

2018 Annual Agricultural Law Symposium

## Current Issues In Trademarks

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## Branding Agricultural Products

- Traditionally agricultural products have not been branded
- They are produced and sold as commodity items
- Cost and scope of developing and marketing branded are too high for individual producers
- Not enough control over the market by individual producers



## Branding Agricultural Products

- Consumers want specialized, premium products
- They are willing to pay more
- Brands help consumers differentiate products



## Branding Agricultural Products

- There are different branding strategies that meet this consumer need:
  - **Geographical Indications (GIs)** - a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. (e.g., **Darjeeling** for tea; **Roquefort** for cheese; **Napa** for wine)



## Branding Agricultural Products

- **Collective Brands** - groups of farmers or other producers work as a unit to develop and market a brand. (e.g., **Idaho**<sup>®</sup> for potatoes)



got milk?<sup>®</sup>



## Branding Agricultural Products

- **Product brands** - individual companies that brand and produce certain varieties of produce



- consistency for the consumer but flexibility for the producer (can use different varieties of fruit depending on the time of year, geographic location)



## Branding Agricultural Products

- Challenges to Branding Agricultural Products
  - Expensive to build the brand and educate consumers
  - Need to be consistent in quality – control growing conditions
  - Still relatively new to traditional farming industries and you need buy-in from the entire supply chain



## Branding Agricultural Products

- Changes the way you develop and protect the intellectual property
  - e.g., new naming conventions
- Pitfall: Don't use brand name on Plant Variety Patent (PVP)



## Branding Agricultural Products

- Benefits to branding Ag products
  - Higher prices for premium products
  - Adds IP assets to companies portfolios, increasing value of business
  - Consumer recognition locks-in market



- **The list of options for protecting IP assets for Ag products is growing; and these protections need to work in concert**

- Patents (PVPs; licensing contracts)
- Trademarks/Copyright (branding and marketing)
- Trade Secrets (unique production process or requirements)



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# Thank you

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