GEOGRAPHICAL INDICATIONS PROTECTION IN INDIA: 
CASE STUDY ANALYSIS ON ‘TIRUPATI LADDU’

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ABSTRACT

Earlier Geographical Indications were not registered in India. A lot of people misused the Geographical Indications of India since there was no statutory provision. Therefore the need for the geographical indication laws in India was felt. The Parliament has passed a legislation, namely, the Geographical indication of Goods (Registration and Protection) Act, 1999 as it was necessary to possess a comprehensive legislation for registration and for providing competent protection to geographical indications.

Geographical Indication means any indication that defines the goods as originating in a geographical territory where a certain amount of quality, estimation and other characteristics of the product which can be attributable to its geographical origin. Geographical Indication refers to a status. The status is given to certain products with specific quality. Geographical Indication is a tool that bridges between the products and the geographical territory. India guarantees that G.I protective covering is uniformly accessible to all or any sorts of goods as many Indian origin products like Basmati Rice aren't adequately protected under TRIPS Agreement, at the national level.

This paper presents in short and concise manner the meaning of Geographical Indications as an Intellectual Property Rights in India and a brief analysis of Tirupati Laddu as being a G.I. This paper also focus on the registration process of the G.I.

Keywords: Intellectual Property, Geographical Indication, Registration process of G.I, Tirupati Laddu.
INTRODUCTION

Geographical Indications is a sign which is primarily used to determine goods as originating from that specific geographic area. Geographical indications help the consumers to supply the true origin of the products and also confers exclusive rights upon the producers of that specific geographical territory to use classifiable indication from differentiating their products from others. Consumer expectations could also be supported on the reputation acquired by the merchandise in question on account of its ethnical remark to a vicinity or environmental conditions like soil, water or a mixture of both. G.I is a collective right and hence larger interest of the people are involved. G.I extents only to the products and not the services.

Earlier in India there was no registration process for the registration of G.I. There were certain circumstances where the G.I has been registered as a Trademark. Hence it became necessary for the Indian Parliament to make laws on geographical indication in order to make the products distinctive as well as avoid consumer confusion. In the year 1999, the Indian Parliament has passed a comprehensive legislation known as the Geographical indication of Goods (Registration and Protection) Act, 1999. This act attempts to furnish the registration and protection of geographically indicated products in India.

PROTECTION OF G.I UNDER TRIPS AND INDIAN ACT

TRIPS set up minimum standard of protection for the IP rights for all the member country’s. “Geographical Indications” the term is defined as some sign that certifier a product as develop from a special place or area; a given amount of quality, estimation and other characteristics of the goods are essentially referable to its geographic territory and is first used in TRIPS Agreement. The G.I mechanism the country’s must came up with the legal means which will ensure the protection to the G.I so that the public will not mislead. The member country’s must prevent the registration of Trademark which contains any G.I.

In the cases of manufactured products at least one of the action is of either production or processing or preparation of the products taken up should be placed in that specified geographical area as per the definition of G.I in the statute of the Geographical Indications of

1 According to the Article 22 of the TRIPS Agreement states that “Geographical indications” is a sign which is used to identifying a product as originating in that given area of a member state where a given quality, estimation or other characteristic of the good is essentially referable to its geographical origin. Country’s must prevent the registration of the Trade Marks which contains G.I.
Goods (Registration and Protection) Act, 1999 which are based upon the TRIPS Agreement with some modified measures.\(^2\) So G.I acts as an indicator for the conveying information about the origin, quality, reputation, geographical region and the nexus between the product and the geographical location. G.I products are an genuine quality that makes them different from the counterfeit products. When a brand quality is designated by a G.I then the customers are willing and able to pay more for the products as mentioned in a consumer survey conducted by the European Union.\(^3\) In this way the income of the genuine producers have also been increased. The upliftment of the poor and some marginalized sects of the society or a particular community is tremendously depends upon the G.I. The bread and butter of the artisans and the people of the local people who are particularize in unique items or the product to that particular geographical place, is effectively protected as G.I is a collective right.\(^4\) G.I extends to only products and not services. Rights under G.I is non-transferable. G.I offers two dimensional registration. There is a registration in the form of registered proprietor and also registration in the form of authorized user.

RATIONAL BEHIND THE G.I LAW

1. Community Interest: Protection of the particular product is directly proportional to the interest of the community where it originates. Whenever a G.I tag is given to a particular it also uplifts the interest of the community who is behind the production and manufacture of the product.

2. G.I tag to a product helps in giving a distinctive identity to the product among the other similar products in the market.

3. G.I tag is given to a product which has a specific quality considered as superior then the quality exhibited by other similar products in the market. Hence the G.I mechanism helps in maintaining the quality standard of a product there by preventing misrepresentation and consumer confusion.

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\(^2\) According to Section 2(1)(e) of the G.I stipulates that in case of a manufactured products one of the action has to be either production or processing or both w.r.t the origin of the product.


4. G.I tag to a product is an indication of the source of the origin of the product as far as specifically identified geographical territories are concerned.

5. G.I mechanism helps in establishing a market for a quality product not only in national market but also in international market. Thereby it becomes instrumental in generating revenue for the nations.

**CATEGORY OF PRODUCTS THAT ARE PROTECTED UNDER THE G.I LAW**

Products that can be geographically indicated under the Indian law on G.I protection are:

(a). Natural Product: These are the products which are completely depends upon the natural climatic factors. These products does not require any human intervention.

E. g: Nagpur Oranges.

(b). Agricultural Product: These are the products which are based upon specific agricultural techniques or require some sort of human intervention. Mostly a group of community grows specific type of plant or a crop.

E.g: Darjeeling Tea (First registered G.I in India): It requires human intervention at different stages.

(c). Manufactured Product: These are the products that require human intervention, art, skill and traditional knowledge. There is no specific legislation to protect the traditional knowledge.

E.g: Sambalpuri Saree, Odisha Patatchitra, Kolhapuri Chappals, Kanjivaram Saree.

**PARAMETERS THAT INFLUENCED THE DECISION OF REGISTRAR IN GRANTING THE G.I**

(i). Product: It has to be a product means it cannot be a service (cannot be given for any service). No provisions in G.I Act which allows services to be protected under G.I. The registration is limited to the registration of the product and not the services. There are three kinds of products that are protected under the G.I Act i.e Natural Product, Agricultural Product and Manufactured Product.

E. g: Kerala Ayurvedic Massage: Its a service provided by the group of people of Kerala. This
service is of superiority. The people in Kerala has learnt over the period of time and has been passed on generation after generation. Even though the service is attributed to a specifically geographical location and specially identified but the service is not protected under the G.I Act. The law does not allow the inclusion of service.

E.g of the products are Nagpur Oranges, Darjeeling Tea, Odisha Patachitra, etc.

(ii). Geographical Territory: The products has to be confirmed to specifically identified geographical territory. There has to be no ambiguity with respect to the source or origin of the product. There should be a geographical territory from where the product be originating. A specific community is attached with respect to the particular geographical territory. If the product is considered as the product of the community from that specifically identified geographical area then it becomes easier to get the G.I tag.

If the product is originating from two different territory then its not a good case of G.I. This does not mean that the product cannot get the G.I tag. It has to establish a lot of different attribute and has to justify how this product in a particular area is different from the other in the market.

e.g: Odisha Rasagola originating from Odisha, Bangla Rasogola originating from West Bengal.

(iii). Quality Factor: Products which are considered for G.I should reflect a superior quality. There is no uniform parameter to decide whether the product is of superior quality or not. The standard to decide is different for different products. The applicant has to reflect in the application how the product is different and how the product is of superior quality.

(iv). Nexus between geographical location and quality of the product: The quality standard of the product should be an attribute with the geographical location. The attributions are of three types (a) natural climatic conditions of that geographical area. E.g- Nagpur Oranges which are juicier in texture; (b) human skill factor of a specific community residing in that geographical area. E.g- Odisha Patachitra from Raghurajpur Village of Puri. Patachitra is the art of human skill of the people residing in that community; (c) it can also be the combination of both the natural climatic conditions as well as human intervention. E.g- Darjeeling Tea.

**REGISTRATION**

Registration of G.I is mandatory for the protection under the Indian Law. According to the
Section 20 (1) of the G.I statute, in case of the infringement of an “unregistered” G.I no person “shall” be eligible to initiate whatsoever legal proceedings to forbid or to improve for the damages. The right to acquire relief for the infringement in case of registered G.I is given to its registered owner and its approved users.⁵ According to Section 3 (1) of the G.I statute states that the Controller-General of Patents, Designs and Trade Marks is the Registrar of G.I. The maintenance of a GI Register which is to be divided into two parts: Part A and Part B is further stated in Section 6 (1).⁶ Part A consists of the particulars concerning to the registration of the G.I and Part B consists of the particulars concerning to the registration of the approved user.

A G.I may be registered in respect of whatsoever or all of the products, in respect of such class of products as could also be categorized by the Registrar. As per Section 8 of the G.I Act, the Registrar is required to categorize the products, as far as possible, in conformity with the International categorisation of products for the need of registration of G.I. The different classes of goods and fee payable has to be in respect of each such class of products can be made in a single application for the registration and protection of a particular G.I.⁷

In India Geographical Indications are registered for a term of 10 years from the date of application and it can be revived from time to time for further 10 years by the registered proprietor. The registration for the authorized user for the period of 10 years or remaining period of the registration whichever is earlier. The registration of the authorized individual is always subject to the registration of G.I. The intention for the registration has to be shown by the registered proprietor and the approved user.

**Flow Chart of the Registration Process**

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⁵ Section 21 (a) of the Statute of the Geographical Indications of Goods (Registration and Protection) Act, 1999.
⁶ According to the Section 6(1) defines that “for the needs of this Act, a record called the Register of geographical indications shall be kept at the top office of the Geographical Indications Registry, wherein shall be entered all registered geographical indications with the names, addresses and descriptions of the proprietors, the names, addresses and descriptions of authorized individuals and such other matters concerning registered geographical indications as could also be prescribed and such registers could also be maintained wholly or partly on computer.”
CASE STUDY - TIRUPATI LADDU

The world’s wealthy Hindu place of worship and the most often visited one is the Tirumala Venkateshwara temple in Tirupati, Andhra Pradesh which has been acquiring a unusual sanctity in the Indian tradition. Tirupati Laddus are the prasadam that are offered to the devotees in the Tirumala Venkateshwara Temple.

During the last two decades the increasing requirement for these delightful, luscious and pleasant tasting Laddus had given kickoff to a flourishing black market in and around Tirupati. As claimed by the temple officials, in order to gear up the threat of the hawkers and the black marketers who were producing fake and spurious laddus and selling them to unaware pilgrims; so they were left with no options rather than for seeking G.I protection.

HISTORY

Since the year 1715 there is a practice of offering the laddus as naivedyam to Lord

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Venkateswara at Tirumala Venkateswara Temple situated in the hill town of Tirumala at Tirupati in Chittoor district of Andhra Pradesh, India. The Tirupati Laddu is known as the Shri Varu Laddu. A mixture of constituent such as cashewnuts, cardamom, diamond sugar candies, raisins and almonds is mixed up with the sugar syrup and pure cow ghee in order to make the boondi. The boondi which are weighing between 170 and 180 are the small ones and the boondi which are weighing between 700 to 720 grams are the two sizes of laddus are available for the devotees. This laddus are offered as prasadam to the devotees after having the darshan in the temple. The temple board Tirumala Tirupati Devasthanams (TTD) prepares the laddus in the temple kitchen known as Potu.

Due to the indefinite quantity in the demand for the delicious laddus, Tirumala Tirupati Devasthanams board decided to get protection under the G.I law to prevent it from the thriving black marketers and to tackle the menace of hawkers.

**WHY PROTECT “TIRUPATI LADDU” UNDER GEOGRAPHICAL INDICATION LAW IN INDIA**

An competent legal protection is essential for the protection of rightful holders of Tirumala Tirupati Devasthanams(TTD)Trust Board from the thriving black marketers. For instance the laddu is prepared by many local shops and was sold as the Tirupati Laddu in the markets.

Without competent GI protection in the national area it would be challenging to forbid the misuse of the Tirupati Laddus reputation wherein the laddus made elsewhere would be sold-out as the Tirupati Laddu, misleads the devotees and the quality of laddus that are offered in the temple. The G.I protective covering along with the stringent enforcement will be helping the TTD in a long way; providing the superior quality of the laddus to the devotees.

**LEGAL PROTECTION**

TTD in the year 2008 filed an application for the protection of Tirupati Laddu under the G.I law. In the application the TTD mentioned that the laddus are prepared inside the temple and not else where and these laddus posses a high quality standard, reputation and other characteristics. The ability of the cooks at different stages of preparation and the use of the

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11 G.I Application Number 121, Geographical Indications Journal (Vol 28), available at [https://www.wipo.int/geo_indications/en/?gclid=Cj0KCQj2r06MBeDrARIsAIPRQcIyMnAuWuFtw1UuktOMCV0-T0rfJga_2e9Qt1jfVhs_XwBILqSZrnNsaAuhvEALw_wcB](https://www.wipo.int/geo_indications/en/?gclid=Cj0KCQj2r06MBeDrARIsAIPRQcIyMnAuWuFtw1UuktOMCV0-T0rfJga_2e9Qt1jfVhs_XwBILqSZrnNsaAuhvEALw_wcB) (Last Visited on October 29, 2021).
advanced quality raw materials in sufficient proportion adds to the size and flavour of the laddus which are its defining characteristics.\textsuperscript{12} During the puja the laddus are offered to the main deity in the sanctum sanctorum; then the laddus are mixed with the ingredients to make further more laddus in the Pottu.\textsuperscript{13} The naivedyam offered to the deity is intermingled with rest of the laddus and then served to the devotees. As naivedyam is offered to the deity, the laddu itself derives sanctity, reputation and uniqueness as claimed by the TTD.\textsuperscript{14}

Registrar of Geographical Indications appointed a panel of experts to examine the merits of the application i.e whether the application involving the grounds under section 9 or not and whether the statement of the facts given in the application regarding the parameters are valid or not, in the year 2008. Then the team of experts finally in the year 2009 granted the G.I tag to the Tirupati Laddu. The registrar had issued the certificate of issue to the applicant. The G.I is protected for a period 10 years from the date of making the application subject to time to time renewal by the registor proprietor. TTD has the exclusive rights over the laddus as the authorized owner of the G.I; any infringement will amount to a cognizable offence and would also attracts civil penalties as well as criminal penalties.\textsuperscript{15}

The office of the Registrar of Patents, Trademarks and Geographical Indications at Chennai, India, has awarded the status of a Registered Geographical Indication to Tirupati Laddu in order to safeguard the Intellectual Property pertaining to the laddu, to put an end to abuse of its iconic value by unscrupulous traders. The TTD had sought the GI tag for the laddu under the Geographical Indications of Goods (Registration and Protection) Act, 1999 in 2009.

CONCLUSION

The protection of G.I is required because of the accessibility of immense number of native products that are unique to a particular territory for a country like India which has a rich cultural heritage and diverse geographical locations. A G.I always conveys an assurance of quality and distinctiveness for a particular products. G.I many a time discourages some sect of people even for attempting to secure a G.I, hence the G.I Registry did not wish to to have too high standards for the eligibility, so the legal regime in India for the protection of goods are still in a nascent

\textsuperscript{12} G.I Application Number 121, available at \url{https://search.ipindia.gov.in/GIRPublic/Application/ViewDocument}. (Last Visited on November 1, 2021).

\textsuperscript{13} Id.

\textsuperscript{14} Id.

\textsuperscript{15} Penalties for G.I is provided under Chapter VIII of the G.I Act.
stage.\textsuperscript{16} The broader objectives of instituting a system of G.I fails if the G.I registration is handed over to anything and everything that has a geographical name.\textsuperscript{17} It would become a less influential as an instrument of IPR if the G.I registry fails to apply more stringent yardsticks for granting G.I.

Tirupati Laddu had got the G.I tag under the category of foodstuffs under the act of 1999 dealing with the Geographical Indications of products in the year 2009. Tirupati Laddu qualifies all the criteria to be get registered under the G.I law. Tirupati Laddus are delicious in taste and the kitchen of temple provides a superior quality of laddus to its devotees. However many a times this laddu is been in conflict. Some sect of people claimed that the grant of G.I lacks distinctiveness. Some sect of religious people regards this G.I protection to the Tirupati Laddu as commercial exploitation of the religious segments.
