

Protection of Geographical Indications in India

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Abstract: Through GI i.e., geographical indication, an entrepreneur is able to differentiate his product/goods from other businessmen in the market. Meaning thereby, a GI is a mark which gives product significance on the basis of its originating region. For instance, Petha of Agra is famous, Rampuri Knife is also well known because of its place of origin.

Keywords: Geographical Indications; Intellectual Property; Region; Consumer; Registration; Infringement

1. INTRODUCTION

Geographical Indications gained worldwide recognition in 1994, the same year in which TRIPS was adopted. Since then, GIs was mostly noticed by manufacturers in the world. Most likely, due to advent of TRIPS, GI gained lot of attention from every corner of the world, not only developed nations, but even the developing or the under-developed countries are now thinking about giving their products a good will on the basis of country of origin. The most famous case on the point is Kashmiri Apple Case.¹

For a long time, GIs have been regarded as intellectual property. In *Article 1* of the *Paris Convention* for the Protection of ‘Industrial Property’, ‘indications of source’ and ‘appellations of origin’ are defined as *industrial property items* (2). In *paragraph* (3) of the same article, the phrase ‘*industrial property*’ is defined.²

2. MEANING OF GEOGRAPHICAL INDICATION

¹ https://www.wipo.int/edocs/pubdocs/en/geographical/952/wipo_pub_952.pdf

² “wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour,” as well as “wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.”

A geographical indicator is a name given to items that have a distinct geographical origin, as well as characteristics or a reputation that are related to that location. Scotch, Tequila, and Darjeeling, for example, are well-known names associated with goods of a certain character and quality that are known for their geographical origin and have traits associated with that origin throughout the world. GI mark refers to any marker that distinguishes things as originating from a given place, especially when the good's quality, reputation, or other characteristics are strongly linked to its origin.³

It is possible that a malicious individual will apply for the registration of a misleadingly identical geographical indication without the permission or consent of the original and authorized user.⁴ Then, punishment under **Section 39**⁵ of the *GI ACT, 1999* has been provided in relation to this offence.

The *TRIPs Agreement* stipulates a minimum level of protection for geographical indications (GIs) as well as enhanced

protection for wines and spirits. *Article 23* of the *TRIPs Agreement*, which accords greater status to wines and spirits but excludes other goods and products from its scope, has sparked a lot of controversy.

As a result of this discrimination or imbalance in protection, a number of countries, notably India, have requested increased protection for other items and products.⁶

3. DIFFERENCE BETWEEN GEOGRAPHICAL INDICATIONS AND TRADEMARK

Geographical indicators and trademarks both provide information about the origin of a product or service. Trademarks, such as Maruti Suzuki and Denver Perfume, remind consumers that a product or service comes from a specific company or individual. As a result, the consumer can associate the good/service with the individual or company

³ Dr. S.K. Singh, "Intellectual Property Rights Laws", Central Law Agency, Allahabad, 3rd Edition, 2019, p. 450

⁴ Justice P.S. Narayana, "Intellectual Property Law in India", Gogia Law Agency, Hyderabad, 5th Edition, 2010, p. 976

⁵ Such a person faces a sentence of not less than 6 months but not more than 3 years in prison and a fine of not less than 50,000 RS but not more than 200,000 RS.

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https://www.jstor.org/stable/4414050?seq=5#meta_data_info_tab_contents

responsible for its production or offer in this case.⁷

Geographical indicators, on the other hand, try to associate or link a product with its place of origin. As a result, the consumer can associate the goods with the quality and reputation associated with a specific region or locality in this case.⁸

4. INFRINGEMENT OF GEOGRAPHICAL INDICATIONS ACT

According to *Section 22* of the Act, “a person who is not an authorized user of a registered geographical indication infringes on it”.⁹

5. REMEDIES AGAINST INFRINGEMENT

The statute provides for both civil and criminal remedies. Among the legal remedies available are Interim and permanent injunctions, damages, and the delivery of infringing objects for destruction, as well as the confiscation of commodities bearing a

false representation of an existent Geographical Indication?

Section 39 of *GI Act, 1999* provides penalty for false application of Geographical Indications.¹⁰

6. CONCLUSION

A regionally distinctive agricultural, natural, or manufactured product is known as a Geographical Indication (GI) (handicrafts and industrial items). A name like this frequently evokes feelings of quality and originality, which can be attributed in part to its origins. Examples include “*Darjeeling Tea, Tirupathi Laddu, Kangra Paintings, Nagpur Orange, Kashmir Pashmina,*” and other Indian GIs. GIs not only contribute to our rich cultural and intellectual heritage, but they also assist supplement the income of rural farmers, weavers, craftsmen, and craftsmen all around the country. As a result, a GI provides a guarantee of quality and originality due to its provenance.

⁷ *Supra* Note No. 1

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⁹ Dr. B.L. Wadehra, “Law Relating to Intellectual Property”, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 4th Edition, 2010, p. 458

¹⁰ “A minimum mandatory period of 6 months in prison and a maximum sentence of 3 years, as well as

a minimum mandatory fine of Rs.50,000/- and a maximum fine of Rs.2 lakhs, may be imposed as criminal penalties. A minimum of one year in prison and a fine of Rs.2 lakhs shall be levied in the event of a second conviction for the same offence.”