
Geographical Indication (GI): An Overview

*Abhishek Kumar & Ajeet Kumar, Amity Law School, Patna.**

Abstract

Geographical Indication (GI) is a symbol that represent the products originated from a particular area, state or country. The qualities of products are unique. The product has an unique flavor. The classification of the goods are cultivated, natural, factory-made products and so on. The GI tag registration has given for the unique products from the particular area with unique flavor. The GI registration is a part of Intellectual Property Rights (IPRs) under the Paris convention for the protection of Industrial Property in 1883. India is a member of the World Trade Organization & TRIPS agreement. In India GI are protected and governed by the GI of goods (registration and protection) act 1999. In India, GI record-keeping is administered by the GI of Goods (Registration and Protection) Act, 1999 which has been applying since 15th September 2003.

* The authors are Law Student pursuing from Amity University, Patna.

I. Introduction

Geographical Indication is a symbol that is a goods as originating in a specific area. It states that a specific product belongs to a certain area. Therefore qualities depend upon the geographical reason of production, there is a strong relation between the goods and its original area of production. A Geographical Indication (GI) is primarily an indication which classifies cultivated, natural or factory-made products (handicrafts, Factory's goods and food articles) originating from a definite geographical area. Therefore primarily granted to agricultural, natural, factory-made, skill originating from another geographical territory. GIs are part of our collective and intellectual heritage that need to be protected and encouraged.

GI Tag classifying other than those registered as official users are allowed to use the popular product are called GI tag are under as an element of intellectual property right (IPRs) under the Paris convention for the protection of industrial property in 1883. In India, GI record-keeping is administered by the GI of Goods (Registration and Protection) Act, 1999 which applicable on September 2003. This Act as per directed by Controller General of Patents, Designs and Trade Marks, who is also Registrar on Geographical Indications. The first product in India to be given with GI tag was Darjeeling tea on 2004-05. Bihar government has decided to approach the Central in order to get GI tag for Mithila's famous Rohu fish, altogether till 1999 to 2022, 10 July. 14 Product from Bihar have been issued GI tag, including Mithila Makhana, Magahi Pan Mithila Panting, Jardalu varieties of mangoes from Bhagalpuri, Shahi Lichi of Muzaffarpur and Silao Khaja from Nalanda.

I. Geographical Indication

- Goods are originating from another geographical region.
- Used to classify Cultivated, Natural, Factory-made items, etc.
- Factory-made goods should be produced or ready in that region.
- Therefore, different quality or reputation or other features.

GI tag is a form of intellectual property, a authorization given to certain goods or products from a specific zone or state, or country that is unique to a particular geographical area. India, is member of the World Trade Organization (WTO), passed the Geographical Indications of Goods (Registration and Protection) Act, 1999 on 15th September 2003. A GI is a symbol used on goods that have a specific geographical origin and hold qualities or a character that are due to that origin GI is a sign used on goods that have a exact geographical origin and keep qualities or a reputation that are due to that origin. The function of GI, a symbol must identify a product as originating in a given area. In addition, the qualities, features or reputation of the product should be basically due to the area of origin. Since the qualities determined on the geographical area of production, there is a clear link between the product and its original area of production. As per Article 22(1) Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a member, or a area or locality in that territory, where a given quality, reputation or other characteristic of the good is basically attributable to its geographical origin.

II. Functions of GI

- Defensive the favor of a particular of products section of producers.
- Communicating purchaser info.

The GI tag benefit to the area or zone where the goods are manufactured and to the area where they are marketed. GIs protect producers of these areas or zones against unlawful exploitation of the goodwill created by the quality of the products and the advertising appeal of the respective locality or area by participants and their products. It must be pointed out that effective GI protection is imperative to industries.

Geographical indication act as source identifiers: -

GI has dated its first usage in France in the early 20th century known as appellation origin controlee (AOC), but it has spread to various countries including India who are members of the World Trade Organisation (WTO) by the WTO Agreement on Trade-Related Facets of Intellectual Property Rights (TRIPS) which got concluded in 1994.

III. Indian GIs Law and Jurisdictions

India, is a member of the World Trade Organization & TRIPS agreement. In India GI are protected and governed by the GI of goods (registration and protection) act 1999.

- Therefore, this is coming into force by effect on 15th September 2003.
- Registry office of GI in Chennai
- As per section 11 of the act application for GI tag
- As per sec. 16 Registration is granted.

The GI is fixed according the GI tag of products Registration and Protection Act, 1999. An application for GI is open for all the producers of products or an organization. the appliance must include the terrestrial map of the territory or area in the country where the goods are factory-made and the class of goods to which it shall apply. It must be within the prescribed form and a particular fee should be submitted with a signature. An application is going to be scrutinized and observed by groups of authorities. it's necessary to get GI registered to claim any rights in respect of such indication. A goods having a GI tag prevents illegal use of products and upgrades gain to the producers by exporting the products. GI goods price rises within the international marketplace as the exports increase. As per Sec. 21 of the GI Act states that registration provides a right to file a suit for violation. Section 23 confirms that there's prima facie evidence of ownership and validity of GI. TRIPS Agreement prescribes lowest standards for the protection of GI that each one WTO members must provide. As per Sec.3 and Part II of the TRIPS provides the ideals concerning the supply, scope, and practice of GI.

- The protection of GI as per Article-22 of TRIPS. the supply has been enumerated flowing:
- GIs are signs that classify goods as origin within the region of a member's country therefore, given reputation or individual of the products is attributable to its geographical source.
- Member's countries should make available lawful means for the prevention
- Using or presenting the products to lie the public from the geographic beginning of the goods,

- The member country shall permit the legislation to refuse or invalidate a trademark for the GI concerning the products not originating in the territory included, if the utilization of that good by the member country may mislead the public from the true area of origin.

Article 23 of TRIPS provides additional protection for the Geographical indication for wines and spirits. There are certain treaties ordered by the WIPO which deal partly or completely with the guard of GI as per the Paris Convention, Lisbon Agreement, Madrid Agreement, and the Procedure for the Madrid Agreement, etc. The legislative actions taken in India in compliance as per TRIPS are the enactment of the GI of Goods Registration and Protection Act, 1999. which came into effect on 15th September, 2003. With the GI of Goods (Registration and Protection) Rules, 2002. The International GI Tags remain Gruyere Cheese from Switzerland, Mexican Tequila, Roquefort Cheese from France, Georgian wines, Pinggu Peaches from China among others. Geographical indication tags have been provided in India for many important goods Including Darjeeling Tea, Alphonso Mango, Kanchipuram Silk Saree, Basmati Rice, Kolhapuri Chappal, etc. for many of which the Government of India had to fight the legal battle for times in the International Courts to get the tag in India.

The Geographical Indications tags in India are issued as per the provisions of the GI of Goods (Registration and Protection) Act, 1999. which came into force on 15 September 2003, by the GI Registry as per the Department of Industry Promotion & Internal Trade, Ministry of Commerce & Industry. India 1st GI tag issued for Darjeeling Tea, in 2004 to 2005 and for then, the number of registrations, as well as applications, has improved speedily. As per Indian Government, approx. 370 GI tags have been assigned to various goods as per Section 2(f) of the GI of Goods (Registration and Protection) Act, 1999. A GI tag is in force only for 10 years and renewed from time to time. As per Sec. 18¹ of the act provides that the registration of a GI for a period of 10 years. It can be renewed for a period of every 10 years on an application made in the prescribed manner and within the prescribed dated and subject to prescribed fees pay. As per cases of *Tea Board of India Vs. ITC Ltd*²(2011). The respondent fraudulently used the word 'Darjeeling' for naming one of its premises and misled the customers to believe it was the area of origin. which was not true. The Court held that using this name could pose a great threat to the tea business of that area and hence the accuser moved an interlocutory application for granting temporary order for using the name.

¹ Ibid, S.18

² *Tea Board of India Vs. ITC Ltd*

IV. The Geographical Indication In Bihar

The Products GI tag are protected as per the Geographical Indications of Goods (Registration and Protection) Act, 1999, which enables those who have the right to use the indication to restrict its use by a third party. In total 15 products from Bihar have been issued GI tag, including Mithila Makahna, Magahi Pan, Mithila painting, Jardalu varieties of mangoes from Bhagalpur, Shahi Litchi of Muzaffarpur and Silao Khaja of Nalanda.

Many achievements that India became renowned for in are teaching, governance, society, or religion, have roots in Bihar. Important achievements of Bihar in trade and economic engagement within the state and outside of the Indian sub-continent emerge from a past that appears to have left no living inheritance in today's Bihar--a past so alien as to be either just over and done or treated as being totally unbelievable. There are many states surrounded by Uttar Pradesh in the west, Nepal in the north, Jharkhand in the south, West Bengal in the east. and Being the third largest state by population, twelfth largest by territory and the world's third most populous subnational entity, Bihar was considered as a center of power, learning and culture in ancient and classical India. this state is split by the river Ganges which flows from west to east, making the plains fertile. State appreciates a sole location-specific benefit because of its closeness to the vast markets of eastern & northern India, access to ports including Haldia and Kolkata, and to raw material sources and mineral reserves since the neighboring states.

Geographical indications from Bihar was first registered in the year 2006 – 2007 and then increased in the number of registered geographical indications. , around be situated no products registered in the first two year 2004-06. The number of products registered under GI recorded a important increase in 2007-08 year. The maximum geographical indication registered are from agriculture category and skill. The GI Registry in Chennai has accepted the initial proposal for conferring the coveted GI tag to Nalanda's 'Bawan Buti' sari, Gaya's 'Pattharkatti stone craft' and Haripur's 'Chiniya' variety of banana have further approvals awaited. The Chief General Manager, Nabard-Bihar, Sunil Kumar, said proposals for three sweet delicacies for Bihar will also be submitted soon to the GI Registry. There are three delicacies are Bhojpuri's 'Khurma', Gaya's 'Tilkut' & 'Balu Shahi' of Sitamarhi district.

List of Geographical Indication tag from Bihar

Product Name 	Applicant Name 
Bhagalpuri Zardalu	Bhagalpuri Jardalu Aam Utpadak Sangh
Katarni Rice	Dhan Utpadak Sangh
Magahi Paan	Utpadak Kalyan Samiti
Shahi Litchi	Adarsh Nagar. (Litchi Growers Association of Bihar)
Madhubani Paintings	Director of Industries
Applique (Khatwa) Work of Bihar	(Handicrafts) Development Commissioner
Silao Khaja	Audyogik Swavalambi Sahakari Samiti Limited
Manjhosa Art	Upendra Maharathi Shilp Anushandhan Sansthan
Sujini Embroidery Work of Bihar [Logo]	(Handicraft) Development Commissioner
Sujini Embroidery Work of Bihar	(Handicraft) Development Commissioner
Bhagalpur Silks	Tussar Silk. Development Samiti
Sikki Grass Products of Bihar [Logo]	(Handicraft) Development Commissioner
Applique (Khatwa) Work of Bihar [Logo]	(Handicraft) Development Commissioner
Sikki Grass Work of Bihar	(Handicraft) Development Commissioner
Mithla Makhana	Utpadak Sangh Facilitated by Bihar Agricultural University (Mithilanchal Makhana)

V. Some GI -Tagged Products Of Bihar

A. Magahi Pan

It is a best variety of betel which is cultivated in various region of Bihar. It's non-fibrous, sweeter, and more delicate and delectable than the opposite members of its class. Note: - The GI tag is given for the agricultural produce, the betel vine crop-plant breed, and not the culinary preparation of the betel, because it is recorded as per the 'Agricultural' categorization and not as per 'Foodstuffs'. The intentional cooperative organisation, the Magahi Pan Utpadak Kalyan Samiti of village Deuri in Nalanda district was the applicant for the Magahi Pan. These parts of evidence recognized the belongingness of this crop to the Magadh (Bihar). The Pan's traditional lineage are often traced right back to the ancient period, with texts evidencing towards its widespread prevalence within the locale, including consumption by the royalty.

B. Jardalu Mango

Bhagalpur's reputed light yellow-skinned, distinctively aromatic mangoes are the shall be coveted variation in Central-East India. the appliance for tag by Jardalu Aam Utpadak Sangh, the Producers' Union for the unique variety, situated in Madhuban, Maheshi community of the Bhagalpur district. A 200-year-old tree placed under the Tagepur village was cited the veritable matriarch for all of the salient cultivar in the area. The half-pound thin-peel mango, current for its aroma, has persisted a mainstay on the state government's annual present repertoire directed to be gifted to an assortment of since 40 VVIPs including the Hon'ble President of India Prime Minister.

C. Katarni Rice

Special flavor and distinctive fragrance. This short-grained rice is natively grown-up in the Banka and Bhagalpur in Bihar. Agronomists attribute its distinctiveness to best soil composition, that's originate in these areas. Therefore, indiscriminate revolution and uncontrolled compost and pesticide abuse, together with topsoil erosion, discharge by surface run-off, mild acidulation and heavy-metal contamination are threatening its sustenance and viability, pushing agriculture down a fatal loop of unsustainable swamping out with Artificial fertilizers.

Legend has it that the resident regent Maharaja Rahmat Ali Khan Bahadur of Kharagpur pioneered Katarni plantation in the area. From this virgin batch of seeds, virtually all of today-observed crop is proliferated. The area was suitable for the nascent, budding variety and it thrived and flourished on the soil of Bhagalpur. The variety had originated as a superior chance seedling, likely a product of a spontaneous fluke – the precarious process of mutation. Therefore, strand is identified for long and thin grain and fragrance. In the Geographical Indicator journal, it is remarked that this rice variant is ‘one of the famous fine grain quality scented rices of Bihar’.

D. Shahi Litchi

The immensely popular pearly-white Litchis of Muzaffarpur and adjoining areas enjoys global appeal and demand, and consequentially governmental patronage and extensive research coverage. “Shahi litchi from Bihar registered as a GI. Muzaffarpur, Vaishali, Samastipur, Champaran, Begusarai districts and adjoining areas of Bihar have a favorable climate for this fruit, unique because of the attractive appearance and delicious.

As Per Times Of India, “The Tag Conveys An Assurance Of Quality & Distinctiveness,” Said Bachcha Prasad Singh, President Of Litchi Growers’ Association Of Bihar. Therefore, Two-Fifths Of The National Litchi Production, Of Which (In-Turn) Three- Fifths Are Comprised By Shahi Litchis. The Patent Makes It An Exclusive Brand And Is Being Seen As An Economic Impetus To The Litchi-Growers Of The Planet.

E. Madhubani Painting

Madhubani painting, also mentioned in Mithila Art, is characterized by line drawings filled in by bright coolers and contrasts or patterns. Traditionally painting done by the women of the area, though today men are also involved to meet the demand. These paintings are popular thanks to their tribal motifs and use of bright earthy colours. These paintings are through with mineral pigments prepared by the artists. The work is completed on freshly plastered or a mud wall. In 2007, Madhubani Paintings were designated as GI tagged

F. Bhagalpuri silk

Finest texture of Silk springing out from the essence of nature and called the 'Queen of all fabrics', Bhagalpuri Silk is extremely famous for its unique and striking resilience & superior quality. This intrinsic artwork showcases the primary essence of Bhagalpur in its purest and flawless form. It's crammed with each slice of Indian cultural aspects which are drawn since the intricacies of the natural surrounds and which are representative in their own form.

G. Applique Khatwa work of Bihar

Appliqué works in Bihar, India. Khatwa is about designing by cutting of 1 fabric and stitching the pieces to a different fabric. Khatwa is particularly used to produce designer tents, canopies and shamianas.

H. Mithila Makhana

Geographical Indications Registry as per the Central Ministry of Commerce has accepted the request to rename Bihar Makhana to Mithila Makhana and has also suggested further changes to the brand logo to raised reflect its backgrounds. The amendments in the brand logo to spotlight its origins and protect the product's GI rights.

VI. Benefits of Geographical Indications

When the products got GI tag enjoy various advantages due to GI tag?

1. Registered geographical indications have the prerogative to access or use G.I.'s products during the business.
2. Authorized users enjoy the proper to sue for infringement.
3. The provides legal protection to geographical symbols.
4. Stops unauthorized use of registered GI by others.
5. It provides legal protection to Indian geographical signals which successively promotes exports.

6. It promotes the economic prosperity of producers of products produced in a geographical area.
7. A registered owner also can approach for legal protection in other WTO member countries.
8. It provides legal protection to the respective goods in domestic also as in international markets.

Who can apply for the registration of a GI tags?

- Any association of persons, producers, organisation or authority established by or as per the law can apply:
 - An applicant essential represent the interest of the goods
 - The application should be in writing within the prescribed form
- The application should be addressed to the Registrar of Geographical Indications together with prescribed fee.

VII. Infringement Of Geographical Indication

Registered GI is violated by an individual who is not a registered proprietor or authorized user, uses such an indication on the goods or suggests that such goods originate in another geographic area, which confuses someone aside from the actual area of goods public. GI-tag of the trademark also infringes upon any use that constitutes an act of “unfair competition”, detailed explanation of 1 and a couple of of Sec. 2(b). This provision seeks to offer effect to Article 22(2)(b) as per TRIPS Agreement, which needs members to “provide legal means for interested parties to prevent any use that the Article 10(b) is of the Paris Convention (1967). A GI-tag is additionally violated by a person who is not a registered proprietor or lawful user, who uses another GI-tag for the products, which is really true as to area, or zone from where the products originated and publicly misrepresentation that goods originate in an area, or a neighborhood to which such registered GI belong. Article 22 (4) of the TRIPS Agreement states that the preservation of the geographical Indication of a trademark must be enforced whether or not the G.I

Amounts to GI Infringement?

- When an unlawful user uses a GI tag that indicates or suggests that such goods originate during a geographical zone other than the true area of origin of such goods in a manner which mislead the community as to the geographical origin of such goods.
- When the utilization of geographical indication results in an unfair competition including passing-off in respect of registered geographical indication.
- When the utilization of another geographical indication results in false representation to the public that goods originate in a territory in respect of which a registered geographical indication related

The GI Act provides for a sentence of imprisonment for a term between six months to 3 years and a fine between fifty thousand rupees and two lakh rupees. There are numbers of other ways during which other existing laws can also control the misuse of geographical denominations, one among is called Consumer Protection Law.

VIII. Trademark

The trademark may be a unique sign used to represent a business or its products. If once registered, that very same sign cannot be used by any other organization, forever, as long because it remains in use and proper administration and fees are paid. Only a restricted right of user are often granted via licence. case *Ramdev Food Products (P) Ltd. Vs Arvindbhai Rambhai Patel*. The trade mark is eligible for registration if it consists of anybody of the particulars and is not required to consist of more than one of the particu lars. In Eastman Photographic Materials Co. Ltd. vs Comptroller-General of patent, Designs and Trade Marks

That a trademark has been claimed companies use three symbols:

- TM - Using the trademark symbol after a logo or phrase alerts competitors that you simply have claimed this symbol or phrase as your own, but you don't need to have even formally apply for it.
- [®] - Only trademarks that are officially granted by the Trademark office can use the [®] symbol, which stands for registered trademark.
- SM - Companies that sell services, not products, have the choice to use the service mark logo, but most use the TM instead for simplicity.

IX. Trademark & Design Overlap

In the same way, overlaps between trademarks & designs are realized frequently in various cases. Overlap between design & trademark usually appears in respect of 'shapes. the difficulty in such cases arises during the establishment of protection against infringement. As per case of *Whirlpool India vs Videocon Industries Pvt Ltd* , the Court tried to determine a test for violation, the Court specified in cases of design infringement to supply guard to the plaintiff, the infringement has got to be judged by the eye alone. Supreme court of India in a significant decision of the famous Crocs court held that a registered design can't constitute a trademark.

The question rises if a shape that has been registered as per the Designs Act, is getting used as a trademark for the persistence of trade, wouldn't it lose protection as per the design act, the courts applied the principle of passing off and held that passing off may be a right based on common Law as in *Smith Kline v. Hindustan Lever* . Contrary to the present Delhi High Court in the case of *Tobu Enterprises vs Megha Enterprises* denied an injunction on basis of passing off. Additional important question arises here which will a suit of an infringement can be filed against a registered design under a designs act by additional registered design as per design act. within the case of Mohan Lal, the court held that such a suit can be maintainable as the expression of "any person" as per sec.22 under the designs act. Doesn't reject a registered design innovator.

B. Trademark and Geographical Indication

A trademark may be a sign used by an enterprise to distinguish its goods and services from individuals of different enterprises. It gives its holder the proper to exclude different from using the trademark. A GI tag tells consumers that a goods is produced during a certain area and has certain features that are due to that area of production. it's going to be used by all producers who make their products in the area designated by a GI and whose products share typical talents.

X. Conclusion

India may be a land full of diverse cultures and goods. Each state and even district has their own culture and goods unique thereto area. plenty of the goods originates uniquely from that area, but not all are accorded the Geographical Indication status as per the definition under Section 2(e) of the Act. India is in evolving era of the new upcoming property with focus on geographical indications. GI registration are increase day to day as well as years. Karnataka is one among the states coming up as a potential player in this area. For Bihar, number of other GI applications are often filed in the fields of Manufacture, Food stuff, textiles and Natural Goods. To be qualified as a GI, a product or service could also be described and designated as such only where specific aspects of that geography contribute to its uniqueness. This creates the intrinsic link between the merchandise and the geographic location and is very critical when it comes to identification of GIs. Bihar may be a land of numerous locale-specific, typical products of salient craftsmanship- *extraordinaire*. To avoid disputes (ranging from petty neighbors to those between states) and avert conflation and ambiguity, GI tags are awarded to characterise specific products, starting from the edible to the sartorial. GI tags award residents the near-exclusive right to use the favored (common) product name and hence foster local artisanship, support endemic and traditional artificers and handicraftsmen, and stop appropriation by foreign and/or nationwide mass-manufactures. Therefore, GI-tags are a proof to the prowess and resolute *tour-de-force* of Bihari agriculturists over successive generations. they necessity not only made Bihar a prosperous land of flourishing crops – this food basket of India but also given it distinctive products identified for their best quality. Bihar's famous Makhana, the aquatic Gorgon-nut or foxnut, which is ready as a nutritious snack, is additionally being vouched and vetted by authorities towards consideration for gift of a GI-tag.

XI. References

- timesofindia.indiatimes.com
- <https://www.hindustantimes.com/>
- Made Only in India: Goods with Geographical ...
- Book by Anu Kapur
- The Transformation of EU Geographical Indications Law: The Present, Past and Future of the Origin Link
- Book by Andrea Zappalaglio
- Geographical Indication and Global Agri-Food: Development and Democratization
- Book by Kae Sekine, Hart N. Feuer, Alessandro Bonanno
- <https://legalreadings.com/concept-of-property/>
- <https://www.ipindia.gov.in/IPIndiaAdmin/gi.htm>
- Research Handbook on Intellectual Property and Geographical Indications
- Dev Gangjee
- Geographical Indications of Indian Handlooms: Between Legal Right and Real Right
- Book by Hetvi Trivedi and Nidhi Buch
- Relocating the Law of Geographical Indications
- Book by Dev Gangjee
- The Protection of Geographical Indications: Law and Practice
- Book by Michael Blakeney
- Geographical Indications
- Book by Stefanie Schumann
- Copyrights and Geographical Indications – A Book by Harshal Liladhar Tare