

2018 HAROLD G. FOX MOOT

CLARIFICATIONS TO THE MOOT PROBLEM

December 4, 2017

The following clarifications are provided in response to the questions for clarification submitted to the IP Moot Committee:

1. Samples of both cheese products were put into evidence at trial, but the record includes no images of the products. For a description of the packaging, see the Trial Court's reasons.
2. The term "block letters" is used synonymously with "capital block letters".
3. The term "Daisy Isle" has been used for generations in association with the cheese described in paragraphs 5 and 6 of the Trial Court's reasons.
4. Lower Canada Cheese has never sought a trademark registration in Canada for "Daisy Isle".
5. For clarity, when "Daisy Isle" was added to Part A of Annex 20-A of Chapter Twenty of the CETA under the product class "cheeses", and was thus entered as a protected GI under the *Trade-marks Act*, the "Place of Origin" ("Originating Territory" under the *Trade-marks Act*) was listed as Denmark on the basis that the Faroe Islands are within the Kingdom of Denmark and that Denmark has the discretion to list GIs for all its territories. It should be noted that all parties stipulated that the GI was validly entered. As a courtesy, the parties brought to the attention of the Court that the Faroe Islands is not included in CETA as an independent entity. However, given the stipulation of the parties and the complexity of the issues, arguments that Denmark cannot validly list Daisy Isle as a GI should not be argued on appeal. The reliance of the Court on this stipulation ought not to be considered to form a precedent on this point.