

**GEOGRAPHICAL INDICATIONS, THE EU AND AUSTRALIA: A CASE  
STUDY ON ‘GOVERNMENT AT A DISTANCE’ THROUGH  
INTELLECTUAL PROPERTY RIGHTS**

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I INTRODUCTION

The way Geographical Indications (GIs) operate has not been well theorised. The main purpose of this article is to develop from the Australian position, a theoretical approach to explain their operation. This objective is based on the assumption that one of the outcomes of political-economic theory is to outline the structural elements of human systems to explain how the various ‘actors’ involved relate to each other.<sup>1</sup>

To achieve this purpose the article does a number of things. Firstly, I outline the history of Australian agriculture to explain the importance of the advent of neoliberal policies. I connect these policies with the deregulation of the economy and with the later role of international organisations such as the International Monetary Fund (IMF) and the World Bank, and with the role of the World Trade Organisation (WTO)/TRIPS<sup>2</sup> regime. Since the advent of these developments, I argue, Australia has become part of a new world legal order based on what Negri and Hardt call the new *Empire*.<sup>3</sup>

Secondly, I discuss the development of GIs in Europe and the issue of whether GIs represent a form of cultural property or whether they should be seen as trading commodities. I conclude that despite the fact that GIs have a cultural element in terms of international trade discourse, they are seen as commodities.

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<sup>1</sup> J Boutonnet, R Jassaume and D Sautier, ‘The Place of “Localized” Food Systems within the Political Economy of the Agri-Food System’ (World Congress of Sociology, Durban, 2006) 1.

<sup>2</sup> TRIPS is shorthand for Trade-Related Aspects of Intellectual Property Rights. They are the subject of the Agreement on Trade-Related Aspects of Intellectual Property Rights, 1869 UNTS 299, 33 ILM 1197 (1994), which forms Annex 1C of the Agreement Establishing the World Trade Organization, 1867 UNTS 154; 33 ILM 1144 (1994).

<sup>3</sup> M Hardt and A Negri, *Empire* (2000).

Thirdly, I discuss the development of TRIPS and how the TRIPS agreement embodied the interests of the *Empire*. I note an important part of the TRIPS regime is that each Member State has an obligation to protect the GIs of other Member States.

Lastly, I discuss how a new theorisation of GIs is now possible. I do this by using the notion of 'governance at a distance' to explain how holders of GI may dictate the shape that agriculture may take.

## II AGRICULTURE IN AUSTRALIA

At the time of settlement of Australia immigrants transplanted English ideas of property based on the notion of independent subjects owning full title to their land, rather than a system of subservient land ownership. Political settlement was followed by 'agricultural colonisation' with the adoption of European farming methods. Australia was thus established as a form of nation-state within specific boundaries.<sup>4</sup> At the same time, European settlers from the Old World took with them their traditional forms of agriculture, which in some cases have been the subject of dispute over the use of geographical terms in relation to agricultural products.

Up to the 1970s, Australia attempted to build up a manufacturing base, which would assist in the process of building up a new nation. In this project, local manufacturers were subsidised by the Government and protected by high tariffs. Behind the tariff walls of protectionism, Australia developed a unique form of capitalism. Australian farmers on the whole sold their produce to industry marketing bodies that put the produce on the world market.<sup>5</sup> Like many settler states, Australia sold its agricultural products in exchange for manufactured goods produced in the European metropole.<sup>6</sup>

In response to the worldwide recession of the 1970s, Australia adopted neoliberal policies based on the influence of the Chicago School of economics. These policies saw the end of the 'Australian Settlement' based on white Australia, industry protection, wage arbitration, state paternalism and imperial benevolence.<sup>7</sup> Under these neoliberal policies, led by the bureaucratic policy elite, the market came to be seen as the dominant institution for the allocation and distribution of goods. Further tariff barriers were dismantled and many public services were privatised. In the context of agriculture, one aspect of this change was the development of agribusiness firms, which initially were involved in the marketing of grains and gradually became vertically integrated with fertiliser and biotechnology companies,

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<sup>4</sup> The importance of this obvious comment will be made clear later.

<sup>5</sup> A Alexandra, 'Plant Intellectual Property and Globalization – The View from Australia' in M Lewelyn, M Adcock and M Goode (eds), *Proceedings of PIPWEG 2001* (2001) 185-192.

<sup>6</sup> A Bonnano, 'The Locus of Polity Action in a Globalized World' in A Bonanno et al (eds), *From Columbus to ConAgra* (1991) 254.

<sup>7</sup> P Kelly, *The End of Certainty* (1992) 661.

ultimately amounting to a ‘consolidation of the entire food chain’.<sup>8</sup> At the same time, the government embarked on an aggressive publicity campaign on the advantages of trade liberalisation on the basis that liberalisation would bring substantial gain.

With this development Australia has become part of the international agro-industrial complex. Agricultural practices have become largely determined by the imperatives of giant corporations, which straddle the process of agricultural production (of items from seeds to fertilisers) from the stage of primary production through to manufacturing and services. While farms are still mostly family-owned, many farmers are becoming ‘outworkers’ for large agri-businesses through contracts to provide specific agricultural products.<sup>9</sup> Meanwhile consumers demand cheap foods from a variety of sources.

It should also be mentioned that agricultural and scientific research, previously carried out by public corporations, has now been privatised. Hence, the state is no longer the major actor in agricultural research.<sup>10</sup> The result is that multinationals now control much knowledge previously in the public realm. Such knowledge has now become a commodity, through TRIPS.

At the same time, multinationals involved in agri-business have favoured contract farming, which essentially results in the institutional capture of contract farmers with promises of modernisation and credit.<sup>11</sup> As I will explain later, contemporary growers thus face a double-whammy of structural change in their lives, namely the ‘new feudalism’ brought about by contract farming, and the real and potential impact that GIs may have in forcing growers out of certain forms of agriculture.

Protectionism began to end in the 1970s largely as a result of economic pressure. It was perceived that protectionism imposed costs on the agricultural sector, which it could no longer afford if it were to remain competitive. Further, it was no longer considered desirable or necessary to prop up inefficient industries, nor was it seen to be in the consumer’s interests. In this environment, the market, given the advent of neoliberalism, was perceived as the most appropriate institution for the allocation of goods, both domestically and internationally.

These developments of trade liberalism and the growth of neoliberalism have also seen the growth in the development of the IMF, the World Bank and free trade agreements such as that recently concluded with the United States and the development of TRIPS.

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<sup>8</sup> A Parkinson, ‘GM Food: Corporate Interests and Farmer Concerns’ (Paper presented at the World Sociology Conference, Brisbane, 2002) 4.

<sup>9</sup> Alexandra, above n 5.

<sup>10</sup> L Busch, ‘The State of Agricultural Science and the Agricultural Science of the State’ in A Bonnanno et al (eds), *From Columbus to ConAgra* (1991) 69, 74.

<sup>11</sup> I Cook, ‘New Fruits and Vanity: Symbolic Production in the Global Food Economy’ in A Bonnanno et al (eds), *From Columbus to ConAgra* (1991) 232, 233.

These developments may be seen within the reconfiguration of what Hardt and Negri call *Empire*. Thus, through state deregulation of Australian agriculture and through TRIPS arrangements, a new situation has emerged in which the agricultural sector is now subject to what has been called the 'new form of globalisation'. One aspect of this globalisation, which I will later describe, is the new world legal order in intellectual property rights, which represents the interests of the nations which in large supported the TRIPS Agreement.<sup>12</sup> This form of globalisation, it has been argued, has led to the emergence of a new center and periphery not based on geographical regions but rather based on the different political and economic strata in both North and South. Rather, I argue that there is a new form of global sovereignty, which has been called *Empire*.<sup>13</sup>

In *Empire*, Hardt and Negri argue that globalisation does not mean that the heralded decline in the sovereignty of nation-states has led to the decline in sovereignty as such. Rather, sovereignty has taken new forms, which are composed of a series of national and supranational organisms united under one logic of rule. This term *Empire* does not refer to the system of imperialism (which the authors claim is over), where tribute flowed from the peripheries to the great capital cities. Concepts of center and periphery, the authors argue, have become outmoded as there now exists an all-encompassing entity that recognises no limiting territory or that has boundaries outside itself. The new forces behind the existence and potency of the new order are not the 'North' nor the United States (US), but ultimately the supranational order of *Empire*. My argument is that this new situation is part of a two-stage process. Firstly, there is the formation of a new international norm within the TRIPS agreement which modulated and reconciled national claims. Secondly, within this legal framework particular areas or regions who claim 'geo-names' exercise their control over the use of certain agricultural products by other producers.

This view of the new world order is instrumental to this article as *Empire* may be seen as a complex disciplinary machine whose ultimate aim is to harness freedom in the post-capitalist world. It is my task to theorise the operations of networks behind GIs and to explain how they reflect or articulate the interests of *Empire*.

Australian agriculture has become implicated with this *Empire*, or at least dependent on its hegemony, as issues of national sovereignty become arguably compromised as our agriculturalists have to adjust their operations to take account of the new form of global governance. As other scholars have thoroughly examined how Australian farmers have been variously affected by neoliberal policies,<sup>14</sup> my task is not to add to that critique, but rather to theorise on the nature and capacity of the power of *Empire* to shape agricultural activities.

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<sup>12</sup> S Sell, *Private Power, Public Law: Globalization of Intellectual Property Rights* (2003) 17.

<sup>13</sup> Hardt and Negri, above n 3.

<sup>14</sup> I Gray and G Lawrence, *A Future for Regional Australia: Escaping Global Misfortune* (2001) 52-70.

### III THE DEVELOPMENT OF GEOGRAPHICAL INDICATIONS IN EUROPE AND THE COMMODITISING OF AGRICULTURE

The development of GIs in Europe has had a long history, which need not bother us here.<sup>15</sup> It is clear the European Union (EU), influenced by Member States such as France and Italy, have long subsidised agricultural producers, and currently, the majority of the world's GIs are located within Europe.<sup>16</sup> The basis of the European system is historically varied within the municipal laws of the current Member States. In the European system it is common to use the GI to identify goods which come from a particular place or region, or to identify a particular character of the goods and the social networks that produce those goods.<sup>17</sup>

France, for instance, has a long history of protecting its geographical names in connection with products, which have certain qualities and are made according to specific methods of production and processing. For example, the Appellation of Origin is a special kind of GI used on products that have a specific quality that reflects the particular geographical environment in which the products are produced.<sup>18</sup>

The tradition of GIs extends beyond legal and economic concerns and indicates a source of natural and cultural pride.<sup>19</sup>

The production and marketing of rural products from traditional or distinctive rural areas is experiencing a resurgence under trade liberalisation as producers attempt to find new markets. Legal protection is invoked to protect old as well as new practices of a specific area. In short, says Coombe, these 'largely place-based

<sup>15</sup> W van Caenegem, 'Registered Geographical Indications: Between Intellectual Property and Rural Property—Part I' (2003) 6 *Journal of World Intellectual Property* 699; W van Caenegem, 'Registered Geographical Indications: Between Intellectual Property and Rural Property—Part II' (2003) 6 *Journal of World Intellectual Property* 861; R Nair and R Kumar, *Geographical Indications: A Search for Identity* (2005).

<sup>16</sup> M Handler, 'The WTO Geographical Indications Dispute' (2006) 1 *Modern Law Review* 70, 70.

<sup>17</sup> Boutonnet, Jassaume and Sautier, above n 1, 1-4.

<sup>18</sup> See World Intellectual Property Organization (WIPO) website at <[http://www.wipo.org/about-ip/en/about\\_geographical\\_ind.html](http://www.wipo.org/about-ip/en/about_geographical_ind.html)>.

<sup>19</sup> J Armistead, 'Whose Cheese Is It Anyway? Correctly Slicing the European Regulation Concerning Protections for Geographical Indications' (2000) 10 *Transnational Law and Contemporary Problems* 303, 307. For a provocative debate, see J Chen, 'A Sober Second Look at Appellations of Origin: How the United States Will Crash France's Wine and Cheese Party' (1996) 5 *Minnesota Journal of Global Trade* 29, and L Lorvellec, 'You've Got to Fight for Your Right to Party: A Response to Professor Jim Chen' (1996) 5 *Minnesota Journal of Global Trade* 65. For accounts of the Appellation system see W van Caenegem, 'Registered Geographical Indications: Between Intellectual Property and Rural Property—Part II' (2003) 6 *Journal of World Intellectual Property* 861, and K Josel, 'New Wine in Old Bottles: The Protection of France's Wine Classification System Beyond Its Borders' (1994) 12 *Boston University International Law Journal* 471.

entrepreneurial activities ... are protected and projected as privileged markers of meaning in global markets'.<sup>20</sup>

Do GIs represent a form of culture or do they represent a commodity? The formulation of this question in this alternative implies that a choice should be made between seeing GIs as a product of social interaction or, alternatively, as a product of economic rationality. Rather it is more accurate to see GIs as economic rationality being embedded in social relationships.<sup>21</sup>

Europeans have long argued that they are attempting to save their traditional environments, cultures and connections between producers.<sup>22</sup> One characterisation of the European position is that GIs involve social and economic considerations. This is implicit in the argument of Addor and Grazioli, two Swiss academics. In their eyes, GIs are seen as valuable to the Europeans for a variety of reasons. Firstly, they have an economic role in that they help protect intangible assets such as market differentiation, reputation and quality standards. In this regard they enable a link to be made with a specific product and the place from which it originates. The claim is made that the purpose of GIs is not to obtain the hegemonic preponderance of the market, but to ensure high-quality goods.<sup>23</sup>

Secondly, such designations convey the cultural identity of the nation or locality and so give a human dimension to a world dominated by standardised goods. This claim has been emphasised in the marketing of GI goods as it is claimed that such goods are authentic products with solid and genuine traditions behind them.<sup>24</sup>

Thirdly, GIs are a form of 'convention' which recognises the consistent behaviour between members of a group based on common agreement as to market pricing, standards and agreed moral and ethical standards.<sup>25</sup>

Australian agricultural producers are not generally sympathetic to these claims. The creation of private monopoly rights by the EU member states is not seen as being balanced by any benefits to Australia, because the consumer benefit is not assessed at the time of registration. The creation of the right is a 'gift' to the producer without any offsetting social benefit. This, in essence, is bad economic policy and is bad for competition.<sup>26</sup>

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<sup>20</sup> RJ Coombe, 'Legal Claims to Culture in and against the Market: Neoliberalism and the Global Proliferation of Meaningful Difference' (2005) 1 *Law, Culture and the Humanities* 35, 46.

<sup>21</sup> M Granovetter, 'Economic Action and Social Structure: The Problem of Embeddedness' (1985) 91 *American Journal of Sociology* 481.

<sup>22</sup> Lorvellec, above n 19.

<sup>23</sup> F Addor and A Grazioli, 'Geographical Indications Beyond Wine and Spirits: A Roadmap for a Better Protection for Geographical Indications in WTO/TRIPS Agreement' (2002) 5 *Journal of World Intellectual Property* 865, 872.

<sup>24</sup> Ibid 890.

<sup>25</sup> Boutonnet, Jassaume and Sautier, above n 1, 5.

<sup>26</sup> P Gallagher, 'Geographical Perspectives and International Trade-Industry Perspectives' (Worldwide Symposium on Geographical Indications, San Francisco, 9-11 July 2003) WIPO/GEO/SFO/03/17 [23].

The theoretical approach to trademarks demands that distinctive trademarks represent distinctive goods. In terms of GIs, van Caenegem argues that the differentiation argument has been taken one step further.<sup>27</sup> Thus, according to the proponents of GIs, a region has unique geographic and human characteristics, which cannot be found in any other region.

However, contrary to this ‘uniqueness’ claim principle, the particular characteristics of goods can never be an accurate descriptor of goods. Thus while geographical characteristics are not transferable, they are rarely absolutely unique. Even the most unusual growing and processing techniques can be copied and transferred to other parts of the world, as illustrated by the transplantation of European agriculture to Australia. Van Caenegem takes this last line of reasoning to undermine the uniqueness principle and the consumer protection function of GIs.<sup>28</sup>

While it is possible to be sympathetic to the holders of GIs in Europe and the extent to which they protect what have been called ‘places and social networks’,<sup>29</sup> the GI status does give the holder of such a product a legal right to enforce and protect their commodity in the market place. GIs are seen as commodities in the trade lexicon of the WTO and holders of GIs have enforced their rights through the language of ‘property theory’. This is consistent with what is seen as the true mission of TRIPS, to adopt intellectual property policies that encourage countries to promote their national interest in the way that will promote free trade.<sup>30</sup>

#### IV GEOGRAPHICAL INDICATIONS AND TRIPS

I assume my readers are familiar with TRIPS. Following the establishment of the WTO in 1994, there was agreement on the TRIPS. This agreement covers a wide range of intellectual property modalities, including copyright, trademarks and GIs. The agreement operates under the general council of the WTO and the TRIPS Council monitors compliance with the Agreement by signatory nations.

TRIPS scholars have sought to explain how the TRIPS agreement was formed. One account stated how the US used its bilateral power and the threat of tariff duties against developing countries that were threatening the US domestic market.<sup>31</sup> Sell has shown the pivotal role of twelve US corporations in their backing of the TRIPS Agreement.<sup>32</sup> Braithwaite and Drahos, in their book *Information Feudalism: Who*

<sup>27</sup> W van Caenegem, ‘Registered Geographical Indications: Between Intellectual Property and Rural Policy - Part I’ (2003) 6 *Journal of World Intellectual Property* 699, 710.

<sup>28</sup> Ibid 712.

<sup>29</sup> Boutonnet, Jassaume and Sautier, above n 1, 6.

<sup>30</sup> I Rahnasto, *Intellectual Property Rights, External Effects, and Anti-Trust Law* (2003) 53-4; P Samuelson, ‘Challenges for the World Intellectual Property Organization and the Trade-Related Aspects of Intellectual Property Rights Council in Regulating Intellectual Property Rights in the Information Age’ (1999) 21 *European Intellectual Property Review* 578, 586.

<sup>31</sup> P M Gerhart, ‘Reflections: Beyond Compliance Theory—TRIPS as a Substantive Issue’ (2000) 32 *Case Western Reserve Journal of International Law* 357, 368-70.

<sup>32</sup> Sell, above n 12, 108-120.

*Owns the Knowledge Economy*, conclude that the international intellectual property regime that we have today represents the failure of the democratic process both nationally and internationally. They argue, like Sell, that a small number of trade companies captured the trade agenda in partnership with European and Japanese multinationals. The resistance of the developing countries was crushed through trade sanctions.<sup>33</sup>

The TRIPS agreement requires that all WTO members adhere to minimum standards of intellectual property protection and all countries had to change their domestic laws to conform to the TRIPS Agreement. As a result of this Agreement all those countries that were parties to the agreement agree to the same standard of treatment of intellectual property regardless of their stages of economic development.<sup>34</sup>

Until 1992, protection of GIs in Australia depended on the common law and various statutes concerning misrepresentation. In 1992 Australia agreed to respect GIs as a trade-off for better access to the EU market for its wines.<sup>35</sup> Consistent with this agreement, Australia has now embarked on establishing a GI regime.<sup>36</sup> This is in accordance with the TRIPS agreement which obliges Members to implement their TRIPS agreements in their own countries. Australia has done this through specific legislation and through the common law. The key pieces of legislation are the *Trade Practices Act 1974* (Cth), which prohibits misleading conduct, and the *Trade Marks Act 1995* (Cth), which allows for the registration provided certain criteria have been met. Finally, there is the *Australian Wine and Brandy Corporation Act 1980* (Cth) which sets out specific registration for wine and spirits.

The consequence is that EU holders of a GI designation may enforce their right to its exclusive use, in an Australian court. Thus, in the case of wine and spirits, exclusive European rights may be enforced under the *Australian Wine and Brandy Corporation Act 1980* (Cth). As regards non-wine GIs, these may be enforced in Australia under trade practices law or by prior registration as certified trade marks. This does not deny the right of Australian holders of GIs to have reciprocal rights in Europe.

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<sup>33</sup> J Braithwaite and P Drahos, *Information Feudalism: Who Owns the Knowledge Economy* (2003) 12.

<sup>34</sup> For an account of how the TRIPS cases are decided, see D Williams, 'Developing TRIPS Jurisprudence: The First Six Years and Beyond' (2001) 4 *Journal of World Intellectual Property* 177.

<sup>35</sup> D Ryan, 'The Protection of Geographical Indications in Australia under the EC/Australia Wine Agreement' (1994) 16 *European Intellectual Property Law Review* 521. See the Draft Agreement between the European Community and Australia on Trade in Wine.

<sup>36</sup> For a critique of the Australian system see S Stern, 'The Overlap Between Geographical Indications and Trademarks in Australia' (2001) 2 *Melbourne Journal of International Law* 224, and S Stern and S Fund, 'The Australian System of Registration and Protection of Geographical Indications for Wines' (2000) 5 *Flinders Journal of Law Reform* 39, and van Caenegem, above n 19.



## V CONCLUSION: GIS AND 'GOVERNING AT A DISTANCE'

I suggest the enactment of the TRIPS Agreement has been part of the new emergence of a new form of legalised globalisation as indicated by Hardt and Negri. Braithwaite and Drahos argue that underneath the development ideology of intellectual property lies an agenda of underdevelopment: 'it's about protecting the knowledge and skills of the leaders of the pack'.<sup>37</sup> The new form of *Empire* through TRIPS facilitates the conversion of local knowledge into intellectual property that, as illustrated by the case of GIs, 'cannot be replicated elsewhere'.<sup>38</sup>

One of the features of political-economic theory is the attempt by theorists to locate how technical and social systems interact with each other. One scholar on globalisation, Giddens, claims that with the disembedding or lifting out of social relations from local contexts, relationships of domination are rearticulated across indefinite tracts of time and space.<sup>39</sup>

I prefer to see GIs as a new form of property right which enables the holder of a GI to dictate globally the marketing of another region. At the same time, such form of control may affect indirectly the manufacturing and processing techniques of another region. I explain this process as 'government at a distance'. This term will be explained in due course.

My aim is to show how the area involved in the creation of a GI (the dominant area) projects and structures the agriculture of other areas by restricting the means through which a servient area may brand its products. I do not claim a strict determination here or deny the resistance of the 'servient area'. By 'servient area', I mean the areas of Member states (both inside and outside a 'host country') that are forced to brand their products in relation to a claim or objection made by the owners of a GI.

My objective is to show how the various nodules of power within the matrix of relations concerned in the 'GI grid of relations' relate to each other. I have mentioned my claim that GIs form part of a new form of territorial control that is created by supranational agreements through the advent of TRIPS. My claim is that these agreements give novel property rights a global reach beyond the territory of the host state to structure agriculture outside of the area which holds a GI. I have two theoretical concerns here. The first is the ways the dominant and servient areas are linked. Secondly, I consider the spatial consequences of these relationships.

Canvassed here to explain the network of relations between the dominant and servient aspect of GI relations is the *government at distance* approach. This approach argues that forms of technology (and I see law as a technology) incorporate 'fidelity devices'.

<sup>37</sup> Braithwaite and Drahos, above n 333, 12.

<sup>38</sup> W Moran, 'Rural Space as Intellectual Property' (1993) 12 *Political Geography* 263, 264.

<sup>39</sup> A Giddens, *The Consequences of Modernity* (1991) 18.

Firstly, I shall deal with the claim here that law is a technology. While law may be envisaged as more as a discursive arrangement involving a professional form of rhetoric to fellow professionals, I regard law (amongst other things) as a form of technology as it is involved in giving effect to various technicalities such as accounting forms,<sup>40</sup> allocations of land surveying<sup>41</sup> or forms of statistics.

Secondly, I shall now describe what I mean by 'fidelity devices'. Fidelity devices are 'immutable mobiles' (such as forms of accountancy and statistics), which relay and implement consistent and reliable forms of interventions. These devices establish links, create networks, and create alliances and conduits which allow 'action at a distance'.<sup>42</sup> Fidelity devices thus allow consistency between the dominant locality and the subservient locality.

These fidelity devices incorporate particular forms of legal conventions<sup>43</sup> and property forms which permit centres of calculation to give rise to consistency of 'action at a distance' (Miller and Rose 1990).<sup>44</sup> Alternatively expressed, these fidelity devices ensure allegiance or consistency of outcome for those at the centre over those actions which are at a distance.<sup>45</sup>

Fidelity devices have been seen in the colonial situation as forms of accounting, systems of enumeration, statistics, etc, which allow the colonial state to govern from a distance in a constitutional and spatial sense.<sup>46</sup> In the context of GIs, fidelity devices are the forms of local conventions on which GIs are based, the constitutional forms of localised rule which allow registration of a GI and its corresponding enforcement by another Member state.

While these new forms of governance are implicated in ensuring consistency or reliability of action over distances, these forms of governance are also involved in 'spatial discourses'<sup>47</sup> or new forms of territorial governance. Older forms of

<sup>40</sup> See the work of Miller and O'Leary and their description of how accountancy forms act between private firms and the public service, as a 'civilizing medium' through a 'complexity of incessant calculations'. P Miller and T O'Leary, 'Accounting and the Construction of the Governable Person' (1987) 17 *Accounting, Organizations and Society* 235.

<sup>41</sup> See, eg, the impact of European forms of mapping and surveying in the New World, as described by C Tomlins, 'The Legal Cartography of Colonization, the Legal Polyphony of Settlement: English Intrusions on the American Mainland in the Seventeenth Century' (2001) 26 *Law and Social Inquiry* 315. Another example is the use of bookkeeping forms in the rule of British India. See the descriptions of the forms of calculations inbuilt into ideas of political economy in U Kalpagam, 'Colonial Governmentality and "the Economy"' (2000) 29 *Economy and Society* 418.

<sup>42</sup> N Rose, *Powers of Freedom: Reframing Political Thought* (1999) 210-1.

<sup>43</sup> I would include here the notion of trusts or company law which allows facilitative processes between administrative centres and the 'trust body' or 'company form'.

<sup>44</sup> B Latour, *Science in Action* (1987) 219-32; Rose, above n 42, 49.

<sup>45</sup> Rose, above n 42, 212.

<sup>46</sup> Ibid 49.

<sup>47</sup> The implicit connection between 'space' and power has been well developed by social geographers such as EW Soja, *Post-Modern Geographies: The Reassertion of Space in Critical Social Theory* (1989). See also the pioneering work of H Lefebvre, *The Production of*

governance were created when the state obtained exclusive jurisdiction over a clear area marked by boundaries and with the homogenisation of law within a specific territory.<sup>48</sup>

The new forms of spatialisations allow territorial control by dominant GI areas in several ways. Firstly, the state's recognition of land allocation and usage creates order and certainty for commerce for those 'dominant areas'. Secondly, these devices enable us to see legal forms as being involved in the creation of 'governable spaces'. It is now possible for the dominant area to govern not only the specific farmer in a GI location, but also the 'farmer situation' in a servient area.

This global form of power relations, I argue, is articulated within the conventions of a GI area and those legal arrangements of the servient area.

Thus with the advent of neoliberal practices, states have been complicit in the privatisation of research, the deregulation of the economy and the reduction in the power of the sovereign state.<sup>49</sup> In this situation new spatial practices impact locally and globally. Furthermore, with the internationalisation of the property rights through TRIPS, the hegemonic power of property has grown beyond its usual power to influence adjacent areas to obtain a global reach. In this situation, property has acquired new spatial power.

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*Space* (1991). Many scholars, following the work of Foucault, have shown how spatial areas may reinforce relationships of power. See N Blomley, *Law, Space and the Geographies of Power* (1994). For case studies see M Voyce, 'The Privatisation of Public Space and the Development of a Shopping Mall in Hornsby and Its Implications for Governance through Spatial Practices' (2003) 21 *Urban Policy and Research* 249 (shopping malls); L Moran, B Skeggs, P Tyrer and K Corteen, 'Property, Boundary, Exclusion: Making Sense of Hetero-Violence in Safer Spaces' (2000) 2 *Social and Cultural Geography* 407 (homosexual urban areas); N Blomely and J Sommers, 'Mapping Urban Space: Cartographic Struggles in Inner City Vancouver' in R Smandych (ed) *Governable Places: Readings on Governmentality and Crime Control* (1998) 261 (downtown developments).

<sup>48</sup> B de Sousa Santos, *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition* (1995) 468.

<sup>49</sup> For instance, the trend to remove wage protection from workers means that workers' conditions are influenced by international labour rates of pay.