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GEOGRAPHICAL INDICATION UNDER INDIAN LAWS

The term **Geographical Indications** refers to the specific link between the goods and place of production evolved, i.e. identification of a product that may be associated with a. The basis concept behind the recognition of Geographical Indications as an Intellectual Property Right relates to the goodwill / reputation built up by habitants of that region by carefully and painstakingly combining the best use of natural resources available there with the human skill / art. These human skills are traditionally handed over from one generation to the next for centuries.

1. Ingredients of Geographical Indication

- Ø An indication;
- Ø Originating from a specific geographic place;
- Ø To designate / identify product quality of natural or manufactured goods;
- Ø Goods should be produced or processed or prepared in that territory;
- Ø It should have a special quality or reputation or other cultural / traditional characteristics.

The apt examples of Geographical Indications are Champagne, Darjeeling Tea, Arabian horses, Alphanso Mango etc.

2. Difference between Geographical Indication & Trade Mark

Trade mark is a distinctive sign or indicator used in the course of trade to identify the source of products / services to consumers and also to distinguish goods / services of one enterprise from those of others whereas a geographical indication is an indication used to identify goods having special characteristics originating from a definite geographical territory

3. Protection at International Level

- Ø Under Articles 1(2) & 10 of Paris Convention for Protection of Industrial Property;
- Ø Under Articles 22 to 24 of Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement (Uruguay Round of GATT negotiations)

4. Law on Geographical Indication in India?

In India, the law in relation to Geographical Indications, i.e. Geographical Indications of Goods (Registration and Protection) Act, 1999; was passed in the year December 1999 and came into effect on 15th September 2003. The Act seeks to provide for the registration and better protection of geographical indications relating to goods originating from India.

5. Important aspects of registration of Geographical Indications?

Benefits –



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- Ø Confers legal protection;
- Ø Prevents unauthorised use of a Registered Geographical Indication by others;
- Ø Promotes economic prosperity of producers of goods produced in a geographical territory.

Nature of Registration – Registration not compulsory.

Validity of Registration – 10 years

Renewal of Registration – for further period of 10 years each

Effect of non-renewal – liable to be removed from the register

Assignment / transmission of Registration – Being a public property, it can neither be assigned nor transmitted / licensed / pledged / mortgaged

Removal from the Register – By the Appellate Board or the Registrar of Geographical Indications

6. Who can be Applicant?

Any association of persons, producers, organisation or authority established by or under the law, representing the interest of the producers.

7. What Indications are not registerable?

Absolute prohibits registration of a Geographical Indication,

- the use of which would be likely to deceive or cause confusion; or
- the use of which would be contrary to any law for the time being in force; or
- which comprises or contains scandalous or obscene matter; or
- which comprises or contains any matter likely to hurt the time being in force; religious susceptibilities of any class or section of the citizens of India; or
- which would otherwise be disentitled to protection in a court; or
- 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
- 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

8. Infringement of registered Geographical Indication

- Ø When an unauthorised user uses a geographical indication that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which mislead the public as to the geographical origin of such goods.



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- Ø When the use of geographical indication result in an unfair competition including passing off in respect of registered geographical indication.
- Ø When the use 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 relates.

9. Who can initiate infringement proceedings?

The registered proprietor or authorised users of a registered geographical indication can initiate the infringement action against the unauthorised user.

10. Documents accompanying the Convention Application

1. Certificate by the Registry of the Geographical Indications or equivalent competent authority of the convention country;
2. The particulars of the geographical indication, the country and the date or dates of filing of the first application;
3. The application must be the applicants' first application in a convention country for the same geographical indications and for all or some of the goods;
4. The application must include a statement indicating the filing date of the foreign application, the convention country where it was filed and its serial number, if available.

The Registration Process

STEP 1: Filing of application

STEP 2: Preliminary scrutiny and examination of the application by the Examiner for deficiencies, if any; and their removal by the applicant.

STEP 3: Content of claims to be assessed by a consultative expert group well versed on the subject and on basis thereof, issuance of the Examination Report by Registry.

STEP 4: Adjudication of application through Show cause notice, reply by applicant and personal hearing

STEP 5: Publication in the geographical indications Journal

STEP 6: Opposition and counter claim proceedings

STEP 7: Registration and issuance of certificate

STEP 8: Renewal

STEP 10: Appeal by aggrieved party to the intellectual property appellate board (IPAB)



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Check List –

- Whether such indication comes within the ambit of definition u/section 2(1)(e);
- Applicant details including name, address and legal status;
- Details as to how the applicant represents the interest of producers of the concerned goods;
- Address for service in India
- Details of the special characteristics and how those standards are maintained;
- Map of the region to which such indication relates;