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GEOGRAPHICAL INDICATIONS REGISTRATION PROCESS IN INDIA

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ABSTRACT

A Geographical Indication is assigned to a product/commodity that originates from a particular location, and the product/quality commodity's and/or reputation is solely due to its place of origin. The purpose of GI is to maintain the quality, credibility and other characteristics of such products, primarily due to their geographical origin. Its geographical origin is basically due to the quality, popularity or other characteristics of such products. There are two features of the established Government of India Registry: (i) protection of procedures against counterfeiting and misleading trade; and (ii) striking a balance between trade mark protection and GI protection. There's a name and frame for every geographical region. Mostly the qualities and characteristics of certain goods attributable to some geographical locations and reputable to "as produce of certain region" come under Geographical Indications (GI). It is an emerging trend in Intellectual Property Rights. The GI Act discloses claimant's right to produce goods designated by the registered GI and to be able to file an application as an authorized user for registration.

**Key words: Geographical Indications, India, Registry, Intellectual Property Rights,
Registration**

INTRODUCTION

A geographical indication is a symbol used on goods having a particular geographical origin and adding the attribute or prestige

of that origin. A geographical indication is given primarily to agricultural, natural, manufactured handicraft originating from a

specific geographical region. Geographical Indications (G.I.) are one of the types of IPR defining a good as originating in the country's respective territory, or a area or locality in that particular territory, where a given quality, reputation or other attribute relating to the good is essentially due to its geographical origin [1]. The connection between objects and location is so well known that every reference to that location is reminiscent of the products that originate there, and vice versa. It fulfils 3 functions:

- First, they classify the products as to where a specific area or locality originates;
- Secondly, they recommend to consumers that products come from an area where a certain price, reputation or other characteristics of the products are related essentially to their geographical origin.
- Thirdly, they promote the products of a given region's producers. They suggest to the consumer that the goods come from this area where the geographical region is essentially attributable to a given quality, reputation or other characteristics of goods.

The general safety requirements for geographical indications can be traced back to the Paris convention for the protection of intellectual property, 1883, which includes,

in its widest connotation, trademarks, industrial designs, utility models, trade names and service marks, in addition to geographical indications [2]. These were accompanied by the 1891 Madrid Agreement for Repression of Fraudulent or Misleading Source of Products Indications. This was followed by the conventions and treaties which were focused on the geographical indication registration process. The Madrid Agreement relating to the International Registration of Marks signed in 1891, the Lisbon Agreement relating to the Protection of Appellation of Origin and their International Registration in 1958 and the Protocol relating to the Madrid Agreement relating to the International Registration of Marks established in 1989 played an important role in the creation of the system for the international registration marks [2]. By the means of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement which came into force on 1 January 1995, the seed for the establishment of the laws on geographical indications in India were sown. This agreement is considered the most detailed Intellectual Property Rights text. The parliament of India enacted the geographical indication of products (Registration and Protection) Act, 1999, after the TRIPS Agreement entered into force. The aim of this Act was to ensure the

registration and better protection of the Geographical Indications of Products. As a result, India was implemented in 1999 where the TRIPS Agreement was incorporated as a member state of the Sui Genis Geographical Indication Protection Act [1]. The object of the Act of 1999 on Geographical Indicators Goods (Registration and Protection) has three fold:

- By unique laws regulating the country's geographical indication of goods that can effectively protect the interests of producers of these products,
- Excluding unauthorized people from the abuse of geographical signals and defending customers from fraud and
- Promoting export markets for Indian regional bearing products.

India has registered more than 361 Geographical Indications. The first GI to be registered was in the state of West Bengal for Darjeeling Tea, registered in 2004 [2]. The largest category of goods that have been registered as GIs are crafts, followed by agricultural products.

A registered geographical sign in any way forbids the use of a geographical indication that indicates in the classification or depiction of goods that certain goods originate in a geographical region. Basmati rice and Darjeeling tea are examples of GI Made in India. There is so much awareness

of the relation between the goods and the location that every reference to the location reminds the specific goods being manufactured there and vice versa. Several of the examples of Indian's registered geographical indications are:

- Basmati rice
- Darjeeling tea
- Banaras Brocades and Sarees
- Coorg orange
- Phulkari
- Kolhapuri chappals
- Kangivaram sarees
- Agra petha

History of Geographical Indication:

Governments protect trade names and trade marks used in the sense of food products known from a specific area that were used or passed laws against misleading trade labels until the late nineteenth century, which generally protect against suggestions of a certain origin, price, of the commodity. Where it does not, or partnership. In these situations, governments justify the economic freedom resulting from the granting of a monopoly of use on a geographic indication for consumer safety benefits or for the benefit of product safety [1]. One of the very first G.I. Systems used in France since the early part of the 20th century are known as the Controloli Appellate d'Orgine (AOC). Items that meet geographical origin and quality standards can be certified with a government stamp which serves as the

official certification of the product and consumer standards.

India has a fast and effective GI tagging system amongst the major developing economies. The laws relating to the protection of G.I. in India are the Geographical Indications (Registration and Protection) Act, 1999 (G.I. Act), and the Geographical Indications (Registration and Protection) Act, 2002 (G.I. Act). India promulgated the G.I. The control law to enforce national intellectual property laws in accordance with India's TRIPS obligations. Beneath G.I. Act, on the G.I. Act, since September 15, 2003, the Central Government has established a Geographical Indications Registry in Chennai, with Pan Indian jurisdiction, where holders of rights that register their G.I.

Objectives of the Geographical Indications (GI):

- The fundamental aim of the geographical indication is to avoid the unauthorized use by others of a Registered Geographical Indication [3].
- The GI provides protection for new or distinctive items created or produced by a person or association of individuals, etc.

Benefits of Geographical Indications:

1. **Economic Growth:** The geographical indication of marked goods helps to fuel economic

growth. If a product receives a geographical indicator tag, it will create a good reputation for the product among customers and thus earn more benefit from the producers. The result of a geographical indication would improve regional economic growth.

2. **Prevent misuse of geographical indication:** There is a GI tag reflecting the Geographical Indication. The misuse of the Geographical Indicated Commodity is prevented by the GI tag. The producer has the legal right to charge against that person and save his reputation from being ruined if anyone misused the GI tag [4].
3. **Increase income for local producers:** The protection of geographical indications enhances the consumer's good reputation for the product. The geographical indication, therefore, increases revenue for local producers.
4. **Boosts exports:** The only aim of the Geographical Indication Act is to give the Geographical Indicated Product legal protection. It will give the product a strong reputation. Therefore, exports would be improved by the geographical indication of a commodity.

5. **Boosts tourism:** The protection of the Geographical Indication generates a good reputation for the product among the producers; this will bring more tourists to the area. The GI tagged item was seen by many individuals from various countries and they liked to visit that spot. Therefore, commodity boost tourism was tagged by the GI.

Salient Features of Geographical Indication (Registration and Protection)

Act 2020:

- Its primary goal is to provide:
 - Statutory security of GIs in the light of public interest, economic reforms and the least developed areas of Pakistan; and
 - Legal means of prohibiting third parties from using the designation or appearance of products suggesting or indicating that the goods in question originate in a geographical region or constitute an act of unfair competition within the scope of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) [5].
- The act creates the Register of Geographical Indications to be maintained and operated by the Pakistan Intellectual Property Organization (IPO). Until the creation of a separate GI registry, the IPO Trademarks Registry and its branches established under the Trademarks Ordinance 2001 will perform the functions of the Registry of Geographical Indications and its branches.
- GI registration is forbidden if the label is:
 - Under the Act, the concept of 'geographical indication' will be in contravention;
 - Deception or misunderstanding would possibly be caused;
 - It cannot be protected or has ceased protection or is no longer used in the country of origin;
 - A common name or an indication is considered; or
 - For moral or public policy purposes, it is non-registrable.
- Demands for GI registration must include:
 - GI trade mark;
 - The product class and region to which the GI applies;
 - The country of provenance;

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- Statements from suppliers or operators; and
 - Information of the relevant goods' standard, requirements and characteristics.
 - GI registration is granted subject to confirmation by the designated certification body of the goods requesting GI registration and review by the registrar and approval thereof.
 - Ongoing and registered GI registrations usually last for 10 years and can be renewed.
 - Registered users have the exclusive right to use a GI and to prohibit the use of that GI by anyone.
 - The use of a licensed GI shall be subject to product specification compliance which shall require the application of a GI to goods, packaging, advertising materials and any other document relating thereto.
 - The GI certification of the registry includes the emblem of the National Geographical Indication along with the GI product's registered name.
 - Authorized violation of GI involves:
 - Usage of a symbol which is identical or deceptively and confusingly similar;
 - Falsely indicating a country of origin; or falsely indicating a country of origin
 - Infringement of the specification book, as recorded in the registration.
 - Infringement of Licensed GI does not include:
 - Use of the products in good faith or to suggest the intended purpose;
 - Use of the name of an individual or of a place of business or its predecessors, which is unlikely to confuse or otherwise interfere with an existing GI; and
 - Usage in comparative advertising

Who Entitled to Apply Geographical Indication?

The registration of GIs may be requested by any group of persons, manufacturers, agency or authority founded by or under the law [6]. The applicant must represent the producers' interests. Producers are people who work with the following three types of products:

- a) Development, manufacturing, selling or dealing of agricultural products includes;
- b) The exploitation, selling or dealing of natural goods
- c) Manufacturing, manufacturing, selling or dealing in crafts or consumer products

Whom to Apply Geographical Indications:

The application shall be sent to the Registrar pursuant to the Act, and the Registrar of Geographical Indications shall be the controller of patents, designs and trademarks named pursuant to subsection (1) of section 3 of the Trademarks Act 1999. He shall be assisted by the officer's respective number, appointed by the central government as they may think necessary. A complete modern patent office and the first geographical indication (G.I.) registry of the country in Chennai are a very good step in this region. By meeting the criteria outlined in the Act, the Registry would further complement this. All applications should be submitted in the Geographical Indication Registry of the Office within the territorial limits of the country or area or locality of the county [1].

Applications for GI in India

Any association of individuals, suppliers, agency or authority set up by or under the law might apply:

- The applicant must represent the producers' interests
- The request should be written in the prescribed form.
- The request should be answered along with the Registrar of Geographical Indications with prescribed fee [7].

Requirements of GI Applications [8]

- The group of products to which the geographical indication refers.
- A declaration of how the geographical indication helps to classify the items as originating from the territories concerned, with regard to quality, reputation or otherwise, characteristics that are primarily or essentially attributable to geographical characteristics climate, with natural and human factors intrinsic to it, and development or production or preparation of such processes takes place in the territory or region or locality concerned [10].
- The details as to the appearance of the geographical indication whether the words or figurative elements, or both, are included;
- A declaration containing certain particulars, if any, of the producers of the products concerned, if any, suggested to be initially registered with the geographical registration an indication as prescribed; and any other specifics as prescribed.

The registrar is approved after an application for registration and whether there has been a registration the

opposition to which a geographical indication is rejected shall be registered.

REGISTRATION PROCESS OF GEOGRAPHICAL INDICATION IN INDIA [9]

Step 1: Filing of application

The group of individuals or producers, or any agency or authority, should represent the interests of the producers of the products concerned and, as the applicant claims to represent its interests, should file an affidavit.

- The request must be made in triplicate form.
- The request shall be signed by the claimant or his representative and shall be followed by a declaration of the event.
- Information of the unique features and how to preserve those requirements.
- Three approved copies of the area map to which the GI refers.
- Details of the framework of the inspection, if any, to govern the operation of the GI in the territory to which it relates.

Step 2 and 3: Preliminary scrutiny and examination

- The Examiner will check the application for any flaws.

- In this respect, the applicant should resolve the matter within one month of the notification.
- The quality of the case statement is determined by a consulting group of experts on the subject.
- It will decide the correctness of the information presented.
- An evaluation report will then be released.

Step 4: Show cause notice

- If any opposition to the application has been presented by the Registrar, he shall communicate the objection.
- The applicant must respond or apply for a hearing within two months.
- The decision will be conveyed duly. If the applicant wishes to appeal, the applicant can make a request within one month.
- The Registrar is also allowed to withdraw an application after giving the opportunity, if it is approved in error, is being heard.

Step 5: Publication in the geographical indication journal

Any application must be published in the Geographical Indications Journal within three months of acceptance.

Step 6: Opposition to registration

- Any individual can file a notice of opposition against the GI application published in the Journal within a

period of three months (extendable by another month upon request, which must be filed before three months).

- A copy of the notice must be served on the applicant by the registrar.
- The applicant shall request a copy of the counter declaration within two months.
- If he does not do so, his application is considered to have been abandoned. Where a counter-statement has been filed, a copy of the person giving the notice of opposition shall be served by the registrar.
- Thereafter, by way of affidavit and supporting documentation, both parties can direct their respective proof.
- A trial date for the dispute will be set afterwards.

Step 7: Registration

- Where an application for a GI has been approved, the geographical indication shall be registered by the Registrar. When an application is registered, the date of filing of the application is considered to be the date of registration.
- A certificate bearing the seal of the Geographical Indications Registry is issued by the registrar to the applicant.

Step 8: Renewal

A licensed GI is valid for a period of 10 years and may be extended upon payment of a renewal fee.

Step 9: Additional protection to notified goods

Additional cover is provided in the Act for reported products.

Step 10: Appeal

Any individual aggrieved by an order or decision can, within three months, prefer an appeal to the IPAB (Intellectual Property Appeal Board).

The registration process of GI in India has been represented in **Figure 1 [10]**.

The GIs registration in India has been represented in **Table 1** which includes state wise distribution and product wise distribution in **Table 2 [7]**.

Table 1 shows that in India, Karnataka accounts for 44.44 percent of the maximum of 12 geographical indications, followed by 5 with 18.52 percent from Tamil Nadu [7].

Table 2 shows that highest GIs registered are from the category of textiles, i.e. 13, representing 48.15% of the total registration, followed by horticulture and handicrafts with 11.11% each.

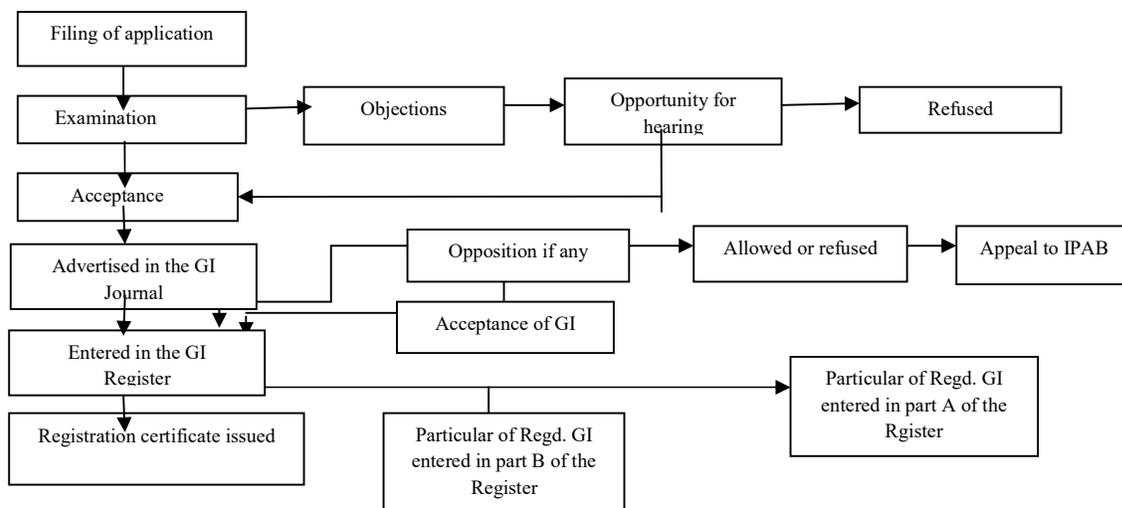


Figure 1: Registration Process of Geographical Indication in India

Table 1: State wise distribution of Geographical Indications in India

S. No	State	No. of GI registered	Percentage	References
1.	West Bengal	1	3.70	[7]
2.	Andhra Pradesh	1	3.70	[7]
3.	Madhya Pradesh	1	3.70	[7]
4.	Orissa	1	3.70	[7]
5.	Rajasthan	1	3.70	[7]
6.	Tamil Nadu	1	18.52	[7]
7.	Karnataka	12	44.44	[7]
8.	Kerala	1	3.70	[7]
9.	Maharashtra	2	7.41	[7]
10.	Himachal Pradesh	2	7.41	[7]
Total		27	100	[7]

Table 2: Type of Product Wise Distribution of GIs Registered in India

S. No	Type of product	No. Of GI registered	Percentage	References
1.	Tea	02	7.41	[7]
2.	Textiles	13	48.15	[7]
3.	Incense sticks	01	3.7	[7]
4.	Metal mirror	01	3.7	[7]
5.	Horticulture Product	03	11.11	[7]
6.	Essential Oil	01	3.7	[7]
7.	Soap	01	3.7	[7]
8.	Handicraft	03	11.11	[7]
9.	Wet Grinder	01	3.7	[7]
10.	Painting	01	3.7	[7]
Total		27	100	

Prosecution

If the GI Registration Application has been submitted to the GI Registry, the Registrar may have the application checked and can consult with an expert group to check the technical details. The review report shall be

released after approximately 3 months, to which the applicant responds. The Registrar approves the submission, which will then be published in the GI journal, upon fulfilment [6]. If the applicant fails to respond within 2 months, the application is

considered to have been denied. Within 1 month, the applicant can appeal against the registrar's decision to respond.

Opposition

Any individual can, within a period of three months from the date of publication of the application in the Journal, object to the registration of a geographical indication by giving notice in writing of opposition to the Registrar. Within two months of the date of receipt, the applicant must send a counter statement to the Registrar outlining the grounds on which it relies in order to make the request. The opponent shall send proof in support of his request within a period of two months (extendable to three months) from the date of receipt of the counterstatement. Ordinarily, the registrar shall send a one-month notice of hearing to all parties within three months of the date of completion of the proof [6].

Registration and Renewal

The registration of a GI confers on the registered owner and the approved users the following rights:

- Right to seek relief with regard to GI violation.
- Exclusive right of use of the GI with respect to the products for which the GI is licensed.
- Co-equal rights are reserved by two or more approved users of a licensed GI.

GI registration is valid for a period of ten years, and can be extended from time to time thereafter [6].

Effects of Registration and Infringement [11]

Registration of a GI grants its owner and authorized users the exclusive right to use the indications relating to the goods in which they are registered. In addition, registration grants the institution the right to bring an infringement case and to recover damages for such infringement. A case of passing off can, however, be added in the case of non-registered GIs. Registration serves as prima facie proof of the legitimacy and possession of the indication. Registration cannot be transferred, mortgaged, delegated or licensed unless, on the death of a registered person, the mark is inherited. Any person who falsely applies or falsifies any geographical indication, tampers of the origin of a good, makes or possesses dye, blocks, machines to be used in the falsification of GI may be punished for not less than six months, but for a period of three years and for a fine of not less than fifty thousand rupees, but for a period of two lakh (2, 00,000) rupees. In the event of a second and subsequent offence, a person may be punished with imprisonment for a term of not less than one year, which may be extended to three years, and a fine of not less than one lakh rupee, which may be

extended to two lakh rupees . However, the judge can reduce the punishment under certain circumstances, and grounds for reducing the penalty must be written in the judgment. Other offences include falsely representing a GI to be registered, falsification of registered entries, falsely representing a position to be linked to the GI Registry.

Challenges and Problems in the Post GI Act and Rules

In Chennai, where the GIs can be registered, the Government of India has established the Geographical Indications Registry with all-India jurisdiction. Under this Act, any person claiming to be the producer of the good designated by the registered GI can file an application for registration as an approved consumer once a GI is registered. The Controller General of Patents, Designs, and Trademarks, who is the Registrar of GIs, shall administer the GI Act. The period of registration of a geographical indication is 10 years. For an additional duration of ten years, renewal is necessary. If a registered GI has not been renewed, it is responsible for being deleted from the register [8].

CONCLUSION

Intellectual property rights have never been more critical or contentious economically and politically than they are today. Geographical Indications is an emerging field of Intellectual property. Every region

has its claim to fame and it has to be protected. Geographical indication is not a right, whether individual or private; it is a right, whether public or collective. In the geographical region, the right of geographical indication vests with the legitimate producers. Producers who have been making these goods for a period of time are the legal producers. These rights will increase the local producers' economy. In other cases, the legislation draws consumers to the brand. The effectiveness of the GI scheme for registration would be significantly affected by the national organization structure. The right to a geographical indication plays a significant role in economic growth. The right to a geographical indication could increase the product's value. But still, for supplying the geographical indication tag, several items are under study. Providing a G.I tag for a product takes several years. The G.I tag delivery system should be successful and should be fastened to the extent possible.

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