

WISDOM CRUX

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GI: Global Imprint

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ABSTRACT

Intellectual Property (IP) is a category of property which might be an innovation, patents, copyrights etc. IP Rights allows the inventor to hold special preference over the product. Rights are granted with protection. One such innovations protection is the Geographical Indication Tag (GI). It is a sign or name, which is granted to a product based on location or origin. The objective of this paper is to understand the working of a GI. This research article throws light on the nature and essentials of GI tag and effect of registration of products and remedies for infringement under GI Act. GI tag; is this a need of the hour? GI tag holds prime importance when it comes to IPR. There are many reasons which are more than adequate to prove, why GI tag is important. Through the columns of this paper the authors would like to portray the rich Indian culture, striving to be a self sufficient economy. The paper also discusses various cases relating to the GI tag. It also enlightens the readers with brief case studies. Through the positives discussed in the paper, it concludes that identifications provided to the products is a good sign of societal growth.

INTRODUCTION

Intellectual property refers to creations of the mind, such as inventions, literary works, designs, symbols, names and images used in commerce¹. As rightly stated by World Trade Organization, intellectual property rights (hereinafter known as “IPR”) are the rights given to persons over the creations of their minds. It gives the creator an exclusive right over the use of his creation for a certain period of

¹ <https://www.wipo.int/about-ip/en/>

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time². There are many kinds of intellectual property rights. One such peculiar right is Geographical Indication (hereinafter known as “GI”). It is a sign used on products that have a specific geographical origin and possess qualities or reputation that are due to that origin³. Such GI tags are well-known in India and are conferred on various products across the country. Unlike other IPRs, it is not just another tag to get our attention diluted on as its benefits are vast and overarching. It has some unique features that place it in a different position from other IPRs. It is necessary to know the nature and essentials of GI tag to understand its distinct character and the uniqueness of conferring such tags to products originated and made in India.

NATURE AND ESSENTIALS OF GI TAG

Every region has its claim to fame, which was carefully maintained by the men of the soil, blending the resources of Nature and man’s strenuous efforts and traditionally handing it over from one generation to the next for centuries. Gradually, a strong link between the place and the produced good evolved resulting in growth of geographical indications. This is due to the specialisation of the product achieved by producing or manufacturing it only in that particular geographical area or region.

Geographical Indications are those that help to identify a particular good as originating in a particular region where the quality or reputation of the good is attributed to its geographical origin. The authorized users of GI can prevent anybody from using the GI tag on those products that have not originated from such origins or locations. To identify such distinct geographical indications, the GI tag is conferred to original and genuine products originated from a particular region.

² https://www.wto.org/english/tratop_e/trips_e/intell_e.htm

³ https://www.wipo.int/geo_indications/en/

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A mere fact that a product in question has a link with certain geographical name does not automatically entitle such a product to acquire a GI status. Generally for a potential GI to qualify and have ex ante GI protected status, certain endogenous and exogenous conditions serves to strengthen the protection niche status. However, above all the success of any product entering a niche market depends on the consumers trust over product and their willingness to pay the premium in exchange of a product guaranteed qualities. Thus, hereunder are number of factors that contribute to the success of a potential product aspiring to acquire and succeed as GI.

Product specificity: The core of any GI is its link between a product and its natural environment as reflected by its geographical provenance, which together enshrines product's specificity⁴. A well defined product provenance coupled with strong regulated production process leads to higher product specificity resulting to proper maintenance product's quality⁵. Product specificity entails the obviousness of the product from which it can be easily defined and differentiated from other similar products. That is to say a potential GI must have distinguishing characteristics that differentiate it from similar substitute products produced from other regions. Such differentiable product's characteristics or qualities are the corner stone from which different legal frameworks finds necessary to protect those products as GIs. Product differentiation depend much from its specific characteristics and also consumers' perception whether they perceive it positively. It is founded on the belief that specific territories have particular special and unique characteristics which are due to a particular geographical environment with its inherent natural and human factors. Thus, products that originate from such specific environment are believed to be special and

⁴ Grant, 'Geographical indications: Implications for Africa', 2005, Pg.83.

⁵ Barjolle, 'Competitive position of some PDO cheeses on their own reference market: Identification of the Key success factors', 2002, Pg.81.

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distinct from other similar products produced in other regions⁶. It is further believed that, those specific characteristics of the said regions are the ones that influence unique product's characteristics and qualities when coupled with human factors associated during production processes.

There are two conditions on which specificity of the product depends. Firstly, a product must have measurable characteristics which are unequivocally different from those of similar products. It can be further sub-divided such into two categories: (1) those which can be easily identified by a consumer while consuming or in the course of purchasing process; (2) indiscernible characteristics which to a large extent entail production characteristics, which are the results of technological influence and thus differentiate the product from other similar products. Secondly, consumers' perception, they should perceive the product to be different, through product's attributes such as nutritional values and or taste together with distinctiveness of the product's designation. The stronger the link to the region the more attractive GI will be, as it becomes a manifestation of locality.

Product Reputation: Generally, reputation is based on the distinctiveness of the products characteristics that facilitates its differentiation. The stronger a product's identity based on its specificity, the more likely it is to develop reputation. It is so because the distinguishing features of the products which are linked to its region of origin has accelerated it to acquire identity which has been transformed into reputation. It is among other factors that enable a producer to earn a premium based on its specificity and a consumer to be willing to buy such a product in exchange of a guaranteed quality. Moreover, for a product to legally acquire GI status it must have unquestionable reputation. This is a core requirement provided and

⁶ Barham. E, 'Towards a theory of value-based labelling agriculture and human values', 2002, Pg.349-360

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accepted by multilateral agreements. Producers are ready to incur immense cost of production in order to maintain product specificity hence quality assurance. The said reputation in turn becomes a collective asset of the region where a product is produced.

The decision as to whether a product in question affords a GI status should first be examined by looking into the historical presence of a product at a particular locality. Then, perusal must be done on the capacity of the product to differentiate itself and hence acquired reputation. Lastly, knowledge of consumers is important as to product specificity resulted to differentiation which in turn made it reputable, as it is their knowledge that will command willingness to pay premium price. Reputation at local, national or regional level is important in assessing product's reputation. Various ways such as promotional campaigns, advertisements etc, for the product can be used to facilitate reputation. However, success of product reputation is sustainably backed up by institutionalization of reputation in legal instruments.

Co-ordination and co-operation: Unlike trademarks, GI tags are signs which are collectively owned by the group of persons where a product is produced. Thus, due to such heterogeneous nature of the actors involved in production, the need for efficient co-ordination and co-operation is highly needed⁷. At the end product should be seen as if it was co-ordinated by one enterprise. Increased economies of scale, effective risk countering upon unanticipated contingencies, adverse selection and moral hazard mitigation and Increase in Production increase due to positive developed sense of responsibility are the advantages accruing from collective co-ordination and close cooperation of actors involved in production⁸. Defining

⁷ Chappuis, 'Actors co-ordination: Governance structures and institutions in supply chain of protected designation of origin', 2000, Pg.18

⁸ Menard C, 'Enforcement procedures and governance structures: Institution, contracts and organization', 2000, Pg .24.

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and promoting the origin labelled product, control and management of production volumes, information distribution on technical aspects, available extension services and marketing environment and political lobbying are the aspects to be considered at collective level.

Institutional support: For sustainable success of potential GI institutional support is crucial. This can be in various forms such as financial support, advisory boards, regulations etc. The state can support by enacting legislation protecting GIs hence providing the instruments of institutional guarantee and also in controlling supply in order to avoid market failure. It should also be noted that, state or any public institutions are advised to support GIs because they are public goods though produced and owned by private actors. It also has diverse objectives which have direct and indirect impacts on biodiversity. This necessitates state's intervention where necessary, though sometimes state's interest may conflict with those of private actors who look solely on profit maximization.

Market attractiveness: Attractiveness of the market is another factor to be considered by a potential GI that aspires to excel sustainably. Generally, attractiveness of the market entails the characteristics of the market of which the product will be sold. Despite the specificity of the product resulting to reputation, market condition is also important and has to be assessed carefully for GIs success. Generally, potential GI should be perceived positively by consumers, and region's image always facilitates to evoke positive emotions over product in question. Product's images such as being ozone friendly, environmental friendly, organic product etc accelerate product acceptability by consumers locally, nationally and internationally. The size, growth potential and economic stability of the market and its barriers to entry,

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structure of supply chain and margin of profit reached in the past and the intensity of competition and the image of the region are the factors to be taken into consideration in assessing market attractiveness.

In India, GI tags are conferred under the Geographical Indications of Goods (Regulation and Protection) Act 1999 (hereinafter referred to as “the Act”) that facilitates registration and protection of intellectual property in relation to goods. The essentials of a particular product to confer GI tag are expressly mentioned in Sections 8 and 9 of the Act

A geographical indication should be registered in any or all of the goods, comprised in such class of goods and in respect of a definite territory of a country, or a region or locality in that territory

Such goods should be identified and classified according to the International classification of goods

The product should not be such a good which would likely deceive or cause confusion by using it or would be contrary to any law and would otherwise be disentitled to protection in a court

The product should not be such a good which comprises or contains scandalous or obscene matter or any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India

The product should not be such a good which are determined to be generic names and are, therefore, not or ceased to be protected or have fallen into disuse in their country of origin

The product should not falsely represent to the persons that the goods originate in another territory other than its place of origin

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The most important condition is that the good should not be one with a generic name in relation to its place of origin. Generic name is the name of a good which, although relates to its place of origin, has become the common name of such good and serves as a designation for the kind, nature, type or other characteristic of it. This can be determined by its existing situation and the consumption. Such goods or products do not qualify to be conferred GI tag as they have lost their essential connection with its place of origin. Conferring GI tag to such goods would defeat the very nature and purpose of conferring it and shall be treated as any other good produced or manufactured in a particular area for general business purposes. The law need not have special attention on such goods.

All those products that satisfy the above conditions would be conferred with the GI tag. It is registered by an application under Section 11 of the Act which is accepted and registered accordingly under Section 16 of the Act after ensuring that the application has not been opposed and the time for notice of opposition has expired or the application has been opposed and the opposition has been decided in favour of the applicant.

EFFECT OF REGISTRATION OF PRODUCTS AND REMEDIES FOR INFRINGEMENT UNDER GI ACT

There are certain rights that are conferred to the authorised users of the product on which GI tag is conferred. According to Section 21 of the Act, the registration of a geographical indication shall, if valid, give to the authorised user the exclusive right to use it in relation to the goods in which it is registered and the right to obtain relief in respect of its infringement. These rights are subject to certain conditions and limitations. Further, when two or more persons are authorised users of geographical indications that are

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identical with or nearly resemble each other, the exclusive right to the use of any of it shall not be deemed to have been acquired by anyone of them against any other merely by registration but each of them has the same rights as if he would have been the sole authorised user.

The importance of registration has been highlighted in Section 20 of the Act which states that that no action shall lie or no person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered geographical indication. This means that legal proceedings can be initiated and remedy can be sought only for the infringement of a registered geographical indication. However, it shall not be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof. Moreover, the status of a registered geographical indication is empowered by Section 23 of the Act which unequivocally says that in all legal proceedings relating to a geographical indication, the certificate of registration granted by the Registrar under this Act, being a copy of the entry in the register under the seal of the Geographical Indications Registry, shall be prima facie evidence of the validity thereof and be admissible in all courts and before the Appellate Board without further proof or production of the original. At the same time, this shall not affect the right of action in respect of an unregistered geographical indication. Further, Section 24 of the Act prohibits any right to a registered geographical indication on the subject matter of assignment, transmission, licensing, pledge, mortgage or any such other agreement. But on the death of an authorised user his right in a registered geographical indication shall devolve on his successor in title.

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The Act defines the term “infringement” under Section 22 on the basis of certain specific circumstances. It is stated that a registered geographical indication is infringed by a person who is not an authorised user and thereby uses any geographical indication:

- (a) By any means in the presentation of goods that indicates that such goods originate in an area other than the true place of origin to mislead the persons as to its geographical origin
- (b) In such manner which constitutes an act of unfair competition including passing off
- (c) With another geographical indication to falsely represent to the persons that the goods originate in the territory, region or locality in respect of which such registered geographical indication relates, which is although literally true as to the place of origin of the goods

An “act of unfair competition” is defined in the Explanation which means any act of competition contrary to honest practices in industrial or commercial matters that includes:

All acts and false allegations of such a nature as to create confusion and discredit, by any means, the establishment, the goods or the industrial or commercial activities, of a competitor

The use of geographical indications which is liable to mislead people as to the nature, manufacturing process, characteristics, suitability or the quantity of the goods

Moreover, any person who is not an authorised user of a geographical indication uses any other GI tag to such goods or class or classes of goods not originating in the place indicated or uses it to such goods indicating the true origin of such goods or in translation of the true place of origin or accompanied by

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expression such as “kind”, “style”, “imitation” or the similar expression, shall infringe such registered geographical indication.

The remedies available for protection of geographical indications may broadly be classified into two categories.

Civil remedies: The Act provides for the following civil remedies for infringement of a registered geographical indication;

- (a) Injunction
- (b) Damages or account of profits
- (c) Delivery up of the infringing labels and indications.

These remedies are not exhaustive and the court may provide some other additional remedies

Criminal remedies: Criminal remedies are more effective than civil remedies because the former can be disposed off quickly. Since criminal proceedings directly strikes at the honour and social status of an infringer, in some cases he comes for a settlement out of court to save his prestige. The Act contains penal provisions for the following violations:

Falsifying entries in the register and falsely applying geographical indications to goods⁹

⁹ Sections 38 and 39, Geographical Indications of Goods (Registration and Protection) Act, 1999

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Sale of goods to which false geographical indications is applied¹⁰

False representation of a geographical indication as registered¹¹

Improper description of a place of business as connected with the GI registry

The offences under the Act are cognizable and the punishment varies from six months to three years imprisonment and a fine of not less than rupees fifty thousand but may extend to two lakh rupees. The Act also prescribes for enhanced penalty for second or subsequent conviction¹². Some of the main remedies given for infringement in a criminal proceeding are forfeiture¹³, search and seizure¹⁴ of goods.

In the case of **Scotch Whisky Association v. Pravara Sahakar Karkhana Ltd.**¹⁵, the plaintiff had instituted the passing off action against the defendants - a manufacturer of various brands of Indian Whisky. The Bombay High Court had finally held that the the defendants were passing off their goods as blended Scotch whisky, which was apparently not, and resorted to unfair means by using the words 'Blended with Scotch' to harvest unjust benefits by appropriation of plaintiff's goodwill. The defendant was restrained from advertising or offering for sale or distributing in any country Indian Whisky, which is not Scotch whisky. Moreover, the plaintiff has sufficient interest to prevent passing off and to prevent damage to reputation and goodwill of Scotch whisky.

¹⁰ Section 40, Geographical Indications of Goods (Registration and Protection) Act, 1999

¹¹ Section 42, Geographical Indications of Goods (Registration and Protection) Act, 1999

¹² Section 41, Geographical Indications of Goods (Registration and Protection) Act, 1999

¹³ Section 46, Geographical Indications of Goods (Registration and Protection) Act, 1999

¹⁴ Section 50, Geographical Indications of Goods (Registration and Protection) Act, 1999

¹⁵ Scotch Whiskey Association v. Pravara Sahakar Karkhana Ltd., A.I.R. 1992 Bom. 294

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In Comite Interprofessionnel du Vin de Champagne v. Chinar Agro Products¹⁶, the geographical indication in issue is the name "CHAMPAGNE" for a naturally sparkling wine produced only in the Champagne region in France. The plaintiff is a registered proprietor of the geographical indication "CHAMPAGNE" in a number of countries. It had become aware of the Defendant selling non-alcoholic sparkling drinks under the same name. The Defendant had created an impression that CHAMPAGNE is their product and the same can be misconstrued that these drinks originate or are associated with the Champagne region of France.

As per the plaintiff, CHAMPAGNE is a naturally sparkling wine produced in the Champagne region of France by a process of double fermentation from grapes. The uniqueness of it is due to the interplay of agro-climate conditions prevalent in the Champagne region such as flinty soil, influence of the ocean, rainfall, temperature, sunlight etc. and the strenuous human efforts involved in the selection of grape varieties, the method of pruning, harvesting and production. The wines have, for a long time, been known to the public in India as CHAMPAGNE and, as such, have acquired enviable reputation.

The Delhi High Court decreed the suit in favour of the Plaintiff by restraining the Defendant from manufacturing, selling, marketing, importing, exporting and dealing in any product and from indulging in all acts of unfair competition, including passing off, that would dilute and debase the collective goodwill and reputation enjoyed by the name CHAMPAGNE. This was decided by the Court by observing that the use of the name by the Defendant amounts to infringement of the Plaintiff's registered Geographical Indication under Section 22(3) of the GI Act. By using the name CHAMPAGNE, a sparkling wine, in non-alcoholic sparkling drinks manufactured in India, it is bound to confuse and mislead the public into believing that the product is indeed CHAMPAGNE and, as such, the Defendant is misleading consumers into buying its products under a false belief that they originate from the Champagne region of France,

¹⁶ Comite Interprofessionnel du Vin de Champagne v. Chinar Agro Products, CS (Comm.) 1194/2016

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when they actually do not. Furthermore, the Defendant is selling it in bottles that are virtually identical in shape, colour and configuration to those in which CHAMPAGNE wines are sold, which can cause damage to the vine growers, grape processing companies and wine merchants of such wines and clearly amounts to passing off and infringement of the Plaintiff's registered Geographical Indication CHAMPAGNE. If the Defendant is allowed to continue the use of the word CHAMPAGNE in respect of non-alcoholic sparkling drinks, it is also likely to dilute the distinctive character of such a well-known Geographical Indication as a high quality sparkling wine originating exclusively from the Champagne region of France and this would ultimately lead to such wine becoming generic in India.

In **Khoday Distilleries Ltd. v. The Scotch Whiskey Association**¹⁷, Madras High Court had held that the use of the device "Lion Rampant" and the description "Distilled from the Finest Malt and Blended with the Choicest Whiskeys by Scotch Experts under Government Supervision" is bound to mislead the consumers in believing that the whiskey manufactured by the appellant is scotch whiskey, manufactured in Scotland that is well known universally, which was apparently not. The Court was in total agreement to the inappropriateness of the use of the word "Scot" in relation to Indian whiskey and had relied on the evidence adduced to show that the Lion Rampant used on the label was adopted as Royal Arms of Scotland by William the Lion in the 13th Century and the device is an exact replica of the Royal Standard of Scotland, which is a well known emblem of Scotland. Similar observation was made by the Delhi High Court in **The Scotch Whiskey Association v. Golden Bottling Ltd.**¹⁸.

POSITIVES AND NEGATIVES

PROS:

¹⁷ Khoday Distilleries Ltd. v. The Scotch Whiskey Association, A.I.R. 2008 Mad. 407

¹⁸ The Scotch Whiskey Association v. Golden Bottling Ltd., 129 (2006) D.L.T. 423

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Economic Prosperity: It rewards the producers based on incentives and ROI. It enables the consumers to differentiate the product. It builds up the reputation and goodwill of the product. It ensures economic growth, as a GI tag is favourable to producers/manufacturers and customers.

Avoids Unauthorized Usage: A registered GI tag can legally proceed against unauthorized users. It confers legal protection. It protects the character of the original product.

Global Reputation: The product gets recognized globally and will earn reputation. It might lead to an increase in the Tourism Industry including the particular geographical region as well. People who buy the particular GI tagged product might be interested in visiting those places.

Expansion of Business: GI tag boosts the exports of a business. When a product is protected for its unique features, and it becomes a recognized and a differentiable product, it enables a producer to expand the business globally.

Product Authenticity: It provides quality product, ensures authenticity and satisfies the consumers by proving the desired traits.

Other Factors:

It acts as a barrier to entry in the market which might remove fakers.

It encourages employment and protects the livelihood.

It plays an important role in the trade industry between two countries.

A GI tag enables quality sales, after sales service, customer support services.

It becomes very useful for recognized international products like Basmati Rice, Darjeeling Tea.

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It also protects the traditional culture and expression.

CONS:

Protection: There is no specific protection for GI. Even TRIPS does not provide any sui generis way of protection. It only gives a minimum way of protection.

Historical Evidence: There are disputes which arise questioning the actual and original place of origin. This dispute might increase.

Difficulty in Registration: It is difficult to register all the products, especially the products of small manufacturers. India is a country rich in its heritage, culture and has huge ethnic and food diversity. There might be a number of products which might qualify to receive a GI tag. Since people are engaged in small businesses and in the same area, it becomes difficult to organize them and obtain a Geographical Indication.

No Foolproof: Documentary evidence is mandatory for a GI tag. It can be easily manipulated. For example, in the north eastern states, where more than the written history, oral history speaks in such cases, GI tag might not be effective.

Unhealthy Competition: There exists an unhealthy competition between the products for the want of GI tag. This is because, there arises a problem as to who prepares the product well and from where does it originate from. For E.g.: Rasgulla which is considered the best desert used widely both in western and eastern part of the country. Both start claiming ownership to promote its cultural heritage as a result of

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which there is an unhealthy competition between them and its benefits neither, the manufacturer and the seller.

GI TAG AS AN EFFECTIVE TRADEMARK IN INDIA

The intellectual property in India is developing at a fast pace. GI tag is a recent and an emerging part of intellectual property which is on its way in gaining importance. GI tags contribute to the socio economic growth as well. GI helps the buyer to differentiate the product he requires, from other competing products. It was very recently that India realised the need for protecting its own Geographical Indications. India recognized the importance of Basmati rice as a Geographical Indication only when it obtained its patent from the United States. A trademark is that type of intellectual property that is governed by the Trademarks Act 1999. Trademark registry was established in 1940. A trademark has a recognizable sign, design, or an expression which helps to differentiate a product from others. It is also used to identify services called service marks.

Article 23 of GI tag gives preference to wines and goods over other goods. However it is believed in India that giving importance to wines and spirits becomes a difficulty for other products in India. GI tag is always preferred to Agricultural products in India. It is considered as an incentive by the farmers and artisans as it ensures protection to their unique skills and knowledge. Once registered under Geographical Indication, it is valid for 10 years. It can be renewed from time to time.

A GI tag in India is issued by the Geographical Indication Registry under the Department of Industry Promotion and Internal Trade, Ministry of Commerce and Industry. By 2020 there are around 265 products which are GI tagged. Kashmir Saffron and Black rice Manipur were the products which were recently GI tagged.

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GI tag ensures that none other uses the name of the authorised and registered product. The first GI tagged product in India was Darjeeling tea in 2004. The objectives of bringing in GI Act, i.e., Geographical Indication of Goods (Registration and Protection) Act 1999 in India were:

To protect the interest of the producers/ manufacturers.

To increase the export of GI tagged goods.

To protect consumers from deception.

To ensure prosperity to the producers of the product.

The Act came into effect in September 2003. According to the Act, “geographical indication”, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.¹⁹ A set of rules were established by the central government in the year 2002 to carry out the provisions of the act. The “Geographical Indications Registry” with its all India jurisdiction in Chennai was established by the Government of India with the Controller-General of Patents, Designs and Trademarks is the Registrar of GIs, as per Section 3(1) of the GI Act.

¹⁹ Section 2(e), Geographical Indications of Goods (Registration and Protection) Act, 1999

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GI: Global Imprint

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Registration of GI is not mandatory in India. But, if a product has not been registered under the act, then proceedings cannot be instituted to recover damages. Only the registered owners get the right to obtain relief or damages on infringement of Unregistered GI.

It was a good step towards a better tomorrow when WTO through TRIPS granted Geographical indication to goods having its speciality with the place of its origin. It was granted to differentiate the product and its special quality which might be premium pricing as well.

The GI tag is granted for products having distinct features such that the product is not misused by anybody else and it does not lose its popularity. The products might be a food item, a handicraft, or an agricultural product. India is a diverse country with a dense population. Being a developed country it works for equitable distribution of resources and hence inherited the concept of equitable distribution. Each state is rich in its own way. In order to give access to people in all parts of the country this method is followed. For E.g.: Basmati rice which is grown mainly in the states of Jammu and Kashmir, Punjab and Chandigarh etc., is made available to the people in down south. Following are some of the GI tagged products.

DARJEELING TEA (EAST):

By 1986, a step in the right direction was taken by the tea board, in creating and registering the Darjeeling tea. By 2004, Darjeeling tea was the first product to be GI tagged. In the last four years the tea board has fought and won more than 15 cases against infringement and misuse of the name. The tea board was the registered proprietor of Darjeeling tea. The tea has a special aroma and the leaves used for making black tea undergo oxidation and whitening but it does not happen in the case of a white tea. The tea board once fought against seeking rejection of trademark application in the name of the Republic of Tea (ROT). Tea board filed an opposition in the Trademark Trial Appeal Board (TTAB) which denied the claim of the

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ROT. The TTAB considered the continuous effort of the tea board in maintaining its name and protecting its GI. It implemented a trade chain management system for monitoring the supply chain and addressing the issues faced by the Darjeeling tea trade claim. Two service centres were set up in Darjeeling and Kolkata. These systems ensure the data related to all systematic collection regarding the plantation. It conducted trade audits often to check the sanctity and authenticity of the product. Another case fought by the board is

TEA BOARD OF INDIA V. ITC²⁰:

The defendant used the name Darjeeling Lounge for his business premises which was already a registered GI. It used the name Darjeeling for presentation and sale. The defendant has misled his customers, created an unfair competition with the plaintiff. The plaintiff sued for a temporary injunction seeking protection for his products. The defendant contented that there exists no course of action as the case is already barred by limitation and is not maintainable.

It was held by the Hon'ble Justice Sahidullah Munshi of Calcutta High Court that the case is barred by limitation as the lounge was started in January 2003 and the suit was filed in 2010, which is barred by limitation as per section 26(4) of the GI act which is for 5 years. The Court also stated that there is no infringement of the rights of the Tea board as lounge does not deal with goods. The word "Darjeeling" is not a trademark and it's just a Geographical indication as to from where the product has originated. The plaintiff has his rights over the name "Darjeeling", only for tea and nothing else. Since there was no relation between the defendants "Darjeeling Lounge" and the plaintiffs "Darjeeling tea", the court dismissed the appeal by the plaintiff.

BASMATI RICE (NORTH):

²⁰ Tea Board of India v. ITC, CS No. 250 of 2010

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THE STATE OF MADHYA PRADESH VS THE INTELLECTUAL PROPERTY APPELLATE BOARD²¹:

GI tag has been granted to “Basmati” rice grown in Punjab, Haryana, Delhi, Himachal Pradesh, Uttarakhand, parts of Western Uttar Pradesh and Jammu and Kashmir. It has been cultivated in several north Indian states across the country. It possesses extra features compared to the normal rice like it is elongated, extra long, becomes soft and gives pleasant aroma. Besides all these, the climatic condition and the method of cultivation also play a role. It is usually grown in relatively cooler places.

The Agricultural and Processed Food Products Export Development Authority (APEDA) was about to register for obtaining GI. The state of Madhya Pradesh (MP) and Madhya Kshetra Basmati Grow Association filed a case in the Madras High Court against the APEDA challenging that 13 districts have been excluded in the genesis of Basmati Rice which is in Madhya Pradesh. The claim by the state of MP was rejected on the ground of maintainability that the APEDA has already obtained the GI tag from the Geographical Indications Registry (GIR) on the ground that Basmati rice is grown only in those states as per the evidence submitted by the APEDA.

The sole purpose for filing the case was that 13 districts of MP which cultivated Basmati rice had been excluded in the year 2010. But it failed to prove through documentary evidence that the rice belonging to the same family has been grown in their state too. However the assistant registrar in 2013 December directed the APEDA to refile the application within 60 days with a map clearly mentioning those areas where Basmati was actually grown. The APEDA took the matter on appeal to Intellectual Property

²¹ State of Madhya Pradesh v. The Intellectual Property Appellate Board, W.P. Nos. 5798 and 9564 of 2016

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Appellate Board (IPAB). It directed the GIR to accept the application for registration along with the demarcated map already submitted by it. However this was rejected by the Court.

KANCHIPURAM SILK SAREE (SOUTH):

A type of silk which is prepared and made in Kanchipuram is known as Kanchipuram Silk. It is used on special occasions by the women, especially by the brides in South India. It was recognized as a Geographical Indication in the year 2005-2006. According to Hindu mythology, it is a belief that this silk is used by Lord Vishnu and preferred by Lord Shiva. The saree is made with pure mulberry silk where the Zari is from Gujarat and the cotton comes from Gujarat. Usually the border is different from the saree. The hanging end of the saree which is called the pallu is separately made and joined later with a zigzag line. The distinct feature of this saree is that the border is attached so strongly that it does not detach from the saree even if the saree tears. A saree, made with heavy silk and gold cloth, is generally preferred on special occasions and festivities. The designs made in the saree are sculpture, temple designs, floral designs, checks and stripes inspired from the South Indian nature, flora and fauna. The cost of the saree varies on the thread, the effort of work, the border designs, colours, patterns etc. The Government of India applied for GI of Kanchipuram saree in the year 2005 and it was officially recognised in the year 2006.

SANKHEDA FURNITURE (WEST):

It is teak wood furniture of Gujarat, which is generally in shades of maroon and gold. It is made in Sankheda village hence named Sankheda Furniture. It is 28 kilometres from Vadodara. With recent innovation, the furniture has adopted different colours too. It is exported to many foreign countries including Europe and West Asia. Usually it is made up of natural organic dyes and kewda leaves which is a fragrant screw pine. "Tinfoil patterns with transparent lacquer coating" is the basic traditional method which is still continued. The furniture history dates back to the 17th century.

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According to folklore, it is still believed by the villagers that this Sankheda furniture originated when a spiritually oriented person lived with a craftsman of the village where he suddenly disappeared one day blessing the craftsman with special skills. The people still believe that this was done by the sage to avoid Mughal invaders.

It is considered to be one of the strongest furniture and lasts long. It is still preferred by Gujaratis in auspicious occasions and this traditional furniture is also used as a gift. There are many handicrafts and furniture introduced by the Sankheda model. Handicrafts like wall hangings, toys, flower vases, lamps, kitchenware etc. and furniture like table, dressing table, cot, divan, garden swings, rocking chairs etc.

The Government of India recognized the special feature of this furniture and applied for a GI tag. It was registered by the Controller General of Patents Designs and Trademarks on 5 July 2007 under the title "**Sankheda Furniture**" and listed at GI Application number 100 under Class 20 on 5 July 2007 as a handicraft item.

CONCLUSION

GI tag is a matter of pride, symbol of surety and a sense of quality. It has always been a boon to people in India especially to the farmers and craftsmen. GI is an effective intellectual property, it is kept by all the collective producers of the geographical region. It is very essential in today's growing world to retain the essence and originality of a product. GI tag is an essential component in India and India is not lagging behind with more than 200 GI tagged products. Logo tagline for the Geographical Indications in India was launched by the Union Minister of Industry and Commerce. GI plays major roles in making a product emerge as a strong brand. Such brand eminence is essential to boost exports and thereby help in achieving the economic goals of the nation and attain economic growth and development.