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*PROCEDURE
FOR
REGISTRATION AND PROTECTION
OF
GEOGRAPHICAL INDICATIONS*

WHAT IS A GEOGRAPHICAL INDICATION (GI) ?

- A sign used on goods with a specific geographical origin possessing qualities or a reputation stemming from that place of origin.
- GI can be a word or a mark
- E.g. Basmati rice, Darjeeling tea, Alphonso mangoes, Goan Feni

WHY GI PROTECTION?

- Competition
- Right of Exclusion
- Protection of Reputation
- Protection of Collective Goodwill
- Protection of Quality

ECONOMIC RATIONALE FOR GI PROTECTION

- An important tool to ensure quality
- Demand and Supply Dichotomy
- Premium Value: Higher prices can be commanded

GI AND CONSUMER

- Consumer protected from spurious products:
No deception
- GI is a quality assurance

GI AND NATIONAL INTEREST

- GIs are community properties unlike other IPRs.
- Matter of national pride
- Important role in rural development

TRIPS AND GIS

- ✗ Protection of GI as an IPR

- ✗ Definition

Indications which identify a good as originating in a territory, region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

OTHER IPRS AND GIS

- ✗ Other IPRs are essentially rewards for new creations
- ✗ New Products or Expressions or Marks or Designs
- ✗ Mostly privately owned
- ✗ GIs are not created but only recognized
- ✗ Already existing products with history and reputation
- ✗ Mostly owned by a Group, Community or Authority established by Law

APPELLATIONS OF ORIGIN AND GIS

- Appellations of Origin refers to names of a country, region or locality
- Designates a product
- Limited to quality or character of product
- Refers to geographical environment
- Geographical Indication refers to any indication pointing to a given country, region or locality
- Identifies a good
- Includes reputation parameters
- Broader concept

PROTECTING GI

- Through national legislation
- Trade Mark law (e.g. in USA)
- Certification Mark, Collective Mark, Passing Off
- Separate law for each product (e.g. in France)
- Separate Law for GI. (e.g. India)

DEFINITION OF GI

- Section 2 (1) (e) & (f)
- Items covered
- GOODS
 - Agricultural goods
 - Natural goods
 - Manufactured goods
 - Goods of handicraft
 - Industrial goods
 - Foodstuff

GI DEFINITION

- ✗ Area covered
- ✗ Territory
 - + Of a Country
 - + Or Region
 - + Or locality in the territory

GI DEFINITION

- × Qualifiers
- × Given quality
- × Reputation
- × Other characteristics
- × Attributable to its geographical origin

GI DEFINITION

- Manufactured Goods
- One of the activities takes place in the territory
 - Production
 - Processing
 - Preparation

GI DEFINITION

- Explanation clarifies that GI need not be a geographical name
- E.g. Alphonso, Basmati rice

REGISTRATION

- Provides for registration
- Of GIs, Proprietors & Authorized Users [S.6(1)]
- GI Registry set up in Chennai
- Valid for 10 years; renewable *ad nauseum* (S. 18)
- Registration *prima facie* evidence (S. 23)

WHO CAN REGISTER?

- Producer

- Any association of persons or producers
- or Any Organization/authority established under law
- which represent the interests of the producers of the concerned goods [S.11(1)]

- Authorized User [S.17(1)]

PROCEDURE FOR REGISTRATION

- Filing of application before the Registrar
- Registrar either refuses or accepts subject to conditions
- Advertisement for opposition
- 3 months time for opposition
- If no opposition, registration
- In case of opposition, copy given to applicant
- 2 months for filing counter statement

PROCEDURE FOR REGISTRATION

- If no counter statement, then the application is deemed abandoned
- Copy of counter statement to the opponent
- Hearing of parties, if so desired
- Registrar may add conditions or limitations
- Registrar can rely *suo motu*, on grounds of opposition not raised by opponent

RIGHTS

- Section 21
- Exclusive right to use the GI on the goods
- Right to obtain relief for infringement of the GI

INFRINGEMENT OF GI

- Section 22
- Use by any person not being an authorized user
- In such a manner which misleads as to the geographical origin of the goods
- In such a manner as to constitute an act of unfair competition including passing off

PERMITTED USES

- Section 22 (4)
- Dealings in the lawfully acquired goods by the person who acquired the same
- Processing/packaging of such goods

RELIEF FOR INFRINGEMENT

- Section 67
- Civil Action
- Injunction
- Claim for damages or accounts
- Destruction of infringing labels

CRIMINAL LIABILITY

- Section 38
- Falsification of a GI
- Falsely applying a GI to goods
- Selling goods to which false GIs have been applied
- Falsely representing a GI as registered

CRIMINAL INVESTIGATION

- Cognizable
- Police officer not below the rank of DSP entitled to search and seize goods, dies, blocks, etc. [S.50(4)]
- Police Officer to obtain prior opinion of Registrar “on the facts involved” before conducting search and seizure[Proviso to S.50(4)]

RELIEF FOR INFRINGEMENT

- Sections 39-44
- Imprisonment 6 months to 3 years
- Plus fine Rs 50,000 to Rs. 2 lakh
- Enhanced penalty for second or subsequent conviction
- Imprisonment – 1 year to 3 years plus fine Rs. 1 lakh to 2 lakhs.

ADVANTAGES OF GI REGISTRATION

- Protects the Reputation
- Establish the Genuineness
- Prevent misuse by others
- Ensure Quality
- Better Market Returns

GI. Application No. 120 – FENI -CLASS 33



Date of filing : 19.12.2007

Date of Registration : 05.03.2009

Applicants:

- i) The Goa Cashew Feni Distillers & Bottlers Association,
D3/26, Tivim Industrial Estate, Karaswado Mapusa,
Goa - 403 507.**
- ii) Department of Science, Technology & Environment,
Govt. of Goa, Opposite Saligao Seminary, Saligao,
Bardez, Goa - 403 511.**

THANK YOU