

Geographical Indication

A geographical indication is a sign used on products that has a specific geographic origin and includes the qualities or reputation of that origin. A geographical indication is given mainly to agricultural, natural, manufactured, handicraft arising from a certain geographical area. Geographical indications (G.I.) are one of the forms of IPR which identifies a good as originating in the respective territory of the country, or a region or locality in that particular territory, where a given quality, reputation or other characteristic related to good is essentially attributable to its geographical origin.

It performs **three functions**:

- First, they identify the goods as to the origin of a particular region or locality;
- Secondly, they suggest to consumers that goods come from a region where a given quality, reputation, or other characteristics of the goods are essentially attributed to their geographic origin;
- Third, they promote the goods of producers of a particular region. They suggest the consumer that the goods come from this area where a given quality, reputation or other characteristics of goods are essentially attributable to the geographic region.

The object of the Geographical Indicators Goods (Registration and Protection) Act, 1999, has three folds:

- By specific laws governing the geographical Indication of goods in the country, which can adequately protect the interests of the producers of such goods,
- To exclude unauthorized persons from misuse of geographical signals and protect consumers from fraud, and
- Promoting Indian geographical bearing goods in the export market.

A registered geographic sign prohibits in any way the use of a geographical insignia which indicates in the designation or representation of goods that such goods originate

in a geographic area. For example, Basmati rice and Darjeeling tea are examples of G.I. from India. The connection between the goods and place becomes so much recognized that any reference to the place reminds those specific goods being produced there and vice-versa.

Some of the Examples of Indian geographical indications which are registered in India are:

- Basmati rice
- Darjeeling tea
- Banaras Brocades and Sarees
- Coorg orange
- Phulkari
- Kolhapuri chappals
- Kangivaram sarees
- Agra Petha

Indian Law for GI:

India has put in place a Sui Generis system of legislation for G.I. security as well as G.I. protection in particular. “Sui Generis” can be termed as of its own kind and which involves laws which are recognized nationally. The laws relating to the preservation of G.I.s in India are the ‘Geographical Indications (Registration and Protection) Act, 1999’ (G.I. Act), and the ‘Geographical Indications (Registration and Protection of Goods) Rules, 2002 (G.I. Rules). India enacted its G.I. law for the country to enforce national intellectual property laws in compliance with India’s obligations under TRIPS. Under the G.I. Act, under the G.I. Act, since 15 September 2003, the Central Government has established a Geographical Indication Registry in Chennai, with the jurisdiction of Pan-India, where rights holders can register their G.I.

What is a “generic” geographical indication?

In the context of geographical indications, generic terms are names which, although they denote the place from where a product originates, have become the term customary for such a product. An example of a GI that has become a generic term is Camembert for cheese. This name can now be used to designate any camembert-type cheese.

The transformation of a geographical indication into a generic term may occur in different countries and at different times. This may lead to situations where a specific indication is considered to constitute a geographical indication in some countries, whereas the same indication may be regarded as a generic term in other countries.

Benefits of Geographical Indications:

The organizations or companies who register their geographical indications enjoy various advantages from the registration, including:

1. Registered geographical indications have the exclusive right to access or use G.I.'s products during the business.
2. Authorized users enjoy the right to sue for infringement.
3. It provides legal protection to geographical signs in India.
4. Prevents unauthorized use of registered geographical indications by others.
5. It provides legal protection to Indian geographical signals which in turn promotes exports.
6. It promotes the economic prosperity of producers of goods produced in a geographical area.
7. A registered owner can also approach for legal protection in other WTO member countries.
8. It provides legal protection to the respective goods in domestic as well as in international markets.

What are the **subject matters** which are not registrable under geographical Indication?

For getting registration, the indications should fall within the purview of Section 2(1) of Geographical Indication Act, 1999. When this happens, it must also meet the provisions of Section 9, which prohibits the registration of a geographical indication.

- The use of which would cause confusion or confusion; or
- The use of which shall be contrary to the time of enactment of any law; or
- Which includes or is libellous or indecent matter; or
- Which is likely to involve or cause force injury at any time; Religious sensitivity of any class or class of citizens of India; or
- Which would otherwise be destroyed for protection in a court; or
- Those determined to indicate common names or objects and, therefore, to be preserved in their country of origin or which are not in use in that country; or
- However, this is actually true as the area or locality in which the goods originate but misrepresents the individuals that the goods originate in another area, region or locality as the case may be.

Rights granted to the holders

- Right to sue: The exclusive rights have been granted to the person who is protected under geographical indication act and, therefore, can be inherited, gifted, sold, licensed, entrusted or mortgaged. The holder of geographical Indication has a type of property that he can use subject to certain conditions and take legal action against a person who uses his invention without his consent. Does and can receive compensation against real property.
- The right to grant license others: The holder has the right to transfer a license or grant license or enter into any other arrangement for consideration regarding their product. A license or assignment must be given in writing and registered with the Registrar of geographic indications, for it to be valid and legitimate.

- Right to exploit: Authorize user exclusive right to use geographic Indication with respect to geographic goods for which the geographic Indication is registered.
- Right to get reliefs: Registered Proprietors and authorized Users or Users have the Rights to obtain relief in relation to the violation of such geographical Indication.

Whom to consider an authorized user?

The authorized user is:

- The manufacturer of the goods can apply for registration as an authorized user.
- It must be in relation to a registered geographical indication.
- He should apply in writing with the prescribed fee.

Whom to consider as the registered proprietor of a geographical indication?

The registered proprietors of Geographical Indications are:

- A person, manufacturer, organization or association established under law or legislation may be a registered owner.
- Their name must be entered in the Register of Geographical Indicators as there are registered owners for the Geographical Indication.

Case

Banglar Rasogolla v. Odisha Rasagola

In November 2017, the West Bengal State Food Processing and Horticulture Development Corporation Limited registered G.I. as Ras Banglar Rasogola. It was reported that Bengal won the dormant war between Odisha and Bengal, which would own the famous dessert. The legal battle for G.I. registration started when objections to

G.I. registration were lodged, and it was said that this famous dessert originated at Jagannath temple in Puri, Odisha. An application to remove the registration of G.I. status was filed on February 2018. Meanwhile, G.I. Registry in July notified that Odisha registered G.I. as 'Odisha Rasgola', after which several reports were released. Odisha did not give up in the race but won one. It is very important to note that the G.I. The registry has not registered the word all Rasogola / Rasgola '. It has prefixed two words specifically for G.I. tag, one is 'Banglar', and the other is 'Odisha'. To say, that 'rasogola / rasgola' is a general term, which any person can use in his trade and business. Thus, as far as the law is concerned, neither of the two states has got a monopoly on the word 'Rasogola / Rasola'. Therefore, it is free to sell sweets to anyone in the trade as Rasgulla / Rasgola or any other synonym. What is prohibited is the use of the words "Odisha rasgola" and "Benglar rosogola" by anyone other than authorized users 'under the law.