

FAQs on Geographical Indication (GIs)

1. What are “Intellectual Property Rights (IPRs)”?

Intellectual property rights can be defined as the rights given to people over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time.

Intellectual property rights are traditionally divided into two main categories:

- Copyright and rights related to copyright: i.e. rights granted to authors of literary and artistic works, and the rights of performers, producers of phonograms and broadcasting organizations. The main purpose of protection of copyright and related rights is to encourage and reward creative work.
- Industrial property: This includes (1) the protection of distinctive signs such as trademarks and geographical indications, and (2) industrial property protected primarily to stimulate innovation, design and the creation of technology. In this category inventions (protected by patents), industrial designs and trade secrets are included.

For the purposes of the TRIPS Agreement, “intellectual property” refers to:

... all categories of intellectual property that are the subject of Sections 1 to 7 of Part II of the agreement (Article 1:2).

The IPRs are protected worldwide by the following ways:

- (a) Government and Parliaments have given creators these rights as an incentive to produce ideas that will benefit society as a whole.
- (b) The 1986-94 Uruguay Round achieved that the WTO’s Agreement on TRIPS is an attempt to narrow the gaps in the way these rights are protected around the world and to bring them under common international rules.
- (c) It establishes minimum level of protection that each government has to provide to the Intellectual Property of fellow WTO members. The Agreement sets out minimum standards to be adopted by the parties, though they are free to provide higher standard of protection.
- (d) When there are trade disputes over IPRs, the WTO’s dispute settlement system is now available.

2. What are the different types of IPRs?

- Trademarks and Service Mark
- Industrial Design Registration
- Copyright
- Layout Designs for Integrated Circuits
- Geographical Indications
- Trade Secrets and Undisclosed Information
- Competitive Practices in Contractual Licenses
- Patents.

3. What is a geographical indication (GI)?

Geographical indications (GIs) means an indication which identifies 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 characteristics 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, place names are sometimes used to identify a product, for example: Champagne, scotch, Tequila and Roquefort Cheese.

4. Examples of geographical Indication in world.

Bulgaria: Traminer From Khan Kroum (Wine), Merlou From Sarkar (Wine); Canada: Canadian Rye Whisky,, Canadian Whisky; Czech Republic: Beers: Pilsen, Budweis; EU: Wines: Champagne, Sherry, Porto, Chianti, Samos, Fheinhessen, Mossele Luxembourgeoise, Mittleburgenland, Spirits: Cognac, Brandy De Jerez, Grappa Di Barolo, Berliner Kummel, Genievre Flandres Artois, Scotch Whicky, Irish Whickey, Tsikoudia (From Crete); Hungary: Ger (wine)

5. Examples of geographical Indication in India.

Basmati Rice, Darjeeling Tea, Pochampally Ikat, Jasmin Rice etc

6. Some of the examples of potential Geographical Indications in Textiles & Clothing in India.

Sr. No.	Product	State
1	Balarampuram Fine Cotton Sarees	Kerala
2	Paithan Sarees	Maharashtra
3	Sambalpur Sarees	Orissa
4	Bomkai Saree & Fabrics	Orissa
5	Chanderi Muslin Sarees	Madhya Pradesh
6	Maheswar Sarees In Silk Texture	Madhya Pradesh
7	Patola Sarees	Gujarat
8	Lucknow Chikan Craft	Uttar Pradesh
9	Varanasi Sarees & Brocades	Uttar Pradesh
10	Baluchari Sarees & Dress Materials	West Bengal

It has been estimated that about 50000 products in India needs protection under GI.

7. How Geographical Indication (GIs) is different from Indication of source?

Geographical Indications bear the quality function of the product were as the indications of source indicates the source of products only. For example, made in India, made in France.

8. What is the difference between a geographical indication and a trademark?

A trademark is a sign used by an enterprise to distinguish its goods and services from those of other enterprises. It gives its owner the right to exclude others from using the trademark. A geographical indication tells consumers that a product is produced in a certain place and has certain characteristics that are due to that place of production. It may be used by all producers who make their products in the place designated by a geographical indication and whose products share typical qualities.

9. What is an appellation of origin?

An appellation of origin is a special kind of geographical indication, used on products that have a specific quality that is exclusively or essentially due to the *geographical environment* in which the products are produced. The concept of geographical indication encompasses appellations of origin.

10. What does a geographical indication do?

A geographical indication points to a specific place or region of production that determines the characteristic qualities of the product that originates therein. It is important that the product derives its qualities and reputation from that place. Since those qualities depend on the place of production, a specific "link" exists between the products and their original place of production.

11. Why do geographical indications need protection?

Geographical indications are understood by consumers to denote the origin and the quality of products. Many of them have acquired valuable reputations which, if not adequately protected, may be misrepresented by dishonest commercial operators. False use of geographical indications by unauthorized parties is detrimental to consumers and legitimate producers. The former are deceived and led into believing to buy a genuine product with specific qualities and characteristics, while they in fact get a worthless imitation. The latter suffer damage because valuable business is taken away from them and the established reputation for their products is damaged.

12. How is a geographical indication protected?

Geographical indications are protected in accordance with national laws and under a wide range of concepts, such as laws against unfair competition, consumer protection laws, laws for the protection of certification marks or special laws for the protection of geographical indications or appellations of origin. In essence, unauthorized parties may not use geographical indications if such use is likely to mislead the public as to the true origin of the product. Applicable sanctions range from court injunctions preventing the unauthorized use to the payment of damages and fines or, in serious cases, imprisonment.

13. How are geographical indications protected at the international level?

GI protection is granted by the TRIPS Agreement. There are various international agreements (The Paris Convention for the Protection of Industrial Property (1976). The Madrid Agreement for the Repression of False or Deceptive Indications of Source (1981), Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of 1958) which grant some kind of protection for GIs as an intellectual

property right. Because of its availability and the number of signatory members, the WTO (World Trade Organization) TRIPS Agreement (an agreement on trade related intellectual property rights) of 1994 is currently the principal international instrument for protecting and defending GIs. This agreement provides for two levels of protection. A basic protection fixed in Article 22 for all products which is determined by an act of misleading the public or unfair competition; and an additional protection fixed in Article 23 solely for wines and spirits which prevents any incorrect use of GIs on these types of product.

14. Which acts in India protects the Geographical Indications

Prior to 1999 there was no specific legislation to regulate geographical indication. It was in the year 1999 that India in compliance with its obligation under TRIPS Agreement enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999. This act seeks to provide for registration and better protection GIs relating to goods. It excludes unauthorised persons from misusing GIs. This would protect the interest of producers, manufacturers and thereby consumer from being deceived by the falsity of geographical origin to economic prosperity of the producer of such goods and promote goods bearing GIs in export market. Unless a geographical indication is protected in the country of its origin, there is no obligation under the agreement under Article 22 of the TRIPS Agreement on for other countries to extend reciprocal protection. It is in this context that the act was enacted.

The act provides registration in two parts Part A is related to the registration of GIs; Part B relates to the registration of authorised users/proprietors such as names, addresses and descriptions.

15. What are the benefits of GI registration?

- It prevents unauthorized use of a registered Geographical Indication goods by third parties.
- It boosts exports
- It promotes economic prosperity of producers.
- Only an authorized user has the exclusive rights to use the geographical indication in relation to goods in respect of which it is registered.

16. Who are responsible for administration of GIs in the country?

The Controller General of Patents, Design and Trademarks administers patents, designs, trademarks and geographical indications, which is under the control of the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, govt. of India. The Geographical Indications (Registrations and Protection) Act Rule, 2002 has also stipulate the protection of GI. The GI Act come into force with effect from 15th September 2003. The central govt. has established Geographical Indications Registry at Chennai, with Controller of Patents, Designs & Trade marks of the Registrar of GI where the right holders can register their respective product.

17. Who can apply for the registration of a geographical indication?

- Any association of persons, producers, organisation or authority established by or under the law can apply:
- The applicant must represent the interest of the producers
- The application should be in writing in the prescribed form.

- The application should be addressed to the Registrar of Geographical Indications along with prescribed fee.

18. Who is a registered proprietor of a geographical indication?

- Any association of persons, producers, organisation or authority established by or under the law can be a registered proprietor.
- Their name should be entered in the Register of Geographical Indication as registered proprietor for the Geographical Indication applied for.

19. Who is an authorised user?

- A producer or group of producers of goods can apply for registration as an authorised user
- It must be in respect of a registered geographical indication
- He (they) should apply in writing in the prescribed form along with prescribed fee

20. Who is a producer in relation to a Geographical Indication?

The persons dealing with three categories of goods are covered under the term Producer:

- Agricultural goods including production, processing, trading or dealing of such goods.
- Natural goods including exploiting, trading or dealing of such goods.
- Handicrafts or Industrial goods including making, manufacturing, trading or dealing of such goods.

21. Is a registration of a geographical indication compulsory and how does it help the applicant?

- Registration is not compulsory
- Registration affords better legal protection to facilitate an action for infringement
- The registered proprietor and authorised users can initiate infringement actions
- The authorised users can exercise the exclusive right to use the geographical indication.

22. Who can use the registered geographical indication?

An authorised user has the exclusive rights to the use of geographical indication in relation to goods in respect of which it is registered.

23. How long the registration of Geographical Indication is valid?

The registration of a geographical indication is valid for a period of 10 years.

24. Can a Geographical Indication be renewed?

Yes, GI registration can be renewed from time to time for further period of 10 years each, if the authorised user so desires.

25. What is the effect if it is not renewed?

If a registered geographical indication is not renewed it is liable to be removed from the register. As such the product will not enjoy legal protection provided by the Act the product may lose its unique quality in the long run.

26. When is a registered Geographical Indication said to be infringed?

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

27. Who can initiate an infringement action?

The registered proprietor or authorised users of a registered geographical indication can initiate an infringement action.

28. Can a registered geographical indication be assigned, transmitted, etc?

No. A geographical indication is a public property belonging to the producers of the concerned goods. It shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement. However, when an authorised user dies, his right devolves on his successor in title.

29. Can a registered geographical indication or a registered authorised user be removed from the register?

Yes. The Appellate Board or the Registrar of Geographical Indications has the power to remove the geographical indication or an authorised user from the register.

30. Which of the Geographical Indications cannot be registered?

- The use of which would likely to deceive or cause confusion or contrary to any law.
- Which comprises or contains scandalous or obscene matter or any matter likely to hurt religion susceptibility of any class or section of citizens of India.
- Which would otherwise is disintitiled to protection in a court, 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.
- 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.

31. What is the punishment in the Act for falsifying GI?

A sentence of imprisonment for a term between 6 months to 3 years and a fine between fifty thousand rupees and two lakh rupees or stipulated in the Act. However, the court may reduce the punishment under special circumstances.

