

# Martha, Martha, Martha

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After spending several months in the Big House, Martha Stewart is back, teaching us ways to improve our big houses. In addition to her television show, 'Martha Stewart Living,' and her magazine, Stewart's name has been attached to home goods such as sheets, tablecloths and napkins and other linens sold through K-Mart.

Now Martha is using her name to sell furniture from her "Katonah Collection," which includes a four-post bed and a tailored English sofa. Because she knows the value of a name, Martha and her company, Martha Stewart Living Omnimedia Inc., are applying for trademark protection for the Katonah Collection, named for her new hometown in upstate New York.

After living in Westport, Connecticut, for more than 30 years, Martha moved to Katonah, named after a 17th-century Indian chief. Residents of the town aren't necessarily excited about an ex-con moving in, and they are even less excited about their town being trademarked.

Many manufacturers want to trademark the name of their town to market their goods or services to distinguish them from products manufactured somewhere else. Such a trademark is known as a "geographical indication," as defined in the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The TRIPS Agreement sets forth standards to regulate international intellectual property protection and enforcement and establishes international minimum standards for the protection of geographical indications, or GIs, which are defined as "indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin."

The best example of a GI is the Florida Sunshine Tree. According to the U.S. Patent Trademark Office, GIs play an integral role in promoting trade and consumer interests, as a company's goodwill and reputation are linked to its products.

Under U.S. trademark law, however, geographic terms can't be registered as trademarks if they are merely geographically descriptive or if they are geographically mis-descriptive of where the goods or services originate. For example, I couldn't register the town name Kimberly to market my famous Vegetarian Chili, but I could trademark "Kimberly Chili", because it describes a good. Likewise, I could only use this trademark if my chili was actually made in Kimberly.

According to the USPTO, other producers in the area need to be able to use a geographic term to describe where their goods or services are from. Registering "Kimberly" would prevent my neighbor from trademarking "Kimberly Bowling Balls".

Therefore, Martha's trademark rights won't prevent her neighbor from opening 'Katonah Beer Depot', but it should stop someone from using the name 'Katonah' for a furniture store.

If, over time, consumers start to recognize a GI as identifying a particular company or group of producers, it no longer describes only where the goods or services come from, it also describes the "source" of the goods or services.

Once the GI has this "secondary meaning," it can also be protected as a certification mark. These marks certify that goods or services originate in a particular geographical region, such as Idaho potatoes or Florida oranges or orange juice.

Martha will have to wait to see if the USPTO registers her Katonah Collection. Reportedly, she is also releasing a line of functional orange jumpsuits.

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