

DOCTRINES OF PROTECTING INDICATIONS OF GEOGRAPHICAL ORIGINS

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Abstract

The protection of Geographical Indications (GIs) has, over the years, emerged as one of the most contentious intellectual property right (IPR) issues in the realm of the World Trade Organisation (WTO). It has gained more interest since its protection has been ensured multilaterally under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organisation. In this paper an attempt is made to discuss broader issues pertaining to the concept of Geographical Indication in TRIPS and Indian Legislation.

1.1 Introduction:

In early years for logos straight forward marks were used. These marks denoted the geographical origin of the products. These were divided on the bases of distinctive qualities of the commercialism product. This distinctive quality mirrored environmental factors, process ways or producing skills for the products listed. These marks have sturdy geographical motifs that embody the depiction of native animals (panda bear), landmarks (Mt. Fuji sake), buildings (Pisa silk), heraldic signs (fleur Diamond State lys butter) or well-known personalities (Mozart chocolate). Even whereas earlier triangular treaties involving indications of geographical origin (IGOs) have existed, the visits Agreement seeks to determine new standards and norms; it additionally introduces a brand new class of IPRs – geographical indications (GIs)

1.2 Doctrines of protecting indications of geographical origins:

The principle for shielding IGOs is found to be almost like that for different IPRs, particularly logos, and relies on the general public sensible properties of knowledge/information and also the hurt ensuing from 'free riding' on name. Within the case of logos, it's argued that corporations invest in establishing product standards and quality that through perennial purchases by (satisfied) customers generates goodwill and name. The 'mark' on the great enable customers to simply determine it. It therefore follows that the accumulated goodwill of the firm ought to be shielded from misappropriation, since 'free riding' on this name misleads customers and is unfair competition. an analogous principle forms the legal

foundation for shielding GIs; viz. protection against deceptive use of IGOs and protection against dilution of IGOs. Protection against the deceptive use of IGOs reflects a client protection principle. Protection is obtainable against the utilization of the IGOs on product not originating within the geographic region to that the indication refers, wherever such use of the indication misleads the general public. For the utilization of a sign to be thought of deceptive it should be the case that the general public understand the (original) IGO to check with an explicit geographic region. a spread of border measures exist within the Paris Convention for the Protection of property(henceforth, Paris Convention) to implement this belief. The Spanish capital Agreement for the Repression of False or Deceptive Indications of supply of products (henceforth, Spanish capital Agreement) broadens the scope of this belief to incorporate 'deceptive' indications of supply. The visits Agreement implements the principle (i.e. false use of IGOs) in Article 22.2(a), and Article 22.4 provides for the case of 'deceptive' use of GIs. the next level of protection for wines and spirits incorporating this belief exists in Article twenty three.1 wherever there's no have to be compelled to establish the general public is deceptive – instead, the indication can't be used if the products don't originate within the indicated geographic region.

Protection against the dilution of IGOs reflects a producer protection principle. bound use of IGOs, that whereas not 'misleading the public', is taken into account as 'free riding' on the name of the merchandise and constitutes acts of unfair competition. within the sense that the protected IGO is employed in translated kind, i.e. with further info transference truth origin of the merchandise, e.g. 'Californian Chablis'. below the Paris Convention such practices square measure protected against by the principle of unfair competition (Article 10bis). The national capital Agreement for the Protection of Appellations of Origin and their Registration (henceforth, national capital Agreement) makes stronger provisions by prohibiting the translated use of protected IGOs with terms like 'kind', 'type', 'make' or 'imitation' even wherever truth origin of the merchandise is indicated (Article 3). within the visits Agreement, the on top of belief is provided for in 2 completely different articles. The provisions of the Paris Convention square measure to be found in Article 22.2(b). The provisions of the national capital Agreement square measure found in Article 23.1 – and so apply solely to wines and spirits. this might be a rare moment within the history of international protection of holding wherever the scope of application of a succeeding three-cornered agreement (TRIPS) is narrower than its forerunner (Lisbon).

1.3 Defining geographical indication:

The inclusion of GIs among the visits Agreement may be a reflection of the member countries' negotiating success. This additionally attracts attention to previous pissed off tries at securing a world pact on IGOs and also the insufficiency of closely connected IPRs, viz. 'indications of source' and 'appellations of origin'

The term 'indications of source' is used in the Paris Convention (Articles 1[2] and 10) and the Madrid Agreement. Three key elements constitute the notion: (a) there is a clear link between the indication and geographical origin (e.g. 'made in ...') rather than any other criterion of origin (e.g. 'made by ...'); (b) unlike other IGOs, there is no requirement for distinguishing qualities or attributes of the good; (c) the protected indication can be constituted by words or phrases that directly indicate geographical origin or phrases, symbols or iconic emblems associated with the area of geographical origin.

The term 'appellations of origin' is found in the Paris Convention (article 1[2]) and defined in the Lisbon Agreement (Article 2). Three elements constitute the notion: (a) appellations must be direct geographical names; (b) the appellation must serve as a designation of geographical origin of the product; (c) quality and characteristics exhibited by the product must be essentially attributable to the designated area of geographical origin.

The definition for GIs is found in Article 22.1 TRIPS which also establishes the conditions for grant of protection. As noted earlier, three conditions must be met: (a) the indication must necessarily identify a good and can be non-geographical names, iconic symbols, words or phrases, (b) the good must necessarily possess 'given quality', or 'reputation' or 'other characteristics' that are 'essentially attributed' to the designated geographical area of origin; and (c) the designated geographical area must be identified by the indication. Existing literature on GIs tend to agree that services are excluded from the scope of Section 3; yet Members may decide to go beyond the minimum TRIPS obligations and

include services within their national GI laws – and some countries have done so. As the obligation is only for ‘legal means’ there exists wide diversity in the implementation of this Section. A WTO Secretariat survey focussing on GI-protection in 37 Member countries identified three broad options: laws focussing on business practices, trademark law and special means of protection (cf. IP/C/W/253). In jurisdictions where special means of protection exist, i.e. a *sui generis* law on GIs, the survey draws attention to wide diversity in the subject matter definition and in how the conditions for protection are actually set out. Thus, for example, as to the link between the good and its designated area of origin there are differences in the type of geographical units that constitute IGOs and how stipulations on the good (e.g. sourcing of raw materials from the area of origin, stages of production occurring in the area of origin) are implemented. Clearly, there are diverse legal means and different systems for implementing Section 3.

1.4 The TRIPS agreement and geographical indications:

Section 3 of the TRIPS Agreement makes provisions for the protection of GIs. Like any other section of the TRIPS Agreement it begins with a subject matter definition which also set out the conditions for protection which includes in the Article 22 to 24, such as;

Article 22

Protection of Geographical Indications

1. Geographical indications are, for the purposes of this Agreement, 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 geographical origin.

2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:

(a) The use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good.

(b) Any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

3. A Member shall, *ex officio* if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin.

4. The protection under paragraphs 1, 2 and 3 shall be applicable against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.

Article 23

Additional Protection for Geographical Indications for Wines and Spirits

1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like.

2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, *ex officio* if a Member’s legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.

3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

4. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system.

Article 24

International Negotiations; Exceptions

1. Members agree to enter into negotiations aimed at increasing the protection of individual geographical indications under Article 23. The provisions of paragraphs 4 through 8 below shall not be used by a Member to refuse to conduct negotiations or to conclude bilateral or multilateral agreements. In the context of such negotiations, Members shall be willing to consider the continued applicability of these provisions to individual geographical indications whose use was the subject of such negotiations.

2. The Council for TRIPS shall keep under review the application of the provisions of this Section; the first such review shall take place within two years of the entry into force of the WTO Agreement. Any matter affecting the compliance with the obligations under these provisions may be drawn to the attention of the Council, which, at the request of a Member, shall consult with any Member or Members in respect of such matter in respect of which it has not been possible to find a satisfactory solution through bilateral or multilateral consultations between the Members concerned. The Council shall take such action as may be agreed to facilitate the operation and further the objectives of this Section.

3. In implementing this Section, a Member shall not diminish the protection of geographical indications that existed in that Member immediately prior to the date of entry into force of the WTO Agreement.

4. Nothing in this Section shall require a Member to prevent continued and similar use of a particular geographical indication of another Member identifying wines or spirits in connection with goods or services by any of its nationals or domiciliary who have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Member either (a) for at least 10 years preceding 15 April 1994 or (b) in good faith preceding that date.

5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either:

(a) Before the date of application of these provisions in that Member as defined in Part VI; or

(b) Before the geographical indication is protected in its country of origin;

Measures adopted to implement this Section shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

6. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to goods or services for which the relevant

indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Member. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the WTO Agreement.

7. A Member may provide that any request made under this Section in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Member or after the date of registration of the trademark in that Member provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Member, provided that the geographical indication is not used or registered in bad faith.

8. The provisions of this Section shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

9. There shall be no obligation under this Agreement to protect geographical indications which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country.

1.5 The scope of the protection:

A point repeatedly raised at the journeys Council by demanders for GI-extension is that Section three, not like the other a part of the journeys Agreement, encompasses a single subject material definition (Article 22.1) however makes provisions for a hierarchy within the scope of protection supported AN arbitrary categorization of products. The hierarchy in Section three is a lot of nuanced than usually noted – additionally to the wide noted distinction between Articles twenty two and twenty three, there area unit extra provisions regarding wines completely (Articles 23.3 and 23.4).

Despite the differences in the level of protection, research draws attention to some commonly shared features between Articles 22 and 23. These include the following:

(a) Particularly in jurisdictions that implement Section 3 through a sui generis mechanism, GIs are largely available as a public/collective right that is not vested in an individual firm, person or enterprise.

(b) Following from this, the scope of protection available does not include the right to license or assign a GI.

(c) The domain of protection is also narrow in comparison to trademarks where 'confusingly similar marks' will be considered infringing.

(d) The duration of protection tends to be without fixed limit as long as the GI remains in use and is not rendered generic.

(e) As GIs cannot be licensed or assigned, it is imperative that the good originate in the designated area of geographical origin.

The scope of protection for GIs, whether under Article 22 or 23, consists of two elements, viz. protection against use of protected indications in a manner that misleads the public and protection against the use of indications in a manner that is unfair competition. In addition, there are provisions that influence the potential economic value of an indication, which we treat as part of the scope of protection. This includes provisions for invalidation or refusal of trademarks that contain or consist of indications, provisions concerning deceptive and homonymous indications and provisions for a multilateral register for the notification and registration of indications. The latter is restricted to wines and has been subsequently extended to include spirits. Differences in how these elements of the scope of protection are articulated in either Article 22 or Article 23 forms the central basis for demanding GI extension.

The prohibition on the use of indications in a manner that misleads the public exists in Article 22.2(a). To invoke this Article, the holder of the infringed indication has to bear the burden of proof in

establishing that consumers have been misled. Article 23.1 indirectly implements this principle by providing for stronger protection by directly prohibiting the use of indications for wines and spirits on wines and spirits that do not originate in the place indicated by the GI in question even where the true origin of the goods is indicated. Moreover, the translated use of indications for wines and spirits by phrases such as 'like', 'imitation', etc. is also strictly prohibited.

According to WIPO, for associate degree action against the unauthorized use of a GI to be supported unfair competition to achieve success, it should be that the indication has no inheritable distinctness inside the relevant public which damages or chance of damages can result from such use. As this principle can ought to be applied in every jurisdiction wherever unauthorized use happens, well-endowed association of commercially profitable indications may well be higher placed in actualizing the economic potential of this component of the scope of protection. In distinction, beneath Article 23.1 a sign can't be utilized in translated kind so constrictive the scope of free-riding on a sign.

In general terms, Section 3 allows for refusal or invalidation of a trademark, which contains or consists of a GI when the said goods do not originate in the territory indicated. However, comparing Article 22.3 and 23.2 we note there are significant differences in the scope of these provisions: Article 22.3 has a requirement for the consumers to be misled, whereas Article 23.2 does not have this contingency. The relationship between trademarks and GIs is complex and unanswered questions remain. In particular, under what circumstance will a GI take precedence over a trademark and vice versa and it is also not clear whether the two can coexist.

A range of situations can be identified where indications are literally true but nonetheless their use is considered misleading. This may be the case with deceptive indications and/or homonymous indications. Article 22.4 makes provisions for protection against deceptive indications. The case for homonymous indications for (only) wines is quite similar. Article 23.3 envisages honest use of the indication by producers in each of the different countries and obliges each Member to "determine the practical conditions under which the homonymous indications in question will be differentiated from each other", while ensuring equitable treatment of producers and that consumers are not misled.

Finally, Article 23.4 obliges Members to enter into negotiations on establishing a multilateral register for the notification and registration of GIs for wines to facilitate their protection. This provision was later extended to include spirits.

1.6 Indian legislation and geographical indication:

Geographical Indications of products area unit outlined as that side of commercial property that see the geographical indication pertaining to a rustic or to an area set in that as being the country or place of origin of that product. Typically, such a reputation conveys associate assurance of quality and distinctiveness that is actually thanks to the very fact of its origin therein outlined geographical section, region or country. Underneath 21 (2) and ten of the Paris Convention for the Protection of commercial Property, geographical indications area unit coated as part of IPRs. They're additionally coated underneath Articles twenty two to twenty four of the Trade connected Aspects of material possession Rights (TRIPS) Agreement, that was a part of the Agreements final the South American country spherical of UN agency negotiations. India, as a member of the globe Trade Organization (WTO), enacted the Geographical Indications of products (Registration & Protection) Act, 1999 has acquire force with impact from fifteenth September 2003.

1.7 The Indian GI act:

India has place in situ a single system of protection for GI with enactment of a law solely handling protection of GIs. The legislations that deals with protection of GI's in Republic of India square measure 'The Geographical Indications of products (Registration & Protection) Act, 1999' (GI Act), and therefore the 'Geographical Indications of products (Registration and Protection) Rules, 2002 (GI Rules). Republic of India enacted its GI legislations for the country to place in situ national property laws in compliance with India's obligations below visits. below the horizon of the GI Act, that came into force, together with the GI Rules, with impact from fifteen September 2003, the central government has established the Geographical Indications register with all-India jurisdiction, at Chennai, wherever right-holders will register their GI.

Unlike visits, within the GI Act doesn't limit itself to wines and spirits. Rather, it's been left to the discretion of the central government to make your mind up that product ought to be accorded

higher levels of protection. This approach has deliberately been taken by the drafters of the Indian Act with the aim of providing demanding protection as secure underneath the visits Agreement to GI of Indian origin. However, alternative WTO members don't seem to be beholden to confirm Article 23-type protection to all or any Indian GI, thereby effort area for his or her misappropriation within the international arena.

The definition of GI enclosed in Section 1(3) (e) of the Indian GI Act clarifies that for the needs of this clause, any name that isn't the name of a rustic, region or vicinity of that country "shall" even be thought-about as a GI if it relates to a selected} geographical region and is employed upon or in relevancy particular product originating from that country, region or vicinity, because the case could also be. This provision permits the providing protection to symbols apart from geographical names, like 'Basmati'.

1.8 Registration of GI in India:

While registration of GI isn't necessary in India, The Register of Geographical Indications can keep a Geographical Indications written record at the top workplace metropolis. therein register, all registered geographical indications with the names, addresses and descriptions of the proprietors, the names, addresses and descriptions of approved user and such alternative prescribed matters concerning registered geographical indications area unit entered. The Register has 2 components. Half A contains particulars concerning the registration of geographical indications and Half B contains the particulars concerning the approved users. Registration is needed each for a geographical indication moreover as a licensed user. A geographical indication is registered for a amount of 10 years. The registration are often revived from time to time for any 10 years from the expiration of last registration. A licensed user is registered for a amount of 10 years, or until the date of ending of the registration of the geographical indication that the approveduser is registered whichever is earlier. For registration, or renewal of registration associate degree application is to be created within the prescribed format among the prescribed fee in every case. If the registration isn't revived once due, the geographical indication or the approved user for it, because the case could also be, is far from the register.

However, associate degree application to continue the registration may be created inside six months from the expiration of the last registration. Registration of a geographical indication isn't obligatory beneath the Act. However, if a geographical indication is registered, it affords a much better legal protection to licensed users in cases of infringement of registered geographical indications. No infringement proceedings may be launched beneath the Act, for associate degree unregistered geographical indication, either to forestall infringement or to recover the damages. Just in case of 2 or a lot of licensed users, they'd have co-equal rights as against alternative persons and nobody can have the privilege to the utilization of any of these geographical indications.

Any right to a registered G.I. is not the subject matter of assignment, transmission, licensing, mortgage or any such agreement. But on the death of an authorized user, the user's right in a registered G.I. passes on to his successor.

The following are the geographical indications that cannot be registered in India:

1. Things which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country.
2. Things which comprise or contain any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India.
3. Things which would otherwise be disentitled to protection in a court.

4. The use of which would be likely to deceive or cause confusion.
5. The use of which would be contrary to any law for the time being in force.
6. Things which comprise or contain scandalous or obscene matter.
7. Things which although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be.

1.9 Infringement of registered GI and appeals:

A registered geographical indication is infringed by a person who, not being an authorized user thereof uses such geographical indication by any means in the designations or presentation of goods that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the persons as to the geographical origin of such goods. Hence the infringement of registered G.I. occurs if a person:

- Uses the G.I. on the goods or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the public; or
- Uses the G.I. in a manner that constitutes an act of unfair competition; or
- Uses another G.I. to the goods in a manner, which falsely represents to the public that the goods originate in the territory, region or locality in respect of which such registered G.I. relates.

1.10 Suit and relief for infringement:

A suit for infringement of a registered G.I. is to be instituted in a District Court having jurisdiction to try the suit. The court can grant to the plaintiff relief in the form of injunction and, at the option of the plaintiff, either damages or account of profits together with any order for destruction or erasure of infringing labels and indications, if necessary.

However, the court shall not grant relief by way of damages or account of profits, if the defendant satisfies the court that he was unaware and had no reasonable ground to believe that the GI complained of was on the register in the name of plaintiff and that when he became aware of the existence and the nature of the plaintiff's right in the geographical indications, he forthwith ceased to use it.

Appeals against an order or decision of the Registrar or the rules framed under the Act lie to the Appellate Board, established under the Trade Mark Act, 1999. The aggrieved person may prefer an appeal to the Appellate Board normally within three months from the date on which the order or decision is communicated. After this period, no appeal is admitted. A person will be considered to have committed offence under the G.I. Act in the following circumstances:

- i) Falsely applying geographical indication.
- ii) Falsifying a geographical indication.

In a prosecution for falsifying or falsely applying a geographical indication to goods, the burden of proving the assent of the proprietor lies with the accused.

1.11 Penalty for Offences:

Under Section 67 of the GI Act, the civil remedies include injunctions (*ex parte* or any other interlocutory order) as well as damages or an account of profits, at the option of the plaintiff. This may be coupled with an order for the delivery-up of the infringing labels and indications for their destruction or erasure.

Sections 39 and 40 of the GI Act, state that the penalty for applying false geographical indications and for selling goods to which false geographical indications are applied is imprisonment

which may be between six months to three years and fine which may be between fifty thousand to two lakh rupees.

Moreover, there are other remedies available to the rights holder under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. These rules recognize geographical indication as intellectual property and the GI Act as intellectual property laws. Under these rules, the rights holder can record its registered GI with the Customs authorities. Once the procedure under these guidelines are complied, the Customs authorities have the power to seize imported goods at the border, if there is *prima facie* evidence or reasonable grounds to suspect that they are infringing on the geographical indication of the rights holder, without obtaining any orders from the Court.

1.12 Enforcement of Geographical Indications:

The remedies available for protection of geographical indications may broadly be classified into Criminal remedies & Civil remedies.

1.12.1 Criminal Remedies

The Geographical Indications of Goods (Registration and Protection) Act, 1999 contains penal provision for violation of various provisions relating to geographical indications given below:

- (i) Falsifying and falsely applying geographical indications to goods.
- (ii) Selling goods to which false geographical indications is applied.
- (iii) Falsely representing a geographical indication as registered.
- (iv) Improperly describing a place of business as connected with the geographical indications registry.
- (v) Falsification of entries in the register.

The punishment prescribed for the aforesaid offences varies from six months to three years of imprisonment and a fine of not less than Rupees fifty thousand but may extend to Rupees two lakh. However, the court for adequate and special reasons in writing may impose lesser punishment The Act also prescribes for enhanced penalty for second or subsequent conviction.

The Act empowers the Court to direct the forfeiture to Government of all the goods and things by means of or in relation to which certain offences mentioned therein have been committed. The Act empowers the Deputy Superintendent of Police to take cognizance of geographical indications offences and may search and seize things and articles involved therein.

1.12.2 Civil Remedies:

The suit for infringement has to be filed in court not inferior to that of a district court having jurisdiction. In any suit for infringement of geographical indications the defendant pleads that registration of the geographical indications relating to plaintiff is invalid, the court trying the suit shall.

- (i) If any proceedings for rectification of the register to the geographical indications relating to plaintiff or defendant are pending before the Registrar or the Appellate Board, stay the suit pending the final disposal of such proceedings.
- (ii) If no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the geographical indications relating to plaintiff or defendant is *prima facie* tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the Appellate Board for rectification of the register.

1.13 Procedure for registration:

For registration, registration form is available on www.ipindia.nic.in, applicant should download from their and after proper filling, submit to the head office.

1.13.1 Procedure for Filing G.I Application:

I. Form and signing of application

1. Every application for the registration of a geographical indication shall be made in the prescribed form (GI-1A to ID) accompanied by the prescribed fee (Rs.5,000).
2. It shall be signed by the applicant or his agent.
3. It must be made in triplicate along with three copies of a Statement of Case accompanied by five additional representations.

1.13.2 Fees

1. Fees may be paid in cash or sent by money order or by a bank draft or by a cheque.
2. Bank Drafts or cheques shall be crossed and be made payable to the Registrar at the appropriate office of the Geographical Indication Registry.
3. It should be drawn by a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situated.
4. Where a document is filed without fee or with insufficient fee such document shall be deemed to have not been filed.

1.13.3 Sizes

1. All applications, shall be typewritten, lithographed or printed in Hindi or in English.
2. It should be in large and legible characters with deep permanent ink upon strong paper, on one side only.
3. The size should be approximately 33 cms by 20 cms and shall have on the left and part thereof a margin of not less than 4 centimetres.

1.13.4 Signing of documents

1. In case of
 - i. An association of persons or producers shall be signed by the authorized signatory.
 - ii. A body corporate or any organization or any authority established by or under any law for the time being in force shall be signed by the Chief Executive, or the Managing Director or the secretary or other principal officer.
 - iii. In case of partnership it shall be signed by at least one of the partners.
2. The capacity in which an individual signs a document shall be stated below his signature.
3. Signatures shall be accompanied by the name of the signatory in English or in Hindi

and in capital letters.

1.13.5 Principal place of business in India

1. Every application for registration of a G.I shall state the principal place of business in India.
2. A body corporate should state the full name and nationality of the Board of Directors.
3. Foreign applicants and persons having principal place of business, in their home country should furnish an address for service in India.
4. In the case of a body corporate or any organization or authority established by or under any law for the time being in force, the country of incorporation or the nature of registration, if any, as the case may be shall be given.

1.13.6 Convention Application should contain the following

1. A certificate by the Registry or competent authority of the Geographical Indications Office of the convention country.
2. The particulars of the geographical indication, the country and the date or dates of filing of the first application.
3. The application must be the applicants' first application in a convention country for the same geographical indications and for all or some of the goods.
4. The application must include a statement indicating the filing date of the foreign application, the convention country where it was filed, the serial number, if available.

1.13.7 Statement of user in applications

An application to register a geographical indication shall contain a statement of user along with an affidavit.

1.13.8 Content of Application

Every application shall be made in the prescribed forms and shall contain the following:

1. A statement as to how the geographical indication serves to designate the goods as originating from the concerned territory in respect of specific quality, reputation or other characteristics.
2. The three certified copies of class of goods to which the geographical indication relates
3. The geographical map of the territory.
4. The particulars of the appearance of the geographical indication words or figurative elements or both;
5. A statement containing such particulars of the producers of the concerned goods proposed to be initially resisted. Including a collective reference to all the producers

of the goods in respect of which the application is made.

6. The statement contained in the application shall also include the following:

An affidavit as to how the applicant claim to represent the interest of the association of persons or producers or any organization or authority established under any law.

The standards benchmark for the use of the geographical indication or the industry standard as regards the production, exploitation, making or manufacture of the goods having specific quality, reputation or other characteristic of such goods that is essentially attributable to its geographical origin with the detailed description of the human creativity involved, if any or other characteristic;

The particulars of the mechanism to ensure that the standards, quality, integrity and consistency or other special characteristic are maintained by the producers, or manufacturers of the goods.

Three certified copies of the map of the territory, region or locality;

The particulars of special human skill involved or the unique ness of the geographical environment or other inherent characteristics associated with the geographical indication.

The full name and address of the association of persons or organization or authority representing the interest of the producers of the concerned goods;

Particulars of the inspection structure;

In case of a homonymous indication, the material factors differentiating the application from the registered geographical indications and particulars of protective measures adopted.

1.13.9 Acknowledgement of receipt of applications:

1. Every application of the registration of a geographical indication in respect of any goods shall, on receipt be acknowledged by the Registrar.
2. The acknowledgement shall be by way of return of one of the additional representations with the official number of the application duly entered thereon.

After proper verification of the given information filled by applicant, the product is registered and informed to the applicant.

1.14 Conclusion:

The GI allow consumers to easily identify the originality of the goods to be traded. It thus protects the consumers from misleading and unfair competition on one hand and on the other it gives some Premium price to the producer due to originality of the product. Therefore, GI acts as an essential and supportive measure for both Consumer and Producer. This helps Government to keep a check on the imitation of the original product through proper doctrine. The Geographical Indication (GI) being part of Intellectual Property Rights (IPR) helps effectively keep a check on Quality Of Service (QOS) and Quality Control of the product. This in turn also gives a Premium to the producer and originality to the customer.

Indian Government through TRIPS agreement created GI Registry in year 2002, in which there are 237 products have been registered till 2015 and more are still in the pipeline. The products registered are well categorized and provide enough measures to protect the GI. Of the total goods which got GI registration, 60.8 per cent belongs to handicrafts, 26.2 per cent to agricultural goods, 7.6 per cent to manufactured goods, 2.5 per cent to food stuff, 2.5 per cent to textile and 0.4 per cent to natural goods. These include Darjeeling (tea), Pochampalli, Ikat (textiles), Chanderi (sarees), Kancheepuram silk (textiles), Kondapalli (toys) et.al. Most of the Indian GIs are linked to traditional knowledge, culture and lives of the communities. India has a considerable scope and potential for building the brand image using its vast cultural heritage.

India needs to strengthen the economic and trade relations internationally using current GIs.

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