

INAO successfully blocked registration of trademark 'L'OIE DES LANDES'

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The INSTITUT NATIONAL DE L'ORIGINE ET DE LA QUALITE (INAO) is a public administrative institution in France, with civil personality, under the supervision of the Ministry of Agriculture and Food Sovereignty of the French Republic. The INAO is responsible for the implementation of the French policy on the official signs of identification of the origin and quality of agricultural and food products, including appellation d'origine contrôlée (AOC), protected designation of origin (PDO), protected geographical indication (PGI), traditional specialty guaranteed (TSG), label rouge (LR) and organic farming (agriculture biologique, AB).

A Chinese company Lunniu Trading (Shanghai) Co., Ltd (Lunniu) filed on March 18, 2023, the trademark application "L'OIE DES LANDES", designating *"meat; fish, not live; canned cooked meat; fruit, preserved; eggs; milk; edible fats; dried edible mushroom; tofu; sausage casings, natural or artificial"* in class 29. The trademark was preliminarily published by the China National Intellectual Property Administration (CNIPA) on June 6, 2023.

On September 5, 2023, INAO initiated an opposition proceeding against this mark (the opposed mark) before the CNIPA, citing, *inter alia*, Article 10.1.7 (deceptive and misleading in terms of quality or place of origin) and Article 16 (a trademark containing a GI component, if being used on goods not originating from the indicated place thus mislead the public, shall not be registered) of the China Trademark Law.

INAO cited two PGIs to back its opposition: "Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)", a PGI on duck meat and offal in France, and "Volailles des Landes", a PGI on poultry meat and offal. INAO underlined in the opposition that "Landes" refers to the French region of Landes, which is known for its foie gras products. The opposed mark "L'OIE DES LANDES" can be translated into "Landaise geese", thus its registration and use is likely to cause misidentification as to the origin and quality of goods among consumers. The CNIPA found the arguments tenable and invoked Articles 10.1.7 and 16 of the China Trademark Law to disapprove the registration of the opposed trademark on all the designated goods on August 26, 2024.

Geographical indication products have specific qualities and reputations, which are determined by the natural or human factors of that region. Therefore, the product and the geographical indication are closely associated insofar as a geographical indication is to be associated with explicitly defined products. The CNIPA believes that the registration and use of the opposed trademark are likely to mislead the public on all the designated goods, including those that are not similar to the geographical indication products.

This decision is very welcome. By blocking the registration of the opposed trademark on products that are dissimilar to poultry meat and offal, the CNIPA demonstrates its flexible attitude in applying the clauses in the Trademark Law, which may serve as the guardrails of geographical indications. This case has been selected as one of CNIPA's Exemplary Trademark Opposition and Adjudication Cases in 2024.