

Geographical Indication As A Preventive Solution Against Competition In The Economic Market: A Literature Review

Maique dos Santos Bezerra Batista¹, Jaldemir Santana Batista Bezerra²
Robelius De-Bortoli³

¹(Universidade Federal de Sergipe. Programa de Pós-graduação em Ciência da Propriedade Intelectual, Brasil)

²(Universidade Federal de Sergipe. Programa de Pós-graduação em Ciência da Propriedade Intelectual, Brasil) ³(Universidade Federal de Sergipe. Programa de Pós-graduação em Ciência da Propriedade Intelectual, Brasil)

Abstract:

The History Of Humanity Reveals To Us That Economic Competition Has Always Been Present In Human Relations, Therefore, It Is An Inherent Phenomenon That Changes According To The Desires And Ambitions Of Actors (Sellers And Buyers) To Meet The Demands Raised In Society. However, The Capitalist System, As A Fast Business Model, Creates Complications For Small Producers. The Purpose Of This Article Is To Analyze, Through Scientific Publications Available On The Google Scholar Platform In Its Entirety, How Predatory Competition Affects Small Producers In The Short, Medium And Long Term In The Economic Market.

Materials And Methods:

This Research Has A Descriptive-Exploratory Bibliographic Character With A Qualitative Approach. Data Collection Took Place From The Platform Of Digital Journals Entitled Google Scholar. The Criteria Adopted In This Study Were: Document In Its Entirety, Direct Relationship With The Theme And Updated Content, Being An Article, Book, Thesis Or Dissertation, Having A Direct Relationship With The Theme In Question. Data Were Analyzed Conceptualizing The Types Of Competition In The Economic Market And Delimiting Them To Discuss How These Processes Affect Small Producers.

Results: *The Results Showed That The Different Types Of Competition Directly Affect The Small Producer, Making Them Vulnerable In A Strictly Predatory Environment.*

Conclusion: *The Geographical Indication Emerges As A Safe Way To Guarantee The Rights Of Small Producers In Their Place Of Origin, As It Recognizes Their Characteristics, Certain Qualities And Reputation That Legally Validates The Existence Of A Product Or Service Associated With A Geographic Place/Region.*

Key Word: *Small Producers; Intellectual Property; Types Of Competition.*

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I. Introduction

The history of humanity shows that economic competition has always been present in commercial interactions between producers, suppliers and consumers linked to their interests and benefits. According to Iglésias (1990), the modern idea of economic competition gains strength from the 18th century onwards with the advent of the Industrial Revolution, originating in England and expanding to other countries. The new forms of production, supported by technologies, generated significant increases in the manufacture of products on a large scale that provided the expansion of commerce, causing competition between companies in the offer of products and services with efficiency, innovation and quality accessible to the consumer.

In the twentieth century, economic competition is leveraged with globalization, a fact that enabled the emergence of international organizations such as the World Trade Organization (WTO), to promote trade liberalization and ensure equal conditions for participants in global trade. In Brazil, this century is marked by the acceleration of economic growth forged in the industrialization process, specifically in the 1960s, 1970s and 1980s

(MONTAÑO, 2017). Soon, this phenomenon generated great concerns in the economic market, because the formation of monopolies¹ and oligopolies², triggered anticompetitive practices that harmed free competition.

As the capitalist system is the operating vector of Brazilian society, it was necessary to remedy as a solution a competitive freedom that had legal support to regulate the circulation of products and services in different segments in order to create an economic order that promotes economic development, the fair competition and the protection of consumer interests. It is from this understanding that Economic Law emerges, supported by the Federal Constitution of 1988 in general principles and guidelines related to economic activities (ZEGGER, 2010).

The constant changes in the economy, politics, technologies and knowledge that the 21st century has been presenting have brought significant impacts and challenges in different sectors of society. The way society deals with these challenges and takes advantage of technological and knowledge advances will define its trajectory in a globally competitive market (GUIMARÃES, 2017). It is perceived that competition is an inherent phenomenon that changes according to the desires and ambitions of the actors (sellers and buyers) to meet the demands raised by society.

In this movement of conquest, large companies seek strategies to advance in the competitive market, including adopting aggressive and anti-competitive measures to eliminate and/or weaken their competitors, called predatory competition. Similarly, this nomenclature is associated with the predator in nature and its origin emerges from economic theory and the field of competition law. In this type of practice, artificially low prices are used, offering aggressive discounts, marketing tactics, among others, aiming to acquire a dominant position in the market (FRAZÃO, 2017). It is noted that this competitive conduct becomes harmful to healthy competition by distorting equal opportunities between companies and creating unfair conditions in the market.

From this perspective, the operational model imposed by large companies devastate small producers who carry out their practice considering the local characteristics associated with regional (place) natural (soil, climate, seeds), cultural (traditional knowledge) and operational (management) issues. This understanding leads us to the central question of this research: how does predatory competition affect small producers in the short, medium and long term in the economic market?

The purpose of this article is to analyze, through scientific publications available on the Google Scholar platform in its entirety, how predatory competition affects small producers in the short, medium and long term in the economic market. The ways to achieve this objective unfolded in: 1) carrying out a selective search (reading the abstract, objective and final considerations) on the types of competitions existing in the economic market on the Google Scholar platform; 2) tabulate and systematize the types of competitions found in the economic market; 3) discuss how the Geographical Indication can legally protect a product or service from a certain region.

The trigger for this study is anchored in the universe of Intellectual Property (IP) as it plays a significant role in the economic market in guaranteeing the rights of the intellect of human production in different dimensions. In the ramifications of the laws, we delimited in this research the Geographical Indication (GI) because we understand it as a way to guarantee the rights of the producers in their place of origin. According to Matos and Braga (2023), GI legally validates the existence of a product or service associated with a geographic place/region, recognizing its characteristics, certain qualities and reputation. Registration, in addition to guaranteeing competitive advantages in the market due to the singularity granted, can occur in two ways: Indication of Origin and Denomination of Origin. The terminologies of these concepts will appear in the results and discussion.

This manuscript is organized into 4 (four) sections. The first led us here, contextualizing the study's theme in a historical path tracing the triggers that guide the conjuncture of the work. The second describes the type of research adopted and the paths taken in the universe of the study, delimiting instruments and strategies used in the systematization of the collected data. In the third, the results found are organized, articulating the inferences of the authors in dialogue with the literature. The fourth brings the research considerations pointing the main outcomes directed ways to raise more scientific discussions that address this theme and then presents the bibliographical references that supported the research.

II. Material And Methods

This research has a bibliographical descriptive-exploratory character as it appropriates information and content already available in books, articles, theses and dissertations on the subject in question, in order to select the most relevant data for the research. As for the research approach, it is of a qualitative nature, as it describes the interpreted data exploring their meanings and values without going into statistical parameters.

¹In economics, monopoly is a form of abusive trade that aims to become the sole owner of a given product so that, in the absence of competitors, it can be sold at an exorbitant price.

²In economics, oligopoly is a market situation in which few companies hold control of the largest share of the market, which can generate an agreement to align prices for the product(s).

Data Collection Technique and Instruments:

The data collection took place from the platform of digital journals entitled Google Scholar followed by the time frame of 2019 - 2023. This filter was applied to scientific articles, as we needed current inferences on the subject. For books, this criterion does not apply because we understand that classic authors who discuss the economic market bring concepts from the past that drive us to understand the present in order to project the future.

To locate the publications available in their entirety, the following descriptors were used: “predatory competition and small producer”; “unfair competition and small producer”; “types of competition in the economic market in Brazil”; “Geographical Indication and Wine”; “Administrative Council for Economic Defense and INPI”; “economic, political and technological transformations in the market”. In the search for information, the publications found were organized in an Excel spreadsheet according to the descriptors used in the search and the filter applied.

The results of this systematization were organized in a summary table to facilitate the understanding of the path traced.

Table 01: Systematization of Collected Data

<i>Google Scholar Platform</i>			
1st FILTER - RESEARCH DESCRIPTORS	RESULT OBTAINED	RELATIONSHIP OF THE DESCRIPTOR TO THE TITLES OF THE PUBLICATIONS	TOTAL AMOUNT SELECTED
Geographical Indication and Wine	9.500	25	114
Types of competition in the economic market in Brazil	15.900	28	
Unfair competition and small producer	2.800	21	
Predatory competition and small producer	3.670	24	
Administrative Council for Economic Defense and INPI	1.450	15	
Economic, political and technological transformations in the economic market	16.000	32	
2nd FILTER - READING THE SUMMARY AND FINAL CONSIDERATIONS			
HEADINGS	QUANTITATIVE	ANALYSIS SELECTED QUANTITATIVE	TOTAL QUANTITATIVE ANALYZED
Geographical Indication and Wine	25	9	65
Types of competition in the economic market in Brazil	28	11	
Unfair competition and small producer	21	9	
Predatory competition and small producer	24	11	
Administrative Council for Economic Defense and INPI	15	8	
Economic, political and technological transformations in the economic market	32	17	

Source: elaboration of the authors produced in June 2023.

The total number of publications analyzed corresponded to publications of articles, books, theses and dissertations that were directly related to the research and provided the basis for understanding the subject in vogue.

Analysis, Inclusion and Exclusion Criteria in the Study:

The analysis criteria adopted in this study were: document in its entirety, direct relationship with the theme and updated content, being an article, book, thesis and dissertation. In separating the publications, the abstracts, prefaces and final considerations of the publications were observed to narrow down those that were most associated with the theme. In filter 01, only the first 100 (one hundred) pages of google scholar were analyzed, according to descriptors, as we understand that all the pages found would cause a gap between the intentionality of the search and the filter used. In filter 02, only publications were analyzed through abstracts and final considerations that were directly related to the research. We considered, in this study, the publications that presented the above criteria. Disregarded in this study were files that were not directly related to the topic or that did not meet any of the above criteria.

Data were analyzed understanding the types of competition in the economic market and delimiting them to discuss how these processes affect small producers. A summary table was elaborated bringing these characteristics making a discursive parallel between the literature and the inferences of the authors of this research

pointing out preventive possibilities, in legal apparatuses, that value and generate competitive advantages for the small producers.

III. Results

In the economic market, competition is a predominant fact among companies guided by their interests and ambitions, its definition has significant influence in the capitalist system by sticking to profit and private property echoing in the dynamic modification of competition.

It is important to highlight that in Brazil, the Competition Defense Law n° 12/529/2011, known as the Antitrust Law³, establishes rules and procedures for the prevention and repression of infractions against the economic order. The Brazilian System for the Defense of Competition (SBDC) defines duties and powers for the Administrative Council for Economic Defense (CADE), the body responsible for regulating and supervising competition in the country. Thus, CADE must: “guarantee healthy free competition; combat anti-competitive conduct through controls and sanctions instruments; protect the interests of consumers” (SILVA; OLIVEIRA; ROSSIGNOLI, 2021). In order to situate the reader on the different types of formal competition in Brazil, a summary table was prepared conceptualizing them and describing their main characteristics.

Table 02: Types of Competition in the Economic Market

CONCEPT	DESCRIPTION
Monopoly	It is characterized by the fact that there is only 1 (one) company that completely dominates the market in relation to the provision of a product or service without significant competition. Features: high prices; lower quality, less variety of products and services, lack of innovation and incentive to improve.
Monopolist	When there are several companies that produce differentiated products or services, but each one has some market power over its specific product due to the unique characteristics that it offers to consumers. Features: differentiated products; limited market power; non-perfect competition; free entry and exit.
Oligopoly	It is constituted by a small group of companies that control the offer of the market interacting strategically to consider the actions and reactions of the competitors. Characteristics: influence of price and produced quantities; strategies to compete; informal or formal price-setting agreements.
Perfect	It is understood as a theoretical reference model of the market to compare and analyze other types of competition. Predominant characteristics: Large number of buyers and sellers; Homogeneous products; Free entry and exit of companies; Market transparency; Rationality of economic agents

Source: Elaborated by the authors, produced in June 2023.

IV. Discussion

The types of bids translate a market *modus operandi*⁴ that suits the competitive circumstances. In monopoly competition, the company occupies a privileged position in the market in relation to the offer of the product or service. Even understanding that there is a regulation that supervises anticompetitive practices, the “scarcity” of a product and/or service generates abusive consequences for the consumer. According to Stiglitz and Walsh (2003), this type of competition can lead to an unequal distribution of income and wealth, which is detrimental to the economy. Therefore, it is necessary to enforce antitrust laws and government policies to promote competition and limit the power of monopolies.

Monopolistic competition operates with several companies that offer similar products and/or services, but with some element that differentiates them from the others. Companies retain some control over the price charged, but face competition with similar offerings. According to Tirole (2022), this type of competition seeks to analyze pricing, advertising, innovation and product design strategies as ways to stand out in the market. Theoretical, strategic and regulatory aspects are also taken into account.

In Oligopoly competition, business strategy is a crucial factor to dominate the market, as companies, being a small number, suffer direct competition with each other since the products and/or services offered are similar. According to Freitas and Trindade (2020), in this type of competition there is an interaction between competing companies to define strategies for acting in the market.

Perfect competition, as an economic theoretical model, companies compete in a fair and intense way without affecting the relationship with prices and market conditions, providing a basis for understanding the positive effects to evaluate efficiency and economic well-being in other market structures. According to Stiglitz (2003), in this type of competition it is possible to analyze the allocative efficiency, the maximization of social

³Antitrust “is a branch of law that seeks to discipline market relations between economic agents, aiming at establishing an environment of free competition, whose final recipients are consumers [...]” (GABAN, 2016, p. 67).

⁴It refers to the way in which an individual or an organization develops its activities or operates.

welfare and the impossibility of an individual company influencing the market price, the limitations and conditions to apply this type of competition in the market. real world.

By analyzing the types of competition discussed above, it is possible to observe that competition will exist regardless of the commercial segment. However, understanding this existence will make it possible to guard against the “giants” of the market. Bringing the small producer to the center of the discussion, it becomes noticeable how these market threats affect them, making them vulnerable in a strictly predatory environment. For Gaban (2016) predatory competition is an infraction that unbalances the economic order and its practice results in different sanctions such as: fines, warnings, prohibition on bidding, among others. Although legally it is not an unfair conduct, it harms the competitor who, many times, ends up making hasty/forced decisions based on limitations/intimidations to compete.

Unfair competition also affects the small producer. It is conceptualized as unethical, illegal or unfair practices to gain a competitive advantage over its competitors. According to Brazilian legislation, the following are considered unfair competition: infringement of intellectual property; misleading publicity; denigrate the image of competitors; product imitation; dumping; Misappropriation of clientele; Bribery and corruption. In Brazil, Industrial Property Laws nº 9.279/1996 and the Consumer Defense Code nº 8.078/1990 regulate unfair competition (BRABOSA, 2010).

In this context, we envision the Geographical Indication (GI) as an alternative to protect small producers from extinction in the competitive market. GI is a type of legal protection granted in the area of intellectual property that aims to identify a genuine product and/or services originating from a certain geographic region. Law No. 9,279, of May 14, 1996, regulates the rights and obligations related to industrial property, an axis to which the geographical indication is a part. In its article 176, Law nº 9.279 classifies the Geographical Indication in two different categories: the Indication of Source and the Denomination of Origin (BRASIL, 1996). In the Indication of Origin, it is necessary to prove the notoriety and tradition in the production of a certain genre; in the Denomination of Origin, in addition to the requirement to prove the product's reputation, it is still necessary to prove that the qualities found in it are directly related to the geographical conditions (INPI, 2021).

In addition to the protection against different types of competition that the registration can guarantee, the small producer can add competitive advantages with the protection seal⁵, avoid unfair competition, the undue use of the geographic name and the counterfeiting of products and services associated with the region. In Brazil, the body responsible for evaluating and granting Geographical Indication requests is the National Institute of Intellectual Property (INPI).

V. Conclusion

The research made a selection of the different types of competition found in the Brazilian economic market, describing its concept and the characteristics that define it. The analytical disposition of the publications found was based on understanding each *modus operandi* and its competitive circumstances.

The central objective of this research to analyze how predatory competition affects small producers in the short, medium and long term in the economic market, was achieved, since the results indicated that different types of competition can bring significant damage to small producers, requiring go in search of legal devices, such as the Geographical Indication - GI, which guarantee and enhance its position in the market with competitive advantages. In this study, GI was understood as a safe way to guarantee the rights of producers in their place of origin.

Understanding how market logistics works puts us in the position of an analytical social actor who: reads his surroundings to make decisions; seeks ways to remain in the market with a continuous flow of product or service offerings; creates strategies and possibilities to gain competitive advantages. Therefore, it is necessary that the continuity of research be encouraged within the scope of this study so that other observations and considerations can be raised as concerns to boost new discoveries in science.

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⁵The seal of protection seal gives products protection against misuse and counterfeiting, this validation guarantees consumers that they are purchasing an authentic product and with the distinctive characteristics associated with its geographical origin.

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