INTELLECTUAL PROPERTY LAW
GEOGRAPHIC INDICATION

Article 22 of the TRIPS Agreements defines Geographical Indication as

"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 term **'Geographical indication' is defined under Section 2(1)(e) of geographical indication act.**

A registered Geographical Indication prohibits a third party to use such Geographical indication by any means in the designations or presentations of goods that indicate that such goods originate in a geographical area.

Darjeeling Tea (2004) was **India's 1st GI tag** since then 300 plus goods have been given Gl tag.

- Karnataka is leading in filing of Geographical Indications with a total of 39 Geographical Indications registered till date followed by Tamil Nadu and Kerala.
- The latest product from Karnataka to get Geographical Indication Tag is Mysore Saree.
- Till now Karnataka has obtained Geographical Indication tag for 19 handicrafts, 16 agricultural, 3 manufactured and one for food product.

Kadaknath Chicken-Chattisgarh, prices increased from 500rs per kg to 1000 rs per kg after getting GI tag.

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

sui generis **(unique) act**

- India enacted its GI legislations for the country to put in place national intellectual property laws in compliance with India's obligations under TRIPS.

Purpose

1. By specific law governing the geographical indication of goods in the country which could adequately protect the interest of producers of such goods,

2. To exclude unauthorized persons from misusing geographical indications and to protect consumers from deception and,

3. To promote goods bearing Indian Geographical Indication in the export market.

The Geographical Indications of Goods (Registration & Protection) Act, 1999 **(GI Act)**, and the 'Geographical Indications of Goods (Registration and Protection) Rules, 2002 **(GI Rules).**

GI Act, came into force, along with the GI Rules (2002), with effect from **15 September 2003.**

A Geographical Indication is registered for a period of 10 years and the registration may be renewed from time to time for a period of 10 years at a time.

Geographical Indications Registry with all-India jurisdiction, at Chennai

Geographical Indication defined under section 2 (1)(e)

"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.

- A GI is forbidden to be registered as a trademark **(Section 25)**
- Geographical Indication is a public property so therefore it can't be licensed, sold, assigned etc.
- On death of an Authorised user of GI his right in registered Gl will transfer to his successor in Title **(Section 24)**

Section 6 - Register

- The GI Registry with all India jurisdictions is located in Chennai
- GI Register to be divided into two parts: Part A and Part B.

- Part A has The particulars relating to the registration of the Gl's
- Part B has particulars relating to the registration of the authorized users

Registration

While registration of GI is not mandatory in India, **Section 20 (1)** of the GI Act states that **no person "shall" be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an "unregistered"** Gl.

The registration of a GI gives its registered owner and its authorized users the right to obtain relief for infringement

Section 20 (2) says that nothing in this act shall be deemed to affect **rights of action against any person for passing off goods of another person or the remedies in respect thereof**

In India a GI may initially be registered for a period of ten years, and it can be renewed from time to time for further periods of 10 years.

Section 11 - Application - To registrar

Section12- Withdrawal of Acceptance

Section 15- Correction and Amendment

Section 13 - Advertisement of Application

Section 14 - Opposition to Registration

Section 16 - Registration

Section 9 - Grounds of prohibition of Registration of Certain Geographical Indications (7 grounds)

a) the use of which would be likely to deceive or cause confusion; or

b) the use of which would be contrary to any law for the time being in force; or

c) which comprises or contains scandalous or obscene matter; or

d) which comprise or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; or

e) which would otherwise be disentitled to protection in a court; or

f) which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country; or

g) which although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be, shall not be registered as a geographical indication.

Remedies for Infringement and Passing off

Infringement - **Section 22**
Jurisdiction - District court or higher
Limitation - **3 years**

- Civil action in case of infringement or passing off of a registered Geographical Indication.
  - o Injunction.
  - o Discovery of documents.
  - o Damages or accounts of profits.
  - o Delivery-up of the infringing labels and indications for destruction or erasure.

Criminal action in case of falsification and false application of Geographical Indications.

- 6 Months-3 years; 50k to 2 lakh fine
- In special cases court may give fine less than 50K and imprisonment less than 6 months.