



## **Signs of quality and plant variety protection: what consistency?**

The legal ways to promote products are diverse – both in origin and nature.

Firstly, these resources may come from different legal systems: national (i.e. Appellation of Controlled Origin), EC (i.e. Geographical Indications Protected), international. Secondly, they differ in their nature: by this observation, the idea of an inconsistency between the enhancements of products makes sense. Indeed, unlike the plant variety right, signs identifying the quality and origin (SIQO) are by their subject, a legal means to promote agricultural and food products.

However, although very different in terms of its purpose or nature, the law of plant variety may also be considered as a way of enhancement of products. What makes them closer to signs of quality?

It is the property law or, more precisely, the concept of appropriation. The idea of such a link between protection of varieties and SIQO could surprise some people - we think particularly to the controversy which arose between L. Lorvellec and J. Chen on this subject\*. Nevertheless, if we look more closely, the signs of quality – objects of valorization by nature – have, in fact, an effect on ownership by their recipient. Only those who make the approach to produce a wine with an appellation of origin may use this designation. They have a sort of monopoly on the name of their appellation. That monopoly is a reflection of the effect of this ownership of signs of quality by their beneficiaries.

Conversely, the law of variety plant, by nature, does not aimed to valorize a product. It is primarily intended to enable the holder of a plant variety certificate (PVC) to protect his "invention". He owns it. He holds all the constituents (regarding property law) of his "thing", namely *abusus*, *usus* and *fructus*. However, this law leads, in fact, to promote a product: when a company creates a new kind of tomato plant, resistant to certain diseases, and protects it with a PVC, this certificate will be a way to highlight benefits of these new plants to the farmers concerned.

The signs of quality are means of valorization leading to a form of ownership while the law of variety plant is a mean of appropriation that enable some valorization. A sort of consistency is then found.

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\* J. Chen, « Le statut légal des appellations d'origine contrôlées aux Etats-Unis d'Amérique », *Revue de droit rural*, n° 249, janvier 1997, pp. 35-43 et L. Lorvellec, « Réponse à l'article du professeur J. Chen », *Ibid.*, pp. 44-49.