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# **REGISTERING A GEOGRAPHICAL INDICATION IN INDIA: PROCEDURES AND REQUIREMENTS**

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Sheheen Marakkar, Maglin M Raja & Abjith B J, Assistant Professor, Dr. Ambedkar  
Global Law Institute, Tirupati

## **ABSTRACT**

The registration of Geographical Indications (GIs) in India is governed by the Geographical Indications of Goods (Registration and Protection) Act, 1999. The process of GI registration begins with the identification of a specific geographical area and the goods associated with it. The applicant must establish a direct and clear link between the unique qualities, reputation, or other characteristics of the goods and their geographical origin. This link is crucial to determine the eligibility for GI protection.

To initiate the registration process, the applicant must submit a detailed application to the Geographical Indications Registry. The application should include comprehensive information about the geographical area, the goods, and their distinctive qualities. Supporting documents, such as maps, photographs, historical evidence, and relevant data, should also be provided. Following the application submission, it undergoes a thorough examination by the Registrar to ensure compliance with legal requirements. If the application meets the necessary criteria, it is published in the Geographical Indications Journal, allowing interested parties to oppose the registration within a specified period.

In the event of an opposition, a hearing is conducted to resolve the dispute. Both the applicant and the opponent have the opportunity to present their arguments and substantiate their claims with evidence. The Registrar carefully considers these submissions before making a decision regarding the registration. If no successful oppositions are encountered, the Registrar proceeds with the registration of the GI. Once registered, the GI receives protection for a duration of ten years, with the option for subsequent renewals. Unauthorized use of a registered GI can lead to legal consequences.

Following registration, the owner of the registered GI bears the responsibility

of enforcing and safeguarding its rights. This entails constant monitoring and taking appropriate legal action against any infringement, counterfeiting, or misuse of the GI to uphold its integrity and reputation.

## INTRODUCTION

A geographical indication (GI) is a label applied to commodities or products that have particular qualities, characteristics, or reputations that can be traced back to their geographical origin. There is a significant relationship between the product and its geographic origin because the nature of the underlying product depends on the place of production.

“Geographical Indications” as being used currently includes Indication of Source and Appellation of Origin. It refers to ... indications which identify a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation, or another characteristic of the good is essentially attributable to its geographical origin<sup>1</sup>.

The TRIPS Agreement (articles 22 to 24) addresses the international protection of GIs within the framework of the World Trade Organization (WTO).

The most comprehensive agreement regarding intellectual property rights is this one. The Geographical Indication of Goods (Registration and Protection) Act, 1999 was passed by the Indian Parliament after the TRIPS agreement came into force. The registration and enhanced protection of geographic indications for goods were the goals of this Act. The Geographical Indications of Goods (Registration and Protection) Rules, 2002 came into force on 15th September 2003. The Geographical Indications (GI) Registry was established in Chennai with effect from the same date.

## RELEVANT DEFINITIONS

**Producer:** In relation to goods, producer means any person who:

(i) if such goods are agricultural goods, produces the goods and includes the person who processes or packages such goods;

(ii) if such goods are natural goods, exploits the goods;

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<sup>1</sup> Article 22.1 of Agreement on Trade Related Aspect of Intellectual Property Rights.

(iii) if such goods are handicraft or industrial goods, makes or manufactures the goods, and includes any person who trades or deals in such production, exploitation, making or manufacturing, as the case may be, of the goods.<sup>2</sup>

**Registrar:** “Registrar” means the Registrar of Geographical Indications referred to in section 3.<sup>3</sup> According to section 3 of the act, the Registrar of Geographical Indications shall be the Controller-General of Patents, Designs, and Trade Marks appointed under subsection (1) of section 3 of the Trade Marks Act, 1999. The Central Government may appoint such officers with such designations as it deems appropriate for the purpose of carrying out such functions of the Registrar under this Act as he may from time to time authorise them to carry out.

**Registered Proprietor:** In relation to a geographical indication, registered proprietor means any association of persons or of producers or any organisation for the time being entered in the register as proprietor of the geographical indication.<sup>4</sup>

**Authorised user:** “authorised user” means the authorised user of a geographical indication registered under section 17.<sup>5</sup> Section 17 deals with the application of registration as a registered user.

**Geographical Indication:** In relation to goods, geographical indication means an indication which identifies such 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 characteristic 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.<sup>6</sup>

Explanation to the section depicts that, any name that refers to a specific geographic area and is used on or in relation to specific goods coming from that country, region, or locality, as the case may be, shall also be considered as the geographical indication, even if it is not the name of a country, region, or locality of that country.

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<sup>2</sup> Section 2(1) (k), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

<sup>3</sup> Section 2(1)(o), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

<sup>4</sup> Section 2(1) (n), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

<sup>5</sup> Section 2(1) (b), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

<sup>6</sup> Section 2(1) (e), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

**Convention Application:** "Convention Application" means an application for the registration of a geographical indication made by virtue of Section 84.<sup>7</sup>

## **FILING OF GEOGRAPHICAL INDICATIONS APPLICATION**

Any association of persons or producers or any organisation or authority established by or under any currently in effect law that represents the interests of the producers of the concerned goods and is interested in registering a geographical indication in relation to such goods must submit a written application to the Registrar in the format and with the supporting documentation required for the registration of the geographical indication.

Section 11(2) deals with the contents of the application. Firstly, it should state how the geographical indication serves to designate the goods as originating from the concerned territory of the country or region or localities as the case may be, with respect to quality specifications, reputation, and characteristics which are exclusively due to certain environmental conditions with inherent, natural or human factors relating to the territory. It should also state the class of goods to which the geographical Indication shall apply.<sup>8</sup>

The geographical map of the territory of the country or region or the locality of the country in which the goods are produced or manufactured should be included. Particulars regarding the appearance of the geographical indications as to whether it is comprised of words or figurative elements or both must be given. A statement containing the details of the applicant including the names, addresses, and other such details as may be specified from time to time.

Every application for the registration of a geographical indication shall be made in the prescribed form and shall be signed by the applicant or his agent and must be made in triplicate alongwith three copies of a Statement of Case.<sup>9</sup>

An application to register a geographical indication for a specification of goods included in any one class, under section 84(1) for a specification of goods included in any one class from a convention country, a single application for the registration of a geographical indication for different classes of goods from a convention country under section 84(1), a single application

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<sup>7</sup> Rule 2(1) (h), The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>8</sup> Section 11(2), The Geographical Indication of Goods (Registration and Protection) Act, 1999.

<sup>9</sup> Rule 23, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

for the registration of geographical indications for different classes of goods shall be made in **Form GI-1**.<sup>10</sup>

Every application shall be filed in the office of the Geographical Indications Registry within whose territorial limits, the territory of the country or the region or locality in the country to which the geographical indication relates is situated. Provided that where such territory, region or locality, as the case may be, is not situated in India, the application shall be filed in the office of the Geographical Indications Registry within whose territorial limits the place mentioned in the address for services in India as disclosed in the application, is situated.

Every application for the registration of a geographical indication for goods must meet the following requirements: The geographical indication must be defined with sufficient precision to allow for the determination of the right to relief in the event of an infringement. The graphical representation must be able to stand in for the geographical indication without the need for supporting samples and it must be reasonably practicable for persons inspecting the Register or reading the Geographical Indications Journals to understand from the graphical representation what the geographical indications are. A three-dimensional geographical indication registration application will not be treated as such unless it specifically states as much in the application for registration. A statement comprising the information about the producers of the goods in question, if any, that are proposed to be initially registered with the geographical indication registration and any other information that may be prescribed.

Size and other requirements for documents are given in the rules. Subject to any additional instructions that the Registrar may issue, all applications, notices, statements, or other documents, except for the geographical indication required by the Act or the rules to be made, served, left, or sent, at or to the Geographical Indications Registry, shall be typewritten, lithographed, or printed in Hindi or in English in large and legible characters with deep permanent ink upon strong paper, and except in the case of affidavits, on one side only and of size of approximately 33 centimetres by 20 centimetres and shall have on the left hand part

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<sup>10</sup> Section 84(1) of The Geographical Indication of Goods (Registration and Protection) Act, 1999 portrays that the Central Government may declare a country, group of countries, union of countries, or Inter-Governmental Organizations, by notification in the Official Gazette, to be in compliance with a treaty, convention, or agreement with any country or country that is a member of such an organisation outside of India and which accords to citizens of India similar privileges as granted to its own citizens.

thereof a margin of not less than 4 centimetres.<sup>11</sup>

Rule 13 deals with the Signing of documents. An application for the registration of a geographical indication purporting to be filed by an association of persons or producers shall be signed by the authorized signatory thereof to sign such documents and a document purporting to be signed by a body corporate or any organization or any authority established by or under any law for the time being in force shall be signed by the Chief Executive, or the Managing Director or the secretary or other principal officer of such organization. A document purporting to be signed by a partnership shall be signed by at least one of the partners. The capacity in which an individual signs a document on behalf of an association of persons or a body corporate shall be stated below his signature.<sup>12</sup> Signatures to an application and any other documents shall be accompanied by the name of the signatory in English or in Hindi and in capital letters.

Applications, registrations, and other matters under this Act shall be subject to payment of any fees and surcharges as the Central Government may prescribe. Where a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid. If there is a fee associated with submitting a document to the Geographical Indications Registry, the submission is not considered complete until the fee has been paid.<sup>13</sup>

The fees to be paid in respect of applications, oppositions, registration, renewal or any other matters under the Act or the rules shall be specified in the First Schedule. Where in respect of any matter a fee is required to be paid under the rules, the form or the application, or the request of the petition, therefore, shall be accompanied by the prescribed fee. Fees may be paid in cash or sent by money order addressed to the Registrar of Geographical Indications or by a bank draft issued by, or by a cheque drawn on by a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situated and if sent through posts shall be deemed to have been paid at the time when the money order or the properly addressed bank draft or cheque would be delivered in the ordinary course of post. Bank drafts and cheques shall be crossed and made payable to the Registrar at the appropriate office of the Geographical Indications Registry and they shall be drawn on a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situated. Where a fee is payable

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<sup>11</sup> Rule 12(1), The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>12</sup> Rule 13, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>13</sup> Section 80 of the Geographical Indication of Goods (Registration and Protection) Act, 1999.

in respect of filing of document and either the document is filed without fee or with insufficient fee, such document shall be deemed to have not been filed for the purposes any proceedings under the rules. Where any fee paid by a party is ordered to be returned by the Registrar under any of the provisions of the Act or the rules the amount may be refunded by money order in which event money order commission shall be deductible from such amount. The Registrar may after notification in the Geographical Indications Journal make available electronic fee transfer facilities subject to such conditions as may be specified on that behalf.<sup>14</sup>

## **EXAMINATION**

The Registrar will review each application in the way as may be prescribed. The Registrar may reject the application, accept it unconditionally, or accept it subject to any amendments, modifications, conditions, or limitations that he deems appropriate, subject to the provisions of this Act. The Registrar must put in writing the reasons for any rejections or conditional acceptances of applications, together with the materials he used to make his determination.

The Registrar shall examine each application upon receipt to determine whether it satisfies the Act's and the Rules' requirements.<sup>15</sup> To this end, he shall ordinarily convene a Consultative Group, which shall consist of no more than seven representatives from organizations, authorities, or individuals knowledgeable in the nuances of this law or field, under his chairmanship. The Registrar will then send the applicant an Examination Report on the application.

According to Rule 34 of the Geographical Indications of Goods (Registration and Protection) Rules, 2002, If the Registrar has any objections to the application's acceptance or proposes to accept it subject to any conditions, amendments, modifications, or limitations that he may think reasonable after considering the application's merits and any evidence of use or of a given quality, reputation, or another characteristic of such goods that are essentially attributable to their geographical origin. The Registrar shall communicate such objection or proposal in writing to the applicant.

If the applicant does not amend his application in accordance with the aforementioned proposal within two months of the Objection to acceptance, or does not submit his observations to the

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<sup>14</sup> Rule 10, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>15</sup> Rule 33, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

Registrar, or does not apply for a hearing or does not show up for the hearing, as the case may be, the application will be dismissed.

### **CORRECTION AND AMENDMENT OF APPLICATION**

Whether before or after accepting an application for registration under section 11, the Registrar may, under the conditions he deems appropriate, at any time, permit the rectification of any error in connection with the application or permit an amendment of the application.

An applicant for registration of a geographical indication may, whether before or after acceptance of his application but before the registration of the geographical indication, apply on **Form GI-5** accompanied by the prescribed fee for the correction of any error in or in connection with his application or any amendment of his application provided such the proposed amendment does not relates to the amendment of the geographical indication or amendment in the

description of goods or to the definite, territory, region, or locality, as the case may be, that would have the effect of substantially altering or substituting the original application.<sup>16</sup>

### **ADVERTISEMENT IN GI JOURNAL**

When an application for registration of a geographical indication has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted together with the conditions or limitations, if any, subject to which it has been accepted, to be advertised in such manner as may be prescribed.

Where after the advertisement of an application an error in the application has been corrected or the application has been permitted to be amended under section 15, the Registrar may, in his discretion cause the application to be advertised again or instead of causing the application to be advertised again, notify in the prescribed manner, the correction made in the application.<sup>17</sup>

The manner of advertisement is given in Rule 38 of The Geographical Indications of Goods (Registration and Protection) Rules, 2002. Within three months of the acceptance of an

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<sup>16</sup> Rule 36, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>17</sup> Section 13, The Geographical Indication of Goods (Registration and Protection) Act, 1999.



application for advertisement, a geographical indication registration application must typically be advertised in the Journal.

After the publication of a notice in the Journal, the Registrar may post the Geographical Indications Journal online or on another electronic platform.<sup>18</sup>

The Geographical Indications Journal may be made available on CD-ROM by the Registrar upon publication in the Journal and payment of the related fee.

## **OPPOSITION**

Section 14 of The Geographical Indication of Goods (Registration and Protection) Act, 1999 deals with opposition to registration. Any person may give notice in writing in the prescribed manner to the Registrar of opposition to the registration within three months of the date of advertisement or readvertisement of an application for registration, or within such further period, not exceeding one month in aggregate, as the Registrar, on application made to him in such manner and upon payment of such fee as may be prescribed, allows.<sup>19</sup>

The applicant for registration will receive a copy of the notice from the registrar, and within two months of receiving the copy of the notice of opposition, the applicant must send the registrar in the prescribed manner a counter-statement of the grounds supporting his application, otherwise, he will be deemed to have abandoned it. The Registrar must deliver a copy of the applicant's counterstatement to the individual providing notice of opposition if the applicant sends it.

Any evidence that the opposing party or applicant intends to rely on must be provided to the registrar in the manner and within the timeframe specified, and the registrar will provide them with the opportunity to be heard if they so choose. If necessary, the Registrar will consult with the parties and weigh the evidence before deciding whether to allow the registration and, if so, under what restrictions. The Registrar is also entitled to evaluate any grounds for objection, regardless of whether they were raised by the opponent.

Where a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar

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<sup>18</sup> Rule 38, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>19</sup> Section 14 of The Geographical Indication of Goods (Registration and Protection) Act, 1999

may require him to give security for the costs of proceeding before him, and in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned. On request, the Registrar may allow the correction of any errors in or amendments to a notice of opposition or counterstatement under conditions that he deems reasonable.

### **A notice of opposition to the registration of a geographical indication**

under sub-section (1) of section 14 or an authorised user under section 17(3)(e) shall be given in triplicate on **Form GI-2** within three months or within such further period not exceeding one month in the aggregate from the date when such Journal was made available to the public (which date shall be certified as such by the Registrar) as the case may be, of the application for registration in the Journal. The notice shall include a statement of the grounds upon which the opponents objects to the registration of the geographical indication or of the authorised user, as the case may be.<sup>20</sup> Where a Notice of Opposition is filed in respect of single application for the registration of a geographical indication it shall bear the fee in respect of each class in relation to which the opposition is filed. A copy of notice of opposition shall be ordinarily served by the Registrar to the applicants within two months of the receipt of the same by the appropriate office.

Rule 42 depicts Verification of Notice of Opposition. The notice of opposition shall be verified by the opponent. The verification shall specifically state by reference to the numbered paragraphs of the notice of opposition, what is verified of his own knowledge and what is verified upon information received and believed to be true. The verification shall be signed by the person making it and shall state the date and the place at which it was signed.<sup>21</sup>

The counter-statement required by sub-section (2) of section 14 shall be sent in triplicate on **Form GI-2** within two months from the receipt by the applicant of the copy of the notice of opposition from the Registrar and shall set out what facts, if any, alleged in the notice of opposition, are admitted by the applicant. A copy of the counter-statement shall be served by the Registrar on the person giving notice of opposition ordinarily within two months from the date of receipt of the same.

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<sup>20</sup> Rule 41(1), The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>21</sup> Rule 42, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

Within two months from services on him of a copy of the counterstatement or within such further period not exceeding one month in the aggregate thereafter as the Registrar may on request allow, the opponent shall either leave with the Registrar such evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar and to the applicant in writing that he does not desire to adduce evidence in support of his opposition but intends to rely on the facts stated in the notice of opposition. He shall deliver to the applicant copies of any evidence that he leaves with the Registrar under this sub-rule and intimate the Registrar forthwith in writing of such delivery. If an opponent takes no action within the time mentioned therein, he shall be deemed to have abandoned his opposition. An application for the extension of the period of one month shall be made in **Form GI-9** accompanied by prescribed fees before the expiry of the period of two months mentioned therein.<sup>22</sup>

Rule 45 of The Geographical Indications of Goods (Registration and Protection) Rules, 2002 gives evidence in support of the application by the applicant. Within two months or within such further period not exceeding one months thereafter in the aggregate as the Registrar may on request allow, on the receipt by the applicant of the copies of affidavits in support of opposition or of the intimation that the opponent does not desire to adduce any evidence in support of his opposition, the applicant shall leave with the Registrar such evidence by way of affidavit as he desires to adduce in support of his application and shall deliver to the opponent copies thereof or shall intimate to the Registrar and the opponent that he does not desire to adduce any evidence but intends to rely on the facts stated in the counterstatement and or on the evidence already left by him in connection with the application in question. In case the applicant relies on any evidence already left by him in connection with the application, he shall deliver to the opponent copies thereof. An application for the extension of the period of one month shall be made in Form GI-9 accompanied by prescribed fees before the expiry of the period of two months mentioned therein.<sup>23</sup>

The opponent's evidence in response. The opponent may leave with the Registrar evidence by affidavit in reply and shall deliver copies thereof to the applicant within one month of the opponent receiving copies of the applicant's affidavit or within a such further period not exceeding one month in aggregate thereafter as the Registrar may on request on Form-GI 9

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<sup>22</sup> Rule 44, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>23</sup> Rule 45 of The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

accompanied by the prescribed fee allow. This evidence must only address issues that are strictly in response. No further evidence shall be left on either side, but in any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.<sup>24</sup> Where there are exhibits to affidavits filed in opposition, a copy of the exhibit or impression of each exhibit shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the original shall be left at the Registry in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

Rule 50 of The Geographical Indications of Goods (Registration and Protection) Rules, 2002 deals with hearings and decision. the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such notice shall be ordinarily given within three months of completion of the evidence. The date of the hearing shall be for a date at least one month after the date of the first notice unless the parties consent to a shorter notice. Within fourteen days from the receipt of the first notice, any party who intends to appear shall so notify the Registrar. Any party who does not so notify the Registrar within the time last aforesaid shall be treated as not desiring to be heard and the Registrar shall proceed ex-parte in the matter. If sufficient cause is shown, not more than two request for an adjournment for one month each by either the opponent or the applicant to the proceeding may be considered by the Registrar on a request in Form GI-9 accompanied with the grounds for such request. If the applicant is not present at the adjourned date of the hearing and has not notified his intention to appear at the hearing, the Registrar may treat the application as dismissed.

If the opponent is not present at the adjourned date of the hearing and has not notified his intention to appear at the hearing, the Registrar may treat the opposition as dismissed for want of prosecution and the application may proceed to registration. In every case of adjournment, the Registrar shall fix a day for further hearing of the case and shall make such order as to cost occasioned by the adjournment or such higher costs as the Registrar deems fit. The fact that the agent or advocate on record of a party is engaged in another court, shall not be a ground for adjournment. Where illness of an advocate on record or agent or his inability to conduct the case for any reason is put forward as a ground for adjournment, the Tribunal shall not grant the adjournment unless it is satisfied that the advocate on record or agent, as the case may be, could

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<sup>24</sup> Rule 47, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

not have engaged another agent or advocate in time. The Registrar shall take on record written arguments if submitted by a party to the proceeding. The Registrar shall have power to limit time for oral arguments. The decision of the Registrar shall be notified to the parties in writing.<sup>25</sup>

## **REGISTRATION**

Section 16 of the Geographical Indication of Goods (Registration and Protection) Act, 1999 along with Rule 53, Rule 55, Form - O2, and GI – 7 of the Geographical Indications of Goods (Registration and Protection) Rules, 2002 deals with registration. Unless the Central Government directs otherwise, the Registrar shall register the said geographical indication and the authorised users, when an application for registration of a geographical indication has been accepted and (a) the application has not been opposed and the time for notice of opposition has expired or (b) the application has been opposed and the opposition has been decided in favour of the applicant.<sup>26</sup> That date shall, subject to the provisions of section 84, be deemed to be the date of registration.

When a geographical indication is registered, the Registrar issues a certificate in the form that may be prescribed of the registration thereof, stamped with the seal of the Geographical Indications Registry, to the applicant and the authorised users, if registered with the geographical indication. The Registrar may, after giving notice to the applicant in the prescribed manner, treat an application as abandoned if registration of a geographical indication is not completed within twelve months of the date of the application due to the applicant's default, unless it is completed within the time frame specified in the notice. The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

The Registrar shall annex a copy of the geographical indication or authorised user to the certificate of registration of a geographical indication or authorised user on Form-O2, with such modifications as the circumstances of a case may require.

Upon request by the registered proprietor on Form GI-7 and payment of the required cost, the Registrar may provide a duplicate or additional copies of the certificate of registration of a

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<sup>25</sup> Rule 50 of The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

<sup>26</sup> Section 16 of the Geographical Indication of Goods (Registration and Protection) Act, 1999.

geographical indication. Such a request shall be accompanied by an unmounted representation of the geographical indication exactly as shown in the form of the application for registration thereof at the time of registration.

### **AUTHORISED USER REGISTRATION**

Anyone claiming to be the producer of the goods for which a geographical indication has been registered under section 16 is eligible to submit an application in writing to the Registrar in the required format for registration as an authorised user of such geographical indication. The application must be accompanied by a statement, any factual documentation the Registrar may demand to ascertain if the applicant is the producer of the goods mentioned, as well as any applicable fee. For the purposes of the registration of a geographical indication or as an authorised user, goods shall be classified in the manner specified in the Fourth Schedule.

An application to the Registrar for the registration under Section 17 by a producer as an authorised user of the registered geographical indication shall be made jointly by the registered proprietor and the proposed authorised user in **Form GI-3** and shall be accompanied by a Statement of Case of how he claims to be the producer of the registered geographical indication along with an affidavit. A copy of the letter of consent from the registered proprietor of the geographical indication may accompany the application and where such consent letter is not furnished, a copy of the application shall be endorsed to the registered proprietor for information and the Registrar shall be intimated of due service by the proposed authorised user.<sup>27</sup> The registration process of authorised users is somewhat similar to the registration of geographical indication.

### **RENEWAL OF REGISTRATION AND RESTORATION**

The registration of a geographical indication shall be for a period of ten years, but may be renewed from time to time. The registration of an authorised user shall be for a period of ten years or for the period till the date on which the registration of the geographical indication in respect of which the authorised user is registered expires, whichever is earlier

The Registrar shall, on application made in the prescribed manner, by the registered proprietor or by the authorised user and within the prescribed period and subject to the payment of the

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<sup>27</sup> Rule 56, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.

prescribed fee, renew the registration of the geographical indication or authorised user, as the case may be, for a period of ten years from the date of expiration of the original registration or of the last renewal of registration, (which date is in this section referred to as the expiration of the last registration).

At the prescribed time before the expiration of the last registration of a geographical indication or the authorised user the Registrar shall send notice in the prescribed manner to the registered proprietor or the authorised user of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the geographical indication or the authorised user from the register. Provided that the Registrar shall not remove the geographical indication or the authorised user from the register, if an application is made in the prescribed form and the prescribed fee and surcharge is paid within six months from the expiration of the last registration of the geographical indication or the authorised user and shall renew the registration of geographical indication or the authorised user for a period of ten years.

Where a geographical indication or authorised user has been removed from the register for non-payment of the prescribed fee, the Registrar shall, after six months and within one year from the expiration of the last registration of the geographical indication or the authorised user on receipt of an application in the prescribed form and on payment of the prescribed fee, if satisfied that it is just so to do, restore the geographical indication or the authorised user to the register and renew registration of the geographical indication or authorised user either generally or subject to such condition or limitation as he thinks fit to impose, for a period of ten years from the expiration of the last registration.<sup>28</sup>

An application for the renewal of the registration of a geographical Indication or an authorised user of a registered geographical indication shall be made on **Form GI-4** or **Form GI-3** as the case may be and may be made at any time not more than six months before the expiration of the last registration of the Geographical Indication or the authorised user. Such application for renewal must be filed by the person who is the proprietor of the registered geographical indication failing which by any of the authorised users on record, as the case may be. If the proprietor, as set forth in the application for renewal is not the same person or the same legal

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<sup>28</sup> Section 18, The Geographical Indication of Goods (Registration and Protection) Act, 1999.

entity as the registrant shown in the registration, continuity of title from the registrant to the present owner must be shown in the first instance. The Registrar may accept an application for renewal from the managing trustee, executors, administrators and the like, when supported by court order or other evidence of such persons authority to act on behalf of the present proprietor.

For the removal of doubt, it is clarified that where the registered proprietor of the geographical indication has ceased to exist, the renewal of the registered geographical indication shall be affected by any of the authorised users of the registered geographical indication acting collectively whose name has been entered in **Part B** of the register on the due date of renewal. Before issuing a renewal certificate, the Registrar may call upon the registered proprietor to file an affidavit concerning the use of the registered geographical indication in India where he has reasons to believe that the registered geographical indication may not be in use in the market.<sup>29</sup>

After six months and within one year of the expiration of the last registration of the geographical indication or the authorised user, as the case may be, an application for the restoration of a geographical indication or authorised user to the register and renewal of its registration shall be made in Form GI-4, together with the prescribed fee. The Registrar must take into account the interests of those who have either applied for or registered an identical or misleadingly similar geographical indication, as well as those of other affected parties, while evaluating the registration request.

A notice to that effect must be provided to the registered proprietor or the relevant authorised user upon the renewal or restoration and renewal of registration, and the said renewal or restoration and renewal must be advertised in the Journal.

## **CONCLUSION**

The necessity for intellectual property rights protection is expanding along with its scope. India has demonstrated a strong grasp of the importance of these rights by successfully ratifying and signing the TRIPS Agreement. Since the Darjeeling Tea was the first GI registered under the Act, the execution of GIs in India has increased. To safeguard the people's rights and culture, the Indian government has worked to make the registration procedure easier. This procedure includes submitting a thorough application, having it examined, having it accepted (if no objections are raised), having it advertised in the GI Journal, and having it entered into the GI

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<sup>29</sup> Rule 60, The Geographical Indications of Goods (Registration and Protection) Rules, 2002.



Register (if no objections are made) and finally issuance of the GI Registration Certificate which would be valid for 10 years.

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