

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 <i>Budweiser II</i> Case	309
13.2.3	Situation Before <i>Budweiser II</i> Case	311
13.2.4	CJEU's Reasoning in <i>Budweiser II</i> 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: <i>Parmesan</i>	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