



Geographical Indication (GI) Tags and Intellectual Property Rights: An Exploratory Study

Partha Protim Bora*

Abstract

An extensive analysis of Intellectual Property Rights (IPRs) is presented in this article, with particular attention on Geographical Indication (GI) tags. It explores the importance of GI tags for marketing and preserving distinctive goods, emphasizing how they preserve traditional knowledge and promote economic growth. Numerous GI tag topics are examined *via* an extensive examination, including their legal foundation, application procedure, advantages, difficulties, and worldwide influence. Additionally, case examples from other countries are included in the essay to highlight the usefulness of GI tags in various social and cultural situations. The study emphasizes the extent to which these GI-tagged items are tarnished by the drawbacks associated with a deficiency in scientific rigor and quality management. Despite being recognized as GIs, the Banarasi and Venkatagiri sarees, as well as Pashmina Silk, encounter difficulties. The topic of genericide is also covered, with a focus on how its application should have been more limited than it is in India. There is, nonetheless, a bright side to everything. There are also some success tales that, albeit being fewer in number, offer insightful explanations on how to enhance the current situation. Tight legal oversight is necessary to prevent the dangers that these native goods and their makers confront.

Keywords: Intellectual Property Rights, Geographical Indication, GI Tags, Traditional Knowledge, Economic Development, Legal Framework

1. Introduction

Intellectual property rights, IPRs, are essential for preserving creativity, inventions, and traditional knowledge. Geographical Indication (GI) tags are one of the most important IPR tools available for safeguarding goods connected to certain geographic areas. This paper offers a thorough analysis of GI tags, explaining their significance for market value enhancement, cultural heritage preservation, and sustainable development. According to

* Research Scholar, ICAFI Law School, ICAFI University, Tripura, India. email: parthaprotimbora2015@gmail.com

Geographic Indication, “Indications which identify a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation, or other characteristics of the good are essentially attributable to its geographical origin,” is what the World Trade Organization defines as a geographic indication.¹

In the marketplace, customers typically have little knowledge of the important features of the product and frequently struggle to evaluate the quality of products without assistance from searches or experience. Nevertheless, the manufacturers are fully aware of the characteristics of the product and superiority over other products on the market. The “natural chaos” of uneven information is the outcome. Because customers frequently lack comprehensive knowledge, certain producers may be motivated to degrade the quality of items offered. This kind of information asymmetry can have a detrimental influence on the market and consumers’ purchasing decisions. In a situation like this, GIs can assist in reestablishing information symmetry by providing customers with more details about the items’ reputation and quality, protecting them from being unfairly held against manufacturers. According to Shapiro’s reputation model, reputation functions as a signaling device that informs customers about a certain quality, cutting down on their search expenses.²

A geographical indication is a mark applied to goods that are associated with a particular geographic area and have characteristics or a reputation unique to that area. A sign designating a product as coming from a certain location is necessary for it to serve as a GI. Additionally, the product’s attributes, traits, or reputation ought to be primarily attributable to its country of origin. There is an obvious connection between the product and its

¹ World Trade Organisation, *available at*: https://www.wto.org/english/docs_e/legal_e/27-trips_04b_e.htm (last visited on March 4, 2024).

² Geographical Indications at the Crossroads of Trade, Development and Culture: Focus on Asia-Pacific (Irene Calboli & Ng-Loy Wee Loon eds., 2017).

original location of production since the attributes are dependent on the geographic location of production.³

The European Union actively promoted the concept of Geographical Indications (GIs) through the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights). Intellectual property rights have been introduced in a methodical manner thanks to the recognition of IPRs as essential to human growth.⁴

2. Global Perspective on GI tags

The World Trade Organization (WTO) oversees nearly all aspects of international trade regulations. At the time of the presentation, its 150 members accounted for almost 95% of all commerce in products and services. The WTO's three primary roles are to:

- (1) Provide a set of rules for international trade,
- (2) Serve as a venue for talks, and
- (3) Oversee the application of trade laws and mediate disputes among Members.

The World Trade Organization is a member-driven body that makes decisions by consensus.⁵ The main areas of intellectual property are covered by the TRIPS Agreement (Annex 1C of the WTO Agreement): industrial property rights, which include patents, trademarks, geographical indications, industrial designs, and other rights; and copyright and related rights, which include the rights of performers, phonogram producers, and broadcasters. The TRIPS Agreement stipulates a minimal degree of security. At the national and international levels, GIs are a complicated and contentious

³ World Intellectual Property Organization, *available at*: <https://www.wipo.int/portal/en/index.html> (last visited on March 4, 2024).

⁴ J Adithya Reddy & Siladitya Chatterjee, "A Critique of the Indian Law and Approach towards Protection of Geographical Indications with Specific Reference to Genericide" *JIPR* Vol. 12 (6) 553,573 (2007).

⁵ World Trade Organisation, *available at*: <https://www.wto.org/> (last visited on March 4, 2024).

topic. They feature significant socio-historical and cultural elements in addition to significant commercial and economic stakes.⁶

3. Position of Geographical Indication (GI) Labels in India

Geographical Indications (GIs) are names or signs used to distinguish products based on specific qualities, traditional production methods, or their geographic origin. In India, GI labels are applied to products that possess these distinctive attributes, highlighting their uniqueness and connection to particular regions. Geographically indicated indications (GI) were initially used as label d'origine contrôlée (AOC) in France in the middle of the 20th century. However, through the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which was closed on November 11, 1994⁷, GI was extended to various countries, including India. Geographically Indicated (GI) labels in India are issued in accordance with the provisions of the Geographical Indications of Goods (Registration and Protection) Act, 1999, which became operative on September 15, 2003, and is overseen by the Geographical Indication Registry, a division of the Ministry of Commerce and Industry's Department of Industry Promotion and Internal Trade. Any individual, group of individuals, association, or authority defined by or under the legislation may apply for a GI tag. The application filed in such a case should be sent to the relevant organization together with a prescribed fee to the appropriate authority.⁸

A GI tag is significant for a period of only ten years, even though it may perhaps be recharged for an additional ten years with each subsequent restoration. Darjeeling Tea became the first product

⁶ Geographical Indications (PDF), available at: https://www.academia.edu/4172158/Geographical_Indications (last visited on March 4, 2024).

⁷ Dr. Ruppel W Sharma & Ms. Shraddha Kulhari, Marketing of GI Products: Unlocking their Commercial Potential, Centre for WTO Studies IIFT 10, 52 (2015).

⁸ The Geographical Indications of Goods (Registration and Protection) Act, 1999, s.11(i).

with a GI label which was granted quite some time, from 2004 to 2005, and since then, the number of applications and enlistments has rapidly increased.⁹

According to the Indian Government, Section 2(f) of the Geographical Indications of Goods (Registration and Protection) Act, 1999 has resulted in the application of GI labels to around 370 distinct items.

Chapter VIII of the Act, is headed “Offenses, Penalties and Procedure.” The components required to constitute the offenses of fabricating and fraudulently applying GIs are listed in Section 38 of that document. If someone creates a falsely similar GI (of a user) without the approved user’s consent, authentic GI) or alters, adds, or erases a legitimate GI, that person is considered to have fabricated a GI. A person would be considered to have fraudulently applied a GI if he/she apply a GI or a misleadingly similar GI to goods or utilize any such package with the intention of packing, stuffing, or wrapping it with goods other than the real products. It is the accuser’s responsibility to demonstrate the proprietor’s consent. The possession of any die, block, machine, paint, or other instrument for the purpose of such falsification, in addition to the aforementioned two actions, carries a penalty under Section 39 of the Act. The convicted party faces a minimum sentence of not less than six months and which may go up to 3 years and fine.¹⁰

Painting from the Majuli manuscript, which was also awarded a GI tag. Majuli manuscript painting is a form of painting — also originating in the 16th century — done on sanchi pat, or manuscripts made of the bark of the sanchi or agar tree, using homemade ink. The earliest example of an illustrated manuscript is said to be a rendering of the AdyaDasama of the Bhagwat Purana in

⁹ Kaushik Basu, Darjeeling Tea -A Geographical Indication (GI World Intellectual Property Organization), *available at*: https://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_lim_11/wipo_geo_lim_11_11.pdf (last visited on March 6, 2024).

¹⁰ The Geographical Indications of Goods (Registration and Protection) Act, 1999.

Assamese by Srimanta Sankardev. This art was patronised by the Ahom kings. It continues to be practised in every sattrā in Majuli.¹¹ The Indian government on Monday (March 4, 2024) awarded the traditional Majuli masks in Assam a Geographical Indication (GI) designation, further enhancing their increasing prominence on a national and international level. In the neo-Vaishnavite tradition, the handcrafted masks are commonly used to portray characters in bhaonas, or theatrical plays with spiritual meanings. The Majuli text picture was also awarded a GI designation. Products that come from a certain geographic area are given a GI tag, which denotes special attributes and traits. It functions essentially like a trademark on the global market.¹²

4. Application Process and Requirements

A thorough application procedure must be completed in order to obtain a GI tag, and part of that process is proving the product's distinctive attributes and its relationship to the specific geographic area. This section covers the documents and supporting proof needed to support the application, as well as the stages involved in applying for GI recognition. Any individuals, producers, associations, organizations, or authorities representing the interests of the producers of the relevant commodities submit an application for the registration of Geographical Indications to the Registrar of Geographical Indications. Each application must be submitted using the official form GI-1A to ID, signed in triplicate by the applicant, and include three copies of the Statement of Case and the required payment. The interest of the manufacturers of the items in question that need to be registered should be specified by the applicant. An expert panel will review the application in its initial review to look

¹¹ Indian Express, *available at*: <https://indianexpress.com/article/explained/explained-culture/gi-tag-for-majuli-masks-history-cultural-sig> (last visited on March 6, 2024).

¹² Indian Express, *available at*: <https://indianexpress.com/article/explained/explained-culture/gi-tag-for-majuli-masks-history-cultural-significance-9197633/> (last visited on March 6, 2024).

for any flaws or objections. Should an objection be raised, an appeal may be made, and the applicant will then have two months to respond to a public hearing. Within three months of submission, the application that is approved will appear in the Geographical Indication Journal. The opponent must then file a notice opposing the application of the product when it is published in a journal within the allotted time frame if there is any resistance. Within two months after receiving notification from the opponent, the applicant must refute the same with the required counterargument. Both the opponent and the defender will provide evidence during the hearing through affidavits and supporting documentation if the counter-statement has been submitted. Both the opponent and the defender will provide evidence at the hearing in the form of an affidavit and any supporting documentation if the counter-statement has been submitted. In the event that a counterstatement is not found, the applicant's application will be evaluated by the Registrar for GI acceptance as of the filing date, and a certificate bearing the Geographical Indication Registry seal will be provided.¹³ A GI's registration is good for ten years. It is possible for the applicant to renew for an additional ten years each if they so want. It will probably be taken off the GI registry if it isn't.

5. Advantages of GI Tags

Producers, consumers, and the geographical areas themselves all profit from GI tags in different ways. Manufacturers receive recognition for their distinctive goods, which boosts consumer demand and drives up pricing. The guarantees of quality, authenticity, and conventional production techniques attached to GI-tagged goods are advantageous to consumers. In addition, cultural legacy is essential for social inclusion and community development. It promotes social cohesiveness and resilience by

¹³ Geographical Indication Registry, *available at*: <https://www.google.com/search?q=Geographical+Indication+Registry.+Retrieved+from.+http%3A%2F%2Fwww.ipindia.nic.in%2Fregisteredgls.htm+acce> (last visited on March 7, 2024).

fortifying the sense of identity, pride, and belonging among community members.¹⁴ Moreover, by creating jobs, fostering tourism, and conserving traditional knowledge, GI tags support the socio-economic growth of the local communities.

Cultural heritage promotion and preservation, however, encounter a number of obstacles. The deterioration of customs and knowledge is frequently caused by fast urbanization, globalization, and changing lifestyles¹⁵. Threats to cultural heritage can also come from unsustainable development methods, lack of understanding, poor infrastructure, and neglect. Effective legislative frameworks, community participation, and education are all necessary components of a holistic strategy to ensure the sustainable protection and transfer of cultural heritage.

6. Limitations and obstacles

GI tags have a number of restrictions and obstacles in spite of their advantages. These include disputes over ownership and management of geographical indications, administrative challenges in the application process, enforcement, and counterfeiting. This section investigates these issues and instead their potential solutions.

Sustainable Development: By encouraging eco-friendly behavior, protecting biodiversity, and bolstering rural economies, GIs have the ability to help sustainable development. However, addressing issues like resource management, market volatility, and climate change is necessary to ensure the sustainable growth of GIs. The long-term viability of GI efforts may be improved and these

¹⁴ Hutter, M., & Richards, G., "The Impact of Cultural Events on City Image: Rotterdam, Cultural Capital of Europe 2001" *European Urban and Regional Studies*, 25(1), 20-35 (2018).

¹⁵ United Nations. (2017). Cultural Heritage and uploads Sustainable Development, *available at*: <https://www.google.com/search?q=from+https%3A%2F%2Fwww.un.org%2Fsustainabledevelop> (last visited on March 8, 2024).

difficulties can be addressed by incorporating sustainability concepts into GI manufacturing and marketing procedures.¹⁶

Globalization and Commercialization: Although globalization offers chances for GI goods to enter new markets and receive more attention, it also presents obstacles. The privatization of cultural heritage, the diluting of traditional customs, and the loss of authenticity are possible outcomes of the commercialization of GIs. Maintaining the distinct character and value of GI goods requires striking a balance between commercial needs and cultural integrity.¹⁷

International Protection and Market Access: Because of different nations have different legal systems and regulations, it can be difficult to provide GIs international protection and to get access to international markets. Global collaboration and accords, like the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), enable the safeguarding and acknowledgement of Geographic Indications (GIs) on a global scale. The worldwide accessibility and economic success of GI products can be increased by investigating market access prospects through bilateral and multilateral trade agreements.¹⁸

7. Worldwide Effects and Case Studies

A type of intellectual property protection known as the Geographical Indication (GI) marking identifies a product as coming from a certain place and endowing it with characteristics or a

¹⁶ De Medeiros, D. G., & De Carvalho, F. M. "Geographic Indications: A Tool for Sustainable Rural Development" *Journal of Rural Studies*, 57, 136-144 (2018).

¹⁷ Janssens, E., & Huysmans, M. "Territoriality and Globalization in European Geographical Indications for Food and Agricultural Products" *International Journal of Sociology of Agriculture and Food*, 22(3), 347-363 (2015).

¹⁸ World Trade Organization (WTO). (1994). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), *available at:* https://www.wto.org/english/docs_e/legal_e/27-trips_04_e.htm (last visited on March 8, 2024).

reputation unique to that area. Here are several case studies with worldwide effects:

- a) *Champagne, France*: Known for its sparkling wine, Champagne is a region in France and arguably one of the most well-known examples. The GI tag assures that only sparkling wine made in this region is permitted to be named Champagne and safeguards the word “Champagne”.¹⁹
- b) *India’s Darjeeling Tea*: Darjeeling tea is well-known around the world for its distinct flavor and fragrance. The GI tag protects the quality and authenticity of Darjeeling tea by ensuring that it can only be branded as such if it is grown in specific locations of Darjeeling, India.²⁰
- c) *Parmigiano-Reggiano, Italy*: A GI tag protects this cheese, sometimes referred to as Parmesan cheese. Parmigiano-Reggiano is the name given to cheese that is only made using specified traditional methods and in select locations of Italy.²¹
- d) *Goa Feni*: The GOA government’s Department of Science, Technology, and Environment and the GOA Cashew FENI Distillers and Bottlers Association (TGCFDBA) worked to get GI tag for FENI, which is registered under class 33. The substance is colorless, and as it ages in oak barrels, it takes on a golden brown hue. The rights of farmers, regional producers, and the bottler of this distinctive product will be safeguarded by this GI

¹⁹ : World Intellectual Property Organization (WIPO) - “Geographical Indications: A Tool for Local Economic Development” available at: https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip_p_anorama_1_learning_points.pdf (last visited on March 8, 2024).

²⁰ The Economic Times - “Darjeeling tea becomes the first GI tagged product to be auctioned on the global online platform” available at: <https://timesofindia.indiatimes.com/india/darjeeling-tea-gets-eus-protected-tag/articleshow/> (last visited on March 9, 2024).

²¹ European Commission - “Protected Geographical Indications” available on (https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/protected-designations-origin/protected-geographical-indications_en) (last visited on March 10, 2024).

designation. About 40,000 people are thought to be among the group that this registration is expected to help.²²

These case studies show how the preservation of traditional knowledge, assurance of product quality, and support of local economies may result in GI tags being advantageous to producers as well as consumers. Despite its flaws, it would be blatantly false to claim that the legislation has benefited any product or commodity. Using two significant case studies from India as an example, which have brought about wealth for despite its flaws, it would be blatantly false to claim that the legislation has benefited any product or commodity. Using two significant case studies from India as an example, which have brought about wealth for analyze some key elements that contributed to both the exporters and the indigenous workers becoming the success stories they are today, therefore making a place for themselves in the market.

8. Geographical indications as a factor of rural development

Numerous studies show that geographical cues can support growth in rural regions when given the right circumstances. Regional producers often have the right to utilize a geographical indicator, and as a result, all of these producers benefit from the extra value that the geographical indication creates. Products with a regional indication typically command a premium brand price and provide jobs locally, which in turn may slow the outflow of people from rural areas. Furthermore, items with a geographical indication can have significant knock-on impacts, such as in the travel and culinary industries. Geographical indicators may benefit an area by marketing it as a whole in addition to creating employment and increasing wealth. Geographical indicators may, thus, aid in the development of a “regional brand.” But a word of caution is in order. Creating a geographical indicator for a product does not ensure that the area will succeed or flourish automatically. A

²² Protection of Geographical Indications in India, *available at*: <https://www.lawyersclubindia.com/articles/protection-of-geographical-indication-in-india-3> (last visited on March 10, 2024).

number of prerequisites must be met by the area and the design of the particular geographical indicator system for geographical indications to support growth.

9. Conclusion

It should be noted that Geographical Indication (GI) tags are essential for safeguarding traditional knowledge, encouraging economic growth, and maintaining cultural assets. Notwithstanding their difficulties, GI tags are an important instrument in the field of intellectual property rights since they provide significant advantages to producers, consumers, and geographic areas. To fully realize the potential advantages of GI protection on a worldwide scale, ongoing efforts to fortify it and increase public knowledge of its significance are imperative. From a commercial standpoint, entrepreneurs must profit more and more from selling the products that customers want. Customers want high-quality, one-of-a-kind stuff, while dealers deceitfully market counterfeit goods in order to make money. Every country has a unique selection of goods that reflect a unique combination of its varied climate, rich cultural heritage, and distinct states. Since India is a distinct nation in each sense, each state has a wealthy, distinct culture, so it is important to keep in mind that any items that deal with the central area should be fully insured against any kind of encroachment.