissibility compromise developed by case law.⁷⁵

That is why the analysis that follows focuses on a rather pragmatic approach, capable of identifying a solution that, although less ideal, would be more viable. In this sense, the solution should be reconstructed within the existing legal framework, so that the system can “self-adjust” without legislative intervention.

If the latest reform represents the immediate reference, the new regime for GIs used as ingredients or components stands out as an intriguing innovation.⁷⁶ For the purposes of this analysis, it is necessary to incidentally present the regime in question to better explain the proposed solution.

7 Looking within the System for a Way Out: The New Regime for GIs as Ingredients or Components

Following the latest reform, the EU *sui generis* regime directly regulates the use of GIs in the commercial presentation of a “derivative” product (i.e., where GIs represent ingredients or components).

⁷² Recently EUIPO, Board of Appeal, 9 September 2025, Case R 1119/2022-2 (“*VEGA DEL OBISPO BIO Jaén PRODUCTOS ECOLÓGICOS*”).

⁷³ According to the legislative assumption that “consumer confidence is crucial in the market for organic food. In the long run, rules that are not trustworthy can jeopardise public confidence and lead to market failure” (Recital 15 of Regulation (EU) 848/2018).

⁷⁴ For example, Gangjee (2020), Ribeiro de Almeida (2021), Jaeger (2024).

⁷⁵ In the EU context, such sort of normative “U-turn” with respect to case-law is not so frequent, with the legislator being actually more prone to codify the relevant outcome: in the context of the latest reform of GIs, about the definition of evocation, *see* directly Art. 40(2) of Regulation (EU) 2411/2023 for craft and industrial GIs, and indirectly Recital 35 of Regulation (EU) 1143/2024 for agricultural GIs; more generally, in recent intellectual property law, *see* for example the principle of cumulation for design and copyright under the new Art. 23 of Directive (EU) 2823/2024, to which add the critical remarks by Musso (2024).

⁷⁶ For the previous situation and some problematic reflections during the reform process, please *see* Calabrese (2023).

Concerning agricultural GIs, the reform establishes the lawfulness in principle of the recall of GIs in the trade name of a processed product based on three objective conditions: absence of other comparable ingredients, sufficient quantity to confer an essential characteristic, and indication of the relevant percentage.⁷⁷ In addition, there is a special sub-discipline for “prepacked food”,⁷⁸ reinforcing the substantive three-fold requirement with a formal notification obligation by the interested operator, who must send a written communication in advance to the GI (recognised) producer group demonstrating compliance with such conditions.⁷⁹ Moreover, relationships between the parties are shaped by an idea of market dialogue, with the opportunity for the producer group to integrate its response with “non-binding information” on the correct use of the GI,⁸⁰ save the possibility to conclude a “contractual agreement about the specific technical and visual aspects” of the presentation of the processed prepacked food.⁸¹

However, the scope of this special regime does not encompass all GIs. Actually, spirit drinks are directly excluded from its application.⁸² Moreover, for craft and industrial products, the parallel regulation provides an unexpected deviation. In particular, for craft and industrial GIs used as components of a manufactured product, the rule remained untouched in its original legislative version, so that now the recall of the GI in the trade name of the derivative product is laconically remitted to the “consent” of the producer group.⁸³

⁷⁷ Art. 27(1) of Regulation (EU) 1143/2024; reflect the same three conditions of soft law identified at the time by the Commission Communication, Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients (2010/C 341/03); it is no coincidence, therefore, that Art. 27(5) of Regulation (EU) 1143/2024 empowers the Commission itself to issue delegated acts “supplementing this Regulation by laying down additional rules on the use of comparable products as ingredients and the criteria of conferring essential characteristics on the processed products referred to in paragraph 1 of this Article”.

⁷⁸ The notion of “prepacked food” under Art. 27(2) of Regulation (EU) 1143/2024 for agricultural GIs expressly recalls the relevant definition in the context of food information under Art. 2(2)(e) of Regulation (EU) 1169/2011, as “any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; “prepacked food” does not cover foods packed on the sales premises at the consumer’s request or prepacked for direct sale”.

⁷⁹ Art. 27(2) of Regulation (EU) 1143/2024, which includes also a deadline of four months (for the notified producer group) and a standstill obligation in the meantime (for the notifying prepacked food producer).

⁸⁰ Again *in fine* Art. 27(2) of Regulation (EU) 1143/2024.

⁸¹ Art. 27(3) of Regulation (EU) 1143/2024.

⁸² Art. 27(4) of Regulation (EU) 1143/2024.

⁸³ Literally Art. 41(2) of Regulation (EU) 2411/2023 for craft and industrial GIs, while Art. 41(1) more basically allows “to indicate that a manufactured product contains or incorporates, as a part or component, a product designated by that geographical indication, provided that such use is made in accordance with honest commercial practices and does not exploit, weaken, dilute, or is not detrimental to, the reputation of the geographical indication”.

If for spirit drinks the legislative choice is more understandable because of a specific regime already in place, which, all in all, follows the same rationale of legitimate objective use,⁸⁴ for craft and industrial GIs the result is a normative discrepancy quite difficult to justify in light of the unity of the system.⁸⁵ To restore consistency, an evolutive interpretation should be pursued in accordance with the fundamental principles of GIs.⁸⁶

On closer inspection, the two GI disciplines seem to move from a common assumption. In the preamble, it is specified that the three conditions laid down for agricultural GIs used as ingredients are intended to ensure fair competition and reputation protection, the same objectives shared by the norm on components for craft and industrial GIs.⁸⁷ This demonstrates a substantial link between the two divergent rules, which can therefore support a coordinated interpretation based on the principle of objective quality justification, to be applied also to craft and industrial GIs, as established for agricultural GIs. At the same time, the general proviso for craft and industrial GIs that “such use is made in accordance with honest commercial practices and does not exploit, weaken, dilute, or is not detrimental to, the reputation of the geographical indication” can be valorised also for agricultural GIs,⁸⁸ if construed as a general clause of fairness within the set context of objective quality justification.⁸⁹

In particular, it follows that the “consent” of producer groups for craft and industrial GIs, as provided for in the letter of the law, should also be reinterpreted as an approval which, in fact, amounts to a confirmation of objective compliance, in the wake of the regime for agricultural GIs. Thus, if on the one hand the

⁸⁴ Arts. 11–13 of Regulation (EU) 787/2019, with rather detailed (and more permissive) rules for the use of GIs respectively for compound terms, allusions, mixtures.

⁸⁵ The international scenario confirms this vision of GIs as a unitary system, regardless of the formal division between agricultural and craft products followed in EU law: in this sense, the relevant definition under Art. 22 of TRIPS Agreement, as well as Art. 2 of Geneva Act of the Lisbon Agreement; in this regard *see* Marie-Vivien (2017), Gangjee (2017b), Zappalaglio (2021).

⁸⁶ What is argued here can be considered an update, on the basis of the now approved normative text, of what was put forward during the reform process in light of the same fundamental principles in Calabrese (2023). Equally before the latest reform, about the foundation of the EU regime for craft and industrial products on well-established principles of GIs Zappalaglio et al. (2020); after the reform, on the opportunity to bring greater consistency to the EU GIs system Ribeiro de Almeida (2025).

⁸⁷ Recital 39 of Regulation (EU) 2411/2023 for craft and industrial GIs, which significantly matches the parallel abovementioned reference for agricultural GIs in affirming that “[i]t should be ensured that the use of a geographical indication in the name of a manufactured product that contains or incorporates, as a part or a component, the product designated by the geographical indication is made in accordance with fair commercial practices and does not exploit, weaken, dilute, or is not detrimental to, the reputation of the geographical indication”.

⁸⁸ Art. 41(1) of Regulation (EU) 2411/2023 for craft and industrial GIs, again in parallel with Recital 36 of Regulation (EU) 1143/2024 for agricultural GIs. This reading seems now confirmed by EUIPO, Trade Mark Guidelines POST-2026, p. 664.

⁸⁹ Keeping in mind the overprotectionist risks of such general clause, as authoritatively illustrated by Kur (2023), the interpretation proposed here – as said, just in terms of fairness based on objective quality justification – elaborates a different role for this provision in the context at hand, where the ultimate protection of GIs against “undue” exploitation of or prejudice to reputation emerges as the key element in the relationship with third-party operators (further on the parallel between delimited trade marks and derivative products *see* following Section 8).

manufacturing company will be required to formally (and, of course, in advance) request the consent of the producer group,⁹⁰ on the other hand the producer group will in turn be required to respond in a rather “public” or “certifying” manner, assessing the existence of an objective qualitative justification in line with the founding principles of equal and non-discriminatory treatment of GIs. In this way, craft and industrial GIs will avoid any “private” temptation to grant individual discretionary authorisation of a purely contractual nature.⁹¹

In other words, the general lawfulness of recalling a GI in a derivative product, as now codified for the agri-food sector, can also be maintained for the craft and industrial sector in case of an objective quality justification, consisting of a characterising result based on the fair and effective use of the typical component, to be controlled as such by the responsible producer group.⁹² Obviously, the practical application of such rules is far from straightforward and will be subject to case-by-case assessment, which is inevitable even for the agricultural sector itself.⁹³

From this point of view, the option of enhancing the role of the product specification becomes very interesting as a potential tool for recomposing the two divergent regimes in practice. In brief, product specifications could function as an anticipatory general statement of the producer group’s interpretative position, almost like guidelines on the relevant legal conditions for objective conformity, only to be specified for the single GI product. Such an option seems promising for

⁹⁰ In this sense, save the proposed reinterpretation of the scope of the reply by the producer group, the necessary formal anticipation of the request by interested producers allows to maintain a logical sense for this provision within the peculiar regime of craft and industrial GIs under Art. 41 of Regulation 2411/2023, differentiating this case about explicit “sales designation” (paragraph 2) from the more general and open use “to indicate” the incorporation of a GI component (paragraph 1).

⁹¹ The legislative choice to opt for a more basic “consent”, as in the final version, instead of a more structured “agreement”, as in the original proposal, seems to support to some extent the interpretation proposed here; on the initial reform texts *see* again Calabrese (2023).

⁹² Along the lines of the three-fold conditions set for agricultural GIs of conferring an “essential character” without using “other comparable ingredients” to be duly “indicated in the label” (percentage aside): *see* Art. 27(1) of Regulation (EU) 1143/2024.

⁹³ As it appears from the relevant case law, CJEU, C-393/16, *Comité Interprofessionnel du Vin de Champagne v. Aldi Süd Dienstleistungs-GmbH & Co. OHG*, ECLI:EU:C:2017:991; on the critical application of such objective criteria Ribeiro de Almeida (2025).

achieving a good balance between protecting individual interests and creating legal certainty in the market.⁹⁴

In conclusion, this reinterpretation, according to which the producer group is tasked with establishing – and therefore “consenting”, which sounds very much like “acknowledging”⁹⁵ – the objective conditions laid down by law, entails a significant procedural and substantial convergence between the regime of craft and industrial GIs and the special notification regime of agricultural GIs for prepacked food, to the benefit of the coherence of the system.

On this basis, this new regime can be regarded as a meaningful expression of the fundamental principles governing GIs, encouraging the extension of this innovative model beyond its strict normative boundaries.

8 Potential of a “Prepacked” Solution for Delimited Trade Marks and GIs

Returning to the issue of delimited trade marks and GIs, the special notification regime for prepacked food using agricultural GIs as ingredients shows great potential.

⁹⁴ The viability of this option is supported by the preexisting Italian practice, where – in the context of a stricter national legislation imposing a pure authorisation mechanism for GIs used as ingredients – many consortia established specific internal regulations, also to be included in the product specification, as reported by AREPO, *The Use of EU Geographical Indications as Ingredients* (2021), p. 28 (<https://www.arepoquality.eu/2021/06/21/the-use-of-eu-geographical-indications-as-ingredients/>). This option seems promising notwithstanding the consolidated skepticism by Commission Communication, *Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients* (2010/C 341/03), para. 2.2; in fact, while under the previous EU regime this attitude could be explained by mistrust towards the attribution of prerogatives that could effectively serve as a lever to control the free movement of typical products (as explained by Kur and Cocks (2007), pp. 1007–1008), this concern no longer seems justified in light of the reform: on the contrary, this option would represent a positive overturning of such skepticism, with the product specification changing from a potentially restrictive source for third parties to a guiding document capable of binding only the producer group itself, without prejudice to the primacy of the set legal conditions that admits such an objective use of GIs.

⁹⁵ The two terms are pulled together to highlight how, in light of the interpretation proposed here, the wording of Art. 27(2) of Regulation (EU) 1143/2024 for agricultural GIs is not so distant from the wording of Art. 41(2) of Regulation (EU) 2411/2023 for craft and industrial GIs.

This means neither that such a regime is free from problems in its application,⁹⁶ nor that the manifest limits in its scope are ignored.⁹⁷ However, as just argued, this regime is deeply rooted in GIs founding principles, and is convergent across both agricultural GIs and craft and industrial GIs.⁹⁸ Moreover, its actual scope makes it a suitable model for developing a practicable solution to the critical implications of “Nero Lifestyle”.

First of all, one may object that this set of norms regulates GIs infringement, while the issue at hand concerns trade mark registration. Nevertheless, it should be borne in mind that the registrability of subsequent trade marks finds its direct legal basis in GIs grounds for protection, so that in this situation the two aspects tend to merge.⁹⁹

Furthermore, a direct link between the admissible use of GIs within trade names in case of ingredients and GIs grounds of protection (as said, relevant for trade mark registration) can be appreciated in case law: in the “*Champagner sorbet*” case, it was addressed when such a use “constitutes exploitation of the reputation”, which is precisely the hypothesis of GIs violation that lies at the core of the rebuttability of the presumption for delimited trade marks, as established by the “Nero Lifestyle” judgment.¹⁰⁰

⁹⁶ Among other issues, the EU legislator shows a rather optimistic approach, considering only the possibility of “acknowledgment” by the producer group, supplemented at most by “non-binding” information (Art. 27(2) of Regulation (EU) 1143/2024). Nothing is said, however, about the case where the producer’s request is rejected. The issue is far from hypothetical – considering the almost physiological recurrence of interpretative differences between opposing parties – and yet not easy to resolve: while, on the one hand, the regulation takes a clear position on imposing the burden of proof on the notifying producer, the absence of binding corrective powers on the part of the notified producer group indirectly proves that only the set objective conditions establish the lawfulness of such commercial practices. Therefore, the problem remains of the implications of a rejection, particularly with regard to the standstill obligation. Legal and pragmatic reasons for the orderly governance of market relations lead to prefer a more cautious interpretation, with producers continuing to be obliged to refrain from marketing the derivative GI product pending the outcome of the challenging proceedings they will have to initiate against the producer group’s refusal.

⁹⁷ It should be reminded that the notion of “prepacked food” is directly referred to the definition under Art. 2(2)(e) of Regulation (EU) 1169/2011; by the way, the same legal text under Art. 2(2)(b) of Regulation (EU) 1169/2011 defines also “processed product” in terms of “foodstuffs resulting from the processing of unprocessed products. These products may contain ingredients that are necessary for their manufacture or to give them specific characteristics”, in contrast with “unprocessed products” as “foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed”, by virtue of a further reference to Art. 2(1)(m)–(o) Regulation (EC) 852/2004.

⁹⁸ See just before Section 7. Moreover, from a normative perspective, the special notification regime for prepacked food under Art. 27 of Regulation 1143/2024 for agricultural GIs is a formula that has already been discussed and approved in the context of a systematic reform process, and also as a final compromise solution following further reflection, while the parallel regime under Art. 41 of Regulation 2411/2023 for craft and industrial GIs maintained the original proposal, as illustrated in Calabrese (2023): in this regard, the fact that the relevant regime for agricultural GIs was amended following further legislative reflection can be appreciated as a sign of “political” primacy that supports its construction as a reference model.

⁹⁹ See again Arts. 31(1) and 26(1) of Regulation (EU) 1143/2024 for agricultural GIs, as well as Arts. 44(1) and 40(1) of Regulation (EU) 2411/2023 for craft and industrial GIs, together with Arts. 7(1)(j) and 8(6) of Regulation (EU) 1001/2017 for trade mark registration.

¹⁰⁰ CJEU, C-393/16, *Comité Interprofessionnel du Vin de Champagne v. Aldi Süd Dienstleistungs-GmbH & Co. OHG*, ECLI:EU:C:2017:991, para. 53.

Coming to its content, the special notification regime provided for by the reform is based on characteristics very similar to those of delimited trade marks. First of all, both situations share the same normative structure, in terms of the general legitimacy of recalling GIs by third-party operators based on objective conditions: for derivative products, by virtue of the three-fold condition about the non-comparable, essential and transparent role of the GI element; for delimited trade marks, by virtue of the correct use of compliant GI products in the business carried out under the sign, as proclaimed in terms of classes restriction.¹⁰¹

In addition, it should be highlighted that the special notification regime applies to prepacked food due to its industrial nature. This could explain why the notification obligation has been specifically provided only for prepacked products: in fact, unlike loose products or “foods packed on the sales premises at the consumer’s request or prepacked for direct sale”,¹⁰² this industrial production focuses on packaging as a pre-formed presentation of the product, with a view to covering greater distances in the relationship with the consumer, communicating information essentially through the label.¹⁰³ But, after all, the trade mark is one of the central elements of the product presentation, being a distinctive sign with inherently informative (and nonetheless communicative) functions.¹⁰⁴ This correspondence could sustain an analogical application of this regime to any delimited trade mark, as the regulation of those operators who intend to carry out a business that, likewise, is structurally pre-formed through a sign incorporating a GI in order to “label” the qualified characteristics of the provided goods and services.¹⁰⁵

Having said that, this solution seems appropriate in terms of its applicative results. In operative terms, applicants of delimited trade marks would be required at the registration stage, in addition to the mere bureaucratic formality of such delimitation, to attach the fulfilled (and non-contested) notification to the relevant

¹⁰¹ Save any further reputational issue (and its uncertainty), the effective use of compliant GI products is a precondition for the very same presumption based on the limitation theory, as reconstructed by the judgment at hand: GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 58.

¹⁰² Again Art. 2(2)(e) of Regulation (EU) 1169/2011.

¹⁰³ Stressing the importance of consumer information via product packaging, also for GIs, Calboli (2017) p. 32.

¹⁰⁴ Leaving aside wider theoretical discourses, in EU law see for all Kur (2014), and further Kur and Senftleben (2017), p. 291.

¹⁰⁵ Actually, this logic could sustain the analogical application of this solution also to spirits drinks, notwithstanding the more challenging legal basis of Art. 27(4) of Regulation 1143/2024: even if the norm explicitly excludes spirit drinks from its scope, the regulation of GIs for spirit drinks shares the same rationale of legitimate objective use under Arts. 11–13 of Regulation (EU) 787/2019, so that the greater critical implications of using GIs as a trade mark (and not just in the product name) can justify this procedural reinforcement of the same substantial approach.

GI producer group. Such an obligation to notify the GI producer group appears capable of rebalancing, first and foremost, the procedural issue of the burden of proof, which is more equitably redistributed also on trade mark applicants. Furthermore, the burden imposed on these subjects is all but excessive, because the obligation to “include in that notification the information that demonstrates that the conditions [...] are complied with”¹⁰⁶ is evidence readily available to them.¹⁰⁷ Moreover, the prerogatives thus recognised to producer groups are well founded in light of their role as the “institutional guardian” of GIs,¹⁰⁸ save for the correct interpretation of such prerogatives not as mere discretionary powers of authorisation.¹⁰⁹

At the same time, it is believed that this procedural rebalancing may have an indirect positive effect in reducing uncertainty also on the substantive level. This is not so much in theoretical terms about the definition of “due” or “undue” reputational interference as referred above, but in more practical terms: in fact, through the necessary confrontation, it is likely that a convergence will be reached on how to fashion the delimited trade mark and the commercial presentation of the related product or service, in a positive context of shared interests among “honest” operators, which could ultimately benefit both parties.¹¹⁰ All in all, market operators who intend to register a delimited trade mark for a business actually based on GIs would be required to provide an objective proof of compliance, which means that those who are acting fairly have nothing to hide or fear; equally, the producer group would be required to provide an objective verification of compliance, which, as such, cannot contemplate any subjective discrimination in light of its institutional mission of safeguarding and promoting the GI.

¹⁰⁶ Literally Art. 27(2) of Regulation (EU) 1143/2024.

¹⁰⁷ For example, it would be sufficient to show the compliant product catalogue and indicate the legitimate supply source of GIs products, without the need of revealing any trade secret or other unnecessary confidential information. Moreover, trade secrets should be protected in the case of third parties accessing such information, as affirmed also recently by CJEU, C-686/24, *Nidec Asi v. Ministero per gli Affari europei*, ECLI:EU:C:2025:448.

¹⁰⁸ Again, as expressly recognized in the recent decision by EUIPO, Grand Board of Appeal, 14 May 2026, Case R 1946/2024-G (“SCCS”), para. 72.

¹⁰⁹ See Section 7 above.

¹¹⁰ As an emblematic example, see “My Selection 2025” by McDonald’s in collaboration with Fondazione Qualivita and the support of OriGIn Italia, as a program started in 2008 to create a premium line of products using GIs ingredients “in order to spread awareness of PDO and PGI products among Italian consumers” (translation from <https://www.qualivita.it/attivita/mcdonalds-my-selection-2025/>). This partnership renewal is even more relevant after the EU reform, considering that McDonald’s, as a fast-food restaurant, would be technically out from the special notification regime for prepacked food producers under Art. 27(2) of Regulation (EU) 1143/2024.

By the way, if the policy direction of admitting the use of GIs in trade marks expands further, it cannot be excluded that also the “name” of a derivative product could incorporate – fancifully but correctly – the relevant GI in the trade mark (despite the opposite position announced by EUIPO):¹¹¹ if this eventuality were to materialise, this solution of prior positive notification could be usefully applied also for the registration of delimited trade mark for products using GIs as ingredients or components, as an appropriate counterbalance.¹¹²

In more pragmatic terms, this solution would enable the system to “self-adjust” without the need for legislative intervention. In fact, this solution would not conflict with the “Nero Lifestyle” precedent, since it leaves intact the underlying mechanism of the rebuttable presumption in favour of delimited trade marks, which is simply (duly) reinforced at the procedural level of the application for registration.

Therefore, this solution could be introduced by EU judges as an update to the referred case law, should they be called upon to rule on this issue again. This could be done in a fairly simple manner, being a solution that does not seem to require excessive creative effort, since it can be based on a rather classic analogical reasoning, much less audacious than what has been done in the past in EU case law.¹¹³

Moreover, this solution could also be introduced by the EUIPO itself when revising its own guidelines. After all, if the EUIPO came up with the limitation theory, it can also revisit it in an equally creative (but more balanced) way. From an administrative perspective, this solution would not alter EUIPO’s institutional tasks, nor would it deviate from its established practices, since the Office already

¹¹¹ Historically, EUIPO addressed the hypothesis of GIs used as ingredients in proximity to the issue of delimited trade marks (EUIPO, Trade Mark Guidelines PRE-2026, pp. 668–669). Now, after the “Nero Lifestyle” judgment, EUIPO intends to oppose the use of GIs in the trade marks of derivative products, without any possibility to resort to the limitation theory (EUIPO, Trade Mark Guidelines POST-2026, p. 700). However, the examination of trade marks that incorporate GIs used as ingredients or components still demonstrates a certain procedural affinity between such hypotheses (EUIPO, Trade Mark Guidelines POST-2026, p. 698).

¹¹² As an invented example, think of “Champagne Supercola” for a soft drink flavoured with the famous PDO French wine (following the precedent of CJEU, C-393/16, *Comité Interprofessionnel du Vin de Champagne v. Aldi Süd Dienstleistungs-GmbH & Co. OHG*, ECLI:EU:C:2017:991). Brit-rock copyright issues aside, it should be stressed the fallacy of any possible objection based on the fact that the proper correspondence between the sign and the derivative GI product in terms of objective compliance could not be controlled, since such issues are all considered irrelevant for delimited trade marks and “plain” GI products under the current limitation theory (not to mention that such control is actually stronger for derivative products, by virtue of the very same new regime on GIs used as ingredients and components). In truth, this is argued without any intention to further support the limitation theory, but rather to highlights its shortcomings. However, as anticipated, the Office denies the admissibility of delimited trade marks for derivative GI products, because of their material difference (EUIPO, Trade Mark Guidelines POST-2026, p. 700).

¹¹³ In the field of EU intellectual property (and internal market), case law has been rather audacious in the past, as for example with the creation of legitimate conditions for repackaging to enable trade mark exhaustion (starting from CJEU, 102/77, *Hoffmann-La Roche & Co. v. Centrafarm*, ECLI:EU:C:1978:108); in support of the revitalization of this kind of judicial creativity in front of the new challenges posed by circular economy Calboli (2024), p. 245.

implements, in not so dissimilar situations, a procedural model based on a preliminary check of the applicant’s “authorised” requirements.¹¹⁴

9 Concluding Remarks

The “Nero Lifestyle” case shows once more how in this day and age GIs are among the most dynamic intellectual property rights.¹¹⁵ While this regime surely has some problematic excesses and requires attention to certain overprotectionist trends,¹¹⁶ the scenario opened up by this judgment represents an excess of the opposite kind, which is just as questionable for the uncertainties and imbalances it creates for the system.

Actually, the debate on the protection of GIs, especially in the thorny relationship with trade marks, always tends to focus on the individual positions of one or the other group of producers involved, losing sight of the bigger picture. Even in the case of delimited trade marks, there is a risk of overlooking the broader impact on consumer trust.

This is why the said uncertainties and imbalances following the “Nero Lifestyle” case appear critical, not so much to take sides with one of the two “factions”, but for consistency with the overall rationale of the *sui generis* regime. In fact, if the system intends to promote GIs as a tool focused (primarily, albeit in a multipurpose fashion) on the quality guarantee function,¹¹⁷ it is reasonable to expect that the system itself will provide adequate control over the circulation of those guarantee signs on the market. The undoubted difficulties and contradictions that such a quality guarantee function encounters in practice do not invalidate the basic principle:¹¹⁸ the trust promise by the EU system towards consumers enshrined in GIs implies a greater commitment on the part of the public authority itself in its various manifestations, including the EUIPO.¹¹⁹

¹¹⁴ As in the case of protected symbols or emblems of public interest (EUIPO, Trade Mark Guidelines POST-2026, p. 654: “EUTM applications can be registered despite being objectionable under Article 7(1)(h) or (i) EUTMR, if the applicant provides the Office with authorisation from the competent authority to include the protected symbol in its trade mark. The authorisation must cover registration as a trade mark [...]. It is up to the applicant to submit the authorisation”); moreover, the EUIPO recognises to have “*ex officio* knowledge” of GIs that are included in EU registers (EUIPO, Trade Mark Guidelines POST-2026, p. 1372).

¹¹⁵ Vives-Vallés and Gangjee (2025).

¹¹⁶ Authoritatively Kur (2023), and in my small way Calabrese (2024).

¹¹⁷ As recognized by the very same judgment at hand: GCEU, T-239/23, *Comité interprofessionnel du vin de Champagne and INAO v. EUIPO – Nero Lifestyle*, ECLI:EU:T:2025:638, para. 24.

¹¹⁸ On such critical aspects Gangjee (2017a).

¹¹⁹ According to a certain kind of institutional coherence, as the one imposed among Member States for the *ex officio* protection of all GIs on their territory, also online, respectively under Arts. 42(3) and 43(2) of Regulation (EU) 1143/2024 for agricultural GIs, as well as Arts. 54(2) and 60(2) of Regulation (EU) 2411/2023 for craft and industrial GIs (in response to the famous “Parmesan II” decision by CJEU, C-132/05, *Commission of the European Communities v. Federal Republic of Germany*, ECLI:EU:C:2008:117).

This does not mean that such a need for control should be taken to extremes. Still, it cannot be left solely to the dynamics among private actors in the market, to the point of almost forgetting that GIs are signs that convey a public quality guarantee. Policy preferences aside, it is undeniable that the current situation of “institutional disengagement” in the verification of trade marks incorporating GIs, thus “institutionally admitted” to the market, is not appropriate for supporting the stated objectives of the system.

In this regard, the solution proposed here seeks to identify an effective remedy without descending into the political arena, following a more neutral approach that firmly upholds the idea of balance at the core of intellectual property.¹²⁰ In particular, the extensive application of the special notification regime for prepacked food using GIs as ingredients to the issue of delimited trade marks seems appreciable also because of its viability within the existing legal framework, without disregarding some more general foundations. In fact, it enhances a new normative formula that is well-balanced in its renewal of the GIs founding principles of openness and non-discrimination through a logic of market dialogue. This, from a broader perspective, is also in line with theoretical efforts to promote fairness in intellectual property.¹²¹

Anyway, it is well known that, like any compromise solution, this proposal risks disappointing everyone. Still, even if the underlying pragmatic effort is not shared, it is believed to remain a useful starting point for dealing with the “Nero Lifestyle” aftermath, and more generally for contributing to the debate on how the GI system should evolve, in the face of the problematic developments of an intellectual property right that, for better or for worse, demonstrates its “burning” vitality.

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¹²⁰ Extensively Ghidini (2018).

¹²¹ In this regard, with specific reference to GIs, Calboli (2017); for a more comprehensive reflection about intellectual property in general, Kur et al. (2024).

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