
Protection of Geographical Indications in India Creating Wealth Out of GIs An Overview and a Case Study

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Plan of Presentation

- An Overview of Indian legislation on protection of geographical indications
 - A Case Study of the geographical Indication 'Pochmpally Ikat'.
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Law

- The Geographical Indications of Goods (Registration and Protection) Act, 1999 (48 of 1999)
 - 9 Chapters; 87 Sections
- The Geographical Indications of Goods (Registration and Protection) Rules, 2002 (GSR 176 E) dt. 8.3.02
 - 2 parts; 116 Rules; 3 schedules; 10 Forms.
- The Act was brought into force w.e.f. 15 September 2003.

Salient Features of the Law

Wide Definition of Goods

- Goods could be natural, agricultural or manufactured goods including goods of handicraft or industrial goods or foodstuff
- Geographical area could be a country, region or locality in the territory of a country
- Qualifiers could be quality, reputation or other characteristics which are essentially attributable to the geographical origin
- Explanation clarifies that GI need not be a geographical name.

Salient Features of the Law

Registration

- Provides for registration of GIs, Proprietors & Authorized Users
 - Any association of persons or producers
 - or any organization/authority established by or under law
 - which represents the interests of the producers of the concerned goods can move the application for registration
 - GI Registry set up in Chennai
 - Registration valid for 10 years; unrestricted renewals
 - Registration *prima facie* evidence.
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Salient Features of the Law

Procedure for Registration

- Filing of application before the Registrar
 - Examination by Registry/Consultative Group
 - 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
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Procedure for Registration contd.

- If no counter statement filed, then the application is deemed abandoned
- Copy of counter statement provided to the opponent
- Hearing of parties, if so desired
- Registrar can rely *suo motu*, on grounds of opposition not raised by opponent
- Registrar may add conditions or limitations
- Registration if no opposition or if opposition decided in favour of the applicant
- Issue of registration certificate.

Salient Features of the Law

Rights and Infringement

- Exclusive **right to**
 - Use the GI on the goods and
 - Obtain relief for infringement
- Use by any person not being an authorized user in such a manner which misleads as to the geographical origin of the goods or which constitutes an act of unfair competition including passing off is an **infringement** of the right
- Dealings in the lawfully acquired goods by the person who acquired the same and for processing/packaging of such goods are **not infringement**.

Salient Features of the Law

Relief for Infringement

- Both civil and criminal remedies available
 - **Civil** action for injunction, claim for damages or accounts and destruction of infringing labels
 - **Criminal** remedies for falsification of a GI, falsely applying a GI to goods, selling goods to which false GIs have been applied and falsely representing a GI as registered
 - A cognizable offence which a police officer not below the rank of DySP is entitled to search and seize goods, die, block, machine, plate, etc. after obtaining prior opinion of Registrar 'on the facts involved'.
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Salient Feature of the Law

Relief for Infringement

- Imprisonment for 6 months to 3 years plus fine Rs 50,000 (US \$ 1200) to Rs. 200,000 (US \$ 4800) for first offence
 - Enhanced penalty for second or subsequent conviction i.e., Imprisonment ranging from 1 year to 3 years plus fine Rs. 100,000 (\$ 2400) to Rs. 200,000 (\$ 4800) .
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Current Status: Registered GIs

Agricultural goods	31
Handicrafts	78
Spirits	01
Foodstuffs	02
Other manufactured goods	05
Total	117

POCHAMPALLY IKAT



Pochampally i kat

Pochampally Ikat

- Pochampally is a small town in Andhra Pradesh, India known for its handloom fabric having unique traditional designs, *Pochampally Ikat*, from at least 1915
- Special technology of tie-and-dye is used for making the designs
- Material is either cotton or silk or a combination of the two only.

Preparing the yarn



Bleaching & Dyeing



Preparing the thread for tie & dye



Tie and Dye Process



Quality Inspection & Weaving preparatory process



Weaving

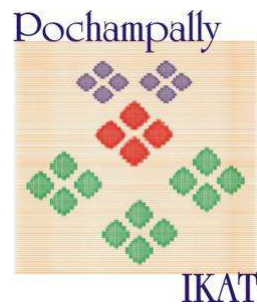


Final Product



Uniqueness of Pochampally Ikat

- Having single, combined or double Ikat in several illustrations ranging from :
- The use of diamond or *chowka*
- Diagonal or square grids in which geometrical floral figurative motifs are woven
- Striped or chevron forms
- Other abstract variations



The Problem and Action Taken

- Issue of misappropriation: manufacture and marketing of products with Pochampally name and design by large mills outside Pochampally using power looms: a heritage problem
- Livelihood Issue: Reduced market; low price of mill products
- Reduced Income for about 5000 handloom weavers
- Shrinking Employment Opportunities in the region; in one decade about 50 % weavers switched to other professions
- ❖ The Government, therefore, engaged an agency to study and find solution
- ❖ Confederation of Indian Industry and other organisations were associated
- ❖ Awareness seminars and workshops were organised

Modus Operandi



- Identifying the Uniqueness
- Financial Support
- Technical & Legal Support
- Drafting of the Specifications for IP applications
- Filing & Prosecution

Solution

- Associations of weavers of Pochampally Ikat from the region were formed
- Associations obtained registration of various IP rights such as copyrights, trade marks, designs and geographical indications during 2004-2005
- Greater stress on trade marks and geographical indications.

Immediate Benefits – Post GI Registration

- Media attention on Pochampally artisans –consumer awareness, increased popularity
- Motivation & morale boost for weavers – weavers became more responsive and serious – increase in productivity – emergence of a market discipline
- Networking and social cohesion among the weavers.
- Increased market penetration -- 20% increase in sales
- Orders through the Internet too.
 - Website: www.pochampally.com
- Increased Investment
 - Pochampally Handloom Park at a cost of Rs. 5000 million.

What next for Pochampally

- Enforcement of the Geographical Indications for preventing copying & passing off – Action against counterfeiters and infringers
- Establishing the legal identity in the international market – Creation of brand image
- Setting up of mechanisms for quality control.

Conclusions

- Needs pro-active action by governments
 - Identify products
 - Facilitate club formation
 - Assist in marketing
- NGOs can also contribute significantly
- Technical assistance programmes need to explore possibilities of products which qualify for GI tags and facilitate creation of IP value.

Conclusions contd.

- Countries like India have more GIs in the manufactured goods
- These are in the SME and mostly rural sector
- Have potential to transform rural economy if properly exploited.
- Need extension of higher level of protection currently provided only to wines and spirits to all products
- If any multilateral register is to be established for GIs, then that should include all products and restricted to wines and spirits.

Thank you