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With this thought, we hereby present to you

GEOGRAPHICAL INDICATIONS AND **INTELLECTUAL PROPERTY**

AUTHORED BY - KEERTHANA A

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LL.M., School of Law,
Pondicherry University.

DECLARATION

I hereby declare that the dissertation entitled **GEOGRAPHICAL INDICATIONS AND INTELLECTUAL PROPERTY RIGHTS IN TAMIL NADU: ISSUES, CHALLENGES, AND, OPPORTUNITIES** submitted by me in partial fulfillment for the award of the Degree of Master of Law (LL.M.) in Intellectual Property Law is the result of my original and independent research work carried out under the supervision and guidance of **Dr. G SUBHALAKSHMI**, Assistant Professor, School of Law, Pondicherry University, Puducherry. I further declare that, to the best of my knowledge, this dissertation has not been submitted for the award of any Degree, Diploma, Associateship, Fellowship, or any other similar titles of any other University or Institution.

Place: Puducherry

Date : 4th April 2025

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To the best of my knowledge this work has not been submitted in part or full for any degree, diploma, associate ship, fellowship or any other similar title of any University or Institution.

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Table of Contents

DECLARATION	546
CERTIFICATE	547
ACKNOWLEDGEMENT	548
LIST OF CASES	551
LIST OF ABBREVIATIONS	553
Abstract	554
CHAPTER-1 INTRODUCTION	555
Background of the Study	555
RESEARCH QUESTIONS	559
RESEARCH OBJECTIVES	559
HYPOTHESIS	559
SIGNIFICANCE OF THE STUDY	560
SCOPE OF THE STUDY	561
RESEARCH PROBLEM	562
RESEARCH METHODOLOGY	564
REVIEW OF LITERATURE	564
CHAPTER 2	570
GLOBAL FRAMEWORK FOR THE PROTECTION OF GEOGRAPHICAL INDICATION	570
INTERNATIONAL PROTECTION	570
International Conventions and Treaties for Geographical Indication	571
The Paris Convention	571
The Madrid Agreement	573
The Stresa Convention	574
The Lisbon Agreement	575
The Geographical Indication and the World Intellectual Property Organization In 1974	576
The TRIPS Agreement	577
The Agreement on Olive Oil and Table Olives	582
The Wine Agreement between the European Union and Australia	583
The Mexico Agreement and the European Union	583
Geographical Indication Protection in Regional and Plurilateral Agreements	585

LAWS RELATED TO GEOGRAPGICAL INDICATIONS IN INDIA	594
CHAPTER III- COMPARISON OF THE GEOGRAPHICAL INDICATION LAWS BETWEEN US AND INDIA:.....	596
GEOGRAPHICAL INDICATION LAWS IN THE US, FRANCE, EUROPE AND INDIA COMPARISON	596
CHAPTER IV- JUDICAL RESPONSE.....	602
OBSERVATIONS BY THE COURTS OF DIFFERENT COUNTRIES	603
CASES FROM THE UNITED KINGDOM	607
CASES FROM THE INDIA	611
CHAPTER V- LEGAL AND SOCIO-ECONOMIC STATUS OF GEOGRAPHY INDICATIONS.....	627
SOCIO – ECONOMIC FACTORS	627
Important GI-Tagged Items in Tamil Nadu	647
ISSUES AND CHALLENGES OF GEOGRAPHICAL INDICATION IN INDIA AND TAMILNADU.....	659
CONCLUSION AND SUGGESTIONS	662
BIBLIOGRAPHY	667
WEBSITE SOURCES	667
JOURNALS	671
LIST OF CASES.....	672

WHITE BLACK
LEGAL

LIST OF CASES

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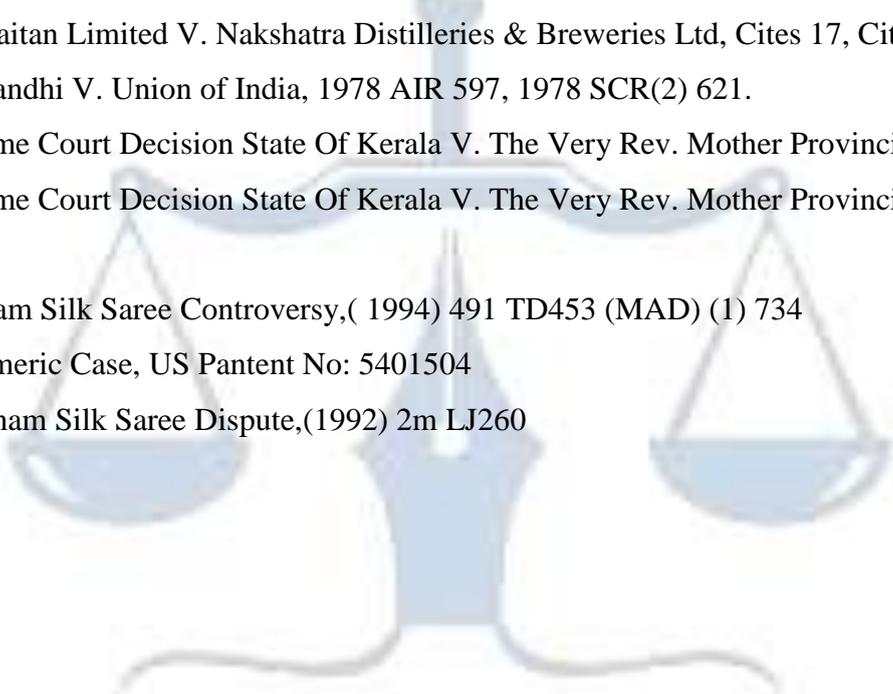
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LIST OF ABBREVIATIONS



AIR	All India Reporter
AO	Appellation of Origin or Appellation d'Origine
Art.	Article
Del	Delhi
EC	European Communities
EEC	European Economic Community
EU	European Union
GATT	General Agreement on Tariff and Trade
GI	Geographical Indications
IPR	Intellectual Property Rights
IS	Indication of Source
ITO	International Trade Organization
ICTSD	International Centre for Sustainable Development
TRIPS	Trade-Related Intellectual Property Rights
UN	United Nations
USA	United States of America
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

Abstract

Geographical Indications (GIs) play a crucial role in protecting region-specific products by ensuring authenticity, promoting economic growth, and preserving cultural heritage. This study explores GIs through six chapters, beginning with the conceptual framework, defining their significance, need for protection, and historical evolution. The global and national legal frameworks are examined, with a comparative analysis of GI protection in different jurisdictions. The study further investigates the socio-economic impact of GIs, emphasizing their role in rural development, employment generation, and traditional knowledge preservation. Additionally, key challenges in India and Tamil Nadu are analyzed, including weak enforcement, lack of awareness, and counterfeit products. The study concludes by providing suggestions for strengthening GI protection, such as policy reforms, financial support, global recognition, and technological interventions. By addressing these issues, GIs can contribute significantly to sustainable development, benefiting local communities and enhancing India's presence in the global market.

KEYWORDS: Geographical Indications (GI), Intellectual Property Rights (IPR), Legal Protection, Market Access, Traditional Knowledge

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CHAPTER-1 INTRODUCTION

Background of the Study

An Overview of Tamil Nadu's Geographical Indication India's legacy of distinctive products has benefited greatly from the contributions of Tamil Nadu, a state known for its rich cultural heritage and traditional craftsmanship. Geographical Indication (GI), which is essential for identifying and maintaining the authenticity of items associated with particular locations, is one of the most significant components of safeguarding these distinctive products. A type of intellectual property known as a "GI tag" designates a product as coming from a specific geographic area, where its reputation, quality, or unique features are ascribed to that locality. Such products' acknowledgment aids in the preservation of traditional knowledge, supports regional farmers and craftspeople, and stops the illicit usage of goods unique to a given area.

The Geographical Indications of Goods (Registration and Protection) Act, 1999, governs GIs in India and grants producers from a certain geographic area unique rights and legal protection. A variety of GI-tagged products, including textiles, handicrafts, and agricultural products, are produced in Tamil Nadu. In addition to boosting the state's economy, these goods give the area's cultural and traditional riches international prominence. The GI tag helps customers recognize and value these products' distinctiveness by acting as a mark of authenticity and credibility. Tamil Nadu is noted for its GI-tagged goods, which include Madurai Jasmine, Thanjavur Paintings, Salem Mango, Nilgiri Tea, and Kanchipuram Silk Sarees. These items stand out from others on the market due to the distinctive environmental circumstances, traditional skills, and indigenous materials employed in their manufacturing. In addition to prohibiting misuse and imitation, this certification guarantees that only approved manufacturers from the specified area may sell the goods under the particular GI name. Because it increases brand awareness, fetches premium pricing, and creates a competitive advantage in both domestic and international markets, GI is extremely important to Tamil Nadu's economic and cultural development. By creating jobs and raising the standard of living for regional farmers, weavers, and artisans, the preservation and promotion of GI products greatly aids in rural development. Numerous GI goods, like Erode Turmeric and Kovilpatti Kadalai Mittai¹, have been crucial in maintaining traditional livelihoods while maintaining

¹ GI Tag in Tamil Nadu: Kanchipuram Silk Sarees to Coimbatore Wet Grinders <https://thelegalschool.in/blog/gi-tag-tamilnadu> (Last visited on 26-3-25)

economic stability. Since the majority of these products are made using tried-and-true, environmentally beneficial processes that have been passed down through the centuries, the GI tag also promotes sustainable production methods.

Furthermore, it promotes tourism by drawing tourists eager to witness the artistry and distinctive production methods up close, which strengthens the local economy even more. Geographical indications are important for reasons more than only the economy; they are also essential for maintaining cultural heritage. Numerous GI-tagged products from Tamil Nadu are firmly ingrained in the customs of different communities and have historical and social significance. For example, Thanjavur Veena and Arani Silk Sarees are not only economically valued but also have centuries of history, demonstrating the craftsmanship and commitment of Tamil Nadu's talented craftspeople. These goods gain national and worldwide recognition by obtaining GI designation, guaranteeing that traditional workmanship endures in spite of modernization.

Additionally, by guaranteeing equitable remuneration for regional farmers and craftspeople, GI registration promotes moral business practices. GI certification ensures quality assurance for consumers while safeguarding the livelihood of legitimate manufacturers in fiercely competitive market where counterfeit goods are becoming an increasing problem. The GI framework has benefited many rural craftsmen in Tamil Nadu since it opens doors for small-scale businesses and cooperatives, resulting in grassroots empowerment and economic self-sufficiency.

Additionally, research and innovation in maintaining conventional production methods have been aided by the promotion of GI products. Initiatives have been made by a number of organizations and governmental bodies to standardize, document, and enhance old methods in order to increase their adaptability to contemporary market demands without sacrificing their authenticity. Many GI goods from Tamil Nadu have been able to increase their market reach and stay relevant in modern sectors thanks to this synergy between tradition and innovation.

Another important benefit of GI protection is environmental sustainability. Organic and environmentally friendly farming methods are used to create a number of GI goods from Tamil Nadu, including Erode Turmeric and Nilgiri Tea. These age-old practices support biodiversity and soil fertility while also fitting in with the worldwide movement toward sustainable

consumption. The market value of GI-certified items has increased due to the growing demand for environmentally friendly products, establishing a balance between environmental responsibility and economic advancement. Furthermore, GI product promotion and recognition act as a stimulant for the growth of the tourism industry. To draw in culture and heritage tourists, certain Tamil Nadu regions have made use of their distinctive products.

Furthermore, GI product promotion and recognition act as a stimulant for the growth of the tourism industry. To draw in culture and heritage tourists, certain Tamil Nadu regions have made use of their distinctive products. In addition² to its historical sites, Kanchipuram and Thanjavur attract tourists who want to see the beautiful craftsmanship of their famous silk sarees and handicrafts. In addition to bringing in money for the community, this merging of GI items with tourism raises awareness of the traditional commodities' cultural relevance. Notwithstanding the benefits, there are still obstacles in Tamil Nadu's way of realizing GI's full potential. Some of the challenges that must be addressed include a lack of understanding among producers, poor marketing tactics, and challenges in enforcing laws against counterfeit goods. Technology has also been playing a bigger role in expanding the reach of GI products. Tamil Nadu's GI-tagged items are becoming more well known outside of their local markets thanks in large part to digital marketing, e-commerce platforms, and social media advertising. By removing middlemen and guaranteeing fair trade standards, these internet platforms give farmers and craftspeople the chance to communicate directly with consumers around the globe. Students and the general public are becoming more aware of GI goods thanks in large part to educational institutions and research groups. The importance of GI conservation in maintaining Tamil Nadu's legacy is being emphasized through a number of scholarly initiatives, exhibitions, and awareness campaigns. The GI sector can have a greater influence on economic development if young entrepreneurs are encouraged to invest in it.

The acceptance and growth of GI goods have also been impacted by international trade agreements and intellectual property debates. Tamil Nadu's distinctive products are becoming more and more recognized in international markets, which improves export prospects and generates foreign exchange profits. These goods can be further promoted internationally by fortifying diplomatic ties and taking part in international trade shows. Furthermore, it is

² Emerging Issues for Geographical Indication Branding Strategies
https://www.researchgate.net/publication/5104611_Emerging_Issues_for_Geographical_Indication_Branding_Strategies (last visited on 1-1-2025)

impossible to ignore how government subsidies and policies support GI goods. By offering financial support, training courses, and marketing connections, the Tamil Nadu government has taken a number of steps to promote GI products. More regulations that support small-scale producers with certification and branding can guarantee increased involvement and advantages for rural areas.

Since their experience and traditional knowledge serve as the basis for these distinctive products, local communities are essential to the sustainability of GI products. Promoting self-help organizations and community-based cooperatives can aid in planning and coordinating production, improving quality control, and distributing³ profits fairly. With growing public awareness, legislative support, and international demand, the future of GI goods in Tamil Nadu appears bright. But for this project to be successful in the long run, cooperation from all parties involved—including the government, craftspeople, researchers, and customers—is crucial. In addition to ensuring financial gains, GI product protection and promotion helps preserve Tamil Nadu's cultural heritage for coming generations.

The preservation of Tamil Nadu's rich history and regional businesses depends heavily on geographical indications. GIs support both cultural preservation and sustainable economic growth by preserving the uniqueness and identity of items unique to a given region. Farmers, craftsmen, and the economy as a whole benefit from Tamil Nadu's growing number of GI registrations, which enhance its standing in both domestic and international markets. In addition to being required by law, GI recognition and promotion honors and preserves Tamil Nadu's traditional expertise and skill. The importance of GI in boosting economic prosperity, cultural identity, and environmental sustainability only grows as the desire for genuine, superior products rises.

Thus, raising awareness and bolstering the application of GI protection will contribute to the long-term development and international recognition of Tamil Nadu's distinctive products.

³ Marianna Guareschi, Maria Cecilia Mancini, Filippo Arfini, Geographical Indications, public goods and sustainable development goals: A methodological proposal, Vol-103, Science Direct, pg.no 5to8,(2023)

RESEARCH QUESTIONS

1. How does the recognition of Geographical Indications (GI) contribute to the preservation of traditional knowledge and cultural heritage in Tamil Nadu?
2. What is the relationship between Geographical Indications and other forms of intellectual property rights, and how does Indian law address their governance and potential conflicts?
3. How does India's legal framework for Geographical Indications compare with international best practices, and what improvements can be made to strengthen its effectiveness?
4. What are the socio-economic impacts of Geographical Indications in Tamil Nadu, and what challenges hinder their successful implementation, marketing, and global competitiveness?

RESEARCH OBJECTIVES

1. To examine the ways in which Tamil Nadu's Geographical Indications (GI) support the preservation and protection of local goods and traditional knowledge.
2. To investigate how Geographical Indications relate to other types of Intellectual Property Rights (IPR) and evaluate how well India's national laws govern their enforcement and protection.
3. To determine the most important takeaways from foreign best practices and compare India's geographic indications legislation with international norms.
4. To assess the economic and social effects of geographical indications in India, particularly in Tamil Nadu, and to pinpoint obstacles to their successful application and marketing.

HYPOTHESIS

1. A well-defined and harmonized legal framework for Geographical Indications (GIs) at national and international levels enhances their protection, prevents misuse, and strengthens market access for local producers.
2. GIs contribute significantly to rural development, employment generation, and cultural preservation, but their full potential remains underutilized due to lack of awareness, weak enforcement, and inadequate financial support.
3. Despite having a structured legal system, India, and particularly Tamil Nadu, faces challenges such as counterfeit products, legal disputes, and market accessibility issues,

which hinder the effective implementation and benefits of GI protection.

SIGNIFICANCE OF THE STUDY

The importance of the research Relevance of the Research This study is significant because it examines Geographical Indications (GI) and how they contribute to the preservation and advancement of Tamil Nadu's social, cultural, and economic landscape. This study illustrates how GI safeguards indigenous knowledge, promotes rural development, and boosts the local economy by examining its effects on traditional enterprises. Understanding the advantages and difficulties of GI is essential for both cultural preservation and sustainable economic growth, as Tamil Nadu is home to a wide variety of GI-tagged products.

Because it looks at the current national and international legal frameworks controlling Geographical Indications, this study is significant for policymakers and legal specialists. This study attempts to shed light on the need for regulatory changes by assessing the efficacy of India's Geographical Indications of Goods (Registration and Protection) Act, 1999 and contrasting it with international norms. The results will assist governments in developing more effective plans for upholding GI protection, avoiding abuse, and guaranteeing that regional producers profit fully from their distinctive goods. This study also investigates the socioeconomic effects of GI on Tamil Nadu's small-scale producers, farmers, and craftspeople. The study will evaluate how GI certification helps local populations generate revenue, access markets, and find jobs in remote areas.

By highlighting the financial benefits of GI, the study will offer suggestions for strengthening branding initiatives, expanding market connections, and guaranteeing fair trade standards for regional manufacturers. This study's global view on GI protection is another important feature. This study will compare India's GI framework with international best practices in order to pinpoint important areas that require development and investigate ways to make Tamil Nadu's GI goods more competitive internationally. Additionally, the study will show how GI recognition in outside markets can increase tourism, open up new export markets, and strengthen Tamil Nadu's international reputation.

Lastly, the main issues with GI protection's implementation and enforcement in Tamil Nadu

and India are the focus of this study. The study⁴ will offer suggestions for enhancing the GI ecosystem by identifying the obstacles, such as ignorance, fake goods, and insufficient legislative frameworks. Stakeholders such as traders, craftsmen, legislators, and scholars will find the data useful in formulating plans to optimize the advantages of GI for long-term cultural and economic advancement. It will be a valuable resource for academia, industry, and government by offering a thorough grasp of the function of GI in Tamil Nadu's economic, legal, and sociocultural contexts. By highlighting the necessity of a balanced approach to GI protection and commercialization, it seeks to contribute to upcoming conversations on intellectual property rights, rural development, and historical conservation.

SCOPE OF THE STUDY

The philosophical, legal, economic, and social aspects of Geographical Indications (GI) in Tamil Nadu are all included in this study's scope, along with a more comprehensive knowledge of their effects both domestically and abroad. The goal of this study is to examine the many facets of GI protection, from its theoretical underpinnings to its real-world applications in preserving traditional knowledge and advancing local goods. The study focuses on India's GI laws, namely the Geographical Indications of Goods Act 1999, at the national level. It assesses the law's effectiveness in safeguarding local goods and preventing illegal usage, as well as how it affects various stakeholders, such as producers, consumers, and regulatory bodies. The study also evaluates how local organizations and the state government promote and encourage GI registration and enforcement.

By examining diverse GI protection approaches used in other nations, the scope is expanded to include global viewpoints. India's legislative provisions are compared to those of other countries with developed GI systems, including the European Union and those that have ratified international accords like the TRIPS Agreement and the Lisbon Agreement. The goal of this comparison method is to identify best practices and policy suggestions that might be modified to enhance India's GI system. The study also explores the social and economic effects of GI protection, with a focus on Tamil Nadu's rural communities, producers, and craftsmen. It evaluates the ways in which GI certification has aided in the creation of jobs, rural development, and economic expansion while pointing out the difficulties these parties

⁴ Geographical indications in India: Issues and challenges-An overview, https://www.researchgate.net/publication/318172713_Geographical_indications_in_India_Issues_and_challenges-An_overview, (Last Visited on 5-1-2024)

encounter in reaching markets and competing globally.

The study will also look at GI's ability to support sustainable economic growth in Tamil Nadu as well as its role in maintaining traditional knowledge⁵ systems and craftsmanship. This study's focus includes identifying the current gaps in GI implementation, such as local producers' awareness, the financial barriers to attaining and retaining GI designation, and the protection of intellectual property rights. The purpose of this study is to offer practical suggestions for enhancing GI governance, raising public awareness, and assisting small-scale producers in gaining access to international markets. The study aims to assist stakeholders, such as farmers, enterprises, legislators, and artisans, in utilizing GI as a tool for cultural and economic sustainability by bringing attention to these opportunities and problems.

RESEARCH PROBLEM

There are advantages and disadvantages to Tamil Nadu's efforts to preserve and promote Geographical Indications (GI). Although the goal of GI certification is to protect local goods and increase their market value, a number of barriers prevent it from being used effectively. Despite the fact that many Tamil Nadu traditional items now have GI status, their economic and social advantages are nevertheless neglected because of low knowledge, lax enforcement, and problems with market accessibility. The fact that local manufacturers and craftspeople are not aware of the advantages of GI certification is a serious problem. The registration process is difficult for many small-scale farmers and artisans to understand, which keeps them from taking full advantage of their distinctive products.

The discrepancy between GI recognition and commercialization is another major obstacle. Many GI products from Tamil Nadu lack the proper branding, marketing, and financial backing to compete in both domestic and foreign markets, even if they are legally protected. The advantages of GI certification for local communities are further limited by the lack of efficient supply chain management and value addition. The study also aims to discuss the more general connection between intellectual property rights (IPR) and geographical indications. Despite being a separate type of intellectual property, GI presents difficult legal and regulatory issues because of its interactions with copyrights, patents, and trademarks. To guarantee strong

⁵ The Role of Traditional Knowledge in Sustainable Development, <https://www.researchgate.net/publication/382230605> The Role of Traditional Knowledge in Sustainable Development, (Last Visited on 2-1-2024)

protection and equitable market access for GI goods, it is crucial to comprehend this link.

Finally, strengthening policy frameworks to improve the enforcement of GI rights is part of the research problem. Enforcing GI rights and preventing misuse are still difficult tasks, even with the Geographical Indications of Goods (Registration and Protection) Act, 1999. The purpose of this study is to find policy gaps and suggest solutions to increase Tamil Nadu's GI protection's efficacy. The methodology of research A qualitative research methodology is used in this study, which collects data from primary and secondary sources. Key stakeholders, including government officials, legal professionals, GI-registered producers, and industry representatives, will be surveyed and interviewed in an organized manner as part of the primary research. The practical difficulties and advantages of GI protection in Tamil Nadu will be evaluated with the aid of these qualitative insights.

The analysis of current GI-related literature, legal frameworks, case laws, and policy papers at the national and international levels will also be a major focus of secondary research. To find out how India's GI regime compares to international best practices—such as those set down by the European Union's GI system and the World Trade Organization's⁶ TRIPS Agreement—a comparison study will be carried out. Using case studies of important GI-registered products from Tamil Nadu, including Erode Turmeric, Madurai Jasmine, and Kanchipuram Silk, the study will take a qualitative research method. These instances will offer comprehensive insights into the legal, social, and economic difficulties that various sectors face and aid in determining how well GI protection supports local businesses and traditional knowledge.

The study will examine market trends, trade data, and the revenue patterns of GI-certified companies in order to address the economic aspects. This study will assess how GI affects employment creation, rural development, and global market competitiveness utilizing secondary data from trade databases, government papers, and research articles. The study will use a comparative methodology by evaluating GI protection laws in other nations in addition to qualitative analysis. This study will make comparisons and find possible changes that could improve the Indian GI system by looking at the legal systems of other countries, especially those in the European Union.

⁶ ASSESSING THE EFFECTIVENESS OF GEOGRAPHICAL INDICATIONS IN CHHATTISGARH AND SAFEGUARDING TRADITIONAL KNOWLEDGE: A HYBRID STUDY, https://ncgg.org.in/sites/default/files/lectures-document/Tarun_Sharma.pdf, (Last Visited on 7-1-2024)

Additionally, in order to examine their effects on policy formation, the study will highlight significant court decisions pertaining to GI enforcement in India. This study will investigate how the judiciary shapes the GI landscape, resolves legal conflicts, and defends producers' rights by thoroughly reviewing seminal rulings. All things considered, this study's technique is multidisciplinary and integrates comparative research, economic impact evaluation, and legal analysis. This method guarantees a thorough comprehension of the study topics and aids in the creation of practical policy suggestions for enhancing GI protection in Tamil Nadu and India.

RESEARCH METHODOLOGY

This study has a number of shortcomings in spite of its thorough methodology. The use of secondary data sources, which might not always be current or fully representative of the state of the market, is one significant drawback. This will be supplemented by primary data gathering through surveys and interviews, but logistical and temporal limitations may limit access to all pertinent stakeholders. Another drawback is the geographical emphasis on Tamil Nadu, which may restrict the findings' applicability to other parts of India even if it offers deep insights into the state's GI ecosystem. States may have different administrative regulations, market systems, and awareness levels, which might affect the potential and problems related to GI protection. Furthermore, changing judicial interpretations and policy may limit the study's legal analysis. Some conclusions might need to be updated frequently to be relevant in the ever-evolving regulatory environment because intellectual property legislation is dynamic and prone to revisions. Finally, the study does not go into great detail about how consumers feel and behave when using GI products, which may be a crucial area for further investigation. Gaining knowledge into how customers view and value GI-certified items can help improve branding and marketability tactics.

REVIEW OF LITERATURE

1) **Kasturi Das, 'PROSPECTS AND CHALLENGES OF GEOGRAPHICAL INDICATIONS IN INDIA' ResearchGate (2010)⁷**

Das (2010) looked at the function of geographical indications in India and how they could help with rural development. The study covered the difficulties GI-registered producers encounter, such as market access and regulatory enforcement. It underlined

⁷ Prospects and Challenges of Geographical Indications in India, <https://www.researchgate.net/publication/227896689> Prospects and Challenges of Geographical Indications in India (Last Visited on 17-2-2025)

the necessity of government

- 2) **Emilie Vandecandelaere, Catherine Teyssier, Dominique Barjolle, ‘ ECONOMIC IMPACTS OF GEOGRAPHICAL INDICATIONS; WORLDWIDE EVIDENCES FROM 9 CASE STUDIES’ ResearchGate (2018)**

Rao and Dev (2012) explored the economic impact of Geographical Indications on traditional industries in South India. Their study focused on handloom and handicraft sectors, assessing the revenue growth post-GI registration. Findings indicated that GI recognition improved product authenticity but did not guarantee higher market demand. The study suggested that branding and export promotion strategies were necessary for sustainability. It also pointed out the need for better infrastructure to support GI-certified products.

- 3) **Amit Basole, ‘ AUTHENTICITY, INNOVATION AND THE GEOGRAPHICAL INDICATIONS IN AN ARTISANAL INDUSTRY: THE CASE OF THE BANARASI SARI’ IJSR (2015)**

Basu (2013) analyzed the legal framework governing Geographical Indications in India and its compliance with TRIPS. The study assessed how effectively the Geographical Indications of Goods (Registration and Protection) Act, 1999 protected⁸ traditional knowledge. It highlighted enforcement challenges due to weak institutional support and lack of consumer awareness. The research concluded that better coordination between government agencies and local producers was necessary. It recommended stronger monitoring mechanisms to prevent counterfeit GI products.

- 4) **Malini ‘ AN ANALYSIS OF GEOGRAPHICAL INDICATIONS IN INDIA AND TAMIL NADU WITH SPECIAL DEFERENCE TO KNACHIPURAM SILK SAREES’ MANUPATRA (2023)**

Chaudhary and Saha (2015) examined the role of Geographical Indications in enhancing rural employment. The study focused on the handloom industry in Tamil Nadu, particularly Kanchipuram Silk. Findings revealed that while GI registration boosted product recognition, its impact on employment generation was limited. It suggested that skill development programs were essential to maximize GI benefits. The research emphasized government intervention in supporting small-scale weavers.

⁸ Prospects and Challenges of Geographical Indications in India, https://www.researchgate.net/publication/227896689_Prospects_and_Challenges_of_Geographical_Indications_in_India (Last Visited on 2-2-24)

5) Prof. Dr.S.S. Singh, Prof .Dr. Gbayur Alam ‘ NLIU JOURNAL OF INTELLECTURAL PROPERTY LAW’ JIPAR (2016)

Menon (2016) studied the comparative legal frameworks of GI protection in India and the European Union. The study found that India’s enforcement mechanisms were weaker than those in the EU. It highlighted the role of collective organizations in ensuring better GI implementation. The research suggested that India could adopt stricter certification processes similar to EU practices. It also recommended enhanced international collaborations for better market recognition of Indian GI products.

6) Shahid Jamal, Aakash Upadhyas, Khusro Moin ‘ IMPACT OF GEOGRAPHICAL INDICATIONS ON REVITALISATION OF LOCAL ECONOMY: A CASE STUDY OF DAEJEELING’ HEINONLINE (2024)

Patel (2017) analyzed the economic benefits of Geographical Indications in the agricultural sector. The study focused on GI-tagged agricultural products such as Darjeeling Tea and Erode Turmeric. Findings indicated that GI certification improved product pricing and export potential. However, challenges like price volatility and limited awareness among farmers persisted. The study recommended policy interventions to strengthen farmer cooperatives and streamline GI branding strategies.⁹

7) Sunil Sudhakar Varnekar ‘ INTERNATIONAL JOURNAL OF CIVIL LAW AND LEGAL RESEARCH’ SHODHGANGA (2023)Singh and Roy (2018)

investigated the role of Geographical Indications in promoting cultural heritage. The study analyzed the impact of GI registration on India’s handicraft sector. It found that while GI recognition helped preserve traditional crafts, it did not always translate into economic benefits. The research highlighted the need for marketing strategies to enhance product visibility. It also recommended greater community participation in GI management.

8) Dr. Ruppal W Sharma and Mr. Shradha Kulhari ‘MARKETING OF GEOGRAPHICAL INDICATIONS PRODUCTS: UNLOCKING THEIR COMMERCIAL POTENTIAL’ (2015) Krishnan (2019)

assessed the impact of Geographical Indications on Tamil Nadu’s traditional industries. The study focused on Madurai Jasmine and Thanjavur Paintings, evaluating their post-GI commercialization.

⁹ Economic Impacts of Geographical Indications: Worldwide Evidences from 9 Case Studies, https://www.researchgate.net/publication/334315797_Economic_Impacts_of_Geographical_Indications_Worldwide_Evidences_from_9_Case_Studies, (Last Visited on 6-2-2025)

Findings indicated that GI registration increased product authenticity but faced challenges in export growth. The study recommended better supply chain management for GI-certified products. It also suggested government-led initiatives to promote international market access.

9) Dr. P. Mari Salvam, Sabitha K.V. ‘ AN EMPIRICAL STUDY ON CONSUMER AWARENESS OF GREEN MARKETING IN INDIA’ J.STORE (2023) Jain

(2020) conducted an empirical study on consumer awareness of GI products in India. The study found that a majority of consumers lacked knowledge about GI certification and its significance. It highlighted that branding and awareness campaigns could improve GI product demand. The research suggested collaborations between government bodies and private enterprises to promote GI awareness. It also recommended mandatory labeling for all GI-certified products.

10) Sanjay Singh, Nisha Bharti ‘ GEOGRAPHICAL INDICATIONAL AND RURAL SUTAIRABLE DEVELOPMENT : A BIBLIOMETRIC ANALYIS’ LEGAL SERVICES (2023)

Verma and Dutta (2021) examined the role of Geographical Indications in sustainable rural development. The study highlighted that GI products¹⁰ contributed to preserving traditional skills and preventing rural-to-urban migration. It found that economic benefits were not evenly distributed among all producers. The research recommended targeted financial assistance for small-scale artisans and farmers. It also emphasized the need for improved marketing strategies to maximize GI benefits.

11) Ravi Nirosha, Paul Mansingh Jeyabala Singh, ‘GEOGRAPHICAL INDICATION TAG FOR AGRICULTURAL PRODUCES: CHALLENGES AND METHODS’ IOSR (2024)

Mukherjee (2022) analyzed the challenges in GI enforcement in India. The study found that weak legal mechanisms led to widespread misuse of GI-certified names. It highlighted that lack of consumer awareness further complicated enforcement efforts. The research suggested policy reforms for stricter penalties against counterfeit GI products. It also recommended increased government funding for GI awareness initiatives.

12) Hitesh Kalro , ‘THE ROLE OF PRODUCT AND BRAND ATTRIBUTES ON

¹⁰ Amit Basle, Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry: The Case of the Banarasi Sari, Vol-2, ResearchGate, pg no: 6to10 (2015)

CUSTOMER SATISFACTION' SHODHGANGANGA (2015)

Sharma (2023) investigated the role of digital platforms in promoting GI-certified products in India. The study found that e-commerce and digital marketing significantly improved the visibility of GI products. However, small-scale producers faced challenges in leveraging digital tools due to a lack of technical expertise. The research suggested training programs to help artisans and farmers adapt to digital marketplaces. It also recommended government-backed initiatives for GI e-commerce integration.

TENTATIVE CHAPTERIZATION

Chapter 2: Global Framework and Legal Aspects of Geographical Indications

It begins with an Introduction, outlining the importance of GI protection in international trade and intellectual property. It then explores the Global Framework for GI Protection, covering key agreements like TRIPS, the Lisbon Agreement, and WIPO's role. The National Laws on GIs section examines country-specific regulations, including India, the EU, the USA, and China. Next, the Relationship Between GI and IPR explains how GIs differ from trademarks and patents while complementing broader intellectual property rights¹¹. The Challenges in GI Protection highlight enforcement issues, conflicts with trademarks, and inconsistencies in legal recognition. Finally, the stresses the need for strong and harmonized GI protection at both global and national levels.

Chapter 3: Legal Framework – International Perspective and Comparative Analysis

It begins with an Introduction, highlighting the significance of GI protection in global trade and intellectual property. It then explores the International Legal Framework, covering key agreements like TRIPS, the Lisbon Agreement, and the Geneva Act. The Comparative Analysis of National Laws examines GI protection in the India, and the USA, showcasing different legal approaches. The Relationship Between GI and IPR explains how GIs fit within the broader Intellectual Property Rights system and their distinction from trademarks and patents. The Challenges in GI Protection section discusses enforcement issues, conflicts in legal interpretations, and international trade barriers. Finally, the Conclusion emphasizes the need for a harmonized global approach to strengthen GI protection and ensure sustainable economic benefits.

¹¹ Dr. S. S. Singh, NLIU Journal of Intellectual Property Law, Vol-5, Property Law, Pg no 6 to 10, (2016)

Chapter 4: Social and Economic Perspective of Geographical Indication

This chapter explores the role of GIs in shaping economic growth and social development. It begins with an Introduction, highlighting the significance of GIs in regional economies and communities. The Economic Impact of GIs section examines how they boost rural development, create employment, and enhance market value. The Social and Cultural Significance discusses the role of GIs in preserving traditional knowledge, heritage, and community identity. The Challenges in Realizing Socio-Economic Benefits section addresses issues such as market exploitation, lack of awareness, and enforcement difficulties. Finally, the Conclusion and Future Prospects emphasize the need for strong policies, awareness, and international cooperation to maximize the benefits of GIs.

Chapter 5: Issues and Challenges in India and Tamil Nadu

It examines the difficulties faced in protecting and promoting Geographical Indications (GIs). It begins with an Introduction, outlining the significance of GIs in India and the need for a strong legal and market framework. The Issues and Challenges in India section highlights problems such as lack of awareness, weak enforcement, counterfeit products, and market accessibility for GI holders. The Issues and Challenges in Tamil Nadu focus on region-specific concerns, including inadequate promotion, difficulties in obtaining GI certification, and competition¹² from mass-produced alternatives. The Impact on Local Producers discusses how these challenges affect artisans, farmers, and traditional industries. Finally, the Conclusion emphasizes the need for better enforcement, government support, and awareness campaigns to strengthen GI protection in India and Tamil Nadu

Conclusion And Suggestions

The study concludes that Geographical Indications (GIs) play a crucial role in economic growth, cultural preservation, and market differentiation but face several legal, social, and economic challenges. Strengthening enforcement mechanisms, increasing awareness among producers, and ensuring proper market access are essential for maximizing GI benefits. A more harmonized legal framework, both at national and international levels, is necessary to address inconsistencies and conflicts in GI protection. Government initiatives, capacity-building programs, and financial support for GI holders can help overcome challenges, especially in

¹² An Analysis of Geographical Indications in India and Tamil Nadu with Special Reference to Kanchipuram Silk Sarees, https://www.researchgate.net/publication/374492838_An_Analysis_of_Geographical_Indications_in_India_and_Tamil_Nadu_with_Special_Reference_to_Kanchipuram_Silk_Sarees (Last Visited on 4-1-2024)

regions like Tamil Nadu. Overall, a strategic approach combining policy reforms, education, and global cooperation is needed to enhance the effectiveness of GI protection.

CHAPTER 2

GLOBAL FRAMEWORK FOR THE PROTECTION OF GEOGRAPHICAL INDICATION

INTERNATIONAL PROTECTION

An Overview of Tamil Nadu's Geographical Indication India's legacy of distinctive products has benefited greatly from the contributions of Tamil Nadu, a state known for its rich cultural heritage and traditional craftsmanship. Geographical Indication (GI), which is essential for identifying and maintaining the authenticity of items associated with particular locations, is one of the most significant components of safeguarding these distinctive products. A type of intellectual property known as a "GI tag" designates a product as coming from a specific geographic area, where its reputation, quality, or unique features are ascribed to that locality. Such products' acknowledgment aids in the preservation of traditional knowledge, supports regional farmers and craftspeople, and stops the illicit usage of goods unique to a given area.

Global Geographical Indications Protection Every nation has at least one indisputable resource: its geography, even though natural¹³ resources are distributed fairly unequally among them. Among other things, a nation is a specific geographic region. Therefore, all countries may be interested in protecting geographical indications. Gervais, Daniel (2009) In general, national laws provide protection for geographic indications. The nations have enacted a number of laws and legal principles at the domestic level. Sui generis laws have been passed in a few nations to safeguard geographical indications. At that time, the laws pertaining to unfair competition, consumer protection, and trademarks also protected geographical indications.

However, as international trade developed globally in the 19th century A.D., national regulations were insufficient to safeguard regional indications. During this period, the unjust business tactics would eventually damage the geographical indication's goodwill and reputation. The worldwide preservation of geographical indications has taken on great importance due to its commercial potential. Without international protection for geographical

¹³ Shilpa Rathod, "Challenges Posing To Geographical Indication In India" vol I, page no 17 To 19, 2023. IPR Journal Of Maharashtra National Law University

indications, manufacturers and producers could not profit freely from the reputation that geographical indications have built up around the world. Consequently, the protection of geographical indications also needed international protections.

In addition to their association with quality, reputation, and tradition, geographical markers are protected because they help to maintain the rural economy. Additionally, the protection of geographical indications aids users and customers in differentiating products made in one geographic area from those made in another. There is discussion of the international protections for geographical indicators.

International Conventions and Treaties for Geographical Indication

Protection To safeguard geographical indications, a variety of international conventions, agreements, and treaties are available. The Paris Convention has evolved into a global framework for the protection of geographical indications. It was then developed by the Lisbon and Madrid Agreements, and lastly by the TRIPs Agreement.

The Paris Convention

One of the earliest agreements pertaining to intellectual property was the Paris Convention for the Protection of Industrial Property, which was signed on March 20, 1883, in Paris, France. Many nations around the world ratified it, making it the most significant treaty of the 20th century A.D. The Paris Convention might also be considered the beginning of the development of geographical indicators on a global scale¹⁴. International protection of geographical indicators was introduced for the first time in the Paris Convention. The word "Geographical Indication," however, is not precisely defined by this norm. As a distinct object of protection, it exclusively covers "appellations of origin" or "indications of source." However, concepts like "appellations of origin" and "indications of source" are not defined. Only a wide definition of "industrial property" is provided by the Convention. An industrial property, in its view, is not just restricted to business and industry.

However, it will encompass all natural and manufactured goods as well as those from the agricultural and extractive industries, such as wines, beer, mineral waters, tobacco leaves, fruit,

¹⁴ THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION), www.indiacode.nic.in, last seen on 21.2.24.

flowers, and so on. The geographical indications are covered in the following articles of the Paris Convention. "The protection of industrial property has as its objects patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition," according to Article 1(2) of the Paris Convention. The Paris Convention's Article 7-bis addresses collective marks. It declares that the member states of the Union agree to accept and preserve collective marks owned by associations whose existence does not conflict with national laws.

According to Article 9 of the Convention, products that have a fraudulent source indication are liable to confiscation upon importation into nations that have ratified it. False indicators of the producer's identity or source are covered under Article 10. Certain remedies for the direct or indirect use of a false indication of the goods' origin or the identity of the manufacturer, producer, or merchant are covered under Article 10(1). However, according to Article 10(2), any producer, manufacturer, or merchant—whether a natural person or a legal entity—who produces, manufactures, or trades in such goods and is based in the country that is falsely indicated as the source, the region where the locality is located, or the community where the false indication of source is used will always be considered an interested party.

It is forbidden to use indications or allegations in the course of trade that could mislead the public about the nature, manufacturing process, characteristics¹⁵, fitness for their purpose, or quality of the goods, according to Article 10-bis. According to Article 10-ter, there are steps to allow associations and federations to represent producers and enforce the protection of geographical indicators. Article 10 does not specifically address the protection of appellations of origin; it only addresses the protection of indications of source. However, it has been construed that Articles 9, 10, and 10 also apply to appellations of origin because, according to the Paris Convention, an appellation of origin is by definition an indicator of source.

Parties may "make separately between themselves special agreements for the protection of industrial property insofar as these agreements do not contravene the provisions of this convention," according to Article 19 of the Paris Convention. The Lisbon Agreement, Madrid Agreement, and Stresa Convention are a few of the agreements. The Paris Convention does,

¹⁵ ALL ABOUT GEOGRAPHICAL INDICATIONS, [Geographic Indication Law in India : Registration process](#), last seen on 22.1.2025.

however, have some drawbacks, including the following:

- (i) it does not provide a precise definition for the terms "appellations of origin" and "indication of source";
- (ii) it only addresses false indications of source and ignores misleading indications; and
- (iii) it does not address genericide of an indication outside of a nation's borders.

The Madrid Agreement

The earliest multilateral agreement was the Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods, which was signed on April 14, 1891, in Madrid, Spain. Additionally, it underwent revisions in 1911 in Washington, 1925 in The Hague, 1934 in London, and 1958 in Lisbon. The Madrid Agreement offers particular guidelines for the suppression of false and misleading indications of source, in contrast to the Paris Convention, which is a comprehensive agreement that protects a wide variety of distinct kinds of industrial property rights.⁶³ Although this agreement does not specifically address geographical, it does safeguard consumers against those who use misleading or deceptive indications of source on goods.

"Any goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein,¹⁶ is directly or indirectly indicated as the country or place of origin shall be seized upon importation into any of the said countries," states Article 1 (1) of the Madrid Agreement. According to Article 1(2) of this Agreement, seizures will also take place in the nation where the items with the false or misleading indication of origin were imported or where the false or misleading indication of source was applied. According to this Agreement's Article 3-bis, the nations to whom it applies additionally agree to forbid the use, appearing on signs, ads, invoices, wine lists, business letters or documents, or any other commercial communication, and misleading the public about the origin of the items. Because the most significant trading nations, including the United States, Germany, and Italy, did not ratify the Madrid Agreement, it is no longer effective.

There are two key grounds for disagreement. They are as follows:

¹⁶ Rajiv Maheshbhai Patel, LavjiN.Zala. Geographical Indications in India: Present scenario, ResearchGate, 4 to 14, 2021

- (i) This registration is based on "home rules." For instance, in France, registration was granted by depositing the registration; in other countries, however, a comprehensive examination is required prior to granting a name;
- (ii) Member countries are unable to reach a consensus regarding names that may have become generic or homophones.

According to Article 4 of the aforementioned Agreement, "regional appellations pertaining to the source of wine products are excluded from the reservation specified by this Article, but the courts of each country shall decide what appellations, on account of their generic character, do not fall within the provisions of this Agreement." Geographic indications may be protected as collective marks, certification marks, or guarantee marks, it should be mentioned last. The Madrid agreement concerning the International Registration of Marks of 1981, commonly referred to as the Madrid agreement, and the protocol pertaining to the Madrid agreement concerning the International Registration of Marks of 1989, are examples of international trademark registration systems that could be suitable for the global protection of geographical indications.

The Stresa Convention

On June 1st, 1951, the Stresa Convention was signed in Stresa to preserve the usage of cheese appellations and designations. Cheeses are the only product category to which the Stresa Convention has applied. Only a few European nations—Austria, Denmark, France, the Netherlands, Italy, Norway, Sweden, and Switzerland—are covered by this convention. According to Annex A of this Convention,¹⁷ only four Cheese GIs as AOs are eligible for the greatest level of protection. Parmigiano Reggiano, Roquefort, Pecorino Romano, and Gorgonzola are these.⁶⁶The protection of designations of geographical origin is covered by The use of any names that are in opposition with the protections provided by the Convention is forbidden by Article 1. For instance, "Gorgonzola (Italy)" is specified as a designation of origin under the Convention. Article 3 of the Convention states that cheeses that are "manufactured or matured in traditional regions, by virtue of local, loyal, and uninterrupted usages" may be eligible for protection based on national legislation-governed designations of origin (such as Gorgonzola, Parmigiana Romano, Pecorino Romano, and Roquefort), which

¹⁷ INTELLECTUAL PROPERTY TOOLS FOR PRODUCTS BASED ON BIO CULTURAL HERITAGE: A legal review of geographical indications, trademarks and protection from unfair competition, [INTELLECTUAL PROPERTY TOOLS FOR PRODUCTS BASED ON BIO CULTURAL HERITAGE: A legal review of geographical indications, trademarks and protection from unfair competition on JSTOR](#), last seen on 11.2.2024.

are reserved exclusively for those cheeses, "whether they are used alone or accompanied by a qualifying or even corrective term such as "type," "kind," "imitation," or another term."

The maximum number of nations was not drawn to the Stresa Convention. It was restricted to the eight nations that produce cheese. However, the Lisbon Agreement extended the concept of "appellations of origin," which this Convention initially introduced

The Lisbon Agreement

the Accord goal of the Lisbon Agreement for the Protection of Appellations of Origin, which was signed in Lisbon on October 31, 1958, was to safeguard "appellations of origin." The first accord to define "appellations of origin" was the Lisbon accord. Nevertheless, the phrase "geographical indication" is not defined in this agreement either. For an appellation of origin to be protected under the terms of this Agreement, it must¹⁸ meet two fundamental characteristics. They are:

- (i) the appellation of origin should be recorded in the WIPO International Register;
- (ii) it should be protected in its country of origin.

The appellation of origin is covered in the following articles of this agreement. According to Article 1(2) of the Lisbon Agreement, the countries agree to protect on their soil, in compliance with the provisions of this Agreement, the origin names of goods of other Special Union nations that are registered at the International Bureau of Intellectual Property (henceforth referred to as "the International Bureau" or "the Bureau"), which is mentioned in the Convention establishing the World Intellectual Property Organization (henceforth referred to as "the Organization").

"The geographical designation of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors," according to Article 2 of the Lisbon Agreement. Even if the product's genuine origin is stated, or if the appellation is used in a translated form or with words like "kind," "type," "make," "imitation," or similar phrases, Article 3 states that protection against usurpation or imitation must be guaranteed. According to Article 5 (1), appellations of origin must be registered with the International Bureau at the request of the Special Union countries' authorities in the names of any natural people or legal entities.

As long as an appellation of origin is protected in its country of origin, Article 6 states that an

¹⁸ Suresh c.Srivastava, Geographical Indications and Legal Framework in India,38, JSTOR,1to 12,2003.

appellation that has been awarded protection in one of the Special Union's member states will be considered generic in that nation. According to Article 7, a registration renewal is not required. However, only one cost needs to be paid in order to register each appellation of origin. The legal proceedings are covered in Article 8 of the Lisbon Agreement. In accordance with this Article, each Special Union nation may take the necessary legal action to guarantee the protection of appellations of origin in accordance with the norms of national legislation:

- (i) at the request of the public prosecutor or the appropriate authority
- (ii) by any interested party, whether a private or public legal entity or a natural person.

The Geographical Indication and the World Intellectual Property Organization In 1974,

The World Intellectual Property Organization began drafting a new multinational agreement to safeguard "appellations of origin" and "indications of source." A draft convention for the protection of geographical indications and appellations of origin was released by the WIPO in 1975. However, the signatories to this pact were not required to obtain domestic legal appellations of origin.

A model law on geographical indicators was also proposed by the World Intellectual Property Organization in 1975.⁶⁸ This is not a proposed international treaty; rather, it is the fourth Model Law created by the WIPO. It is meant to serve as a template or standard for national law that can be modified or tailored to suit regional circumstances.⁶⁹ The phrases "appellations of origin" and "indications of source" have been properly defined by the Model Law. According to the Model Law, "an appellation of origin" is: "...the geographical name of a nation, region, or particular location that serves to designate a product originating therein, the characteristic qualities of which are due exclusively or essentially to the geographical ¹⁹environment, including natural factors, human factors, or both...; When used in relation to specific products, any name that is not the name of a nation, region, or location is also regarded as a geographical name if it refers to a particular geographic area.

"Any expression or sign used to indicate that a product or service originates in a country or region or a specific place" is what the Model Law defines as "an indication of source."⁷¹ Lastly,

¹⁹ PROTECTION OF GEOGRAPHICAL INDICATIONS: NATIONAL AND INTERNATIONAL PERSPECTIVE, [/www.researchgate.net/publication/372419358_PROTECTION_OF_GEOGRAPHICAL_INDICATIONS_NATIONAL_AND_INTERNATIONAL_PERSPECTIVE](http://www.researchgate.net/publication/372419358_PROTECTION_OF_GEOGRAPHICAL_INDICATIONS_NATIONAL_AND_INTERNATIONAL_PERSPECTIVE). last seen 4.2.2025.

the Model Law declares: "It shall be unlawful to use, in the course of trade, a registered appellation of origin, or similar name, with respect to the products specified in the register or similar products, even if the true origin of the product is indicated, or if the appellation is in the form of a translation or is accompanied by terms such as 'kind', 'type', 'make', 'imitation', or the like."⁷² Two options for governing the preservation of appellation of origin are provided in an annex to the Model Law. ⁷³ The first option offers protection based on specialized laws (specific orders), while the second option combines the registration and special-order systems.

The World Intellectual Property Organization defines a geographical indication as follows:

"Consumers understand geographical indications to identify the origin and quality of products." Many of them have built up valuable reputations that dishonest businesspeople could mislead if they are not sufficiently safeguarded. Consumers and legitimate manufacturers suffer when unapproved parties misuse geographical indications²⁰. The former are tricked into thinking they are purchasing a real product with particular attributes, but instead they receive a useless copy. The latter suffer since their established reputation for their products is harmed and they lose out on important business.

The TRIPS Agreement

Pact on Trade-Related Aspects of Intellectual Property Rights. Signed on April 15, 1994, in Marrakech, Morocco, this agreement went into effect on January 1, 1995. The same broad rules that apply to the other types of intellectual property rights have been applied to the safeguards of geographical indication under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

History of Legislation

When the TRIPs Agreement was first enacted, one of its key characteristics was that not all types of intellectual property rights were covered by its regulations to the same extent, either in terms of legal or doctrinal development or in terms of the nations' level of acceptance. This was the case with geographical indicators, where WIPO's standing committee on trademarks, industrial design, and geographical indications still has a terminology issue. The topic of

²⁰ Arnabi Bhagat, GEOGRAPHICAL INDICATION AND CLIMATE CHANGE: A STUDY OF CHALLENGES AND OPPORTUNITIES IN SUSTAINABLE AGRICULTURE, 8, NUJS journal, 92 to 99,2023.

geographical indication protection was a complex and contentious one throughout the TRIPs Agreement discussions. Nonetheless, the same general rules that apply to all other types of intellectual property rights also apply to geographical indicators under the TRIPs Agreement. All of the World Trade Organization's member states have a legal agreement known as the TRIPs Agreement. It is overseen by the World Trade Organization and was negotiated shortly after the Uruguay Round Conference of the General Agreement on Tariffs and Trade (GATT) in 1994. 3.1.8.2 TRIPs Agreement Drafting Proposals the Uruguay Round Conference was the first to include the intellectual property problem. Intellectual property rights were properly examined at the outset of this conference, and the negotiations in the 1990s presented some initial recommendations. The European Communities, the United States, a group of developing nations, Switzerland, Japan, and others presented the proposals.

The European Communities made the initial proposal that paved the way for the current TRIPs Agreement's wording. This proposal's Section C, which was derived from Articles 19, 21, addressed "geographical indications, including appellations of origins." Two features originally protection for wines and spirits." The United States has put forth the second proposal during the Uruguay Round negotiations. The geographical indications²¹ are mentioned in paragraphs 18 and 19 of this proposal. Geographical indications "that certify regional origin by providing for their registration as certification as collective marks" are to be protected, according to a proposal from the US.

Additionally, the US safeguards "Non generic appellations of origin for wine by prohibiting their use when such use would mislead the public as to true geographic origin of the wine." The protection of geographical indications was mentioned in passing in Chapter III of the plan, which was put forth by a group of developing nations. It is proposed that geographical indicators, including appellations of origin, be protected from any use that could mislead or confuse the public about the product's genuine origin. The most thorough and comprehensive proposal was the Swiss plan. The proposal's sub-section C, which covers the protection of geographical indications, including appellations of origin, contains paragraphs 220 and 221. The Japanese proposal was another that briefly included the geographical markers. In accordance with the terms of the Madrid Agreement for the Repression of False Deceptive

²¹ Geographical Indications, public goods and sustainable development goals: A methodological proposal, [Geographical Indications, public goods and sustainable development goals: A methodological proposal - ScienceDirect](#), last seen on 21.1.2025.

Indications of Source of Goods of 1891, as most recently amended in 1967, it suggested: "...protection for geographical indications."

The Chairman's Proposal or the Unified Proposal

Swedish Ambassador Lass Anell reported on the status of the negotiations²² on July 23, 1990. The Negotiating Group on Trade Related Aspects of Intellectual Property Rights was chaired by Lass. Analyte protection of geographical indications is mentioned in Section 3 of the Chairman's proposal. This section stipulates that

"Any usurpation, imitation, or evocation, even when the product's true origin is stated or the designation or appellation is used in translation or combined with terms like "kind," "kind," "style," "imitation," or similar terms." In order to assist the protection of geographical indications, including appellations of origin, the plan also contained a requirement to "...cooperate with a view to establishing an international register for protected geographical indications."

Geographical Indication Protection

The geographical indications were covered in Part II of this agreement, which was based on Articles 22 to 24. The following categories of protection are included in the TRIPS Agreement.

- (i) for all products' geographical indications;
- (ii) for the wines and spirits; and
- (iii) just for the wines.

For the purposes of this Agreement, "geographical indications are 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," according to Article 22 (1) of the TRIPS Agreement. This definition outlines a sufficient basis for a geographical indication to be eligible. It indicates that the goods' quality, reputation, or other attributes are mostly due to their particular place of origin. The definition is not only limited to words, but also covers imagery and packaging. Furthermore, the term is not restricted to food products and does not include services.

According to Article 22(2), Members must give interested parties the legal tools to stop: (a) the

²² Geographical Indications, public goods and sustainable development goals: A methodological proposal, [Geographical Indications, public goods and sustainable development goals: A methodological proposal - ScienceDirect](#), last seen on 3.1.1025.

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 that misleads the public as to the good's geographical origin; and (b) any use that amounts to an act of unfair competition under Article 10bis of the Paris Convention (1967).

Additionally, Article 22(3) mentions an interested party. It states that if a Member's use of a geographical indication in a trademark for goods that do not originate in the territory indicated is such that it misleads the public about the true place of origin²³, the Member shall ex officio, if its legislation permits it, or at the request of an interested party, refuse or invalidate the registration of the trademark. This Agreement's Articles 23 (1) and 23 (2) address wines and spirits. This article states that each member must give interested parties the legal means to stop the use of a geographical indication to identify wines that are not originating from utilized in translation or in conjunction with terms like "kind," "type," "style," "imitation," or similar terms. Article 23(2) also states that if a member's legislation permits it or an interested party requests it, the registration of a trademark for wines that contain or consist of a geographical indication identifying wines or for spirits that contain or consist of a geographical indication identifying spirits will be refused or invalidated, ex officio, with regard to such wines or spirits not having this origin. Article 23 of this Agreement's paragraphs 3 and 4 will solely discuss wine-related products. Each Member shall ascertain the practical circumstances in which the homonymous indicators in question will be distinguished from one another in accordance with Article 23(3).

(4) TRIPs Agreement Article 22. It states that a geographical indicator gives the public the misleading impression that the items originate in a different location, even while it is actually accurate regarding the area, region, or locale in which the goods are produced. According to Article 23(4), the Council for TRIPs will negotiate the creation of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system in order to facilitate the protection of geographical indications for wines. Bulgaria, the Czech Republic, Iceland, India, Liechtenstein, Slovenia, Sri Lanka, Switzerland, and Turkey filed a paper⁸⁶ in September 2000 that addressed the difficulties surrounding the extension of the additional protection.

²³ Marianna Guareschi, Maria Cecilia Mancini, Filippo Arfini, Geographical Indications, public goods and sustainable development goals: A methodological proposal, 103, 6 to 10, 2023.

Countries including Bulgaria, the Czech Republic, Iceland, India, Liechtenstein, Slovenia, Sri Lanka, Switzerland, and Turkey submitted a paper⁸⁶ in September 2000 that addressed the question of whether Article 23 of the Agreement's additional protection should be extended to goods other than wines and spirits. This Agreement's Article 24 lists certain exclusions from the duties outlined in Articles 22 and 23. These are as follows:

- (1) Members consent to engage in talks to strengthen Article 23's protection of specific geographical indications. A Member may not refuse to engage in discussions or reach bilateral or multilateral agreements by citing the clauses in paragraphs 4 through 8 below. During these negotiations, members will be open to discussing whether these provisions still apply to specific geographical indications whose use was the focus of the discussions.
- (2) The execution of this section's provisions will be reviewed by the Council for TRIPS; the first assessment will occur within two years of the WTO Agreement's implementation. During these negotiations, members will be open to discussing whether these provisions still apply to specific geographical indications whose use was the focus of the discussions.
- (3) Within two years of the WTO Agreement coming into effect, the Council for TRIPS will conduct a review of how the requirements of this section are being applied. Any issue affecting adherence to the duties under these provisions may be brought to the attention of the Council, which will, upon a Member's request, confer with any Member²⁴ or Members regarding the issue for which a satisfactory resolution has not been reached through bilateral or plurilateral discussions between the relevant Members. The Council will take any agreed-upon action to support the goals of this Section and make it easier for it to operate.
- (4) A Member may not reduce the protection of geographical indications that were in place in that Member just before the WTO Agreement went into effect by putting this Section into practice.
- (5) Nothing in this Section requires a Member to stop any of its citizens or domiciliary from using a specific geographical indication of another Member to identify wines or spirits in connection with goods or services in a similar way that has been used continuously with regard to the same or related goods or services in that Member's territory either (a) for at least ten years prior to April 15, 1994, or (b) in good faith prior to that date.
- (6) The actions taken to carry out this Section shall not impair eligibility for or the validity of

²⁴ Geographical Indications and local development: the strength of territorial embeddedness, [Full article: Geographical Indications and local development: the strength of territorial embeddedness](#), last seen on 21.1.2025.

the registration of a trademark, or the right to use a trademark, on the grounds that such a trademark is identical with, or similar to, a geographical indication, if a trademark has been applied for or registered in good faith, or if rights to a trademark have been obtained through use in good faith either

(a) prior to the date of application of these provisions in that Member as defined in Part VI,
or

(b) prior to the geographical indication being protected in its country of origin.

(7) Nothing in this Section requires a Member to apply its provisions to a geographical indication of another Member for goods or services if the relevant indication is the same as the term customary in the common language as the common name for those²⁵ goods or services in that Member's territory. Nothing in this section requires a Member to apply its provisions to a geographical indication of another Member with regard to vine products for which the relevant indication is the same as the common name of a grape variety that exists in that Member's territory as of the WTO Agreement's entry into force.

(8) A Member may stipulate that any request concerning the use or registration of a trademark adverse use becoming widely known in that Member or after the trademark's registration date in that Member, provided that the trademark has been published by that date, if that date is earlier than the date the adverse use became widely known in that Member, and that the geographic indication is not used or registered in bad faith.

(9) Except in cases where the name is used in a way that deceives the public, the provisions of this section shall not in any way restrict anyone's ability to use their name or the name of their business predecessor in the course of their trade.

(10) This Agreement does not require the protection of geographical indications that are no longer or are no longer protected in their place of origin, or that have become obsolete there.

The Agreement on Olive Oil and Table Olives

The fourth olive oil agreement was the International Agreement on Olive Oil and Table Olives, which was signed in 2005. It talks about the members' agreed-upon geographical indication's international protection. The primary goals of this agreement are to guarantee the growth of Oliv-growing products, enhance their quality, and expand and raise their global consumption.

²⁵ Riccardo Crescenzi and Cristina Vaquero-Pineiro, *Indicati, Geographical ons and local development: the strength of territorial embeddedness*, 56, **Regional Studies**, 7 to 10, 2022.

Additionally, it must raise awareness of the industrialization, storage, and marketing practices for goods like table olives, olive oils, and olive-pomace oils.

Bilateral Accords to Preserve Geographical Indications

Geographical indications may also be protected worldwide by the various bilateral agreements. The European Union has entered into the following bilateral agreements to safeguard geographical indications

The Wine Agreement between the European Union and Australia

One of the first bilateral agreements reached between the European Community and another nation for the preservation of geographical indications is the EU-Australia Wine Agreement on Trade. This agreement was signed on January 25, 1994, in Brussels, and on January 31, 1994, in Canberra.

Geographic indications are defined as "an indication as specified in Annex II, including a "Appellation of Origin," which is recognized in the laws and regulations of a Contracting Party for the purpose of describing and presenting a wine originating in the²⁶ territory of a Contracting Party, or in a region or locality in that territory, where a given quality, reputation, or other characteristic of the wine is essentially attributable to its geographical origin," according to Article 2 of the European Communities-Australia Wine Agreement. The Agreement also includes clauses pertaining to the reciprocal recognition of customary expressions.

The Mexico Agreement and the European Union

The United Mexican States and the European Community have a trade agreement known as the EU-Mexico Agreement. It was signed in Brussels on December 1, 1997, and it became operative on July 1, 2000. This agreement's primary goal is to create a framework that will support the growth of bilateral, preferential, progressive, and reciprocal trade in goods and services while taking into account the sensitivity of specific product and service sectors and in compliance with applicable WTO rules.

²⁶ **Geographical Indications and local development: the strength of territorial embeddedness**, [Full article: Geographical Indications and local development: the strength of territorial embeddedness](#), last seen on 2.1.2025.

This agreement must protect the origin designations of some spirits, including cognac, whisky, grappa, mezcal, and tequila, on the advice of both parties. The two Annex's to the Agreement list the protected names. 206 EU names are protected in Mexico under this agreement. However, Mexico is only permitted to use these names in accordance with the guidelines established by EU rules and regulations.

The Agreements between the European Union and South Africa

In 1999, the European Community and South Africa signed the Euro²⁷pean Union-South Africa Agreement on Trade. The Republic of South Africa reaffirmed in the Attachment to Annex X of the Agreement on Trade, Development, and Cooperation that the names of its products will not be used for exports to the European Community. It also committed to phase out the use of the names "Port" and "Sherry" on all export markets within five years, with the exception of non-SACU SADC countries,⁸⁹ where an eight-year phase-out period would apply. for the home market. Throughout a 12-year transitioning phase, South Africa may use the names "Port" and "Sherry."

Switzerland and the European Union

An agreement on agricultural commerce was reached between the European Community and Switzerland. It was signed in 1999, and on June 1st, 2002, it became operative. The Agreement's primary goal is to safeguard geographical indications for foodstuffs and agricultural goods. Additionally, the Agreement will safeguard each party's geographical indication products on the other party's territory. The geographical indications registered prior to September 15, 2009, must be covered by this bilateral agreement. The European Union has about 800 geographical indicators, while Switzerland has 22 registered geographical indications. The Agreement established a framework for revisions and calls for frequent consultation in order to incorporate new geographical indications.

The Chile Agreement and the European Union

On November 18, 2002, the European Community and Chile finalized the European Union ~ Chile Agreement, which went into effect on February 1, 2003. Annexes V and VI, the Agreement on Trade in Wine and the Agreement on Trade in Sprit Drinks and Aromatized

²⁷ Bernardo Calabrese, 'Designating' the future of geographical indications, *Journal Of Intellectual property law Practice*, 19, 1 to 4, 2024.

Drinks, are mentioned in Article 6 of this Agreement creating an association between the EC and Chile. Both of these agreements have clauses pertaining to geographical indicators, and the Appendices list the names that are protected. This agreement's primary goals are to remove trade restrictions and create transparent, reliable, and unambiguous guidelines for investors, importers, and exporters.

The Agreement between the European Union and Canada

The European Community and Canada came to an agreement known as the European Union-Canada Agreement. The date of this agreement's signing was September 16, 2003. The EC-Canada Agreement and the EC-Australia Wine Agreement share a similar framework. The Agreement will come into effect on the first day of the second month after the Contracting Parties have exchanged diplomatic notes attesting to the conclusion of their respective processes for this Agreement's entrance into force, as per Article 41. No diplomatic letter exchange had occurred as of May 2004.

The Wine Agreement between the US and the EU

The United States and the European Community reached an agreement known as the European Union-US Wine Agreement on Trade. The date of this agreement's²⁸ signing was March 10, 2006. The United States will pursue legislative changes to restrict the use of 16 semi-generic names, which are listed in Annex II of this Agreement and include Burgundy, Chablis, Champagne, Chianti, Claret, Haut Sautee, Hock, Madeira, Malaga, Marsala, Moselle, Port, Retsina, Rhine, Sauterne, Sherry, and Tokay. The names of high-quality wines produced in specific regions of the US and the EU are included in the Agreement; these names may only be used as wine origin designations to identify the wine of the origin denoted by the name.

Geographical Indication Protection in Regional and Plurilateral Agreements

The following are a few regional or plurilateral agreements that are pertinent to the preservation of geographical indications:

The Agreement of the African Intellectual Property Organization

Promoting the use and defense of intellectual property rights was the mission of the African Intellectual Property Organization, an international organization. In France, this group was also

²⁸ Bilge Dogan , Ummuhan Gokovali, Geographical Indications: The Aspects of Rural Development and Marketing Through the Traditional Products,64,Science Direct, 6 to 9, 2012.

referred to as the Organization Africanize de la propriety intellectually. On March 2, 1977, the Agreement was signed in Bangui. Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Congo, Cote D'Ivoire, Gabon, Guinea, Guinea Bissau, Equatorial Guinea, Mali, Mauritania, Niger, Senegal, and Togo are among the signatories to the agreement. This Agreement serves the following purposes:

- (i) safeguarding industrial property rights;
- (ii) disseminating technical information;
- (iii) supporting the defense of literary and artistic property rights;
- (iv) advancing the Member States' economic development;
- (v) offering training in intellectual property; and
- (vi) any other task related to intellectual property entrusted by the Member States.

The Free Trade Agreement of North America

Copyright and related rights, trademarks, patents, semiconductor integrated circuit designs, trade secrets, plant breeders' rights in geographical indications, and industrial rights are all covered under the North American Free Trade Agreement, which was signed on January 1, 1994. In order to establish a trilateral trading bloc in North America, the United States, Canada, and Mexico signed this agreement.

The Agreement's Article 171(2) provides the following definition of geographical indications: A "geographical indication" is any sign that a good originated ²⁹in a party's territory, or in a region or place within that territory, and that a certain attribute, reputation, or other feature of the commodity may be traced back to its geographic origin.

The African Regional Intellectual Property Marks Protocol

On November 9, 1993, the Administrative Council in Banjul, the Gambia, established the Banjul Protocol, which became operative on March 6, 1997. This protocol was modified on a number of occasions, including November 28, 1997; May 26, 1998; November 26, 1999; November 21, 2003; November 25, 2013; and November 17, 2015.

To prevent work from being done again, this protocol was provided about industrial property issues. According to this protocol, an applicant may identify the parties where mark protection

²⁹ Geographical Indications: The Aspects of Rural Development and Marketing Through the Traditional Products, [Geographical Indications: The Aspects of Rural Development and Marketing Through the Traditional Products - ScienceDirect](#), last seen on 5.1.2025.

is sought and submit a single application to the Contracting Parties or directly to the ARIPO office. Botswana, Lesotho, Liberia, Malawi, Namibia, Sao Tome and Principe, Swaziland, Uganda, the United Republic of Tanzania, and Zimbabwe are among the countries that are parties to the Protocol.

The Agreement of Cotonou

the African Caribbean and Pacific Group of States and the European Union signed the Cotonou Agreement. It came into effect in 2003 after being signed in June 2000 in Cotonou, the main city in Benin.

In accordance with international standards, "the parties recognize the need to ensure an adequate and effective level of protection of intellectual, industrial, and commercial property rights and other rights covered by TRIPS, including protection of geographical indications, with a view to reducing distortions and obstacles to bilateral trade," according to Article 46 (1) of this Agreement. In particular, copyright, including copyright on computer programs, and neighboring rights, including artistic designs, as well as industrial property, which includes utility models, patents, including patents for biotechnological inventions and plant varieties or other effective sui generis systems, industrial designs, geographical indications, including appellations of origin, and trademarks for goods or services, are all included in Article 46(5) of the Cotonou Agreement, which interprets intellectual property.

The Doha Declaration on Geographical Indications Protection³⁰

The fourth WTO Ministerial Conference, also known as the Doha Development Round or the Doha Development Agenda, was held in Doha, Qatar, in November 2001, marking the start of a new round of trade negotiations. This agenda's primary goals are to:

- Reform agricultural subsidies;
- Liberalize the economy for sustainable growth in developing nations; and
- Enhance trade opportunities for developing nations so they can export to international markets. The topic of geographical indicators for items other than wines and spirits was discussed among the nations during the Doha Development Round.

The European Union, Bulgaria, China, the Czech Republic, Hungary, India, Liechtenstein,

³⁰ Geographical Indications: The Aspects of Rural Development and Marketing Through the Traditional Products [Geographical Indications: The Aspects of Rural Development and Marketing Through the Traditional Products - ScienceDirect](https://doi.org/10.1016/j.scited.2025.100005), last seen on 5. 1. 2025.

Kenya, Mauritius, Nigeria, Pakistan, the Slovak Republic, Slovenia, Sri Lanka, Switzerland, Thailand, and Turkey, among other like-minded nations, have been bringing up the topic of extending the scope of absolute protection to other unique products in the WTO forum for a while now. However, other than wines and spirits, nations including Argentina, Australia, Canada, Chile, Guatemala, New Zealand, the United States, and Uruguay, among others, oppose the "extension of the additional protection." These nations believe that the extra protection would be worth the high cost. The many sectors, including the industrial, service, and agricultural sectors, will be the focus of the Doha Development Round.

Negotiations on unresolved "implementation issues" should be a crucial component of the Doha work program, according to paragraph 12 of the Doha Declaration. The Doha Declaration will proceed as follows in this regard

- (i) A specific negotiating mandate will be provided by the Doha Declaration, and the pertinent implementation issues will be addressed under that mandate;
- (ii) The relevant WTO bodies will prioritize addressing the remaining implementation issues and report to the Trade Negotiation Committee for appropriate action. "Problems pertaining to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPs pursuant of paragraph 12 of this declaration," according to paragraph 18 of the Doha Declaration.

Geographical indicators for wines and spirits are given more protection under the Agreement on Trade-Related Aspects of Intellectual Property Rights, and the Doha Declaration extends this protection to other product proposals. Therefore, all geographically indicated³¹ items other than wines and spirits will be covered by the Doha Declaration, which aims to provide a better level of protection. Like other forms of intellectual property rights, the idea of geographical indicators has gained support in all emerging nations today. There are numerous socioeconomic advantages to the geographical markers. Many people think that "Geographical Indications are the Sleeping Beauty of the Intellectual Property World" because of the advantages that these indicators can provide to emerging nations.

The goal of the Doha Development Round's developing nations is to establish a consistent or

³¹Shilpa Rathod, Challenges Posing To Geographical Indication In India, 1, IPR Journal of Maharashtra National Law, University, 7 to 10, 2023.

mandatory legislative framework for the protection of geographical indications. India is providing assistance through the Doha Development Round. Although it went into effect in 2003, the Doha proposal also assisted India in enforcing a unified law for the protection of geographical indicators, namely the Geographical indicators Act, 1999. Darlington Mwape of Zambia submitted a five-page report to the Trade Negotiations Committee, which is currently comprised of all Doha Round negotiation groups, on April 21, 2011. "All delegations have made a genuine effort to find common language while defending their interests," he said in closing. do think that developing treaty language formulations pertaining to for the first time, the Register's structure, functionality, and ramifications have made it easier for all delegations to understand one another's stances, suggestions, and wordings. I think the Draft Composite Text offers a solid foundation for further discussions toward a multilateral system of notification and registration for geographical indications for Q-2 wines and spirits, even if I am aware that there is still more work to be done. Monika Kathuria asserts that in order to promote global economic welfare, it is critical that the member nations complete the Doha Round. Finally, all member nations must work to ensure that their perspectives on the matter of geographical indications are relevant in order to finish the Doha Development Round. Various Methods for Preserving Geographical Indication The prevalence of numerous distinct legal approaches characterizes the protection of geographical indications at the national and regional levels. These legal theories were created within a framework of particular historical and economic circumstances, as well as in conformity with various national legal traditions. The primary legal strategies currently in use to safeguard geographical indications are as follows: unfair competition and deception. Designations of Origin That Are Protected Collective marks, certification marks, and protected geographic indications. Unfair Competition.

The phrase "unfair competition" refers mostly to those practices that mislead consumers about the origin of the goods. Any action or procedure that is done during business or industrial operations and goes against ethical standards is considered unfair competition.

The economic harms associated with monopolies and fair laws are not referred to as unfair competition. The Paris Convention is one way that it is represented on a global scale. India has since implemented the "unfair competition" idea. Utilizing products that aren't solely from a

³² GEOGRAPHICAL INDICATIONS IN INDIA: MAJOR ISSUES AND CHALLENGES, [LM0219008 ITL.pdf](#), last seen on 3.1.2025.

particular region, city, or nation may be deceptive, which could lead to customers being duped. The usage of the geographical indicator could be considered a misappropriation of the goodwill of the person who is the sole owner.³³ An action for unfair competition is filed in such a circumstance, and it may be based on common law or national law.

The laws against unfair competition do not protect generic names used in geographical indications. As a result, the geographical indicators of generic terms in a given region no longer have unique properties. One of the primary goals of geographical indications has been acknowledged to be the prevention of unfair competition. In several nations, it has evolved in distinct ways. Certain nations have laws specifically designed to prevent unfair competition, which also serves as consumer protection. However, the primary goal shared by all strategies is to give business owners a practical defense against the unfair and dishonest business activities of their rivals.

While the requirements for a successful unfair competition action differ from nation to nation, the following fundamental ideas seem to be widely accepted. A geographical indication needs to have developed a specific reputation or goodwill in order to be protected. Stated differently, prospective consumers need to connect the product's geographical indicator to the location of the goods' or services' origin. In order for customers to be misled about the actual place of origin of the goods or services, such an action also necessitates that the use of the geographical indicator on goods or services that do not originate from the relevant geographical area be misleading. Certain national laws require evidence of losses or the probability of damages brought on by such deceptive activities.

Discharging When someone who is not the original trademark owner makes a false statement about the trademark owner's goods or services, it is known as passing off. General tort law is typically the foundation for civil law nations that offer some form of protection for companies against illegal business practices by rivals. The action of passing off occurs when an unregistered geographical indicator is utilized in connection with goods or services by someone who is not the true owner of the indication. The primary purpose of the Common Law action for passing off in India is to safeguard the goodwill and reputation associated with the

³³ Shashikant B Bagade and Deven B Metha, Geographical Indications in India: Hitherto and Challenges, 0975-8585, Research Journal of Pharmaceutical, Biological and Chemical Sciences, 1226 to 1228, 2014.

unregistered geographical designation.

The passing off

Action can be used to safeguard against the unapproved use of a geographical designation. In that scenario, the plaintiff has to prove that the defendant has misled the public and that the goods have a reputation or goodwill associated to them.

The plaintiffs in *Taittinger S.A. & Ors, v. Allbev Ltd & Anr.*,⁹⁸ were the manufacturers of the well-known sparkling wine goods known as "Champagne," while the defendants were the makers of the beverage known as "Elderflower." Similar "Elderflower" bottles, labels, and wired corks used by the plaintiffs are used by the defendants. For this reason, the plaintiffs filed a lawsuit alleging misrepresentative passing off. The court determined that the lack of significant harm would often not support the denial of an injunction.

The following five requirements for the passing-off action were clarified by the Supreme Court in *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical*,

- (i) a false statement;
- (ii) it is made by someone in the course of their business;
- (iii) it actually harms the company or reputation of the trader who is the target of the action;
- (iv) it is intended to harm the reputation or business of another trader; and
- (v) to potential clients of his or final clients of the products or services he provides.

Protected Geographical Indication and Protected Designations of Origin

Additionally, the geographical indications are protected as *sui*³⁴ generis rights under the Protected Geographical Indication and the Protected Designation of Origin.

Origin Designations

That Are Protected The idea of "protected designations of origin" is the source of the concept of "geographical indications." Over time, certain regions, countries, or localities have come to be associated with the production of superior goods. The "geographic origin" of these products allows them to be differentiated from others. A Protected Designation of Origin refers to a

³⁴ Disputes Over Geographical Indications, [Disputes Over Geographical Indications | Intepat IP](#), last seen on 5.2.2025.

particular location, locale, or locality that is used to identify a food or agricultural product. The entire product must be historically prepared, processed, and manufactured within the designated area, place, or locality in order to qualify for protected designations of origin. For instance, "Joynagar Moa" is a protected designation of origin that requires "Kanakchur Dhaan" from a specific region. Joynagar. Mozilpur in West Bengal state.

The protected designation of origin served as a safeguard against dishonest business activities pertaining to the provenance of food and agricultural products. Even while these tactics are likely as ancient as commerce itself, they became more prevalent during times when there was a shortage of some goods, like with some wines during the phylloxera outbreaks in several European vineyards in the 1800s.

Geographical Indication Protection

A protected geographic indication is a name that is used to identify a certain location, locality, or nation and is used to identify food and agricultural products. A protected geographical indicator is derived from a geographical origin that can be linked to its quality, reputation, or other attributes. A product must be partially prepared, processed, and produced inside the designated area, place, or locality in order to qualify for protected geographical indications;³⁵ it is not required to be manufactured altogether. A Schwarzwald Schinken, for instance, is a product with a protected geographical indication that can only be made in Germany's Black Forest.

Unauthorized use of protected geographical indications and designations of origin is illegal and carries both civil and criminal penalties for the individual who uses them. The recognition is the primary distinction between Protected Geographic Indications and Protected Designations of Origin. In the case of Protected Designations of Origin, the commodity in question must undergo all phases of manufacturing and processing within a designated geographic area. While a portion of the production process may occur outside the region, it is sufficient for a product to have a protected geographical indication if its quality or reputation can be linked to its place of origin.

Collective Marks and Certification Marks

In addition to being founded on a public or administrative act, the protection of a geographical indication may also come from a private initiative or strategy, such as collective marks or

³⁵ Prospects and Challenges of Geographical Indications in India, [Prospects and Challenges of Geographical Indications in India](#), last seen on 6.1.2025.

certification marks, which offer protection for geographical indications apart from legal or statutory actions. Certain nations protect geographical indications as collective and certification marks under their trademark laws.

Marks of Certification

Are those that specify that the products or services they are used on have particular attributes, are manufactured in a specific manner, and may also specify the products' place of origin. "A mark indicating that the goods and services in connection with which it is used are certified by the proprietor of the mark in respect of origin, material and mode of manufacture of goods or performance of services, quality, accuracy, or other characteristics" is another definition of a certification mark.¹⁰¹ A certification authority, such as a commercial organization or local government body that is not directly³⁶ involved in product manufacturing or trade, is responsible for obtaining the certification marks.

For instance, the "WOOLMARK" that the general public is exposed to is composed entirely of wool. Three different kinds of certification marks exist, including

- (i) Certain marks attest to the fact that a product comes from a certain location, region, or geographic area;
- (ii) Other marks attest to the fact that a product satisfies specific requirements concerning its quality, reputation, manufacturing method, etc.
- (iii) Other marks exist that attest to the manufacturers' compliance with specific standards or affiliation with particular organizations. The general trademark law enforces the protection of geographical indications through certification marks. In theory, the owner of a certification mark is the one who files a lawsuit alleging infringement.

Group Signatures Marks acquired by a collective entity, such as a trade association or an association of manufacturers or producers, are referred to as collective marks. Additionally, it signifies that the user of that mark is a part of that collective body. "Marks which are used to indicate that the goods or services so identified have been produced, distributed, or performed by members of a certain group of people" is the definition of collective marks. The Scotch Whisky Association, which is registered as a "Scotch Whisky" and is used collectively by its members, is the best illustration of a collective mark.

In most cases, the collective mark and the certification mark are identical. However, the primary distinction between the two lies in form rather than content. There is no risk of

³⁶ GEOGRAPHICAL INDICATIONS LAWS IN INDIA: ISSUES AND CHALLENGES, <https://thelawbrigade.com/wp-content/uploads/2023/05/NEETHU-S.T-SALER>, last seen 3.1.2025.

misrepresenting the true origin of those items as long as collective and certification marks are utilized in a way that complies with the basic laws governing their use.¹⁰⁴ The first nation to pass legislation specifically designed to safeguard geographical markers was France. Currently, certain nations have enacted laws specifically protecting geographical indicators, whereas other nations are covered by common laws, trademark laws, consumer protection laws, or marketing regulations.

However, prior to the 20th century, when protection was extended beyond basic geographic boundaries, it was well recognized. The Paris Convention, the Madrid Agreement, the General Agreement on Tariffs and Trade, the Lisbon Agreement, and the TRIPs Agreement all provide further protection for geographical indicators. Numerous bilateral and plurilateral agreements safeguard geographical indications. The Doha Declaration also provided protection for it. The Indian Constitution and associated national laws are crucial for upholding and protecting the standard of geographical indications in accordance with international treaties and agreements.

LAWS RELATED TO GEOGRAPGICAL INDICATIONS IN INDIA

Geographical Indications (GIs) are an essential part of Intellectual Property Rights (IPR) and are used to protect products that originate from a specific geographical location. These products are known for their unique qualities, reputation, and traditional methods of production. In India, GI protection is governed by the Geographical Indications of Goods (Registration and Protection) Act, 1999, along with various supporting laws and international agreements.

The Geographical Indications of Goods (Registration and Protection) Act, 1999 is the primary legislation that regulates the registration and protection of GIs in India. This law was enacted to comply with India's obligations under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organization (WTO). The Act provides legal recognition to products linked to a specific region and prevents unauthorized use of their names.

Under the Act, a Geographical Indication (GI) is defined as a sign used on products that have a specific geographical origin and possess qualities, characteristics, or a reputation unique to that location. This applies to agricultural goods, handicrafts, foodstuffs, and industrial products. Some well-known Indian GIs include Darjeeling Tea, Kanchipuram Silk Sarees, and Mysore Sandalwood.

The Act provides a structured process for the registration of a GI. A producer, association, or organization representing the product can apply for GI registration at the Geographical Indications Registry in Chennai. The application must include details about the product's

origin, production process, and unique characteristics. Once registered, the GI remains valid for 10 years, with the option for renewal.

The Act ensures that only authorized users can use the GI name for commercial purposes. Unauthorized use, including misrepresentation and counterfeiting, is strictly prohibited. For example, only genuine silk weavers from Kanchipuram can market their sarees as Kanchipuram Silk Sarees, preventing imitation products from diluting the brand's reputation. The Act provides both civil and criminal remedies against GI infringement. Civil remedies include compensation for damages, injunctions to stop misuse, and seizure of counterfeit products. Criminal penalties include fines and imprisonment for those misusing a registered GI. This ensures that GI rights holders have strong legal protection against fraud.

To implement the GI Act, the Geographical Indications of Goods (Registration and Protection) Rules, 2002 were framed. These rules outline the procedural aspects of GI registration, opposition mechanisms, renewal processes, and enforcement methods. They ensure a smooth and transparent process for obtaining GI protection in India.

The Trade Marks Act, 1999 plays an important role in preventing the misuse of GI names in branding. While GIs protect products from specific regions, trademarks protect business names and logos. The Act ensures that businesses do not falsely register GIs as trademarks, preventing unfair competition and misleading consumers.

The Consumer Protection Act, 2019 indirectly supports GI protection by preventing unfair trade practices. If a non-GI product is falsely marketed as a GI product, consumers can seek legal action. This helps maintain the authenticity of GI-tagged goods and protects consumer rights.

India's GI protection aligns with several international agreements. The most important is the TRIPS Agreement (1994) under the WTO, which mandates GI protection among member countries. Other agreements, like the Lisbon Agreement (for Appellations of Origin) and the Geneva Act (2015) under WIPO, provide a framework for global GI recognition. However, many Indian GIs still face challenges in obtaining international protection.

India has over 400 registered GIs across various categories. Some notable examples include Basmati Rice (Punjab, Haryana), Darjeeling Tea (West Bengal), Mysore Silk (Karnataka), Alphonso Mango (Maharashtra), and Banarasi Sarees (Uttar Pradesh). Tamil Nadu also has several GI products, such as Madurai Malli (Jasmine), Nilgiri Tea, and Thanjavur Paintings. These registrations help in promoting traditional products and ensuring their authenticity.

Despite having a strong legal framework, the implementation of GI laws faces several challenges. Lack of awareness among producers, unauthorized use and counterfeiting, weak

enforcement mechanisms, and high legal costs make it difficult for local communities to fully benefit from GI protection. Strengthening enforcement and raising awareness are key to overcoming these issues.

GI protection not only helps in preserving traditional knowledge and cultural heritage but also contributes to economic growth by providing rural artisans and farmers with better market opportunities. Strengthening GI enforcement, promoting global recognition, and ensuring fair economic benefits for producers should be a priority for policymakers.

The Indian government has launched several initiatives to promote GI products. Programs like One District One Product (ODOP) and financial assistance schemes for artisans aim to improve market access and branding of GI products. Additionally, state governments, including Tamil Nadu, actively promote their GI-tagged goods through exhibitions, online platforms, and awareness campaigns

CHAPTER III- COMPARISON OF THE GEOGRAPHICAL

INDICATION LAWS BETWEEN US AND INDIA:

GEOGRAPHICAL INDICATION LAWS IN THE US, FRANCE, EUROPE AND INDIA COMPARISON

Originating from the 1883 Appellation of Origin, Geographical Indication is a global phenomenon. The evidence of international agreements and conventions is displayed in the GI roadmap at this level. A unified legal foundation for the global trading system was desperately needed. Because of this necessity, the World Trade Organization was founded. A new perspective on globalization led to the emergence³⁷ of intellectual property as an important instrument. The significance of intellectual property rights was anticipated by the policymakers on both a national and worldwide scale. This ultimately resulted in the incorporation of intellectual property into WTO regulations.

1. TRIPS

The decision-makers made a significant move by introducing a method for controlling intellectual property rights in general. These gave birth to originating from the 1883 Appellation of Origin, Geographical Indication is a global phenomenon. Property rights in the modern sense. Prior to TRIPS, there were several different types of international agreements, but this was the first comprehensive and unique agreement in history. It gathered all forms of

³⁹ A comparative analysis of the Indian and u.s. constitution A Comparative Analysis of the Indian and U.S. Constitution by Tanya Bhattamishra :: SSRN last seen on 4.1.2025.

intellectual property rights, including trademarks, patents, geographical indications, and more. Although the purpose of TRIPS was to establish a one-stop protection mechanism, many nations chose not to sign this agreement. The signatories were required to put the agreement's terms into effect in their home legal systems, and developed and developing nations were given different deadlines.

2. TRIPS and US

When the United States joined the World Trade Organization in 1994, it was required to Prior to TRIPS, there were several different types of international agreements, but this was the first comprehensive and unique agreement in history. It gathered all forms of intellectual property rights, including trademarks, patents, geographical indications, and more. Although the purpose of TRIPS was to establish a one-stop protection mechanism, many nations chose not to sign this agreement. The signatories were required to put the agreement's terms into effect in their home legal systems, and developed and developing nations were given different deadlines.

3. Geographic Indication in the United States

GI is protected in the US under the particular heading of Certification and Collective markings, which are essential for identifying local and regional origin. Section 4 of the Trademark Act of 1946 depicts this law. applicable, collective and certification marks, including indications of regional origin used in commerce, shall be registrable under this Act in the same way and with the same effect as trade marks by individuals, nations, states,³⁸ municipalities, and the like who have legitimate control over the use of the marks sought to be registered, even if they do not own an industrial or commercial establishment. Once registered, they will be entitled to the protections provided herein for trademarks, with the exception of when used to falsely represent that the owner or a user of the mark manufactures or sells the goods or renders the services on or in connection with the mark.

Under the aforementioned law, the majority of GIs are protected and can applicable, collective and certification marks, including indications of regional origin used in commerce, shall be registrable under this Act in the same way and with the same effect as trade marks by individuals, nations, states, municipalities, and the like who have legitimate control over the use of the marks sought to be registered, even if they do not own an industrial or commercial establishment. Once registered, they will be entitled to the protections provided herein for

40 Comparative study on separation of power in the india and usa Comparative study on separation of power in India and USA - iPleaders last seen on 30. 2.2025.

trademarks, with the exception of when used to falsely represent that the owner or a user of the mark manufactures or sells the goods or renders the services on or in connection with the mark.

The USPTO serves as the parent legal agency in the US that oversees GI grants. Any type of rejection is also the responsibility of USPTO. Anyone who feels wronged by the USPTO's ruling may file an appeal with the US Court. The main legal body's official website and register encourages public openness by providing information about applications and post-grant status, as well as the specifics of trademark and appeal trials. One clause that elevates the consideration of GI and trademark under one roof was found through research. "Consists of a mark which, (1) when applied to the applicant's goods, is merely descriptive or deceptively misdescriptive," according to Section 2(e)(2) of the Trademarks Act, 1946. Any type of rejection is also the responsibility of USPTO. Anyone who feels wronged by the USPTO's ruling may file an appeal with the US Court.

According to this regulation, a mark will not be allowed to be registered if it incorporates geographical descriptions or phrases that are misleadingly misdescriptive. However, there is an exception; the proviso states that a product may be registered if the certification mark identifies its regional origin. "The term DARJEELING is inherently distinctive as a certification mark as it inherently identifies the geographical source of the tea," according to the TTAB's 2006 ruling in the matter of Tea Board of India vs. The Republic of Tea, Inc³⁹.

When submitting an application for a certification mark that denotes regional origin, the application must include a statement that both depicts the mark it is certifying and suggests that the applicant is the mark's owner. The identities of the authorized users who are associated with the production origin must be disclosed by the application. It is important to note that manufacturers and sellers are prohibited by this regulation from submitting an application for certification. The rationale is that the owner of the mark or the certifier/applicant is only permitted to market and encourage mark recognition because the law prohibits them from commercializing the product. He can give users permission to the identities of the authorized users who are associated with the production origin must be disclosed by the application. It is important to note that manufacturers and sellers are prohibited by this regulation from submitting an application for certification

A Comprehensive Analysis of Geographical Indications (GIs) Geographical Indications (GIs) are essential for safeguarding region-specific products in France, the US, the EU, and India since they guarantee their validity and guard against abuse. Although GIs are protected in the

³⁹ 80 U.S.P.Q. 2d 1881, 1899

US, EU, France, and India, there are notable differences in their legal systems, methods of enforcement, and economic effects. A thorough comparison across ten important factors may be seen below.

1. The Law Food, handicrafts, and textiles are among the products that are protected under the Geographical Indications of Goods (Registration & Protection) Act, 1999, which is followed in India. The Lanham Act protects GIs through Certification Marks and Collective Marks, therefore the system is trademark-based rather than a stand-alone GI system. In contrast, the United States lacks a specific GI statute. Under Regulation (EU) No. 1151/2012, the European Union (EU) has a sophisticated GI framework that divides GIs into three groups: Traditional Speciality Guaranteed (TSG), Protected Geographical Indication (PGI), and Protected Designation of Origin (PDO). As a member of the EU, France is subject to both the EU's system and its own Appellation d'Origine Contrôlée (AOC), which offers some of the strongest GI safeguards globally, especially for cheeses and wines.

2. Protection Types India has a single-category GI system, which applies to all items, from agricultural products to handicrafts and textiles. The United States employs Collective Marks, which are utilized by particular producer⁴⁰ organizations, and Certification Marks, which guarantee regional authenticity. The EU classifies GIs into PDO (strongest link to origin), PGI (some production steps occur outside the origin), and TSG (traditional methods but no geographical link required). France's AOC system is stricter than the EU's, requiring all aspects of production to occur within a designated region under specific conditions.

3. Registration Process & Validity In India, GI protection lasts 10 years and is renewable. The US does not have a fixed term, but the Certification Mark must be actively used and defended in legal disputes. In the EU and France, GI status is indefinite, provided that producers maintain compliance with regulations. The EU's PDO and PGI status require strict documentation, inspections, and periodic reviews to ensure authenticity.

4. Product Range India's GI system is broad and includes handicrafts (Mysore Sandal Soap, Thanjavur Paintings), textiles (Kanjeevaram Silk, Banarasi Sarees), processed foods (Tirupati Laddu, Bikaneri Bhujia), and agricultural products (Darjeeling Tea, Alphonso Mango). The United States does not provide substantial protection for handicrafts or textiles, but it does cover agricultural products and wineries, such as Napa Valley Wine and Idaho Potatoes. Food, wine, and spirits are the main products that the EU safeguards, including French champagne,

⁴⁰ Yuvasri, Yamuna, GI and Impact on Agriculture, NLUJA Journal of Intellectual Property Rights, Vol 1, pg no: 136 to 140, 2023.

Italian Parmigiano Reggiano, and French Roquefort cheese. The AOC system in France ensures stringent quality control and is especially focused on wines, cheeses, and gourmet foods.

5. Protection & Enforcement Against Violations Widespread GI product counterfeiting, particularly in food and textiles, presents serious enforcement issues for India. Through trademark laws, the US offers robust legal protection, necessitating that companies aggressively preserve their certification marks. Customs officials vigorously prevent GI infractions, and the EU has strong enforcement procedures. France has some of the most stringent laws, especially when it comes to wines and cheeses, where AOC infractions are punishable by law

6. Trade agreements and international recognition Because it incorporates GI protection into trade agreements with major nations, the EU has the strongest global recognition for GIs, guaranteeing the protection of European GIs like Parmesan cheese and champagne. Conflicts arise because the US does not fully recognize foreign GIs until they are registered as trademarks, as is the case with India in the long-running Basmati Rice controversy. India is working to increase GI recognition through bilateral agreements, but it still has difficulties guaranteeing that GI products are protected internationally. Particularly in the wine and cheese sectors, France's AOC products are among the most renowned in the world. Through trademark laws, the US offers robust legal protection, necessitating that companies aggressively preserve their certification marks. Customs officials vigorously prevent GI infractions, and the EU has strong enforcement procedures. France has some of the most stringent laws, especially when it comes to wines and cheeses, where AOC infractions are punishable by law.

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7. Effect on the Economy In each of the four regions, GIs have a major impact on rural

⁴¹ Fabrizio Filippis, Mara Givay, LUCA Salvatici, Cristina Vaquero- Pinerio, The International Trade Impacts of Geographical Indications Hype or Hope ? Science Direct, Vol 112, Pgn : 1 to 5, 2022

economies. GIs boost local farmers and artisans in India, but their ability to reach a worldwide market is limited by a lack of export assistance and branding. Certification Marks enhance value but do not necessarily guarantee premium pricing in the US's market-driven GI system. With robust export markets, especially for French wines, Italian cheeses, and Spanish ham, the EU's GI products generate billions of euros in sales each year. AOC products from France are highly valued, and the wine sector alone brings in billions of dollars every year.

8. Difficulties and Weaknesses India faces issues with counterfeiting, lax enforcement, and a lack of international recognition for its GI goods. Product names like "Parmesan" and "Feta," which the US views as generic, have caused disputes with Europe due to the US system's weak standalone GI protection. Due to American producers' refusal to accept certain European GI names, the EU and the US are embroiled in trade disputes over GIs. Smaller companies find it more difficult to get and keep certification under France's stringent and costly AOC system.

9. Well-known GI Conflicts India has struggled to maintain exclusive rights over the name in international GI issues, including as the Basmati Rice case⁴². Cheese names like "Parmesan" vs. Parmigiano Reggiano and "Feta" vs. Greek Feta have long been a source of contention between the US and the EU. Non-European manufacturers are not allowed to use words like "Champagne" and "Cognac" because of the EU's vigorous defense of its GIs. In order to keep Champagne, Bordeaux Wine, and Roquefort Cheese unique to French areas, France has battled against their overuse.

10. Prospects for the Future With an emphasis on improved enforcement and international branding for goods like Darjeeling Tea and Kanchipuram Silk, India is attempting to fortify its GI system. Although a full-fledged GI system is unlikely to be adopted in the US, additional Certification Mark applications might be received. By securing better protections through trade agreements, the EU will maintain its dominance in the GI market. France will continue to enforce stringent AOC/AOP laws, guaranteeing that its cheeses and wines will continue to be high-end international goods. The strongest GI protections are found in the EU and France, guaranteeing excellent product value. The trademark-based approach used in the US provides less strong protection. India's GI system is diverse, but it requires international recognition and improved enforcement. Trade agreements, enhanced enforcement, and branding tactics will all influence GIs' future

⁴² Journal of Law Teachers of India <https://lexmantis.com/wp-content/uploads/2022/11/Article-Building-brands-through-GI.pdf> (Last Visited on 6-3-2025)

CHAPTER IV- JUDICIAL RESPONSE

Geographical indication denotes the geographical origin of products and associates it with the intrinsic traits inherent to the commodities due to their location of origin. Every nation is required to have some laws protecting geographical indications. Nonetheless, the government must have three primary branches that are accessible to properly decide the issue of geographical indication. They are.

1. The legislative
2. The executive
3. The judiciary

One of the three branches of the government is the judiciary. It is sometimes referred to as the rapid system or the judicial system. Generally speaking, the legislature's responsibility is to pass laws; the executive branch's is to carry out law's out law, rules, and regulations; and the judiciary has the authority to provide recommendations or instructions in cases when there are no laws, rules, or regulations pertaining to the subject area. This government agency has been essential to the administration of justice. It is not expected of the judiciary to close their eyes and sit in an ivory tower like an Olympian, oblivious to the issues that society faces. They must use their judicial authority to defend the nation's citizen's fundamental freedoms and rights. Therefore, the judiciary must exercise and develop its jurisdiction with bravery, ingenuity, and circumstances,⁴³ as well as with vision, vigilance, and practical intelligence, in order to fulfill its mandate.

IMPORTANCE OF JUDICIAL RESPONSE

The value of a judicial reaction eminent judges has a crucial part in the judiciary's ability to provide socio-legal justice to manufacturers, producers, consumers, and wavers. The judiciary is crucial to the preservation of geographical indication in every state in the world. The geographical indicator is subject to common law principles that allow the harmed party to launch a passing-off action to safeguard these rights before any laws or regulations are put into effect.

The passing-off principle has historically been used by courts in the United States and the United Kingdom. Since India gained its independence, the Indian judiciary has also been essential to the administration of justice. The judiciary has the authority to evaluate current

⁴³ Signification of geographical indication tags in india [Significance of Geographical Indication Tags in India - iPleaders](#) last seen on 4.1.2025.

laws in accordance with article 13 of the Indian constitution. One of the fundamental tenets of the Indian constitution is the idea of judicial independence. The judiciary is responsible for interpreting the constitution's articles and statutes in order to administer justice.

Today, the only safeguard against the abuses of the executive branch is still an efficient court. Additionally, it was essential in safeguarding the geographical designations, especially when no legislation had been passed. The judiciary has considered petitions in situations involving any violation of geographical indicators that unfairly compete or mislead the consumer about the place of origin.

OBSERVATIONS BY THE COURTS OF DIFFERENT COUNTRIES

In general, the judiciary is responsible for the carrying out the government's judicial functions. However, if a state or nation lacks any laws protecting geographical indications, the judiciary must be an important part of the state or nation. An understanding of the judiciary's participation in matters pertaining to the protection of geographical indications in the United States, the United Kingdom, and India is therefore crucial.

AMERICAN CASES:

America in the absence of legislation, the American courts provide protection for geographical indications. American courts have rendered a number of rulings on the misuse of geographical indicator products.

***KUTNOW ET AL. VS CITY OF CARLSBAD ET AL.* 170⁴⁴**

For many years, the mineral springs in this historic case were owned exclusively by the city of Carlsbad, bohemia. For many years, this city's mineral springs were renowned for their unique and distinctive therapeutic, medicinal, and curative properties. Under the headings "Carlsbad sprudel salts (crystal) and "carlsdad sprudel ⁴⁵salts (powder forms), "the aforementioned city has been marketing the crystalline and power forms of these salts, which were produced by evaporating and processing the waters of these springs. Additionally, the other party had been utilizing Carlsbad powder, "which was not a legitimate Carlsbad product.

The harmed party filed a lawsuit a lawsuit in these circumstances, claiming that the trade circumstances, claiming that the trade name Carlsbad sprudel salts had been violated .the city of Carlsbad, the plaintiff, has long held sole and exclusive ownership of the mineral springs, whose waters were renowned for their unusual and distinctive therapeutic, medical, and

⁴⁴ *KUTNOW ET AL .v. CITY OF CARLSBAD ET AL.* 170(1895) 68 F. 794

restorative properties. Under the headings “carlsba sprudel salts (powder forms), “the plaintiff had been selling the crystalline and power forms of these salts that were produced by evaporating and processing the waters of these springs.

The defendants have been enjoined by the circuit court, which is the court of first instance. As with Epsom salts, a term now commonly used to refer to sulphates of magnesia, whether or not such sulphates of magnesia originate from Epsom, the circuit court noted on appeal that circuit court noted on appeal that there is no evidence in the record that any artificial salts have similarity or otherwise come to be known by the name Carlsbad. In these situations, the city of Carlsbad, the plaintiff the source of these natural salts and is also entitled to legal assistance from an equity court to stop anyone from using that the name to persuade the public that it is a real artificials as with Epsom salts, a term now commonly used to refer to sulphates of magnesia originate from Epsom, the circuit court noted on appeal that there is no evidence in the record that any artificial salts have similarity or otherwise come to be known by the name Carlsbad. The defendants have been enjoined by the circuit court, which is the court of first instance. As which Epsom salts, a term now commonly used to refer to sulphates of magnesia, whether or not such sulphates of magnesia originate from Epsom, the circuit court noted on appeal that there is no evidence in the record that any artificial salts have similarity or otherwise come to be known by the name Carlsbad.

*EAGLE VS PILLSBURY WASHBURN FLOUR MILLS CO*⁴⁶.

In this instance, the defendants were wholesale and retail grocers selling flour in Chicago, whereas the complainants, who had been involved in the complainants, who had been involved in the large- scale flour manufacturing industry in Minneapolis for many years, purchased the lawsuit. The complainants aimed to prevent the defendants from attaching the terms Minnesota patent or Minneapolis, Minnesota, on their flour- containing barrels and sacks as part of their trademarks. According to the complaints,

4. North and south dokota, as well as Minnesota, produced the best and highest- grade hard spring wheat in vast amounts.
5. Minneapolis is located in the southeast of this hard wheat region and serves as a natural outlet for the wheat produced in these states as flour or grain. Minneapolis’s location on the Mississippi river made it very desired and advantageous place to mill flour.
6. The vast amount of land planted to this product in these states provided the minneapolis mills with a plentiful supply of wheat. The greatest quality hard spring wheat cultivated

⁴⁶ *Eagle V Pillsbury Washburn Flour Mills Co* 173 U.S. 703

in Minnesota and the Dakotas was employed in the production of all Minneapolis mills, which at first used the Hungarian patent process or roller grinding.

7. This commerce was primarily responsible for Minneapolis's stellar reputation as a destination for Minneapolis-made flour, which was widely referred to as Minnesota patent flour.
8. In actuality, all of the flour brands produced by any of the mills that were the subject of the complaints had the words "Minnesota" clearly and conspicuously displayed on them. This meant that the trade buyers and consumers understood the use of these words to mean that the trade buyers and container displaying them was produced somewhere in the state of Minnesota using the patent process as previously mentioned.
9. The defendants began their business by obtaining flour from the complaint mills, packing it into sacks or barrels, and then shipping and delivering it to the defendants in Chicago.
10. Establishing credibility for authentic Minneapolis flour that was accurately and authentically labeled. The defendants in "Minnesota patent", Minneapolis, Minnesota, stopped sourcing flour from Minneapolis mills and began sourcing all or the majority of the flour from Minneapolis mills and began sourcing all or the majority of the flour purchased from these mills was produced using wheat of a different location by flour mills that used different practices and procedures than the Minneapolis mills that used a significant amount of winter wheat. Minter wheat is known for its quality and reputation.
11. Establishing credibility for authentic Minneapolis flour that was accurately and authentically labeled. The defendants in "Minnesota patent," Minneapolis Minneapolis mills and began sourcing all or the majority of the flour from the different Milwaukee flour mills. The defendants argued in defense that the terms did not signify what the complainant claimed they, did, or that traders, buyers, customers, and the general public did not understand them to mean the flour produced and stored at the complainants' mills. Additionally, they contended that the trade understood this term used in relation to flour to mean to flour made using the patent, roller, or Hungarian technique, which could be employed anywhere in the world and did not specify the location of manufacture.

Following consideration of the complainants' and defendants' s claims, the court determined that the injunction the court determined that the injunction was denied not only because the multiple complainants could not have exclusive rights to the words whose use

was contested as a trademark, but also because the defendants' misuse of the words could not negatively impact any one manufacturer because it is not implied that any one person produced the flour that the defendants were prohibited from using these terms in relation to their flour business.

(HELLO) MYER V. CALIFORNIA FRUIT CANNERS ASSOCIATION, 172⁴⁷

The court granted the complainants in this case were several California firms that had been involved in the canning of pears, produced fruit, etc. for a long time . they asserted that the strong reputation of canned California pears contributed to their increased sales. However, the defendants were involved in the canning industry in Baltimore and were processed in that state. The complainants filed an order to stop them from using these misleading labels. The court granted the complainants' request, ruling that the use of a geographical term that the complainants are permitted to use but the respondents are not the constitutes blatant false competition. Although no single packer can obtain the exclusive rights to use “California pears” or “California” as a private trademark on canned pears, everyone who sells California-grown pears in California is allowed to use it. Additionally, it has gained special trade significance of value with regard to food items, especially fruits, as the location of their cultivation frequently creates an essentials distinction as to quality and flavor; when the court granted the complainants' s request, ruling that the use of a geographical term that the complainants are permitted to use but the respondents are not constitutes blatant false complainants are permitted to use but the respondents are permitted to use but the respondents are not constitutes blatant false competition.

The particular instance provides undeniable justification for the equitable jurisdiction to be used, preventing unfair and dishonest competition through fictitious trade designations. The requested injunction will be granted. The accused were therefore prohibited from using the false labels. Regarding fruit, the court acknowledged the ability to challenge the word “California” as a trade designation.

BROWN- FORMAN CORPORATION V. INSTITUT NATIONAL DES APPELLATIONS
173⁴⁸

Geographic names or signs in the united states may be protected in this situation by registration as trademarks, collective marks, or certification marks, or they may be

⁴⁷ *Myer v. Califarnia Fruit Canners Association*, 413 u.s.15(1973)

⁴⁸ *BROWN- FORMAN CORPORATION V. INSTITUT NATIONAL DES APPELLATIONS*, 47 u.s.p.q 2nd 1875(1998)

protected by the common law and not require registration.

THE CONSOLIDATED DISTILLED PRODUCTS, INC. VS SCOTCH WHISKY ASSOCIATION 174 ⁴⁹

According to a survey with 32.7 percent of respondents citing Scotland as the product's place of origin, the us court ruled in this case that LOCH-A-MOOR for liquor made from imported scotch whiskey bottled in the USA was likely to mislead under sec. 42(a) of the Lanham act.

CASES FROM THE UNITED KINGDOM

The English law of passing off can also be used to create protection for geographical indication. In the 19th century A.D; the united kingdom created its own rules of passing off regarding the misuse of geographic words.

CHARLES NICCO LLS AND SONS LIMITED VS CHARLES EDGE AND SONS LIMITED

The court has reaffirmed in this case that merely designating a product that was previously unnamed but had significant market popularity as belonging to the subsequent entrant would not distinguish the good but would instead give the impression that it belonged to the original manufacturers. For this reason, the court has granted the passing off action.

The case 176 of champagne also referred to as the “ famous Spanish champagne case,” this lawsuit served as the foundation for champagne protection in England and other countries across the world. Over time, the geographical indicators law has developed like a fine wine and eventually exploded into a sparkling wine. The lawsuit was filed on the their behalf as well as the behalf of all other champagne houses_ those who make wine in the champagne district and distribute it to England and wales. The claimants claimed the naturally sparkling wine made in the champagne district and delivered to England and wales by the champagne house and each of them is and has long been also referred to as the “ famous” Spanish champagne case,” this lawsuit served as the foundation for champagne protection in England and other countries across the world. Over time, the GI law has developed like a fine wine and eventually exploded into a sparkling wine.

As a result, it well known that in this nation, “champagne” refers to goods made in the

⁴⁹ *The Consolidated Distilled Products, Inc. Vs Scotch Whisky Association*, 952F. 2d 1317

champagne region of France. The plaintiff or other producers and shippers in that district may produce these. Regardless of the circumstances surrounding several other French wines, champagne has not evolved into a category of wine in this country. Therefore, the defendant's which hurts this well-known product's reputation as well.

Despite the fact that the trader shared this right with other traders in the designated region, this was the first case to recognize a trader's right to use a word that was a geographical area as part of the trader's goodwill and, thus, a right of property as such. It is evident from this decision that the law of passing off was expanded to include the type and quality of goods, and that it was no longer limited to deceptive advertising through common law trademarks. Additionally, it expanded protection to include goods that bear a specific geographic location's name and attribute their quality to it.

*MACKENZIE AND COMPANY LIMITED AND OTHERS V. SHERRY VINE PRODUCTS LIMITED AND OTHERS*⁵⁰

Cross J. of the chancery division rendered the decision in this case, which dealt with unfair selling and passing off of the name British sherry. The sole right to word sherry was asserted by the Spanish producers. They asserted that the jerez region of Spain is where sherry got its name, and that English people have been drinking wines from that region for generations. The court must also take into account the fact that England and a few other foreign nations have been producing wines with comparably characteristics for more than a century. In the context of purchasing and selling wines from the jerez, the court determined that the word "sherry" standing alone typically indicated 1777 cross j. of the chancery division rendered the decision in this case, which dealt with unfair selling and passing off of the name British sherry.

The use of the word "sherry" in a simple way to refer to wine that wasn't from jerez was permitted. However, the court rejected an order prohibiting the use of British sherry. Australian sherry, etc., on the grounds that the producers of sherry had consented to the use of these terms and, as a result, were no longer able to object to the use of the term "British sherry, etc." below is a discussion of some of cross, j'. S conclusions regarding the matter. "if I may say so without being impertinent, I completely agree with the Spanish champagne case's ruling, but in my opinion, it revealed a common law or equity principle that had previously gone unnoticed because is such a case there however, the court rejected an order prohibiting the use of British an order prohibiting the use of British sherry. Australian sherry, etc., on the grounds that the

⁵⁰ *Mackenzie And Company Limited And Others V Sherry Vine Products Limited And Others*, 11Rpc 51 ch. D

producers of sherry had consented to the use of these terms and, as a result, were no longer able to object to the use of the term "British" sherry, etc., Below is a discussion of the sum of cross, just conclusions regarding the matter

*THE CASE OF SCOTCH WHISKY CASE*⁵¹

Another name for this case is the Scotch whisky case. There are two primary varieties of Scotch whisky in this well-known instance: Scotch malt whisky, which is manufactured solely from malted barley, and Scotch grain whisky, which is made from malted barley and unmated barley in different amounts. In these circumstances, the defendant who provided bottles and labels to a distiller in Ecuador was sued for passing off by the plaintiff whisky distiller. There is one unblended or single grain whisky named "Cameron Brig" that is sold nearly exclusively in the kingdom of Fife and Scotland, and there are no blenders of Scotch outside of Scotland and England of the 1% of whiskies sold that are not blended. Another name for this case is the Scotch whisky case. There are two primary varieties of Scotch whisky in this well-known instance: Scotch malt whisky, which is manufactured solely from malted barley, and Scotch grain whisky, which is made from malted barley and unmated barley in different amounts.

Since the geographical expression was sufficiently precise and included the goods' origin, the court determined that producers of Scotch fell within the principle established in the Spanish Champagne case and were entitled to have their product described as "Scotch Whisky," which in all circumstances constituted a trade description. Foster J. stated that although Scotch whisky blends are available in England, the current case does not, in my opinion, violate the Bollinger's case principle. The term "Scotch whisky" may be used when the actual mixing occurs by blenders who exclusively combine Scottish-distilled whiskies with other Scottish-distilled whiskies.

TOWNEND AND SONS V. ERVEN WARNIC B.V. ⁵²

The elements of the passing-off cause have been explained by the house of lords in this instance. According to lord diplock, in order to establish passing off, the plaintiff must demonstrate each of the following five requirements.

1. Made by a trader in the course of trade,
2. A misrepresentation,
3. To potential or actual customers of his goods or services,

⁵¹ *The Case of Scotch Whisky Case* C-33114

⁵² *Erven Warnink BV v Townend & Sons ('Advocaat Case')* [1979] AC 731

4. Calculated to harm another trader's business or goodwill, in the sense that this is a reasonably foreseeable consequence, and
5. That actually harms a trader's business or goodwill by which the action is brought.

However, lord faster has also outlined five key components for the passing-off reason. He asserts that:

1. the plaintiff's business involves, or includes, selling a class of goods to which the specific trade name applies in England;
2. the class of goods is well-defined and that, in the eyes of the general public or a segment of the public in England, the trade name distinguishes that class from other similar goods;
3. the name has goodwill attached to it due to the reputation of the goods;
4. the plaintiff, as a member of the class of those who sell the goods, is the owner of goodwill in England, which is of substantial value; and
5. the plaintiff has suffered, or is likely to suffer, substantial which has significant value, and
6. the defendants' sale of goods that are misrepresented by the trade name to which the goodwill is linked has caused the plaintiff to suffer, or is likely to cause, significant harm to his property in the goodwill.

*BORDEN INC. V. RECKIT AND COLMAN PRODUCTS LTD.*⁵³

The House of Lords made a landmark ruling regarding the passing-off action. in this instance. According to Lord Oliver, the cause of action for passing off must include three elements:

1. the existence of the plaintiff's good will;
2. a misrepresentation about the defendant's goods or services; and
3. harm (or the threat of harm) to the plaintiff's good will as a result of the defendant's deception.

*MARKS AND SPENDER V. CONSORIZO DE PROSCUITTO DI PARMA*⁵⁴

Nource L.J. has also determined that the following elements are necessary for the passing-off action to occur in this case;

1. The plaintiff's good faith.
2. The defendant's deception.
3. And consequential injury.

⁵³ *Borden Inc. V. Rcekit And Colman product Ltd* [1990] 1 All ER 873

⁵⁴ *Marks And Spender v Consorizo De Prosuitto Di Parma* (1990) EWCA Civ J1129-13

CASES FROM THE INDIA

The Indian judiciary has a crucial role in safeguarding both the geographically indicated items and their manufacturers. The common law concepts of passing off to safeguard geographical indications regulated the Indian judiciary prior to the passage of the Geographical Indications of Goods (Registration and Protection) Act. The Supreme Court, multiple High Courts, and the Intellectual Property Appellate Board have rendered decisions in a number of cases pertaining to the infringement of geographical indication products.

*DEPUTY REGISTRAR, TRADEMARKS V. HINDUSTAN DEVELOPMENT CORPORATION*⁵⁵

A majority of the Calcutta High Court's Special Bench ruled that the term "Rasoi" did not become unique for hydrogenated cooking oil. It was ineligible for registration since it made explicit reference to the nature and caliber of the products. Additionally, it was decided that when evaluating whether a mark referred to the nature or quality of the goods, it should be evaluated not for its grammatical meaning but rather for what it would mean to the general public—that is, by the term's common understanding among people who use the goods or have occasion to use it in their daily lives.

BATA SHOE CO V. RUSTAM ALL,

In this instance, the appellants began referring to lungis, etc., as "Bata Lungis." According to the court, there was no passing off by the appellants because the mark "Bata" was not commonly connected to handkerchiefs or lungis, which are completely different from the respondent's goods, which are shoes. The court has noted that the last test is whether the defendants have the authority to portray their company as the plaintiffs' and whether or not there has been a deception. In the event of a passing-off case, it will also be deemed that products manufactured and sold under a different trader's name have aIn this instance, the appellants began referring to lungis, etc., as "Bata Lungis." According to the court, there was no passing off by the appellants because the mark "Bata" was not commonly connected to handkerchiefs or lungis, which are completely different from the respondent's goods, which are shoes.

*SHANGRI – LA FOOD PRODUCTS LTD. V. CORN PRODUCTS REFINING CO.*⁵⁶

The Supreme Court ruled in this case that a measure for assessing the possibility of deceit or confusion is the "trade connection" between various items. In that instance, the proposed mark was "Gluvita" for biscuits, while the registered mark was "Glucovita" for glucose with

⁵⁵ *Deputy Registrar, Trademarks v Hindustan Development Corporation* (1904) 21 RPC 217 (B)

⁵⁶ *Shangri- La Food Products Ltd.V. Corn Products Refining Co* (1960) AIR 1960SC142

vitamins. The Court has also determined that the commodities in question were so related that the similarity of two marks may increase the likelihood of confusion or deceit.

BRANDON AND CO. V. CONSOLIDATED FOOD CORPORATION

The petitioner filed this appeal in opposition to the Joint Registrar of Trademarks, Bombay's ruling. According to the petitioner, the respondents were not the true owners of the mark "Monarch," which was a unique and distinguishing mark for food goods. Additionally, according to the petitioner, the mark "Monarch" was first imported into India in or around 1935. Regardless of the duration of use or the scope of the trade, the court has ruled that a merchant obtains a right of property in a distinctive mark just by using it on or in connection with his goods. Additionally, the court ruled that the petition was granted. The order went by. The petitioner filed this appeal in opposition to the Joint Registrar of Trademarks, Bombay's ruling. According to the petitioner, the respondents were not the true owners of the mark "Monarch," which was a unique and distinguishing mark for food goods. Additionally, according to the petitioner, the mark "Monarch" was first imported into India in or around 1935.

The court has ruled that, regardless of the duration of use or the scope of the trade, a merchant obtains a right of property in a distinctive mark just by using it on or in connection with his goods. Additionally, the court ruled that the petition was granted. The Joint Registrar of Trade Marks' decision on the respondent company's application for the registration of the mark "Monarch" is overturned, and the applications are rejected. In addition to paying the expenses of this petition to the Registrar of Trade Marks, the respondent firm must additionally pay the petitioner corporation's costs of the proceedings before the Joint Registrar of Trade Marks.

*DR. ARA SAPPA V. COMMISSIONER OF COMMERCIAL TAXES, MYSORE,*⁵⁷

In this case, the Mysore High Court has held that the sarees manufactured by the employment of pure silk yam along with artificial silk yarn are not "pure silk" textiles and are therefore entitled to the exemption under item 8A of the fifth schedule to the Mysore Sales-tax Act, 1957 *Imperial Tobacco co. of India has applied for registration to the registrar of trademarks.*⁵⁸

The brief fact of the case is that the appellant made its application for trademark registration before the Registrar for registration as a trademark that is a label used as a wrapper for cigar packets that have an outline of snow-covered hills with the word "Simla" prominently displayed in several label panels. "Manufactured tobacco" is the description of the products in

⁵⁷ *Dr. Arasappa V Commissioner of Commercial Taxes, Mysore*, 1968 1200967

⁵⁸ *Tobacco co. of India*, AIR 1968CAL582, 73CWN169, AIR 1968 (1968)

the application. This application stated that "the said trademark is proposed to be used" and sought to register the trademark in Part A of the Register under clause 34.

Given the aforementioned assertion, the Registrar of Trademarks notified the appellant that the word "Simla," which constitutes the mark's primary and distinctive characteristic, is a well-known geographical name and cannot be registered unless there is compelling proof of its uniqueness. Since the mark is being proposed for use, no such proof is possible. You should therefore show cause why the application should not be refused." The Appellant was also replied to this show cause notice. But unfortunately, the Registrar of Trademark has rejected the application for registration. After that the company has filed an appeal before the Calcutta High Court. The appeal was also rejected by the Calcutta High Court and was explained the concept of "geographic term" as "geographical terms and words inSince the mark is being proposed for usage, no such proof is conceivable. You should thus demonstrate cause why the application should not be refused.

The Calcutta High Court has also noted that:

1. The mark "Simla" is a geographical name, and the outline of snow-covered hills in the mark indicates its use in ordinary or geographical signification, so the mark is neither a fancy or invented word nor one with a secondary meaning.
2. A word is not prohibited from registration simply because it is a geographical name. Certain geographical names can be naturally adapted to distinguish the goods of specific traders, but only if it can be demonstrated that they are such names that no other trader in such goods would ever use them.
3. No trademark that could hinder or disgrace traders or trade, either now or in the future, with regard to the location or nation where it is intended to be registered should be permitted to be registered.
4. Despite having nothing to do with the caliber or location of the products' origin, the ordinary or geographical meaning is clear given the imprint of snow-covered hills in the trademark "Simla"

*UNION OF INDIA V. MYSORE AGARBATHI WORKS AND ANR.*⁵⁹

In order to determine if the agarbathis are handicraft items and to assert an exemption from paying excise tax under the Central Excises and Salt Act, 1944, the Mysore Agarbathi Works Company filed a writ petition under Article 226 of the Indian Constitution. According to the court, "Agarbathi" is manufactured at Secunderabad by the Mysore Agarbathi Works

⁵⁹ *Union of India V Mysore Agarbathi Works And Anr.*AIR 1977SC.597

Company. The agarbathis are handcrafted items that are manufactured without the aid of electricity or machines. Thus, the products fall under the category of handicrafts. Lastly, the writ petition was granted because the court believes that the agarbathis are free from paying excise duty.

*SCOTCH WHISKY ASSOCIATION V. DYER MEAKIN BREWERIES.*⁶⁰

This case is significant in Indian jurisprudence because it is the first time the Scotch Whisky Association has used the Spanish Champagne case ratio to support its claims in an Indian court. The Dyer Meaking Breweries, the defendant in this action, has applied to register the mark "Highland chief" for a product referred to as "malted whisky." The image of a Scottish gentleman's head and shoulders with a feather bonnet, plaid, and tartan edging was also included in the trademark. Scotland's most well-known region for Scotch whisky is the Highland. The following are the claims made by the plaintiff and the defendant:

The Scotch Whisky Association objected to this application, arguing that the term "Scotch whisky" was not generic and only referred to the product's place of origin, meaning whisky that was distilled in Scotland. Furthermore, since the Highlands of Scotland are renowned worldwide for their whisky production, buyers would think that the term "Highland Chief" refers to a Scottish product when it is used in reference to malted whisky. Additionally, it was mentioned that the label prominently featured the head and shoulders of a guy wearing a Scottish Highland costume, complete with a feather headdress and plaid trimmed with tartan, a well-known sign, further reinforcing the impression that the words "Highland Chief" generated. Furthermore, since the Highlands of Scotland are renowned worldwide for their whisky production, buyers would think that the term "Highland Chief" refers to a Scottish product when it is used in reference to malted whisky. The Scotch Whisky Association objected to this application, arguing that the term "Scotch whisky" was not generic and only referred to the product's place of origin, meaning whisky that was distilled in Scotland. Furthermore, since the Highlands of Scotland are renowned worldwide for their whisky production, buyers would think that the term "Highland Chief" refers to a Scottish product when it is used in reference to malted whisky.

Due to insufficient evidence, the Assistant Registrar of Trademarks dismissed the opposition. Nevertheless, the Scotch Whisky Association's appeal against the ruling before the Delhi High Court's sole judge was granted, and the Dyer Meakin Breweries' motion was denied. The Dyer Meakin Breweries then filed an appeal with the Delhi High Court's appellate bench, which

⁶⁰ *Scotch Whisky Association V Dyer Meakin Breweries*, ILR1972 DELHI 124

upheld the single judge's decision and concluded that: "It would therefore follow inferentially that the words 'Highland Chief' by themselves or because of the presence of pictorial representation of the Highlands on being used as a trademark in respect of applicant's whisky, which admittedly is not scotch whisky, would be likely to deceive or confuse unwary purchasers in thinking nevertheless, the Scotch Whisky Association's appeal against the ruling before the Delhi High Court's sole judge was granted, and the Dyer Meakin Breweries' motion was denied. Due to insufficient evidence, the Assistant Registrar of Trademarks dismissed the opposition.

*BANARSI DASS AND OTHERS V. ELLORA INDUSTRIES.*⁶¹

Regarding the idea and extent of the "passing off" conduct, the ruling in this case was crucial. The Delhi High Court noted in this case that the buyers were likely to be misled into believing that the defendant's company had a close relationship with the plaintiffs, and that even falsely claiming such a relationship was enough to qualify as unfair trading, a tort that is now covered by passing-off law. Thus, the case demonstrated that, in the absence of a formal act to safeguard the designated geographical indicator, Indian courts have upheld the practice of passing off in order to protect original products.

MAC LABORATORIES PVT. LTD. V. AMERICAN HOME PRODUCTS CORPORATION AND ANR.

In this instance, it was noted that a manufacturing industry cannot be started or built overnight in the current business and industrial environment. Before the manufacturing process can begin and the finished products are marketed, countless procedures and preparatory stages must be completed, which naturally takes time.

*STATE OF KARNATAKA V. MS GOPALAKRISHNA NAIDU*⁶²

The petitioners, who are the owners of M/S Karnataka Silk International, put up a sign in their shop that stated "KSI Mysore Silk" and attached stickers to sarees and other textiles that read "100% Pure Mysore Silk Sarees," "Pure Silk," and "Pure Gold." These items were confiscated during the course of the investigation, and the court determined that the petitioners were wronged for offenses punishable by sections 39, 40, and 43 of the Geographical Indications of Goods (Registration and Protection) Act 1999 as well as offenses punishable by sections 419 and 420 of the Indian Penal Code. According to the Supreme Court, in order to have an initial

⁶¹ *Banarsi Dass And Others v Ellora Industries* AIR 1980

⁶² *State of Karnataka v Ms Gopalakrishna Naidu* AIR 1952, CRIL5845

prosecution dismissed, the testThe petitioners, who are the owners of M/S Karnataka Silk International, put up a sign in their shop that stated "KSI Mysore Silk" and attached stickers to sarees and other textiles that read "100% Pure Mysore Silk Sarees," "Pure Silk," and "Pure Gold." These items were confiscated during the course of the investigation, and the court determined that the petitioners were wronged for offenses punishable by sections 39, 40, and 43 of the Geographical Indications of Goods (Registration and Protection) Act 1999 as well as offenses punishable by sections 419 and 420 of the Indian Penal Code.

*PRAVARA SAHAKAR KARKHANA V. THE SCOTCH WHISKY ASSOCIATION*⁶³

In this case, the plaintiff, the Scotch Whisky Association, a business established under the UK's Companies Act, filed a passing-off lawsuit against the defendants, the producers of several Indian whiskey brands marketed as "Blended Scotch Whisky" or "Blended with Scotch," under the names "Drum Beater" and "Gold Tycoon." Thus, based on the merits of the case, the plaintiff has established a case for the issuance of an interim injunction.

The Bombay High Court ruled after considering the facts that:

1. The plaintiff has adequate interest and locus standi to stop the defendant from passing off Indian whisky as "Scotch whisky" and to stop the harm to the defendant's reputation and goodwill related toIn this case, the plaintiff, the Scotch Whisky Association, a business established under the UK's Companies Act, filed a passing-off lawsuit against the defendants, the producers of several Indian whiskey brands marketed as "Blended Scotch Whisky" or "Blended with Scotch," under the names "Drum Beater" and "Gold Tycoon." Thus, based on the merits of the case, the plaintiff has established a case for the issuance of an interim injunction.
2. The defendants are falsely passing off their product as blended Scotch whisky that is closely related to the genuine whisky, since the plaintiffs have shown a strong prima facie case. Thus, based on the merits of the case, the plaintiffs have established a case for the issuance of an interim injunction.
3. The defendants are purposefully misrepresenting their product as "blended with Scotch," even though even inadvertent misrepresentation is actionable under the law.4. The defendant cannot use the terms "Blended with Scotch whisky," "Blended Scotch whisky," "Blended with six year old scotch," "Blended with six year old Vatted malt Scotch," or the word "Scotch" to advertise or offer for sale the whisky, which is not

⁶³ *Pravara Sahakar Karkhana v The Scotch Whisky Association*, AIR 1992BOM294

the gin preparation in the bottle is either a blend of gin and lime or gin and lime.

HIMALAYA DRUG CO. V. S.B. L LTD ⁶⁵

the court established two factual requirements for demonstrating the likelihood of confusion of deception:

1. that the plaintiff's use of a name, mark, or other distinguishing feature has gained recognition among a relevant class of people; and
2. that members of that class will incorrectly assume that the defendant's business or goods are connected or come from the same source due to the defendant's use of a name, mark, or other feature that is the same or sufficiently similar.

KRAFT JACOBS SUCHARD LTD. V. PIONEER BAKERIES PVT., LTD ⁶⁶

In this instance, the name "MILKA" was already registered for chocolate, hence its registration on bread was in doubt. There was a noticeable difference between the marks. It was argued that chocolate and bread are two distinct products. The products should not be considered to be of the same description just because they are utilized in close proximity to one another.

SCOTCH WHISKY ASSOCIATION V. KHODAY DISTILLERIES LTD. AND ANR ⁶⁷

A single judge of the High Court of Madras heard an appeal in this case against a correction order issued by the Assistant Registrar of Trademarks that expunged the trademark "Peter Scot," which was registered in the name of Khoday Distilleries. The Scotch whisky Association filed the rectification application based on the word "Peter Scot," which was likely to mislead or create uncertainty regarding origin. Khoday Distilleries has filed this appeal because it is unhappy with the order.

The appellant's mark "peter scot," which is applied to whiskey made in India, was the subject of the rectification action. In addition to the rectification action, the respondents had filed a passing-off suit in the Bombay High Court, claiming that the appellant's whisky sold under the name "peter scot" had caused the appellant's goods to be mistaken for those of a Scottish Scotch whisky manufacturer, which is well-known for its products and is commonly referred to as Scotch whisky. The legal procedures were put on hold in light of the rectification action.

Peter Jeffrey Warren, whose father worked for the appellants for a while, provided an affidavit to the respondents in the rectification case. The appellant had received assistance from Mr. Warren and his father, Peter Warren, in setting up their distillery at this time. According to Mr.

⁶⁵ *Himalaya Drug Co v S.B.L Ltd* 2013(53) PTC1

⁶⁶ *Kraft Jacobs Suchard Ltd V Pioneer Bakeries Pvt.,Ltd* PTC (18) 1998

⁶⁷ *Scotch Whisky Association V Khoday Distilleries Ltd. And Anr* AIR 1999 MADRAS 274

Warren's declaration, the trade name Peter Scot may have been created with his father's approval, utilizing his personal name, Peter, and his nationality, Scot. This affidavit's contents were not contested by the appellant. Since they had been using these marks since 1970, the appellant has also contended in the defense that there was a delay and acquiescence in bringing the litigation to a close.

The respondent, the Scotch Whisky Association, has contended that the use of the name "Scot" was likely to cause customers to be misled and confused based on this affidavit and further evidence. Customers were likely to be deceived in these circumstances into believing that the whisky was of Scottish origin because the name "Scot" was used as part of the mark under which it was marketed. It was argued that the majority of Scottish distilleries have the word "Scot" in their names. The appellants contended in their defense that since they had been using this mark since the 1970s, there had been a delay and acquiescence in initiating the action. However, the High Court of Madras Customers were likely to be deceived in these circumstances into believing that the whisky was of Scottish origin because the name "Scot" was used as part of the mark under which it was marketed. It was argued that the majority of Scottish distilleries have the word "Scot" in their names. The appellants contended in their defense that since they had been using this mark since the 1970s, there had been a delay and acquiescence in initiating the action.

DRUG LABORATORIES V. GLAXO INDIA LTD.⁶⁸

According to the Delhi High Court, anyone who has used a non-descriptive, unique, and inventive mark for a long time and continuously in their business has the right to have it protected from infringement by other marks that are either identical or have misleadingly similar appearances and sounds, as well as by artistic work related to its layout, color schemes, or other distinctive features.

MAHINDRA AND MAHINDRA LTD. V. MAHENDRA AND MAHENDRA PAPER MILLS LTD.⁶⁹

this instance, Mahendra & Mahendra Paper Mills Ltd. filed a lawsuit to stop the use of the phrase Mahindra & Mahindra Ltd. Before the Supreme Court, the defendant argued that the products produced or offered for sale by the parties were not comparable. observing that people had grown to identify the name "Mahindra" with a particular caliber of goods and services, and that the term "Mahindra & Mahindra" had taken on a distinct and secondary connotation in the

⁶⁸ *Drug Laboratories v Glaxo India Ltd* 2002VIIAD(DELHI)589, 97(2002)DLT84, 2002(25)PTC105(DEL)

⁶⁹ *Mahindra And Mahindra Ltd v Mahendra paper Mills Ltd.*(2002) 2SCC147

business and commerce circles. According to the Supreme Court, any attempt by someone else to use that name in commercial and trade circles is probably going to result in an. In this instance, Mahendra & Mahendra Paper Mills Ltd. filed a lawsuit to stop the use of the phrase Mahindra & Mahindra Ltd.

*SAROJ OIL INDUSTRY 201 V. GEEPEE CEVAL PROTEINS AND INVESTMENT PVT. LTD.*⁷⁰

In a passing-off action lawsuit, the plaintiff has applied for an ad-interim injunction to prevent the defendants from producing, marketing, or selling edible oil under the trademark "CHAMBAL" or any other trademark or packaging material that would constitute passing off the plaintiffs' trademark or implying association with the plaintiffs. 'Chambal' is a geographical name, and if its distinctiveness is shown, a geographical name can be registered as a trademark, the plaintiffs contend.

The lawsuit aims to pass off the defendant's products made under the "Chambal Deep" moniker as the plaintiff's products made and marketed under the "Chambal" trademark. This is not an instance of a registered trademark being violated. Both the plaintiff's and the defendant's petitions to register their respective trademarks, "Chambal" and "Chambal Deep," are still pending. 'Chambal' is the trademark that the plaintiffs claim it has been using since 1997 to sell its edible oil products. Additionally, it cited sales turnover numbers from 1997 to 2002, which demonstrated a significant growth in sales turnover from Rs. 113 crores in 1997–1998 to Rs. 240 crores in 2001–2002. Additionally, the plaintiff stated the sum. This is not an instance of a registered trademark being violated. Both the plaintiff's and the defendant's petitions to register their respective trademarks, "Chambal" and "Chambal Deep," are still pending.

COMMISSIONER OF INCOME TAX 202 V. KANCHIPURAM SILK.⁷¹

In this instance, the Kanchipuram Silk Cooperative Society filed a writ petition under Article 226 of the Indian Constitution in opposition to the Commissioner of Income Tax's order, requesting a prayer to overturn the earlier ruling. The marketing of silk sarees made by its members is the cooperative society's business. However, the Income Tax Department has declared that the petitioner was not eligible to get the exemption under section 80 P(2) of the Income Tax Act in 1991. Within three months, the court has sent the case to the Commissioner of Income Tax for a de novo consideration and to issue decisions in accordance with the law. In this instance, the Kanchipuram Silk Cooperative Society filed a writ petition under Article

⁷⁰ *Saroj Oil Industry v Geepee Ceval Proteins And Investment Pvt. Ltd* (2003) SCC Del 534

⁷¹ *Commissioner of Income Tax V Kanchipuram Silk Cites* 10, Cited by 0

226 of the Indian Constitution in opposition to the Commissioner of Income Tax's order, requesting a prayer to overturn the earlier ruling. The marketing of silk sarees made by its members is the cooperative society's business.

*NEW BIKANERWALA203 V. BIKANERVALA*⁷²

The terms Bikanerwala and New Bikanerwala were in disagreement in this instance. A well-known city in Rajasthan, Bikaner is known for producing a specific kind of food item that is suitable for human consumption. Because of its special nature, it stands out from the others. The plaintiff, Bikanerwala, is a partnership business that produces and sells culinary items for people, such as namkeens and sweets. An interim injunction prohibiting the use of the name or mark "Bikanerwala" has been granted by the court.

*GOLDEN BOTTLING LIMITED V. THE SCOTCH WHISKY ASSOCIATION.*⁷³

The plaintiff in this instance, the Scotch Whisky Association, has sued for a permanent injunction and requested damages of Rs. 5 lakh. Under the description "Red Scot" or any other term that contains the word "scot," the plaintiff has been successful in obtaining restraining. This is because the term "Red Scot" suggests that the whiskey is Scotch. The plaintiff further contended that the term "scot" or "scotch" is one of the geographical indications of a product that is manufactured in Scotland in accordance with Article 22.1 of the TRIPS Agreement. However, the defendant makes no appearance, suggesting that they have no problem dropping the word. The plaintiff in this instance, the Scotch Whisky Association, has sued for a permanent injunction and requested damages of Rs. 5 lakh. Under the description "Red Scot" or any other term that contains the word "scot," the plaintiff has been successful in obtaining restraining.

But for an unclear reason, the defendant once more started referring to the whisky it produced and marketed as "Scot." The Delhi High Court allowed the plaintiff a suit under section 67 of the GI Act for a perpetual injunction and Rs. 5 lakhs in damages in light of the aforementioned claims. Additionally, it demanded that the defendant pay Rs. 3,10,000 in legal costs. The plaintiffs in this case argued that the defendants were violating their GI tag by selling the whisky under the moniker "Red Scot" when the "Scotch Whisky" had a GI tag.

*ASIAN MILLS PVT. LTD. HI- TECH PIPES LTD.*⁷⁴

The Delhi High Court has clarified in this case that even though a geographical name or word indicating geographical origin is not inherently unique, it may be eligible for registration if

⁷² *New Bikanerwal V Bikanerwala* 2005 (30) PTC11Q (DEL)

⁷³ *Golden Bottling Limited V The Scotch Whisky Association* 129 (2006) DLT 423, 2006 (32) PTC 656 (DEL)

⁷⁴ *Asian Millis Pvt. Ltd Hi- Tech Pipes Ltd* IA 6198 OF 2002, 8461 of 202, CS (OS) 1175 of 2002

there is proof that the word has acquired distinctive character through use as a trademark in connection with specific goods or services. In that case, it would be considered a geographical indication and would not be usable. As a result, "Kolhapuri" can be used for perfume but not for chappal.

*RAJESH CHOPRA AND ORS PFIZER PRODUCTS INC.*⁷⁵

Despite the delay, the court in this case granted an injunction. The court further held that essential elements of estoppels are lacking when an infringement is willful and intentional and the defendant commits fraud knowing that he is violating the plaintiff's rights. In such a situation, the plaintiff's rights are never properly denied protection by injunctive relief. The main purpose of the estoppels doctrine is to encourage honest business practices.

*BENARASI KOTHI V PRIYA GOPAL BISHOYI SAREES PVT. ALIAS: PRIYA GOPAL*⁷⁶

The plaintiff in this action has been utilizing the "Priya Gopal" or "Priya Gopal Bishoyi" trademarks for over a century, and the textile industry, especially the production and retailing of sarees, is familiar with them. Additionally, the defendant was using these marks to manage its business. According to the Calcutta High Court, the defendant will not be allowed to use the marks "Priya Gopal" or any other mark that contains the words "Priya Gopal" in an attempt to pass off its business. Additionally, the Court has noted that such an injunction ruling will take effect two weeks after the date Alias: Priya Gopal 207 The plaintiff in this action has been utilizing the "Priya Gopal" or "Priya Gopal Bishoyi" trademarks for over a century, and the textile industry, especially the production and retailing of sarees, is familiar with them.

*TEA BOARD VS ITC LIMITED*⁷⁷

This case was a dispute in regarding the word "DARJEELING" between the Tea Board of India and the ITC Limited. The Tea Board asserts exclusively over "Darjeeling" and ITC maintains that there is more to "Darjeeling" than the tea is grown there. The appellant argued that, by using the name and logo "DARJEELING" of the original geographical indication in any manner whatsoever and passing off or by attempting to pass off its business or services so as to discredit the fame of the DARJEELING Tea as a geographical indication. Thus misleading the people into believing that the nature of the beverages sold at ITC Sonar is same as that of the original DARJEELING Tea. Hence, by using the name or logo of the

The respondent must refute all of the appellant's claims, claiming that ITC never intended to

⁷⁵ *Rajesh Chopra And Ors Pfizer Products* MIPR 2007 (7) 323, 2007 (35) PTC59 (DEL)

⁷⁶ *Benarasi Kothiv Priya Gopal Bishayj Sarees Pvt. ALIAS: Priya Gopal* Cites 1, Cited by 0

⁷⁷ *Tea Board V ITC limited* GA NO. 3137 of 2010

harm or exploit the appellant's good name or reputation. According to the Calcutta High Court, the use of the term "DARJEELING" for a lounge does not make it difficult for someone of average intelligence to distinguish between the already-existing Darjeeling tea and the lounge DARJEELING. Additionally, it does not imply that any confusion may arise regarding whether any food or drink items served in the lounge are owned by the Tea Board of India. The ruling had intriguing implications for India's GI industry, as the High Court of Calcutta ruled that According to the Calcutta High Court, the use of the term "DARJEELING" for a lounge does not make it difficult for someone of average intelligence to distinguish between the already-existing Darjeeling tea and the lounge DARJEELING. Additionally, it does not imply that any confusion may arise regarding whether any food or drink items served in the lounge are owned by the Tea Board of India. The respondent must refute all of the appellant's claims, claiming that ITC never intended to harm or exploit the appellant's good name or reputation.

The court ruled in favor of the ITC Sonar hotel in Kolkata and its Darjeeling Lounge. While the domestic GI protection issue is somewhat controllable, the international GI protection situation is more difficult to handle. Regarding dilution, the term "Darjeeling" was widely used in business and trade circles for many years before to the passage of the GI Act. The distinctiveness of a mark is protected in dilution by blurring situations, even where there is no chance of mistake.

*BHARAT MOHAN INDUSTRIES V. ASSISTANT DIRECTOR OF TEXTILES DEPARTMENT ON APRIL 19, 2017.*⁷⁸

The Assistant Director of the Textiles Department submitted a police report alleging that the garment manufacturer Bharat Mohan Industries, located in Rajasthan, had violated the Geographical Indications (Registration and Protection) Act, 1999. Due to their regional indication tag, the Sambalpuri Bandha Sarees are prohibited from being replicated. According to the Assistant Director, Bharat Mohan Industries has been selling counterfeit printed Sambalpuri sarees in the market and copying the Sambalpuri saree design. The Bargarh bazaar also sells these imitation sarees. Given the aforementioned, the Bargarh police have filed a formal investigation under the name Bharat Mohan Industries.

Additionally, samples of the original handloom and power loom sarees were sent to the Chennai office of the Assistant Registrar of Trademarks and Geographical Indications for a review, and the police have filed a complaint under section 39 of the Geographical Indications Act. Following notification from the Assistant Registrar, police will take additional measures.

⁷⁸ A [Bharat Mohan Industries V Assistant Director of Textiles Department Cites 14, Cited by 0](#)

Today, the system of socio-economic and legal justice has been passed down to most developing nations, especially India. Geographical indications have significant socioeconomic and legal ramifications. All nations benefit from their ability to identify local, regional, national, and commercial qualities.

Geographical Indications (GIs) are distinguishing markers that identify goods as coming from a certain region and attribute to that region their reputation, quality, or other attributes. Although Tamil Nadu has several products having GI status, there aren't many specific court cases that deal with these products specifically. Nonetheless, the protection, infringement, and interpretation of GIs have been the subject of numerous significant cases in India. The following are thorough explanations of noteworthy cases: India's Historic GI Cases

The Scotch Whisky Association V. Khoday Distilleries Limited (2008):⁷⁹

'Scotch Whisky' was protected as a GI in this case before the Madras High Court. The Scotch Whisky Association argued that Khoday Distilleries' use of the term "Scotch" for its liquor goods could deceive customers. By highlighting the fact that only whisky made in Scotland under particular circumstances could be referred to as "Scotch Whisky," the court decided in favor of protecting GI.

*ITC Limited V. The Tea Board, India (2011)*⁸⁰

ITC Limited was sued by the Tea Board of India for using the name "Darjeeling Lounge" for one of its venues. The Board maintained that the usage of "Darjeeling" in unrelated services should not diminish its protected geographical indication for tea. The use of "Darjeeling" in a lounge name did not deceive customers into thinking it was connected to Darjeeling tea, according to the Calcutta High Court's decision in favor of ITC.

Basmati Rice Case:⁸¹

Because basmati rice is widely grown in both India and Pakistan, the registration of "Basmati" as a GI was questioned. Determining the term's geographic bounds was at the heart of the case. To make sure that the GI protection was not abused, the Supreme Court ordered the Madras High Court to consider petitions pertaining to the over-inclusion of specific locations.

Pochampally Ikat Case:

In this case, a traditional handwoven textile from Telangana called "Pochampally Ikat" was

⁷⁹ *The Scotch Whisky Association V. Khoday Distilleries Limited*, AIR 1999 MADRAS 274

⁸⁰ *ITC Limited V. The Tea Board, India (2011)* GA NO : 3137 of 2010

⁸¹ *Basmati Rice Case* CUSPTU Patent No: 5,663,484(1,5,17)

produced illegally. To market fabrics that looked similar, several makers outside the designated GI zone started using the word "Pochampally Ikat." According to the Intellectual Property Appellate Board, the GI designation could only be applied to authentic goods produced using traditional methods in the Pochampally district.

Kolhapuri Chappal Case (2019):

In this significant case, artisans from Maharashtra and Karnataka were jointly granted the GI tag for Kolhapuri Chappals. The question of whether only Maharashtra artisans should be granted the GI designation came up. The case supported a joint GI registration and emphasized the value of maintaining traditional craftsmanship across several regions.

*Radico Khaitan Limited V. Nakshatra Distilleries & Breweries Ltd. (2018)*⁸²

This lawsuit concerned the Goan spirit "Feni's" GI status. Radico Khaitan contested "Feni's" status as a GI product, claiming that comparable spirits were made in other places. The Intellectual Property Appellate Board acknowledged the historical and geographical uniqueness of Feni and decided to preserve its GI status.

State Of Rajasthan V. Automobile Transport (Rajasthan) Ltd. (1962):

This decision addressed geographic classification and location-based legal distinctions, even though it had nothing to do with GIs specifically. According to the Supreme Court, legislation that apply to a particular region must be supported by logical distinctions

*Maneka Gandhi V. Union of India (1978):*⁸³

This case was used in later discussions on geographical limitations, especially those pertaining to GIs, but it mostly concerned with personal liberty. Later decisions pertaining to GI enforcement were impacted by the Supreme Court's view of geographic constraints.

*The Supreme Court Decision State Of Kerala V. The Very Rev. Mother Provincial (1970)*⁸⁴

Addressed the interpretation of legislation pertaining to particular geographical regions. This case has been referenced in instances involving GI to highlight the significance of geographic distinctions in legal safeguards

Jindal Stainless Ltd. V. State Of Haryana (2016):

⁸² *Radico Khaitan Limited V. Nakshatra Distilleries & Breweries Ltd*, Cites 17, Cited by 0

⁸³ *Maneka Gandhi V. Union of India*, 1978 AIR 597, 1978 SCR(2) 621.

⁸⁴ **The Supreme Court Decision State Of Kerala V. The Very Rev. Mother Provincial**

⁸⁴ *The Supreme Court Decision State Of Kerala V. The Very Rev. Mother Provincial*, 1970 AIR 2079, 1971

This case dealt with interstate trade limitations, which indirectly affect GIs. It reaffirmed how crucial it is to define trade restrictions using equitable regional classifications, which may be important in GI disputes. Conflicts over GI in Tamil Nadu

The Dispute Over Navara Rice:

Both Kerala and Tamil Nadu asserted that it was a GI product. The main point of contention was whether one state could be solely responsible for the rice's unique characteristics and farming history. The case highlighted how difficult it is to define GIs for agricultural items grown in several different states.

The Madurai Malli (Jasmine) Dispute:

This case started when growers in Madurai's neighboring areas wanted to be included under the "Madurai Malli" GI tag. The case made clear how important it is to strike a balance between economic inclusivity and regional exclusivity for farmers growing comparable goods.

Kanchipuram Silk Saree Controversy⁸⁵:

It was alleged that vendors from outside Kanchipuram misrepresented their silk sarees as "Kanchipuram Silk," confusing consumers. To stop abuse and guarantee that only sarees made in Kanchipuram using traditional techniques had the GI designation, legal action was taken.

Thanjavur Art Plate Instance:

In this instance, fake art plates were made by craftspeople outside of Thanjavur and marketed as genuine. To combat the creation of counterfeit goods, legal action was taken, highlighting the importance of rigorous GI enforcement.

Dindigul Locks Imitation Issue:

Unauthorized producers from outside the area competed with Dindigul's established lock-making sector. Enforcement actions were taken as a result of the case in order to stop counterfeiting and maintain Dindigul Locks' legitimacy under GI protection.

Kovilpatti Kadalai Mittai Branding Conflict:

This conflict started when outside Kovilpatti makers sold identical peanut candies under the same label. The case reaffirmed how crucial it is to stop deceptive branding and GI dilution

Thanjavur Veena Imitation Case:

Traditional veena producers' incomes were impacted when artisans from outside Tamil Nadu began producing and marketing copies of the Thanjavur Veena. To safeguard the GI status and

Erode Turmeric Case⁸⁶

⁸⁵ *Kanchipuram Silk Saree Controversy*, (1994) 491 TD453 (MAD) (1) 734

⁸⁶ *Erode Turmeric Case*, US Patent No: 5401504

Farmers from outside the Erode region attempted to benefit from the GI tag by labeling their turmeric as 'Erode Turmeric.' The case reinforced the necessity of verifying the geographical origin before allowing GI claims.

*Thirubuvanam Silk Saree Dispute:*⁸⁷

Similar to the Kanchipuram Silk Saree issue, this case involved silksarees produced outside Thirubuvanam being marketed as genuine GI products. Legal steps were taken to protect traditional weavers, maintain the exclusivity of the GI tag.²⁰ Chettinad Cotton Saree Conflict: Unauthorized production of Chettinad cotton sarees in other states led to market dilution. Legal challenges were initiated to uphold the GI integrity, protect the original artisans. These cases highlight the challenges in enforcing GI protections, the importance of legal frameworks, the need for constant vigilance against misuse. Strengthening awareness and enforcement measures is crucial for preserving the heritage, authenticity of GI products.

CHAPTER V- LEGAL AND SOCIO-ECONOMIC STATUS OF GEOGRAPHY INDICATIONS

Geographical indications are used to identify the significant role that the product's quality, reputation, climatic conditions, and geographic location play. Geographical indicators must serve a number of legal and socioeconomic purposes. These roles were related to how consumers perceive and how producers employ geographical indications. A few key questions are necessary to comprehend the legal and socioeconomic standing of GI tags. They are as follows:

SOCIO – ECONOMIC FACTORS

Geographical indications (GIs) have frequently taken center stage in both bilateral and multilateral trade discussions during the past 20 years. At the World Trade Organization's (WTO) Council of Trade-Related Aspects of Intellectual Property Rights (TRIPS), the European Union (EU) and other developing nations have demanded that products other than wines and spirits be given greater protection. They contend that this kind of protection via GIs can guarantee greater economic returns, support rural socioeconomic development, and aid in localizing economic control.²¹⁴ Wines and spirits are among the many products that are

⁸⁷ *Thirubuvanam Silk Saree Dispute*, (1992) 2m LJ260

protected under India's Geographic Indications of Goods (Registration and Protection) Act. There is discussion of the locations of geographical indications under the different headings.

The Institutions of Geographic Indications⁸⁸

Institutions are any long-standing practices, laws, regulations, etc. that provide a structure for specific activity. In addition to establishing laws, rules, and customs, institutions also keep an eye on how those laws, rules, and customs are being applied. Institutions such as property rights, codes of conduct and conventions, and laws and regulations are crucial to the successful operation of markets. They have influenced the trends of technical progress and scientific advancement throughout history.

Products with geographic indications are an advantage of intellectual property rights. It is not required that they be established in a certain way in order to regulate and safeguard intellectual property. To govern intellectual property, however, an organization must be necessary. For example, the Ministry of Science and Technology of the Government of India has a program that addresses intellectual property rights issues by establishing an IPR Cell in each Indian university.

Geographical indications are institutions that cover a variety of topics, the most basic of which are, of course, the laws and how they are applied. There are essentially two categories of legal regulations. In the first place, nations make sure that their own geographical indications are sufficiently protected at the national level, and in the second place, all geographical indications are effectively protected at the international level. This is due to the fact that in a globalized economy where goods continue to travel across national borders, national laws that only apply to one nation are insufficient. Given that different nations have different definitions of geographical indications and tools for implementing them, the latter kind of laws is more complicated.

In addition to legal institutions, social capital is also fostered by spatial signals. One of the most important factors for increasing productivity and adding value to the economic system is social capital, which is defined as the social contracts between economic players. Community-based institutional arrangements that support the preservation and replication of natural capital might be referred to as social capital. In essence, it is a form of community capital built on trust. In the case of geographical indication products, social capital is essential for enhancing the natural and human capital ingrained in the production process. Building trust among producers is

⁸⁸ Geographical Indications <https://www.wipo.int/en/web/geographical-indications> Last visited on (2-1-2024)

another benefit of traditional knowledge. However, because they require fewer forms, these informal, trust-based institutions frequently fulfill a more important role than official ones.

Rural Development and Geographic Indications⁸⁹

For producers in emerging nations, the products pertaining to geographical indications have important ramifications. However, the majority of these goods are traditional and have long been made by rural populations. These traditional products' primary significance lies in their connection to community involvement. Such traditional pursuits provide a living for a large number of individuals in developing nations.

Product categories like artisanal, handicraft, fishery, and agricultural goods are typically highlighted by geographical markers. These producers or manufacturers of the geographical indicators have a largely pro-poor background. On the other hand, wealthy individuals typically benefit from other forms of intellectual property rights, such as patents and trademarks. Increased employment possibilities and a decrease in poverty are influenced by geographic indicators. The geographical indications can thus play a major role in advancing human development. The area economy and local producers stand to gain from a few fundamental geographical indication principles. These are

- (i) Geographic indications are not allowed to be generic, therefore marketing expenses are only required to connect consumers with the products; Geographic indications are a communal, not an individual, right. As a result, the entire community benefits, which boosts the local economy; and
- (ii) geographic indications are just acknowledged rather than generated. By involving rural farmers on their farms, geographic indication certificates help the impoverished in rural regions become less vulnerable to poverty, which in turn lessens the number of people moving from rural to urban areas.

Nonetheless, there are two approaches to classify the evolution of geographical indications:⁹⁰

- (i) The environment in which the geographical indication goods were developed may have contributed to their quality and characteristics;
- (ii) the popularity of the goods helps to develop the tourism industry by establishing a reputation for the particular geographic region or locality.

⁸⁹ Social Capital and Economic Development: Toward a Theoretical Synthesis and Policy Framework <https://www.jstor.org/stable/657866?seq=1> (last visited on 22-1-2024)

⁹⁰ All About Geographical Indication <https://blog.ipleaders.in/geographic-indication-law-in-india/> (Last visited on 28-2-2025)

Geographical indicators fulfill numerous vital roles with significant economic ramifications. In the first place, geographical indicators function as source identifiers by designating products as being from a specific region, locality, or territory. Second, geographical indications are used as quality indicators because they let customers know that a product is from a place where its reputation, quality, or other attributes are mostly due to its geographic origin.

Finally, by promoting local products, geographical indications serve significant commercial interests. Geographical names frequently take on a secondary meaning that indicates not only the location of manufacturing or production but also the name of the manufacturer or producer and the quality of the product. This gives the owner the ability to claim the exclusive right to use the name against anyone who does not operate within the same geographic boundaries, as well as against them if the name is used fraudulently to deceive consumers about the true origin of the product or to pass off one person's productions as another's. Place names that are used in their typical meaning are not subject to unfair competition; rather, it applies to names that are used in an exceptional way, such as when someone has gained a particular right or property. Users gain these rights through association.

It is sufficient that the user is among those who were aware of the complainants' business or commodities at the time the action was filed; it is not necessary for this awareness to be universal. People who operate in locations other than those that bear the name they use on their products are not allowed to use this geographical name as a brand or label. This is because doing so would be considered fraud and false representation, as well as stealing the goodwill that another company has developed under this name through years of hard work, skill, and generous capital use.

Since communication and distinctiveness are key components of trademark function and policy, it is not surprising that cultural orientation has been demonstrated⁹¹ to affect attitudes and behavior toward manufacturer efforts to differentiate their products and communicate their uniqueness. While collectivist cultures emphasize relationships, individualistic societies are typically driven by personal preferences and embrace differentiation. Even people in social settings are impacted by other people's tastes. Customers' reactions to symbols and, eventually, their decisions to purchase a product—not just for the product itself, but also for the symbol itself—are influenced by their cultural orientation.

⁹¹ TRADEMARK AS A MEANS OF COMMUNICATION
https://www.researchgate.net/publication/352427192_TRADEMARK_AS_A_MEANS_OF_COMMUNICATION
[ON](#) (last visited on 30-2-2025)

However, in societies where brands are more likely to be seen as conveying information about the product and how it fits into the social context, a geographical mark plays a crucial role in the decision to buy because the consumer associates the origin with a particular meaning. The symbol by itself does not adequately convey information about the product in certain cultural situations. For several significant reasons, the measuring of consumer perception (and hence the possibility of confusion) for GIs is challenging. First, the alarmingly low level of geographical knowledge and awareness in India is not a laughing topic for GI proponents, even though it is the subject of caricatures. When it comes to treating GIs as trademarks, this presents a bit of a conundrum. If customers are unaware of the goods and mistakenly associate them with them, this supports the conclusion that the mark is protected. The opposite is true if customers really produce the items or location of association. The mark will probably be considered primarily a geographic mark and not protected under secondary meaning if the other characteristics are also present.

Because their quality cannot be assessed before to use, agricultural products—which are most suited for geographical indications—are referred to as "experience goods." Experience goods face the issue of "adverse selection," in which low-quality items push high-quality products out of the market due to asymmetric knowledge between customers and suppliers. This is an example of a typical market failure that frequently calls for some form of government intervention. In this situation, giving consumers more precise information about the product's features would be a reasonable government intervention to help them make better purchasing decisions.

In this sense, a geographical indication can serve as a crucial market signaling tool to guarantee product quality and so lessen the level of information asymmetry among merchants. Geographical markers are becoming more and more recognized as useful instruments for attaining product differentiation.⁹² They can also boost economic efficiency by giving producers incentives to supply the market with the right kind of goods. These measures can also offer efficient ways to preserve regional cultural heritage, since geographical indicators give local people the sole right to use their native products. In addition to generating more output, revenue, and jobs, the growth of regional cultural industries through geographic indications also improves the region's reputation and identity.

Because a region's uniqueness and specialization serve as a source of competitiveness in the

⁹² Socioeconomic Implications of Protecting Geographical Indications in India, https://wtocentre.iift.ac.in/papers/Gi_Paper_CWS_August%2009_Revised.pdf (Last Visited on 21-3-25)

post-Fordist period, when mass marketing is giving way to more focused marketing, a geographical indication in this sense symbolizes post-fordism in a spatial dimension. In order to qualify for geographical indication, producers and processors must form a cohesive alliance within a strictly defined geographic area. Producers and processors ought to be set up as separate legal entities. When determining whether to issue a geographical designation, three important factors are taken into consideration. First, the product's quality needs to be well recognized. To confirm the product's fame, applicants must provide documentary proof. These resources could include award-winning records, news pieces, or historical information from old documents or testimonies.

Secondly, the region's product needs to be distinct from similar items from other locations. Objective data, like as information on the product's components, is necessary for product differentiation. Third, the product's reputation or other attributes must come from the unique people and geographic qualities of the area. Stated differently, the product should be greatly influenced by human variables like distinctive production techniques or regional geographical characteristics like soil, climate, and topography. Because the territory next to the sea and the area beneath the mountain may have different geographical characteristics, even within the same administrative district, the regional and administrative divisions for the geographical indicator may not always match. As a result, applicants must specify the geographical indication region themselves.

The Producers and the Geographical Indications⁹³

In one way or another, geographic indications serve to safeguard a producer's interest in setting his goods apart from competitors'. The manufacturer must use a product's quality and goodwill to set his goods apart from those of others. The tool that producers use to give their products a new or additional meaning of identification is geographic indication. These goods may become more marketable in such a scenario. However, disagreements have emerged among producers over the scope of geographical indicator protection. Regarding this, Josling believes that Producer organizations are the ardent supporters of the GI registration system, and disagreements typically arise between these groups, whether they are "old world" or "new world" producers, domestic and foreign farmers, or large and small businesses. In exchange for obtaining legal protection against rivals, GIs grant a certain amount of market power and the corresponding rents. It is a significant shift for businesses, or groups of businesses, to move

⁹³ Geographical Indications, <https://www.wipo.int/en/web/geographical-indications> (Last Visited on 23-1-2025)

from the level plains of perfect competition to the foothills of monopolistic competition.

Farmers become active market participants through product differentiation, where they must take customer preferences and unmet demands into account. However, connections with the processors and supermarkets on the mountain tops of oligopoly markets, who have greater market power, can also be strengthened at the same time. It is probably more profitable to be a part of a food chain as a source of a specialized product than to supply a wholesale market with undifferentiated raw materials.

Zago and Pick claim that where there are significant quality disparities and incomplete information, the influence of regional indicators on producers also improves wellbeing. Similar to trademarks, GIs serve as commercial assets for the companies and organizations they belong to, serving as a means of identifying reputation and quality.²²⁰ A community of producers is granted the collective right to use the geographic indication (GI) label while producing their commodities. A registered proprietor of a geographical indication is defined as "any association of persons or producers or any organization for the time being entered in the register as proprietor of the geographical indication" in Section 2(n) of the GI Act.

According to Section 11 (1), "any association of persons or any organization"⁹⁴ or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication in relation to such goods" must submit the application for GI designation to the Registrar. According to Rule 32(5) of the Geographical Indications of Goods Rules, 2002, a declaration detailing the manufacturers of the goods in question that are being requested for registration must be presented. Notably, the rule only mentions "producers" and does not account for a scenario in which the good is produced by a single person. This is required by Rule 32(6)(a). The legislature's aim is further clarified by the provision of Rule 32(6)(a). The applicant must provide an affidavit explaining "how the applicant claims to represent the interest of the association of persons or producers" in accordance with this rule. The association of individuals, organization, or authority representing the producers' interests must also disclose its complete name and address, under Rule 32(6)(f). The main justification for establishing a system for GIs is to help indigenous producer groups preserve their cultural customs and traditional knowledge.

⁹⁴ Labeling Policies in Food Markets: Private Incentives, Public Intervention, and Welfare Effects https://www.researchgate.net/publication/23942540_Labeling_Policies_in_Food_Markets_Private_Incentives_Public_Intervention_and_Welfare_Effects (Last Visited on 22-1-2025)

Since the majority of GI applicants are farmers, craftspeople, and artisans from lower socioeconomic classes, or an organization that represents them, GI is frequently referred to as the poor man's intellectual property in India. GI can only be applied for by a group of producers or processors, even in other jurisdictions like the European Union. This is due to the fact that the main goal of registering a good as a GI is to guarantee that the financial gains are dispersed equally among all producers in a given geographic area whose goods have comparable qualities and attributes. It doesn't aim to safeguard a single producer's commercial interests in a certain area.

Certain distinctive characteristics of geographic indications are expressly designed to advance community interests. For example, it is an inalienable right, meaning that the authorized user may use the sign but cannot transfer it to another person. If a descriptive trademark can demonstrate that it has taken on a secondary meaning that links it to a specific product or source, it may be eligible for protection. However, using GI tags to establish monopolies is just not acceptable and could give the public the false impression that GIs are also available for solitary producers.

The Consumer Protection and Geographical Indications⁹⁵

The source identifiers, or the precise names of the product's places of origin, are known as geographic indications. In addition to serving as an indicator of the quality, reputation, goodwill, and other distinctive qualities of items that are mostly attributed to the actual place of origin, it assists consumers in identifying the areas of origin of products.

"Consumers understand geographical indications to indicate the origin and quality of products." Many of them have built up significant reputations that dishonest businesspeople could exploit if they are not sufficiently safeguarded. Both legal producers and consumers suffer when unapproved parties misuse geographical indications. The former are tricked into thinking they are purchasing a real product with particular attributes, but instead they are receiving a useless knockoff. The latter suffer since their established reputation for their products is harmed and they lose out on significant revenue.

The market has grown as a result of globalization, giving customers access to a wider range of goods and services. Customers are dealing with a number of issues as a result of the wide range of items on the market. The legitimate producers' and dealers' rights are safeguarded by the

⁹⁵ Labeling Policies in Food Markets: Private Incentives, Public Intervention, and Welfare Effects https://www.researchgate.net/publication/23942540_Labeling_Policies_in_Food_Markets_Private_Incentives_Public_Intervention_and_Welfare_Effects (Last Visited on 16-1-2025)

Geographical Indications against any unlawful usage or product duplication. Consumers have the following interests:

- (i) they should be shielded from the use of misleading, confusing, or deceptive labeling;
- (ii) they should have a wide selection of non-deceptive products and be provided with sufficient information about each product to enable them to make an informed decision.

The registration of items bearing geographical indications is governed by the Indian Geographical Indications of Goods (Registration and Protection) Act. Nonetheless, some items are essential for customers to be aware of. These include:

- (i) when the geographical indication has become a generic name, meaning that the names of those goods have become common names and have lost their original meaning;
- (ii) when using a geographical indication is likely to mislead the public, create confusion, or violate any existing laws;
- (iii) when the geographical indications contain obscene⁹⁶ or disreputable material, or harm any segment of the population, etc.

The Transaction Cost and Geographical Indications

When choosing a product that cannot be tested before use, consumers frequently have to rely on their experience. If the market for such commodities is diverse, the information cost associated with such a good will be higher. In the context of experiential commodities, such as the majority of food items, wines, and spirits, the information's irregularity is vitally important. Therefore, it is evident that spatial markers are important for safeguarding information about these experience commodities. Geographical indications can serve as a crucial market signaling tool to guarantee product quality. Geographical indications might thereby lessen the degree of inconsistency in the information shared among dealers.

In contrast to what is sometimes referred to as perception advertising—that is, influencing the consumer's emotions rather than viewing them as a rational maximizer—the information cost reduction theory must demonstrate sufficient effectiveness in practice. Making ensuring that consumers' perceptions of the brand closely resemble actual ones rather than perceived product features is essential for goods seeking GI protection. Product quality, brand expansion, and search cost reduction are the primary goals of geographical indications. However, the development of trademarks and their legal recognition are the most important factors in the

⁹⁶ THE ECONOMICS OF INTELLECTUAL PROPERTY https://www.wipo.int/export/sites/www/ip-development/en/docs/wo_1012_e.pdf (Last Visited on 21-2-2025)

separation between producer and customer. This distance technique has rapidly expanded for manufactured commodities and, to a lesser extent, agricultural items in the latter half of the 20th century. Because several non-competing producers can split the advertising costs, the registration of geographical indications also supports the rationalization of promotion costs. However, only when the producers are required to deliver uniform products do the costs of promotion not have to be duplicated.

The registered geographical indications system, however, requires the following two requirements:

- (i) adherence to the stringent norms of origin; and
- (ii) stringent product standards.

Using Geographical Indications to Gain Access to Markets⁹⁷

Because they give producers better access to global markets, geographically indicated products are their most important assets. These goods are well-known for their qualities and traits, which enables the manufacturers to sell unique goods. Products' regional identities might provide the manufacturer with a "brand name." The makers are able to identify their products, establish market recognition, and obtain legal protection by using these names. About instance, the government or local manufacturers wish to vehemently preserve their brand names, such as "Darjeeling Tea" or "Sambalpuri Saree," out of concern about infringement or brand dilution. "Geographical indications are much more than just associating a product with a location," says Moran. They serve as a form of territorial intellectual property that allows the industrial and social groups that possess them to safeguard and differentiate their goods. By using them to improve their reputations and sell directly to consumers, small local producers can more successfully compete with big businesses. The process of establishing a GIs and outlining its product characteristics is seen to be essential to more comprehensive strategies of product differentiation and market segmentation in order to command a higher price.

The Geographical Indication Registration Cost-Benefit Analysis

Understanding the true impact of registration was the aim and purpose of the study. The cost-benefit analysis must be examined from both an individual and an aggregate perspective, as was previously said. Examining the extent to which the chosen groups can benefit from the preventive measures is crucial from an individual perspective. If the beneficiaries are able to

⁹⁷ **Geographical indications for craft and industrial products** https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/geographical-indications-craft-and-industrial-products_en (Lasst Visition 23-2-25)

freely complete with their general counterpart or if they are encountering any mismatch issues with the system. The return that needs to be evaluated at the aggregate level is the cost associated with the GI industry.⁹⁸ These conclusions are the result of an inquiry that was carried out after consulting with Odisha's numerous stakeholders.

- Poor residents of rural parts of the state of Odisha make up the majority of the weaver population;
- non-Odisha traders, who are the weavers' masters, provide the capital investment for weaving. According to the consultation, a variety of factors, including labor concerns, raw material availability, and the socioeconomic characteristics of the area, have an impact on the handicraft and textile sectors. They are, nevertheless, somewhat suffering from the negative effects of too liberalized laws and the economy.

The shifting market and economic conditions have caused weavers' or manufacturers' incomes to decline to the point where they are unable to cover their basic expenses. Malnutrition and pervasive poverty within the traditional weaver community even impact them. The weavers' extreme poverty and despair drive them to either commit suicide or experience depression. However, the following industries need to be developed in order to improve the lifestyle of producers or weavers.

Industry and Geographic Indications

The industrial establishment is producing the following noteworthy outcomes

- The "micro, small, and medium entrepreneur sector" comprises a large number of India's registered and prospective GIs.
- Potential GI-related industries are creating job possibilities; GI protection allows them to expand their market and boost return.

The Rural Economy and Geographic Indications⁹⁹

The following points emphasize how more geographically indicated items could boost the rural economy.

- The majority of the state's villages and small towns produce goods under the GIs brand.
- Increasing the income of producers from their original sites or areas could improve the rural

⁹⁸ Geographical Indication: A Potential Tool for brand promotion and Recognition of Indian goods in today's globalized market
https://www.researchgate.net/publication/383383725_Geographical_Indication_A_Potential_Tool_for_brand_promotion_and_Recognition_of_Indian_goods_in_today's_globalized_market (Last Visited on 21-1-2025)

⁹⁹ Spreading the gains from geographical indications: A longitudinal study on the extension of the Prosecco GI
<https://www.sciencedirect.com/science/article/pii/S0743016724001402> (Last Visited on 30-1-2025)

economy.

- Investment is drawn to an assured market

Tourism and Geographic Indications

The tourism and GI industries are impacted by the following significant concerns and effects:

- GIs are distinct items emanating from defined zones.
- The actual process of cultivation or manufacture may draw tourists.
- Tourists are often drawn to handicrafts and handlooms with unique features.
- Visitors to a certain GI may come from a particular geographic origin location.

Geographical Indication's Function in the Jurisprudence of Intellectual Property Law

The nature of intellectual property law is essentially territorial. But the many forms of Intellectual Property Law such as Trademarks, patents, copyright, and other legal protections have led to some degree of substantive law convergence among nations. The Geographical Indications are just as precious and significant as the other types of IT rights. The protection of geographic indications keeps phrases from becoming generic. A subset of intellectual property rights known as "geographic indication" deals with identifying and attributing a product to a particular place.

Because they can be manufactured in a particular geographic area, the geographical indicator products are distinctive. These goods are also well-known due to their superior qualities, such as Champagne or Darjeeling tea. Regarding these products, the quality of the products and the geographic characteristics of the area or region where they are produced or manufactured are the most crucial factors. These goods mostly consist of agricultural commodities like rice, coffee, tea, fruits, cheese, wines, and so forth. Nonetheless, it also encompasses industrial goods and handicrafts like silk clothing adorned with traditional¹⁰⁰ paintings.

The public interest is the justification for issuing geographical indicators. Because it is used to balance conflicting interests in the marketplace, the geographical indication has provided protection. Territoriality is another aspect of geographic indications. In the realm of geographical indicators, the territoriality concept that is linked to the defense of intellectual property rights is also frequently mentioned. IPRs have the authority to grant or refuse legal protection and recognition based on territoriality, taking into account the laws, rules, and regulations that apply in a particular country or territory. In this sense, the laws, rules, and

¹⁰⁰ The labor of terroir and the terroir of labor: Geographical Indication and Darjeeling tea plantations https://www.researchgate.net/publication/257511471_The_labor_of_terroir_and_the_terroir_of_labor_Geographical_Indication_and_Darjeeling_tea_plantations (Last Visited on 4-1-2025)

regulations that apply in a particular country or region also serve as the foundation for the establishment and protection of geographical indications.

The concept that permits a product to have unique features and characteristics has historically served as the foundation for the legal protection of geographical indications. Only local manufacturers are allowed to use this product name exclusively since other producers from outside the area are unable to produce the exact same product. By offering legal protection, the geographical indicator serves to shield producers or manufacturers from unlawful use. The stakeholders benefit from the legal protection by seeing an increase in the product's marketability. Intellectual property rights must be taken into consideration when determining whether a geographical indicator should be recognized in its place of origin.

The fundamental idea behind geographical indications is that a product is associated with a certain location, meaning that a product of the same or comparable type made elsewhere cannot use the same indication. Four general categories can be used to group the reasons for granting intellectual property rights:

- (i) When geographically indicated products are marketed, the manufacturers or producers of those products ought to benefit from some price breaks.
- (ii) People both inside and outside of community's trust items that have acquired international recognition for their preservation of geographical indicators.
- (iii) "Protecting products with geographical indications helps achieve the broader goal of protecting biodiversity, the environment, and sustainable farming methods."
- (iv) Promoting its usage and its significance for development, preventing illegal parties from appropriating it, or avoiding "biopiracy"

Indications of Geography in the Location of Traditional Knowledge

Literature, performances, designs, symbols, names, inventions, scientific discoveries, and creative or scientific works are all sources of traditional knowledge. As old as civilization itself is the conventional knowledge. However, this is not because the knowledge is so old that it can be referred to as "traditional knowledge."¹⁰¹ As a result, it is produced, maintained, and spread within specific groups' cultural traditions. The majority of traditional knowledge is made up of inventions, works of art, and cultural expressions that have been produced or maintained by its

¹⁰¹ Geographical indication tag for agricultural produces: Challenges and methods Geographical indication tag for agricultural produces: Challenges and methods https://www.researchgate.net/publication/382029820_Geographical_indication_tag_for_agricultural_produces_Challenges_and_methods (Last Visited on 31-2-2025)

current owners, who can be characterized as either natural or legal persons with rights, or as people or entire communities.

This traditional knowledge's economic, commercial, and cultural worth to its owners supports and validates a rightful desire for it to be acknowledged as intellectual property. Gathering pertinent genetic materials from nature is part of traditional wisdom. The skill and procedures of conserving such knowledge for future generations complement the work put out to identify genetic resources.

A community's native knowledge traditions are expressed through traditional knowledge. Traditional knowledge encompasses the following topics

- (i) how to protect plants and animals;
- (ii) how to protect minerals and soil
- (iii) how to combine organic and inorganic materials;
- (iv) processes and technologies;
- (v) how to improve personal health;
- (vi) how to preserve social cohesion and social health; and
- (vii) (vii) culture.

"With the emergence of modern biotechnologies, genetic resources have assumed increasing economic, scientific, and commercial value to a wide range of stakeholder," according to the 2000 WIPO Inter-Regional Meeting on Intellectual Property and Traditional Knowledge in Chiang Rai, Thailand. Whether or not it is connected to such resources, traditional knowledge has also garnered a lot of interest from a wider audience. A globalized information culture has simultaneously given new commercial and cultural value to other traditional-based productions, such as folkloric expressions. Geographical indications and traditional knowledge are related in that they are both limited to a certain region or place and have to do with a specific product of a particular kind.

While traditional knowledge reflects local knowledge traditions, geographical indications represent the distinctive geographic origins of a typical product. Both are safeguarded against the accumulation of information in a certain area. In India, some traditional knowledge systems have been given the protection of geographical designation. Some of these items are as follows:

Silk Sare in Kancheepuram

One of Tamil Nadu's certified Geographical Indication products is the Kancheepuram¹⁰² Silk

¹⁰² Traditional knowledge definition, scope and importance, Protection, characteristics, nature and types of traditional knowledge <https://www.slideshare.net/slideshow/traditional-knowledge-definition-scope-and->

Saree. In 2006, this product was registered. The saris used in the saree adds to its beauty and distinguishes it from the others. According to historical records, all of the Kancheepuram monarchs have practiced craftsmanship and silk production since the third century B.C.

Assamese Muga

Silk Another product from the state of Assam that has a Geographical Indication is Muga Silk, which was recognized in 2007. It is the first product from the Northeastern states to be registered as a Geographic Indication. By the seventh century A.D., the Assamese silk industry had achieved its zenith, according to history. Assam tea is the state's most popular export in the modern era, followed by Muga silk

Peppe Malabar¹⁰³

Another product from the Keralan state that has a Geographical Indication is Malabar pepper, which was recognized in 2007. In addition to being used as a spice, pepper offers therapeutic benefits. The strong, spicy, and biting flavor of this pepper makes it special.

The following are some ways where geographic indications and traditional knowledge differ from one another:

- (i) The Geographical Indication indicates the actual place of origin of the goods, whereas the Traditional Knowledge indicates the knowledge derived from literary works, performances, inventions, scientific discoveries, symbols, mark names, designs, and artistic or scientific works;
- (ii) Intangible forms of Traditional Knowledge, such as medical treatment methods, cloth dyeing techniques, folk music, and dances, are not protected by the Geographical Indication;
- (iii) the protection of Geographical Indication has emerged only when the knowledge is linked to a specific geographic area;
- (iv) Only specific categories of traditional knowledge that are connected to intellectual property can be protected by geographic indication;
- (v) Geographical indications are generic and lose all of their value when it comes to protecting traditional knowledge.
- (vi) An outsider producing goods within the protected region is not protected by the Geographical Indication. Traditional knowledge cannot be adequately protected by the

<http://www.whiteblacklegal.co.in/important-protection-characteristics-nature-and-types-of-traditional-knowledge/239908095> (Last Visited on 3-1-2025)

¹⁰³ Malabar pepper https://en.wikipedia.org/wiki/Malabar_pepper (Last Visited on 4-2-2025)

Geographical Indication statute. In order to safeguard their intangible forms of traditional knowledge, various nations have passed sui generis laws. For instance, the Philippines passed the Indigenous Peoples Rights Act, a unique piece of legislation designed to safeguard intangible forms of traditional knowledge. This law's primary goal is to grant indigenous tribes' control over their traditional knowledge. In order to preserve traditional knowledge, Costa Rica has also passed laws like the Biodiversity Law. The rights of indigenous people and local communities are also protected by this statute.

How Trademark Law and Geographical Indications Are Similar and Different Generally speaking,

"Trademarks"¹⁰⁴ refer to any symbol or set of symbols that sets one company's products or services apart from those of another. Geographical indications were protected as collective marks or certification marks under the Trademarks Laws prior to the enactment of any particular legislation protecting them. "Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings from those of other undertakings, shall be capable of constituting a trademark," according to

Article 15.1 of the TRIPS Agreement, which provides a clear definition of both trademarks and geographical indications in another, Article 22.1 of the TRIPS Agreement defines the Geographical Indication. "For the purposes of this Agreement, geographical indications are 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," the statement reads. Geographical indicators are regarded as a component of trademark law in some respects. The two primary components of intellectual property rights are trademarks and geographical indications. Both of these are employed as indicators to indicate the origin of goods or items.

They have a significant economic impact in a globalized economy. They also help to safeguard intangible assets like goodwill, reputation, and standards of excellence. They preserve the cultural identity of a certain nation, region, locale, or territory. In the majority of nations, trademarks and geographical indications are protected for ten years, however they may be renewed for an additional ten years. As a result, in terms of the legal protection of trademarks or geographical indications, they may continue to be protected indefinitely.

¹⁰⁴ Trademark <https://en.wikipedia.org/wiki/Trademark> (Last Visited on 3-3-2025)

First and foremost, customers should be shielded from trademarks and geographical indications that mislead about the true origin of goods or services. Second, the proprietor of the geographical indicator or trademark ought to be shielded from any misunderstandings brought about by other manufacturers or traders. Geographical indications and trademarks serve essentially the same commercial purpose. First, there is goodwill in both geographical indications. They also create and safeguard market identity. Third, both of these serve to shield customers from false information. Geographical indications are nonetheless private rights, just as all other forms of intellectual property, despite this fact. Instead, a number of private individuals involved in the manufacturing of items with geographical indications employ them together.

The following are some ways that trademarks and geographic indications are similar:

- (i) Geographical indications and trademarks both allude to distinguishing symbols.
- (ii) Both serve to distinguish certain producers from others.
- (iii) The source indicator is implied by both trademarks and geographic indications.
- (iv) Both are intended to safeguard intangible assets like market distinction, quality, and reputation.
- (v) The purpose of both of these is to stop unauthorized users.
- (vi) Both of these are meant to express a country's cultural identity.

Difference between GI and TM:

The following are the primary distinctions between a trademark and a geographical indication:

S.no	Trademarks	Geographical indicators
1.	A symbol or set of symbols used to differentiate the products or services of one company from those of another is considered a trademark.	Indications that designate products as being created or manufactured in a specific geographic location, region, or locale are known as geographic indications.
2.	Trademark terms include "GLAXO," "Coca-Cola," "Citibank," "Rolex," and so forth.	Examples of geographical indications are "Basmati Rice," "Darjeeling Tea," "Champagne," and "Tequila."
3.	A trademark solely indicates the product's origin.	In spite of identifying the product's origin, geographic indication also provides information about the product's reputation

		and quality.
4.	The private monopoly rights are known as trademarks. One proprietor may exercise these rights.	The collective public rights are known as geographic indications. There is no one owner of these rights.
5.	Trademark development is solely associated with human ingenuity.	Geography, soil conditions, the environment, human activity, etc. are all factors that influence the development of geographical indicators.
6.	The purpose of trademark protection is to grant the mark's owner an exclusive right.	Every spinner or producer in a given region, city, or nation benefits from the protection of geographical indicators.
7.	When applying with the appropriate domestic body, trademarks are protected internationally.	The lack of a universally applicable law makes it difficult to preserve geographical indications internationally.
8.	A trademark can be owned and transferred by multiple individuals.	A single individual cannot transmit a geographical indication.
9.	It is difficult for a trademark to be universal.	This could happen for a geographical indication to be universal.
10.	A trademark can make rights based on its color characteristics.	Any these features can be claimed by a geographical indicator.
11.	In a trademark case, a misleading geographic indication may be included.	In a geographical indication case, a misleading trademark cannot be included.

Effects of India's Geographical Indication Registration

The status of GI goods and their effects post registration are covered in the following points:

Geographic indications are a significant type of intellectual property rights (IPRs) because they make it easier to safeguard the collective rights of rural and indigenous communities in their indigenous knowledge. They also guarantee that the entire group that has conserved the knowledge will profit from it.

- The knowledge stays in the public domain, which is one of GIs' benefits. Because of the social and legal sectors' lack of sincerity, the rights of GI holders are slow to develop, and the scope of protection is restricted to limiting the class and place of individuals who may use the protected indication.

Encourage the government to establish a "Commission on Intellectual Property Rights" in order to safeguard creators, producers, farmers, and inventors, among others.

- The indication cannot be transferred to non-local manufacturers since the holders of GIs lack the authority to allocate it. The economic flow to future generations is altered by the involvement of many people; GIs may cause many others to be excluded from the benefits; and a survey found that the collective nature of GIs also brings significant action-related problems across different stages of organization and governance.

Advantages of Authorized Users for Registration Based on Geographical Indication Upon registration, you can take use of the following advantages:

- GI offers the registered products legal protection.
- It stops products with GI tags from being used without authorization and starts infringement proceedings.
- It can assist customers in obtaining high-quality goods and guaranteeing their authenticity. By increasing their demand in the domestic and foreign markets, it helps GI tag makers and weavers grow economically and fosters brand development.

Geographical Indications' Terroir

The terroir and the Geographical Indication have long been related. In its strictest definition, "terroir" refers to a limited region or terrain. These regions' terrain, geology, microclimate, vegetation, and other associated elements¹⁰⁵ give a product unique characteristics. The human environment is included in the broader definition of "terroir." Because each region's products are a unique representation of their topography, they differ from one another. "Geographical areas that are alive and innovative, rely on specific physical, biological, and human

¹⁰⁵ The concept of the terroir in viticulture <https://www.researchgate.net/publication/236902064> The concept of terroir in viticulture (Last Visited on 2-1-2025)

environments, as well as on knowledge, skills, and aptitude of people" is another definition of "terroir" provided by UNESCO.

The unique spatial connection between the terroir and the products bearing the geographical indication has historically served as the foundation for the argument supporting the preservation of geographical indications as intellectual property rights. Terroir was established for the French appellation system in the nineteenth century A.D. as a result of the "Phylloxera crisis," which prompted the need for immediate government action. Finally, an authoritative definition of the term 'terroir' was developed in France in 2006 as: Terroir is a delimited geographical area where a human community over the course of history generates and accumulates a collective body of production knowledge based on a system of interactions between biophysical and human factors.

A good that originates in the region in question gains a reputation, demonstrates originality, and confers typicity through the series of socio-technical procedures required. The concept of terroir is the foundation of several laws, international conventions, and agreements pertaining to the protection of geographical indications. Given that modern production techniques allow for the duplication and production of any product anywhere, it appears that many regional indicators would not be protected in the twenty-first century. The purposes of the geographical markers in this case are different from combining the product's origin and quality. The aforementioned research on the socioeconomic and legal status of GI has validated the researcher's hypotheses.

Traditional weavers and makers are the organic development of high-quality crafts and artwork. They have had a major impact on each society's socioeconomic circumstances. Many people in a normal country like India suffer from poverty, illiteracy, and a lack of knowledge about rules, regulations, and intellectual recognition. Therefore, activists must mobilize the law for the traditional makers or weavers in order to realize the goals of justice, liberty, and equality as envisioned by the constitution.

A GI tag associates a product with a certain geographic area and serves as a mark of authenticity and quality. Tamil Nadu's rich cultural legacy is being preserved, local artisans are being supported, and traditional items are being promoted in both domestic and foreign markets thanks in large part to the GI designation. This marking guarantees the product's originality, which stems from its place of origin, in addition to its legitimacy.

A GI TAG:¹⁰⁶

¹⁰⁶ Impact of Geographical Indications on Revitalisation of Local Economy: A Case Study of Darjeeling Tea

A GI tag is a type of intellectual property that safeguards goods based on their place of origin and the attributes or reputation that come with it. Through this certification, the GI tag can only be used to identify a product by those who are able to make it in a particular area. This differentiation is necessary in order to maintain the product's quality, authenticity, and customary behaviors. Enter the legal competence of the future! Enroll in The Legal School's Advanced Certification Program in Intellectual Property Law, developed in partnership with Khaitan & Co. This special training enhances your legal career and is intended for professionals and recent law grads. Don't pass up this chance; reserve your position by enquiring now.

Important GI-Tagged Items in Tamil Nadu

A wide range of products from Tamil Nadu have earned GI tags. The variety is related to historical, cultural, and artisanal types, each of which has a unique heritage and crafting tale. This is a list of Tamil Nadu items with Gi tags: Impact on the Economy and Culture In addition to maintaining the distinctiveness of Tamil Nadu's products, the GI badge is essential for boosting the state's economy. Producers and artists benefit financially from the GI tag's protection of regional workmanship.

SN.NO	GI NAMES	CATEGORY	ORIGIN	DESCRIPTION
1	Salem fabric	Handicraft	Salem	Fine-Quality fabric woven with traditional methods, renowned for its durability and unique texture
2	Kancheepuram silk	Handicraft	Kancheepuram	Rich silk sarees known for vibrant colors and intricate zari work, made with pure mulberry silk.

3	Bhavani jamakkalam	Handicraft	Bhavani	Traditional handwoven carpets with striking geometric patterns, famous for durability and vibrant colors.
4	Madurai sungudi	Handicraft	Madurai	Cotton fabric dyed using a resist-dye technique, creating intricate patterns with vibrant colors.
5	Coimbatore wet grinder	Manufactured	Coimbatore	Durable kitchen appliance for grinding, crucial for south india cuisine, symbolizing Coimbatore's manufacturing excellence.
6	Thanjavur paintings	Handicraft	Thanjavur	Traditional paintings with rich colors, gold foil, and embossing, depicting religious themes.
7	Temple jewellery of	Handicraft	Nagercoil	Exquisite handcrafted

	nagercoil			jewelry, traditionally used in classical dance and temple rituals.
8	Thanjavur art plate	Handicraft	thanjavur	Decorative, plates crafted using copper, silver, and brass, depicting intricate traditional designs.
9	Malabar pepper	Agricultural	Tamil nadu	Premium pepper known for its strong aroma and spicy flavor, cultivated in ideal climatic conditions.
10	East India Leather	Manufactured	Vellore	High-quality leather products, renowned for durability and superior craftsmanship.
11	Salem Silk (Salem Venpattu)	Handicraft	Salem	Traditional silk sarees with elegant designs and luxurious texture, made with pure silk

				threads.
12	Kovai Kora Cotton Sarees	Handicraft	Coimbatore	Light, breezy sarees woven with cotton and silk, featuring checkered patterns.
13	Arani Silk	Handicraft	Arani	Luxurious silk sarees with vibrant colors and intricate designs, representing Tamil Nadu's weaving heritage.
14	Swamimalai Bronze Icons	Handicraft	Swamimalai	Handcrafted bronze sculptures of deities, using the ancient lost-wax casting technique.
15	Eathomozhy Tall Coconut	Agricultural	Eathomozhy	Unique tall-growing coconut variety, prized for its high yield and sweet water.
16	Thanjavur Doll	Handicraft	Thanjavur	Articulated dolls known for their wobbling heads, made with clay or papier-mache

17	Nilgiri	Agricultural	Nilgiris	Premium tea leaves with a distinct aroma and brisk flavor, grown in the nilgiri hills.
18	Virupakshi Hill Banana	Agricultural	Tamil Nadu	Small, flavorful banana variety cultivated in virupakshi hills, known for its sweet taste.
19	Sirumalai Hill Banana	Agricultural	Sirumalai	Rare banana variety with a unique taste and medicinal properties, grown in sirumalai hills.
20	Madurai Malli	Agricultural	Madurai	Fragrant jasmine flowers, are widely used in traditional ceremonies and perfumes.
21	Pattamadai Pai (Pattamadai mat)	Handicraft	Pattamadai	Handwoven mats made from fine korai grass, known for their smooth texture and durability.
22	Nachiarkoil kuthuvilakku (Handicraft	Nachiarkoil	Traditional Brass Lamps with

	Nachiarkoil Lamp)			intricate desings, widely used in religious and ceremonial settings.
23	Chettinad Kottan	Handicraft	Chettinad	Handwoven baskets made from palm leaves, featuring vibrant colors and unique patterns.
24	Toda Embroidery	Handicraft	Nilgiris	Intricate embroidery created by the toda tribe, characterized by red and black geometric patterns.
25	Thanjavur	Handicraft	Thanjavur	Exquisite Stringed musical instruments, crafted with precision and associated with Carnatic music.
26	Swamimali Bronze Icons (Logo)	Handicraft	Swamimali	Bronze sculptures of deities, made using traditional lost-wax casting techniques.

27	Temple Jewellery of Nagercoil (Logo)	Handicraft	Nagercoil	Classic handcraft jewelry designs used in temple rituals and classical dance performances.
28	Mahabalipuram Stone Sculpture	Handicraft	Mahabalipuram	Intricate stone carvings inspired by ancient temple architecture and mythology.
29	Erode Manjal (Erode Turmeric)	Agricultural	Erode	High-curcumin turmeric variety known for its vibrant color and medicinal properties.
30	Thirubuvanam Silk Sarees	Handicraft	Thirubuvanam	Premium silk sarees with zari work, famous for their soft texture and durability.
31	Kodaikanal Malai Poondu	Agricultural	Kodaikanal	Gralic variety with a distinct aroma and high medicinal value, grown in the hills of Kodaikanal.
32	Palani Panchamirtham	Food stuff	Palani	Sacred temple prasad made of jiggery, honey,

				and fruits, known for its rich flavor.
33	Dindigul Locks	Handicraft	Dindigul	Durable and secure locks, traditionally crafted with intricate mechanisms.
34	Kandangi Saree	Handicraft	Chettinad	Vibrant cotton sarees with bold stripes and checks, reflecting traditional chettinad craftsmanship.
35	Srivilliputtur palkova	Food stuff	Srivilliputtur	Sweet delicacy made with rich milk and sugar, popular for its creamy texture.
36	Kovilpatti kadalai Mittai	Food stuff	Kovilpatti	Crunchy peanut candy made with jiggery, crafted using traditional methods.
37	Thanjavur Netti Works	Handicraft	Thanjavur	Intricate decorative items made from pith (netti), showcasing exceptional craftsmanship.

38	Arumbavur Wood Carvings	Handicraft	Arumbavur	Elegant wood carvings of deities and traditional motifs, created with intricate details.
39	Kanniyakumari clove	Agricultural	Kanniyakumari	High-Quality cloves with strong aroma and flavor, cultivated in ideal coastal conditions.
40	Narasinghapettai Nagaswaram	Handicraft	Narasinghapettai	Traditional wind instrument used in classical music, known for its rich tone and quality.
41	Ramnathapuram Mundu Chilli	Agricultural	Ramnathapuram	Spicy chill variety with a distinct flavor, cultivated in the dry regions of ramnathapuram.
42	Vellore spiny Brinjal	Agricultural	Vellore	Unique brinjal variety with a spiny texture and distinct flavor, cultivated in vellore's fertile soil.
43	Myladi Stone	Handicraft	Myladi	Exquisite stone

	Carvings			sculptures featuring intricate designs, showcasing traditional carving techniques.
45	Manapparai Murukku	Food Stuff	Manapparai	Crispy and flavorful snack made with rice flour, known for its unique spiral shape.
46	Ooty varkey	Food Stuff	Ooty	Crunchy, flaky biscuit with rich buttery flavor, a specialty of the nilgiris region.
47	Manamadurai Pottery	Handicraft	Manamadurai	Durable and elegant clay pottery created using traditional techniques and local clay.
48	Thaikkal Rattan Craft	Handicraft	Thaikkal	Handwoven rattan products, including furniture and decor, made with intricate weaving

				patterns.
49	Salem Sago (Javvarisi)	Food stuff	Salem	High-quality sago pearls made from tapioca, used in various Indian dishes.
50	Author Vettilai	Agricultural	Author	Betel leaves with a distinctive aroma and texture, popular for their use in cultural rituals.
51	Cumbum Paneer Thratchai	Agricultural	Cumbum	Sweet table grapes cultivated in cumbum valley, known for their juicy texture and mild aroma.
52	Negamam Cotton Saree	Handicraft	Tamil Nadu	Handwoven cotton sarees with elegant patterns and vibrant colors, representing tamil nadu's weaving heritage
53	Sholavandan Vettilai	Agricultural	Sholavandan	High-quality betel leaves with medicinal properties, valued for their flavor and

				freshness.
54	Marthandam Honey	Handicraft	Marthandam	Pure honey with rich flavor, collected from hives in marthandam's lush landscapes.
55	Jaderi Namakatti	Handicraft	Jaderi	Sacred with clay sticks used for religious purposes, known for their purity.
56	Kanyakumari Matti Banana	Agricultural	Kanyakumari	Banana variety with a unique taste and texture, cultivated in kanyakumari's coastal soil.
57	Chedibutta Saree	Handicraft	Tamil Nadhu	Traditional sarees featuring bold designs and intricate weaving, showcasing tamil nadu's artistic heritage.
58	Udangudi Panangkarupatti	Food Stuff	Udangudi	Traditional palm jaggery with a rich flavor, made using natural methods in udangudi.

Protection of Traditional Knowledge:

By assisting in the preservation of traditional production techniques, GI tags make sure that the skills and knowledge that have been passed down through the generations are not lost or copied. Supporting the Local Economy: This GI-tagged¹⁰⁷ product is now available on a worldwide market, which benefits the local farmers and craftspeople financially. For instance, there is a high demand both domestically and internationally for Coimbatore wet grinders and Kanchipuram silk sarees. Branding & Marketing:

The GI badge improves Tamil Nadu products' reputation and visibility. As a result, it is acknowledged as a symbol of authenticity, quality, and place-specific identity.

Cultural Heritage:

From silk sarees to stone sculptures, GI goods are an integral component of Tamil Nadu's cultural character. These historic art forms will continue to thrive and change without losing their heritage thanks to the GI tag. Obstacles and Opportunities for the Future However, the producers are not benefiting from the GI tag, and its implementation is fraught with difficulties. The process is not well known in some areas, and small-scale manufacturers must complete numerous bureaucratic requirements in order to receive the tag. Additionally, it's possible that goods from other areas may attempt to replicate the designs and techniques, which would eliminate the distinctiveness of Tamil Nadu's GI-tagged goods.

Stronger efforts should be made to train the craftspeople, local authorities should better coordinate with producers, and the GI tag should be imposed to prevent any potential counterfeiting.

Tamil Nadu's GI-tagged products are a stunning representation of the state's rich cultural and artisanal traditions. In addition to being representations of local pride, these goods have enormous potential for both cultural preservation and commercial expansion. Tamil Nadu's traditional craftsmanship will flourish with sustained efforts to preserve and market these goods, adding to the state's legacy and international renown.

ISSUES AND CHALLENGES OF GEOGRAPHICAL INDICATION IN INDIA AND TAMILNADU

1. Introduction to Geographical Indications (GIs)

Geographical Indications (GIs) play a crucial role in preserving the uniqueness of traditional

¹⁰⁷ An Analysis of Geographical Indications in India and Tamil Nadu with Special Reference to Kanchipuram Silk Sarees https://www.researchgate.net/publication/374492838_An_Analysis_of_Geographical_Indications_in_India_and_Tamil_Nadu_with_Special_Reference_to_Kanchipuram_Silk_Sarees (Last Seen on 31-1-2025)

products that originate from specific regions. In India, the Geographical Indications of Goods (Registration and Protection) Act, 1999, provides legal recognition and protection to such products. Tamil Nadu, known for its rich cultural and agricultural heritage, has several GI-tagged products, including Kanchipuram Silk Sarees, Thanjavur Paintings, and Madurai Malli. However, despite the benefits, GI protection faces multiple challenges that hinder its effectiveness.

2. Lack of Awareness Among Producers

A significant challenge in the implementation of GIs is the lack of awareness among local producers, artisans, and farmers. Many traditional communities are unaware of the advantages of GI registration, such as legal protection and increased market value. Without proper knowledge, many potential GI products remain unregistered, leading to their exploitation by large businesses and counterfeiters.

3. Unauthorized Use and Imitation

One of the biggest threats to GI protection in India is the unauthorized use and imitation of registered products. Several counterfeit products are sold under the name of GI-tagged items, misleading consumers. In Tamil Nadu, fake Kanchipuram Silk Sarees and imitation Thanjavur Paintings are common, damaging the reputation and livelihood of genuine artisans.

4. Weak Enforcement Mechanisms

Despite legal frameworks, enforcement of GI rights remains weak in India. Many small producers lack the financial resources and legal expertise to fight against violations. Legal battles over GI infringements can be long and expensive, discouraging small-scale producers from taking legal action. Strengthening enforcement measures is crucial for protecting the authenticity of GI-tagged products.

5. Middlemen Exploitation

GI registration is meant to benefit local communities, but in many cases, middlemen and large traders control the supply chain. Small artisans and farmers often do not receive fair prices for their products, as intermediaries take a large share of the profits. For example, turmeric farmers in Erode have struggled to gain direct access to high-value markets despite the GI recognition of Erode Turmeric.

6. Market Access Challenges

Many GI products, especially those from rural areas, face difficulties in reaching larger markets. Poor infrastructure, lack of direct marketing opportunities, and inadequate branding strategies restrict their visibility. Tamil Nadu's traditional products, such as Arani Silk Sarees and Pollachi Coconuts, have immense potential in national and international markets but

require better promotion and distribution channels.¹⁰⁸

7. Difficulty in Maintaining Quality Standards

For a product to retain its GI status, it must meet strict quality standards. However, maintaining consistency among multiple producers can be challenging. Variations in raw materials, production techniques, and external factors such as climate can affect quality. Tamil Nadu's Nilgiri Tea, for instance, requires careful processing to maintain its distinct aroma and flavor, which is difficult for all producers to achieve uniformly.

8. Limited Financial Support for Producers

Small-scale producers often lack the financial resources needed to upgrade their production processes, packaging, and branding. While some government schemes provide financial assistance, many artisans and farmers are unaware of these benefits or struggle to access them due to bureaucratic hurdles. Increased financial aid and training programs can help GI producers improve product quality and marketability.

9. Lack of International Recognition and Protection

Although India has successfully registered many GI products, gaining international recognition remains a challenge. Many Indian GIs are not protected under global trade agreements, making them vulnerable to counterfeiting in foreign markets. Tamil Nadu's Kanchipuram Silk Sarees, for instance, face competition from cheaper imitations produced in other countries. Strengthening international GI protection is essential to safeguard India's unique products.

10. Impact of Climate Change on GI Products

Climate change poses a significant threat to agricultural GI products. Variations in temperature, rainfall, and soil conditions can impact the yield and quality of crops like Madurai Malli (jasmine) and Virupakshi Hill Banana. Farmers need access to climate-resilient techniques and government support to adapt to changing environmental conditions.

11. Bureaucratic Challenges in GI Registration

The GI registration process in India is time-consuming and involves multiple bureaucratic steps. Many small producers find it difficult to navigate the legal procedures required for obtaining a GI tag. Simplifying the application process and providing technical support to applicants can help more products gain GI recognition.

12. Lack of Consumer Awareness

¹⁰⁸ Kumari Youkta, ISSUES AND CHALLENGES OF GEOGRAPHICAL INDICATION IN INDIA,6IJMR 103(2012)

While GI protection benefits producers, its success also depends on consumer awareness. Many consumers do not understand the significance of GI tags or how to differentiate between authentic and fake products. Awareness campaigns, certification labels, and government initiatives can help educate buyers and promote genuine GI products.

13. Limited Role of Digital and E-Commerce Platforms

The rise of e-commerce provides a valuable opportunity for GI products, but many traditional producers lack access to online platforms. Without digital marketing skills or logistical support, rural artisans struggle to sell their products online. Initiatives to connect GI producers with e-commerce platforms can enhance their market reach and profitability.

14. Role of Government and Policy Recommendations

The government has taken steps to promote GI products, but more structured policies are needed. Support for branding, direct market linkages, and financial assistance can help small producers maximize the benefits of GI registration. Tamil Nadu, with its vast range of GI-tagged products, can benefit from state-led initiatives to promote local artisans and farmers globally.

Despite the challenges, GIs offer immense potential for preserving cultural heritage and boosting rural economies. Addressing issues such as enforcement, quality control, market access, and international recognition is essential to strengthen the GI ecosystem. With improved policies, awareness, and financial support, GI protection can become a powerful tool for empowering traditional producers and enhancing India's global trade presence.

CONCLUSION AND SUGGESTIONS

Geographical Indications (GIs) serve as an essential tool for protecting region-specific products, preserving traditional knowledge, and promoting economic development. This study has explored various aspects of GIs, including their conceptual framework, legal framework at national and international levels, their relationship with Intellectual Property Rights (IPR), socio-economic significance, and the challenges faced in India and Tamil Nadu. Through this analysis, it is evident that while GIs offer immense potential for producers and consumers alike, their full benefits can only be realized through a strong legal framework, effective enforcement, and increased awareness. A holistic approach that combines legal protections, economic support, and awareness programs is necessary to ensure that GIs truly benefit the stakeholders involved.

The conceptual framework of GIs highlights their importance in ensuring the authenticity and quality of products linked to a specific geographical region. GIs provide legal recognition to products with unique characteristics derived from their place of origin, ensuring that traditional methods of production are safeguarded. However, the need for protection arises due to concerns over misappropriation, imitation, and unfair trade practices. Ensuring robust protection through legal frameworks not only preserves the distinctiveness of these products but also provides economic incentives to local producers. Additionally, GIs contribute to fostering consumer trust, allowing them to make informed choices about the origin and quality of the products they purchase.

On a global level, various international agreements govern GIs, including the TRIPS Agreement, the Lisbon Agreement, and the Geneva Act. These frameworks aim to create a standardized approach to GI protection, yet inconsistencies remain in how different countries implement and enforce GI laws. A comparative analysis of legal frameworks in the European Union, the United States, India, and China reveals significant variations in GI protection. While the EU follows a sui generis system offering strong legal recognition, the USA primarily relies on trademark laws, which may not provide the same level of protection. India, with its Geographical Indications of Goods¹⁰⁹ (Registration and Protection) Act, 1999, has taken significant steps to safeguard GIs but still faces enforcement challenges. The effectiveness of a country's GI protection system depends on how well laws are implemented and how effectively authorities can prevent misuse and counterfeiting.

The relationship between GIs and IPR is crucial in understanding how GIs fit into the broader intellectual property system. Unlike patents and trademarks, GIs do not grant exclusive ownership to an individual or a company but rather provide collective rights to communities. However, conflicts often arise between trademarks and GIs, especially when businesses attempt to register regional names as trademarks, leading to legal disputes. Strengthening GI-specific policies while maintaining harmony with other IPR laws is essential to resolving such conflicts. A clear and structured approach to distinguishing GIs from trademarks can help prevent commercial exploitation and ensure that regional producers retain control over their

¹⁰⁹ Geographical Indications Importance In India <https://www.corpseed.com/knowledge-centre/geographical-indications-importance-in-india> (Last Visited on 21-1-2025)

unique products.

From a socio-economic perspective, GIs have the potential to boost rural economies, enhance employment opportunities, and preserve cultural heritage. Products with GI recognition often gain a premium market value, benefiting artisans, farmers, and local businesses. Additionally, GIs contribute to tourism and branding of regions, further strengthening local economies. The unique identity associated with GI-tagged products fosters regional pride and motivates producers to maintain high-quality standards. Despite these benefits, challenges such as lack of awareness, limited financial support, and difficulties in marketing restrict the full realization of GIs' potential. Effective government policies, training programs, and market access initiatives are necessary to maximize these socio-economic advantages. Moreover, collaborations between stakeholders—including government agencies, private enterprises, and producer communities—can further enhance the effectiveness of GI-based economic growth. In the Indian context, several challenges hinder the effective implementation of GI protection. Weak enforcement mechanisms, counterfeit products, and legal complexities pose significant obstacles. Producers, especially in rural areas, often struggle to access markets and receive fair prices for their GI-certified goods. The situation in **Tamil Nadu**, a state with several recognized GIs, reflects similar issues. While Tamil Nadu has a rich heritage of GI products such as Kanchipuram Silk Sarees and Madurai Jasmine, inadequate promotional efforts, market penetration challenges, and competition from imitations undermine their success. Strengthening local institutions, increasing financial support, and promoting GI awareness among producers and consumers are critical to overcoming these hurdles. The role of state governments in facilitating better infrastructure, training, and marketing support is vital to ensuring that GI products from Tamil Nadu gain a competitive edge in both domestic and international markets.

Moving forward, several measures can be adopted to enhance the effectiveness of GI protection. First, there is a need for stronger enforcement mechanisms to prevent counterfeit products from entering markets. Governments must work closely with legal institutions to ensure that GI laws are properly implemented. This includes establishing dedicated regulatory bodies to monitor GI violations and take strict actions against offenders. Second, increasing awareness among producers about the benefits of GIs and providing necessary training in marketing and branding can help them leverage their GI status effectively. This requires workshops, educational programs, and financial incentives to encourage small-scale producers

to register their products under GI laws. Third, international cooperation in harmonizing GI laws can create a more standardized global trade environment, reducing conflicts and ensuring fair competition. Countries need to engage in mutual agreements that recognize and respect each other's GIs to facilitate smoother trade and prevent legal disputes.

Additionally, technological interventions such as blockchain-based traceability systems can help in verifying the authenticity of GI-tagged products, ensuring transparency in supply chains. Government initiatives to promote GI products through e-commerce platforms, fairs, and exhibitions can also play a crucial role in improving market accessibility for GI producers. In conclusion, while GIs offer a promising framework for protecting regional products and boosting local economies, their success depends on a well-structured legal system, strong enforcement, and proactive market strategies. India and Tamil Nadu, in particular, need to address existing challenges by implementing comprehensive policies, fostering producer awareness, and strengthening international collaboration. If these steps are taken, GIs can serve as a powerful tool for sustainable economic growth, cultural preservation, and global trade expansion. The future of GIs lies in striking a balance between legal protection, economic incentives, and community empowerment, ensuring that local producers reap the full benefits of their geographical heritage while contributing to national and international markets.

SUGGESTIONS

Elaborated Suggestions for Strengthening Geographical Indications and IPR

- 1. Stronger Enforcement Mechanisms** – Establish dedicated regulatory bodies and task forces to prevent the production and sale of counterfeit GI products. Enforce strict penalties, including legal action and heavy fines, to deter violations and ensure compliance with GI laws.
- 2. Comprehensive Awareness Campaigns** – Conduct targeted educational programs for producers, traders, and consumers to increase awareness of the significance of GIs. Workshops and training sessions should help local producers understand branding, quality control, and legal protections.
- 3. Financial Support and Incentives** – Provide government grants, subsidies, and low-interest loans to GI-registered producers, particularly small-scale artisans and farmers. This financial assistance can help with marketing, quality improvement, and infrastructure development.

- 4. Global Recognition and Cooperation** – Strengthen international collaborations by negotiating agreements with key trading partners to ensure mutual recognition of GIs. Participation in global trade fairs and exhibitions will also enhance international market access.
- 5. Strategic Marketing Initiatives** – Develop dedicated e-commerce platforms and branding strategies to enhance the visibility of GI products. Government-backed certification marks and official endorsements can further boost consumer confidence and demand.
- 6. Technology-Driven Solutions** – Implement blockchain-based traceability systems to authenticate GI products and ensure transparency in the supply chain. Digital certification methods can prevent fraudulent practices and enhance trust among consumers.
- 7. Stronger Coordination Among Stakeholders** – Encourage collaboration between government agencies, private enterprises, academic institutions, and producer organizations to improve research, policy-making, and market strategies for GIs.
- 8. Research and Innovation** – Promote R&D initiatives to enhance the sustainability, production efficiency, and competitiveness of GI-registered goods. Universities and research institutions can play a key role in developing innovative techniques for traditional product enhancement.
- 9. Export-Focused Policies** – Develop and implement policies that facilitate the export of GI products by streamlining certification processes, reducing trade barriers, and offering tax incentives to GI exporters.
- 10. Effective Dispute Resolution Mechanisms** – Strengthen legal frameworks to address conflicts between trademarks and GIs efficiently. Special tribunals or fast-track courts should handle disputes related to GI misuse to ensure quick and fair resolutions.
- 11. Preservation and Promotion of Traditional Handicrafts and Agricultural Products** – Tamil Nadu has a rich heritage of GI-tagged products such as Kanchipuram Silk Sarees, Madurai Malli (jasmine), and Thanjavur Paintings. To protect these products, the state government should establish specialized training centers to educate artisans and farmers on sustainable practices and modern techniques to enhance production while maintaining traditional quality standards.
- 12. Enhanced Financial Assistance for GI Producers** – Many small-scale artisans and farmers in Tamil Nadu lack financial resources to register their products and market them effectively. The state should introduce targeted subsidies, low-interest loans, and

grants to encourage more producers to obtain GI certification and improve their production and marketing efforts.

13. Strengthening the Role of Cooperatives and Producer Organizations – Producer groups and cooperatives play a crucial role in maintaining the authenticity and quality of GI products. Strengthening existing cooperative societies and forming new ones for GI-certified products can help producers negotiate better prices, improve quality control, and ensure fair trade practices.

14. Development of Dedicated GI Markets and Trade Fairs – Establishing dedicated GI marketplaces in major cities and tourist hubs like Chennai, Madurai, and Coimbatore will create direct market access for producers. Additionally, organizing GI-focused trade fairs and exhibitions will increase product visibility and attract national and international buyers.

15. Leveraging Digital Marketing and E-Commerce Platforms – Tamil Nadu should collaborate with leading e-commerce platforms to create exclusive sections for GI products, ensuring global reach and better market access. The government should also offer digital literacy programs to train producers in online selling, branding, and digital payments.

16. Policy and Legal Support for Better GI Protection – Strengthening Tamil Nadu's legal framework to prevent the misuse and imitation of GI products is essential. The state should set up dedicated legal cells to help producers file complaints against counterfeiters, conduct regular inspections in markets, and implement stricter penalties for those violating GI laws.

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