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A brief review on geographical indication registration and its impact on society

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ABSTRACT: Intellectual property (IP) is known as the creation of human mind, created by incorporating information intangible objects capable of multiplying in an unlimited number of times at different locations anywhere in world. Qualities and characteristics of certain goods attributable to some geographical locations and reputable to “as produce of certain region” come under Geographical Indications (GI). GI is an emerging trend in IP. The TRIPS agreement which is based on the agreement; IPR covers Artistic, Literary, Technical or Scientific Creation, trademarks, Geographical Indications, Industrial designs. GIs refers to any indications that identify a good as originating from a particular place. GI is associated with goods such as agricultural, natural or manufactured goods as manufactured in the territory of the country. GIs make it possible to add value to the natural riches of a country and to the skills of the population, and they give local products a distinguishable identity. GI registration can help a community of producers to differentiate their product from competing products in the market and build goodwill around their products, often attaching premium price. GI act as a signalling device for consumer’s point of view, which helps them identify genuine quality products and protect them against counterfeits. If the GI’s are effective marketing tool of great economic value. The review highlights the selection criteria for a product to through which a product may register under GI registry. The importance of proactive involvement of the producers, Government, NGOs and stakeholders of the registered GI products for sustainable growth of the economy.

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INTRODUCTIONS:

Intellectual Property Rights increasingly influencing trade both at the national and international level; harnessing trade benefits depends on the degree of protection enjoyed by the owners of the IPR ^[1]. Intellectual property rights are protected primarily to stimulate innovation, design, and creation of new technology, ensure fair competition and to protect consumers, by enabling them to make informed choices

between various goods and services. Geographic indications for goods are an indication that identifies agricultural, natural or manufactured goods in terms of their origin or manufacturing in a specific geographic area. The goods acquire a reputation in the market owing to combined efforts of nature and man through processes that have evolved over a significant period of time in history ^[2]. GIs are considered as an element of intellectual property rights (IPRs) by arts 1(2) and 10 of the Paris Convention for the Protection of Industrial Property and also by the Trade-Related Intellectual Property Rights (TRIPS) under arts 22 to 24. Article 22 defines a standard level of protection for all categories of products. Article 23 provides a higher level of protection to wines and spirits. Article 24 lists the exceptions to GI, i.e. the cases when GIs do not have to be confined or protection can be limited ^[3].

The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) is an international agreement administered by the World Trade Organization that sets down minimum standards for many forms of intellectual property regulation. Specifically, the TRIPS Agreement contains requirements that nations' laws must meet with regard to: copyright, including the rights of performers, producers of sound recordings and broadcasting organizations; geographical indications, including appellations of origin; industrial designs; integrated circuit layout-designs; patents; monopolies for the developers of new plant varieties; trademarks; trade dress; and undisclosed or confidential information. The intellectual property scenario in India is developing at a very fast pace. GIs serve to protect intangible assets such as market differentiation, reputation and quality standards. They enable the linking of a specific product to the territory from which it originates. GIs are understood by customers to denote the origin and the quality of products. GIs are increasingly recognized as a tool for securing consumers' loyalty by establishing the link between product attributes and the geographical origin. In economic terms, a GI essentially enables producers to increase profits through product differentiation ^[4].

Effective protection involves a balance of interests between consumers, producers and governments. Consumers have an interest in not being misled by geographical indications, producers have a trade interest in protecting those reputational characteristics of a

product that are related to its geographical origin, and governments have an interest in ensuring that international obligations relating to geographical indications are administered in an efficient and equitable manner. The Act identifies the following traits in a GI that are collective ownership, evolving nature, less technology intensive and liberty of being used within the community ^[5]. The Act permits any association of individuals, producers, organisations or any authority recognised by or under the law to be the listed owner of a GI. The Act provides an initial protection of 10 years for GIs which can be extended for another 10 years after the expiry of the initial protection period. However, the listed owner must apply for the same and maintain the collective traditions. Failure to renew within six months of expiration would lead to deregistration of the GI. As discussed in the previous section GIs serve the interests of other stakeholders in addition to manufacturers/producers ^[6]. For the manufacturer or producer it is important to preserve and protect traditional knowledge, skills and expertise. The Act allows them to take uncontested commercial advantage of traditional knowledge and skills that the community or area created, refined and transmitted over generations. The objective of this review is to describe the concepts of geographical indications and its importance towards society so that registered proprietor and authorized user will be benefited.

HISTORY:

In 1994, as part of the Uruguay Round, the Member states of the newly founded WTO signed TRIPS. 2 TRIPS affirms GIs as a separate branch of intellectual property, which are entitled to worldwide protection by virtue of the agreement. The TRIPS Agreement, with more than 130 signatories, is the first international treaty which protects GIs through substantive provisions and provides an enforcement mechanism through WTO ^[7]. The right to use a GI tag is conferred on a member of the community producing a craft, textile, agricultural product or other qualifying subject-matter by an endowment board, association or any other body that acts as its registrant. An authorized user (member of the community), has the right to further the common cause of his community through the use of the GI tag. This right does not come to him as a matter of personal entitlement, but as a member of the community, which also imposes restrictions regarding the scope of its use

and some conditions to be followed while growing or manufacturing the goods ^[8].

FEATURES OF GEOGRAPHICAL INDICATIONS:

Geographical indications have features that respond to the needs of indigenous and local communities and farmers. The special features for Geographical indication registration are ^[9]:

- It is based on collective traditions and collective decision-making process.
- Reward traditions while allowing for continued evolution.
- Emphasize the relationship between human efforts, culture and land resources.
- Environment.
- Are not freely transferable from one owner to another.

BENEFITS OF PROTECTING GEOGRAPHICAL INDICATIONS ^[10,11]:

GIs are significant for a number of reasons. The reasons are given below;

- GI registered products are important because they identify a product's source.
- GI registered products indicate a product's quality by informing consumers that "the goods come from an area where a given quality, reputation or other characteristics due to their geographic origin.
- The products represent business interests because they only endorse the goods originating from that particular area.
- GI protected items make a good business in both foreign and domestic market.
- GI product act as a mechanism to promote the local development from specific territories.
- It prevents unauthorized use of a registered geographical Indication by others.
- It boosted exports of Indian geographical indications by providing legal protection.
- It promotes economic prosperity of producers.

THE OUTCOMES OF GIs:

GIs are protected in three ways: first, laws focusing on business practice or consumer protection; second, trademarks law; third, a special 'sui generis' system. Protection of geographical indications on the national levels is characterized by the existence of a variety of different legal concepts. The concepts were developed in accordance with different national legal traditions and within a framework of specific historical and economic conditions. The differences as regards the scope of

protection and the applicable procedure may exist depending on the national laws of those countries which apply that type of protection ^[12]. Any interested association, society, manufacturer groups, organization or authority established by or under the law will be able to apply to register a GI. The application will be subject to an examination process by the Registrar and a GI will only be registered if the criteria for registration set down in the Act are satisfied. The Act also establishes procedures to enable interested third parties to challenge the Registrar's decision to register a GI, and to apply to remove or alter the registration of a GI. The GI Act leaves the procedures associated with the registration process to Regulations. Regulations will therefore be needed to implement the GI Act ^[12]. The Regulations will deal with such matters as ^[13]:

- The information required to be filed with an application to register a GI.
- The procedures to be followed during examination of the application.
- Procedures to be followed for renewing a registration, and for applications to alter or remove a registered GI.
- Opposition procedures;
- The conduct of proceedings, such as hearings, before the Registrar of Geographical Indications.

It is intended that the costs of establishing and maintaining the Register will be met entirely from fees paid by applicants for registration and third parties who interact with the Registrar. That is, there will be no subsidy from the government, or from the fees collected in respect of the other registered intellectual property rights ^[14].

REQUIREMENTS OF GIs APPLICATION IN INDIA:

The registration of a geographical indications must be applied by the registered proprietor and the authorized user or users the right to obtain relief in respect of its infringements and to the authorized user the exclusive rights to the use of the geographical indication in relation to the goods in respect of which it is registered ^[15,16]. The class of goods to which the geographical indication shall apply. A statement of how the geographical indication serves to designate the goods as originating from the concerned territory in respect of the quality, reputation or other characteristics which are due exclusively or essentially to the geographical environment, with its inherent natural, and human factors and the production or processing or preparation of which takes place in such

territory or region or locality. The geographical map of the territory of the country or region or locality in the country in which the goods originate or are being manufactured. The particulars regarding the appearance of the geographical indication as to whether it is comprised of the words or figurative elements or both. A statement containing such particulars of the producers of the concerned goods, if any, proposed to be initially registered with the registration of the geographical indication as may be prescribed; and such other particulars as may be prescribed.

CONCLUSION:

The basic economic function of geographical indications is to protect the goodwill of products to which they relate. GIs will be primarily beneficial for developing country producers, and meet the rural development objectives. GIs convey the cultural identity of a nation, region or a locality and add a human dimension to goods that are increasingly subject to standardized production for mass consumption.

GIs are understood by customers to denote the origin and the quality of products. GIs are increasingly recognized as a tool for securing consumers' loyalty by establishing the link between product attributes and the geographical origin. In economic terms, a GI essentially enables producers to increase profits through product differentiation. In order to understand the legal protection of GI's, understanding its evolution is essential.

Future research should focus on these issues using examples of country-wide GIs. Similarly studies focusing on economic impacts of obscure products- at least for international market- are also required. In the case of GIs for obscure products (both agricultural and non-agricultural), it will be interesting to develop a model which examines the signalling function of GIs and its economic impact on domestic and international markets.

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