

Contents

Part I Introduction

1	Overview	3
1.1	Outline of This book	3
1.2	Necessity for the Protection of Indications of Geographical Origin	9
1.3	Terminology: Unresolved Problems and Solutions	14
	References	25
2	The Historical Foundations of the Regulation of Indications of Geographical Origin	31
	References	41
3	The Place of Indications of Geographical Origin in the Intellectual Property System	45
3.1	Concept and Function	45
3.2	Legal Subjectivity	65
3.3	Protection Models	78
	References	88
4	Fall and Decline	97
4.1	Becoming a Trade Mark	98
4.2	Becoming a Generic Name	101
	References	108

Part II European Union Law

5	European Union Protection System	113
5.1	Introduction	113
5.2	Primary Law	116
5.3	Early CJEU's Case Law	120
5.4	Further Development	129

5.5	Approach of the Secondary Law: Direct and Indirect Protection	139
5.5.1	General Overview	139
5.5.2	Direct Protection System	141
5.5.3	Nature of Direct Protection System	143
5.5.4	Indirect Protection System	144
	References	146
6	Quality Schemes Regulation	151
6.1	Introduction	151
6.2	Excerpt of Text and Commentary	155
	References	190
7	The Spirits Regulation	193
7.1	Introduction	193
7.2	Excerpt of Text and Commentary	194
	References	206
8	The Single CMO Regulation	207
8.1	Introduction	207
8.2	Excerpt of Text and Commentary	210
	References	235
9	Aromatised Wines Regulation	237
9.1	Introduction	237
9.2	Excerpt of Text and Commentary	240
	References	245
10	European Collective Mark	247
10.1	Introduction	247
10.2	Excerpt of Text and Commentary	249
10.3	Which Protection System to Choose?	267
10.3.1	Legal Regulation of Both Protection Systems at the EU Level	267
10.3.2	Legal Reasons	269
10.3.3	Economic Reasons	272
	References	275
11	Indirect Protection System	279
11.1	Introduction	279
11.2	Trade Mark Law	281
11.3	Labelling Law	283
11.4	Advertising Law	285
11.5	Consumer Protection Law	288
11.6	Customs Law	289
11.7	Other Directives	292
11.8	Conflicts Between IGOs and Trade Marks	293
	References	295

12 Challenges for Further Development 299
 References 303

Part III Impact on National Law of European Union Member States

13 Interrelation Between European Union Protection and National Protection 307
 13.1 Introduction 307
 13.2 Direct Protection System 308
 13.2.1 Provisions of the Applicable Regulations and Their Interpretation 308
 13.2.2 CJEU Judgment in *Budweiser II* Case 309
 13.2.3 Situation Before *Budweiser II* Case 311
 13.2.4 CJEU’s Reasoning in *Budweiser II* Case 312
 13.2.5 Assessment 314
 13.2.6 Scope of the CJEU Judgment 319
 13.2.7 Impact and Related Problems 321
 13.3 Indirect Protection System 324
 References 325

14 Liability Aspects 329
 14.1 Introduction 329
 14.2 Civil Liability Aspects 330
 14.2.1 Overview 330
 14.2.2 Applicable Law 331
 14.2.3 Civil Procedural Aspects 332
 14.2.4 Regulation as One of Delict Liability Models 334
 14.2.5 Specifics of Preconditions for Civil Liability 336
 14.2.6 Specifics of Calculation of Damages 337
 14.3 Administrative Liability Aspects 339
 14.4 Criminal Liability Aspects 341
 14.4.1 Legislative Method 343
 14.4.2 Requirements for Establishing Criminal Liability 344
 14.4.3 Amount of Penalties 345
 References 345

15 Competence Aspects of Responsible State Institutions 349
 15.1 Introduction 349
 15.2 Direct Protection System 351
 15.2.1 The Quality Schemes Regulation 351
 15.2.2 The CJEU Jurisprudence: *Parmesan* 352
 15.2.3 The Single CMO Regulation 353
 15.2.4 The Spirits Regulation 354
 15.2.5 The Aromatised Wines Regulation 354

15.3	Indirect Protection System	355
15.3.1	Trade Mark Law	355
15.3.2	Labelling Law	358
15.3.3	Advertising Law	358
15.3.4	Consumer Protection Law	359
15.3.5	Customs Law	359
	References	360
Index	363