

UNIT – 4

Geographical Indications

Meaning • Indian GIs • GI Act • Registration • Infringement • Remedies • Registrar • Conflict with Trademark

Intellectual Property Law – Expanded Edition

Unit Overview

This unit provides a comprehensive study of Geographical Indications (GIs) – meaning and scope, important Indian GIs, the Protection of Geographical Indications of Goods (Registration and Protection) Act, 1999, registration procedure, rights conferred, infringement and remedies, role of the Registrar, and the interface between GIs and trademarks. Additional practical and exam-oriented points are included.

What You Will Learn

01 Meaning

Define GI and distinguish it from trademark

02 Indian GIs

List and explain important Indian geographical indications

03 GI Act

State the salient features of the GI Act 1999

04 Registration

Explain the procedure and effect of registration

05 Infringement

Identify acts of infringement and available remedies

06 Conflict

Resolve conflicts between GI and trademark

INTRODUCTION

Introduction and Overview of Geographical Indications

Concept	GI identifies a good as originating from a specific territory where a given quality, reputation or characteristic is essentially attributable to that origin
Economic Importance	Protects traditional knowledge, rural livelihoods and cultural heritage
International	Recognised under TRIPS Agreement (Articles 22-24)
India	Protected under the Geographical Indications of Goods (Registration and Protection) Act, 1999

MEANING

Meaning and Scope of Geographical Indications

A Geographical Indication is an indication which identifies goods as originating in a specific territory, region or locality, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin.

Indication

Can be a word, symbol, or any other indication

Goods

Agricultural, natural or manufactured goods

Link

Strong link between the product and its place of origin

Collective Right

Belongs to the community of producers, not an individual

Important Geographical Indications of India – Examples

Darjeeling Tea

First GI registered in India; unique flavour due to climate and soil

Basmati Rice

Aromatic rice; long-standing dispute and protection efforts

Mysore Silk

Unique texture and quality from Karnataka

Kanchipuram Silk

Traditional silk sarees from Tamil Nadu

Pashmina

Fine wool from Kashmir region

More Indian GIs and Their Features

Alphonso Mango	Specific to certain regions of Maharashtra
Nagpur Orange	Distinct taste linked to the region
Banaras Brocades & Sarees	Traditional weaving from Varanasi
Kolhapuri Chappal	Traditional footwear from Maharashtra
Common Features	Reputation, traditional knowledge, specific geographical link

Salient Features of the GI Act, 1999

Registration	Provides for registration of GIs and authorised users
Duration	Registration valid for 10 years; renewable indefinitely
Rights	Exclusive right to use the GI and to obtain relief for infringement
Prohibition	Prevents misleading use and passing off
Registrar	Establishes the Geographical Indications Registry

PROTECTION

Protection of Geographical Indications

Who can Apply	Any association of persons, producers, organisation or authority representing the interest of the producers
What is Protected	The indication itself and the reputation attached to it
Against What	Misleading use, unfair competition, and unauthorised use
TRIPS Standard	India provides TRIPS-plus level protection in many respects

MISLEADING USE

Misleading Use of Geographical Indications

Meaning	Use that suggests the goods originate from a place other than the true place of origin
Examples	Using “Darjeeling” for tea not grown in Darjeeling
Consequence	Constitutes infringement and can also amount to unfair competition
Consumer Protection	Protects consumers from deception

Registration of Geographical Indications – Procedure

Application	Filed before the Registrar of Geographical Indications at Chennai
Contents	Details of the GI, goods, geographical area, quality/characteristics, particulars of producers
Examination	Registrar examines the application for compliance
Publication	Accepted applications are published in the GI Journal
Opposition	Any person can file opposition within the prescribed period

Effect of Registration and Rights

Certificate

Issued after successful registration

Rights of Registered Proprietor

Exclusive right to use the GI in relation to the goods

Authorised Users

Producers can be registered as authorised users

Assignment

GI cannot be assigned or transmitted (collective nature)

RIGHT TO USE

Right to Use Geographical Indications

Registered Proprietor

Has the exclusive right to use the GI

Authorised Users

Have the right to use the GI in relation to the goods

Others

Cannot use the GI if it is likely to mislead or amount to unfair competition

Homonymous GIs

Special rules for GIs that are identical or similar

INFRINGEMENT

Infringement of Geographical Indications

Acts Constituting Infringement

Use of GI on goods not originating from the indicated place; use that misleads the public; use that constitutes unfair competition

Who can Sue

Registered proprietor and authorised users

Passing Off

Action for passing off is also available even without registration in certain cases

REMEDIES

Remedies against Infringement

Civil Remedies

Injunction (temporary and permanent), damages or account of profits, delivery up of infringing goods

Criminal Remedies

Imprisonment and fine under the Act for falsification and false application of GI

Border Measures

Customs authorities can act against import of infringing goods

Administrative

Opposition, rectification and cancellation proceedings before the Registrar

REGISTRAR

Role and Functions of the Registrar of GIs

Registry

Geographical Indications Registry is at Chennai

Functions

Receives applications, examines, publishes, registers, maintains the Register

Adjudication

Hears opposition, rectification and related proceedings

Public Interest

Ensures that only genuine GIs are registered and protected

Conflict between Trademark and Geographical Indication

Prior Trademark

A prior trademark can sometimes conflict with a later GI application

GI Priority

In many cases, a registered GI can prevent registration or use of a conflicting trademark

TRIPS

Provides for coexistence and resolution mechanisms

Indian Approach

The GI Act and Trade Marks Act contain provisions to resolve conflicts; public interest and consumer protection are key considerations

ADDITIONAL

Additional Student-Useful Topics

Difference GI vs Trademark	GI is collective and linked to origin; trademark is individual and indicates commercial source
Homonymous GIs	GIs that sound or look alike but relate to different places – special protection rules
Generic Names	Once a name becomes generic, it may lose GI protection
International Registration	Lisbon Agreement and Geneva Act for international protection of GIs (India is not yet a member of Lisbon)

CASES

Important Cases & Practical Points

Darjeeling Tea

Successful protection and enforcement against misuse worldwide

Basmati

Long legal and diplomatic battle for protection

Practical Tip

Producers' associations should register both the GI and authorised users

Exam Tip

Always distinguish GI from appellation of origin and from trademark

SUMMARY POINTS

Must-Remember Points

- GI identifies goods linked to a specific geographical origin and its qualities/reputation.
- India protects GIs under the 1999 Act; registration is for 10 years and renewable.
- Important Indian GIs include Darjeeling Tea, Basmati, Mysore Silk, Kanchipuram Silk, Pashmina, etc.
- Infringement includes misleading use and unfair competition; civil and criminal remedies are available.
- Registrar of GIs administers the system from Chennai.
- Conflicts with trademarks are resolved keeping consumer protection and public interest in mind.
- GI is a collective right and cannot be assigned like a trademark.