

GEOGRAPHICAL INDICATIONS

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INTRODUCTION

In every country, there are certain regions famous for their traditional knowledge/heritage in various sectors, such as agriculture, food products, textiles, etc. Geographical Indication (GI) is a sign used on a product that originates from a specific geographical location. The product must possess reputation and qualities of the place of origin. GI are generally registered on products produced by rural, marginal and indigenous communities over generations that have garnered massive reputation at the international and national level due to some of its unique qualities. GI tag gives the right to only those registered users the right to use the product name, and prevents others from using the product name that does not meet the standards prescribed.

Geographical Indications of Goods are defined as that aspect of industrial property which refer to the geographical indication referring to a country or to a place situated therein as being the country or place of origin of that product. Typically, such a name conveys an assurance of quality and

distinctiveness which is essentially attributable to the fact of its origin in that defined geographical locality, region or country. Under Articles 1 (2) and 10 of the Paris Convention for the Protection of Industrial Property, geographical indications are covered as an element of IPRs. They are also covered under Articles 22 to 24 of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which was part of the Agreements concluding the Uruguay Round of GATT negotiations.

India, as a member of the World Trade Organization (WTO), enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999 has come into force with effect from 15th September 2003. The GI tag ensures that none other those registered as authorized users (or at least those residing inside the geographic territory) are allowed to use the popular product name. Darjeeling tea become the first GI tagged product in India, in 2004-2005 and the latest being Bihar Mithila Makhana, Uttar Pradesh Banaras Langda Aam (Mango) and

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Karnataka Kari Ishad Mango in April 2023. A total of 478 GI have been registered in India till April 2023.



GI tags are used on the following types of products.

1. Handicrafts – Examples would be Madhubani Paintings, Mysore Silk
2. Food items – Example would be Tirupati Laddu, Rasgulla.
3. Wine & Drinks – Example would be Champagne, Cognac of France; Scotch Whisky of UK, Tequila of Mexico.
4. Industrial Products
5. Agricultural Products

GEOGRAPHICAL INDICATIONS – LAWS & TREATIES

There are many laws and treaties enacted by the World Intellectual Property Organisation (WIPO) and World Trade Organisation (WTO) for the protection of Geographical Indications.

WIPO

3 main Treaties enacted for protection of Geographical Indications under WIPO are listed below.

1. Paris Convention
2. Madrid Agreement
3. Lisbon Agreement

WTO

The main Agreement under WTO for protection of Geographical Indications is listed below.

1. Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement

ACTS, LAWS AND RULES PERTAINING TO GI

In India, GI was introduced in 2003 and is governed under the ‘Geographical Indications of Goods (Registration & Protection) Act, 1999’ and the Geographical Indications of Goods (Registration & Protection) Rules, 2002.

In India, GI tags are issued by the Geographical Indication Registry under the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry. The head of GI registry is at Geographical Indications Registry Intellectual Property Office Building, Industrial Estate, G.S.T Road, Guindy, Chennai - 600032.

OWNERSHIP OF GI

The ownership/holders of GI (registered) can be of the producers, as a group/association/ cooperative society or association or in certain cases, government.

GI registered products can be grown/produced in any part of the world using standards laid down by the GI Registry. However, these products cannot be labelled as GI as they are not produced/ manufactured in a

specific geographical location, as mentioned in the official records maintained by the GI Office of GI. For example, plants of Darjeeling Tea can be grown in any part of India. But the tea leaves of these plants cannot be sold under the brand name of Darjeeling Tea, as the concerned plants were not grown in the soil and climate of the Darjeeling area.

RIGHTS GRANTED TO THE HOLDERS

Right to grant the license to others - The holder has the right to gift, sell, transfer/grant a license, mortgage or enter into any other arrangement for consideration regarding their product. A license or assignment must be given in written and registered with the Registrar of GI, for it to be valid and legitimate.

Right to sue - The holder of GI has the right to use and take legal action against a person who uses the product without his consent.

Right to get reliefs - Registered proprietors and authorized users have the right to obtain relief concerning the violation of such GI products.

IDENTIFICATION OF REGISTERED GI

Registered GI products are granted a tag, which is printed on the registered products. The tag confirms the genuineness of the product in terms of its production (by set standards) and location of production e.g. Darjeeling Tea, Mysore Silk, Tirupathi Laddu, etc.

CLASSES OF GI

GI certified goods are classified under 34 different classes, such as Class 1 is for chemicals used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances

GI	TYPE	STATE
Darjeeling Tea	Agriculture	West Bengal
Mysore Silk	Handicraft	Karnataka
Kashmir Pashmina	Handicraft	Jammu & Kashmir
Banaras Brocades and Sarees	Handicraft	Uttar Pradesh
Naga Mircha	Agriculture	Nagaland
Tirupathi Laddu	Foodstuff	Andhra Pradesh
Phulkari	Handicraft	Punjab, Haryana, Rajasthan
Basmati	Agriculture	India

Right to exploit - The holder of GI can authorize users with exclusive right to use goods for which the GI is registered.

for preserving foodstuffs; tanning substances; adhesives used in industry. Class 33 is for alcoholic beverages (except beers) and Class

34 is related to tobacco, 'smokers' articles, matches.

NON-REGISTERABLE GI

For GI registration, the indications must fall within the scope of section 2(1) (e) of GI Act, 1999. Being so, it has to also satisfy the provisions of Section 9, which prohibits registration of a GI mentioned below:

- The use of which would be likely to deceive or cause confusion.
- The use of which would be contrary to any law.
- Which comprises or contains scandalous or obscene matter.
- Which comprises or contains any matter likely to hurt the sentiments of society.
- Religious susceptibilities of any class or section of the citizens of India.
- 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.

PROTECTION OF GI

The two common methods of protecting a GI are:

Sui generis systems (i.e. special regimes of protection) and under certification or collective mark systems. Many countries, including India to protect GI by using the sui generis system. This decision was taken after the TRIPS

agreement (1995) and an option was given to the countries to choose either TRIPS standards or the sui generis system. This was decided by considering the fact that every country has different legislation and geographical structures & 94 resources. Therefore, this system is not uniform in all countries and varies according to the jurisdiction and legislation of the particular country.

COLLECTIVE OR CERTIFICATION MARKS

Certification marks aim to certify the products comply with specific quality standards irrespective of their origin. These standards include permitted materials and manufacturing methods. Therefore, the purpose of certification marks is to distinguish certified goods from non-certified ones. Collective marks are owned by associations ensuring compliance with the agreed standards. Collective marks signify that a good or service originates from a member of a particular association. The Collective mark is used by cooperating enterprises that have agreed to comply with defined quality standards for goods or services that share common characteristics.

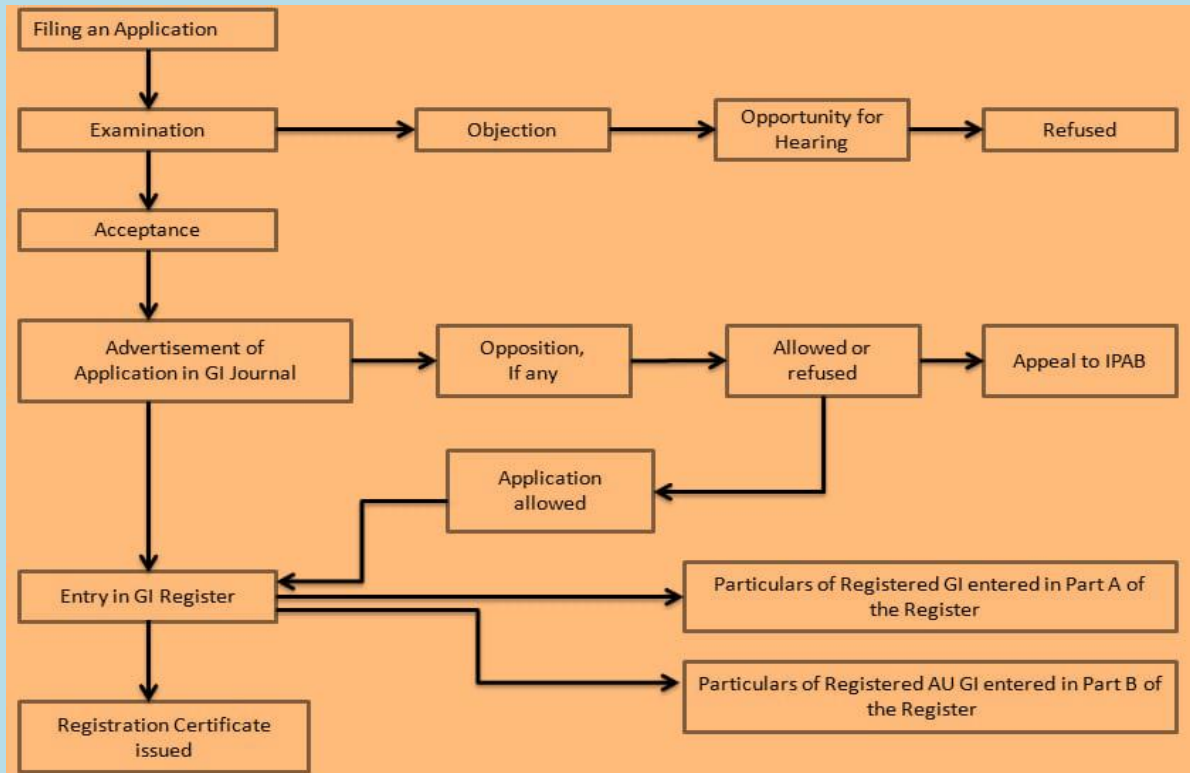
ENFORCEMENT OF GI RIGHTS

The rights to GI protection are typically enforced by the court of law. The sanctions provided could be civil (injunctions restraining or prohibiting unlawful acts,

actions for damages, etc.), criminal, or administrative.

- ✓ Details of the special characteristics and how those standards are maintained.

PROCEDURE FOR GI REGISTRATION



STEP 1 : Filing of application

- ✓ Please check whether the indication comes within the ambit of the definition of a GI under section 2(1)(e).
- ✓ The association of persons or producers or any organization or authority should represent the interest of producers of the concerned goods and should file an affidavit how the applicant claims to represent their interest.
- ✓ Application must be made in triplicate.
- ✓ The application shall be signed by the applicant or his agent and must be accompanied by a statement of case.

- ✓ Three certified copies of the map of the region to which the GI relates.
- ✓ Details of the inspection structure if any to regulate the use of the GI in the territory to which it relates.
- ✓ Give details of all the applicant together with address. If there is a large number of producers a collective reference to all the producers of the goods may be made in the application and the G.I., If registered will be indicated accordingly in the register.

SENT YOUR APPLICATION TO THE FOLLOWING ADDRESS IN INDIA

Geographical Indications Registry
Intellectual Property Office Building
Industrial Estate, G.S.T Road
Guindy, Chennai – 600 032
Phone: 044 – 22502091-93 & 98
Fax: 044 – 22502090
E-mail: gir-ipo[at]nic[dot]in
Website: ipindia.gov.in

STEP 2&3: Preliminary scrutiny and examination

- ✓ The Examiner will scrutinize the application for any deficiencies.
- ✓ The applicant should within one month of the communication in this regard, remedy the same.
- ✓ The content of statement of case is assessed by a consultative group of experts will versed on the subject.
- ✓ The will ascertain the correctness of particulars furnished.
- ✓ Thereafter an Examination Report would be issued.

STEP 4: Show cause notice

If the Registrar has any objection to the application, he will communicate such objection.

- The applicant must respond within two months or apply for a hearing.

- The decision will be duly communicated. If the applicant wishes to appeal, he may within one month make a request.
- The Registrar is also empowered to withdraw an application, if it is accepted in error, after giving on opportunity of being heard.

STEP 5: Publication in the geographical indications Journal

Every application, within three months of acceptance shall be published in the Geographical Indications Journal.

STEP 6: Opposition to Registration

- Any person can file a notice of opposition within three months (extendable by another month on request which has to be filed before three months) opposing the GI application published in the Journal.
- The registrar shall serve a copy of the notice on the applicant.
- Within two months the applicant shall sent a copy of the counter statement.

If he does not do this he shall be deemed to have abandoned his application. Where the counter-statement has been filed, the registrar shall serve a copy on the person giving the notice of opposition.

**Intellectual Property Appellate Board
Annexe 1, 2nd Floor, Guna Complex,
443, Anna Salai, Chennai – 600 018**

DOCUMENTS REQUIRED FOR GI REGISTRATION

- Details about the applicant's name, address and particulars.
- Application form GI-1A.
- Statement about the designated goods being protected under GI.
- Class of goods
- Affidavit to establish the claim of genuinely representing the interest of the producers.
- Characteristics of GI.
- The special human skill required (if any).

ADDITIONAL INFORMATION

Generic GI - When a GI-certified product becomes more popular by the name of the origin of the place, it is termed as Generic GI.

Homonymous GI - When two or more products, which have been granted GI status, are spelled or pronounced alike, but their source of origin is different (usually in different countries), such GI are termed as Homonymous GI.

Difference Between GI and Appellation of Origin - In the case of an appellation of origin, the link with the place of origin is very strong. The quality or characteristics of a product protected as an appellation of origin must result exclusively or

essentially from its geographical origin. This generally means that the raw materials should be sourced from the place of origin and that the processing of the product should also take place there. In the case of GI, a single criterion attributable to the geographical origin is sufficient, be it quality or another characteristic of the product or even just its reputation. For example, Tirupathi Ladoo is GI, whereas Roquefort Cheese tastes the way it does because it is matured in a certain way in the caves of Roquefort is an Appellation of Origin.

Difference Between GI, Trademark and Traditional Knowledge - Generally, people get confused with GI, Trademark and Traditional Knowledge. GI identifies a product/good as originating from a specific place. Trademark products/goods/service originate from a particular industry/institute/organization/society, etc. A Trademark is identified by an arbitrary sign, whereas GI has the name of the geographical area. Finally, a Trademark can be assigned or licensed to anyone, anywhere in the world, whereas GI is linked with a specific geographical territory. Products identified as GI are often the result of traditional processes and knowledge carried forward by a community in a particular region from generation to generation. Similarly, some products identified by a GI may embody

characteristic elements of the traditional artistic heritage developed in a given region, known as traditional knowledge (also termed as traditional cultural expressions). This is particularly true for tangible products, such as handicrafts, made using natural resources and having qualities derived from their geographical origin.

Reference:

1. https://ipindia.gov.in/writereaddata/Portal/Images/pdf/GI_Application_Register_List_22-05-2023.pdf
2. http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/GI_Application_Register_10-09-2019.pdf
3. Website: ipindia.gov.in
4. <http://www.ipindia.nic.in/writereaddata/images/pdf/classification-of-goods.pdf>

