

**The images of the Karoo:
A marketing opportunity and case
for intellectual property protection**

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Images of the Karoo region

- Windmills
- Sheep
- Farm homesteads, endless vistas
- Hospitable evenings
- Wholesomeness, natural
- Nostalgia, authentic

Worldwide trend to place value on food products that can be associated with a certain place or region or means of production

Is there 'brand value' in these images?

- Just consider this:
 - Increasing number of trademarks with regional names
 - At least 5 trademarks in the 'meat' category registered in SA containing the word Karoo:
 - At least 30 more examples in other categories, and
 - Shoprite/Checkers and Woolworths are using Karoo images and values to sell free range lamb.
 - Many cases where name of Karoo is used without a link with the Karoo



*Hoender Provençale
voorberei deur KarooCuisine*

How do you protect the reputation of a regional name?

- Geographical Indication (GI) e.g. *Parmigianino Reggiano*
- Certification Mark
- Collective Mark
- Trade Mark

No collective system or structure or legal mechanism to protect the image and values of Karoo – the IP of the Karoo inhabitants

Justification for use of GIs

- Name reservation
 - Protection against fraud and usurpation
 - Free-riding on collective reputation
- Marketing tool
 - Aiming at premium specialty markets
- Traditional knowledge and communities
- Quality assurance

Trademarks and GIs: Complementary but different concepts

Trademarks designate the source of products or services not in geographical terms but in relation to a specific enterprise or association.

- **Geographical indications** do not identify the producer or manufacturer of a product, but the place of origin and the special quality of the product originating in that place. Any producer in the place of origin that respect the specification is entitled to use it.

Complementary but different concepts

- **Trademarks** emphasises the producer. Behind the development of a trademark, human creativity is involved.
- **Geographical indications** are linked to something more than mere human creativity including topography, climate or other factors.

Protection of geographical indications in South Africa

- South African laws do not acknowledge or provide specific protection for GI's.
- Only minimum protection for GI's, as required under South Africa's international obligations, is provided by means of piecemeal laws of general application.
- The law of trade mark is the only means to establish a registered GI in South Africa – only as a trade mark
- GI's can be registered as collective or certification marks under the Trade Marks Act No. 194 of 1993.

Can the Intellectual Property of the Karoo name be protected: Case of 'Karoo Lamb'

- Research has shown the uniqueness and commercial value of 'Karoo Lamb'
- Only legal option currently is protection under trade mark laws as certification or collective trade mark
- But: Karoo Lamb wholly descriptive
- Words reasonably required for use in trade
- Thus trade mark registration would not result in name reservation

Legal options (cont)

- Although TM registration should be followed as part of broader marketing strategy – where name Karoo Lamb is used in combination with logo signalling specific quality-
- It should be remembered that 'name reservation' still require sui generis GI legislation