



ISSN Print: 2394-7500  
ISSN Online: 2394-5869  
Impact Factor: 5.2  
IJAR 2017; 3(8): 212-218  
www.allresearchjournal.com  
Received: 03-06-2017  
Accepted: 04-07-2017

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## Protection of geographical indication as intellectual property

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### 1. Introduction

Indications of geographical origin used as an instrument for securing the link between quality and other aspects of a good and its region of geographical origin. The connection between good and region especially when former is distinct with respect to similar goods, allow producers of such goods to adopt strategies of niche marketing and product differentiation. Marks indicating the geographical origin of goods are the earliest types of trade mark and were established to differentiate goods that possessed some unique quality either because of environmental factors, processing methods or manufacturing skills. Property rights are often sought for such goods based on the fact that they are produced in a geographical region which has unique geo-climatic characteristics and uses traditional skills. These render a unique value to the product and make replication of these goods elsewhere impossible.

### 1.2. Research Methodology and Source of study

The present research project is essentially doctrinal analysis based on survey of the primary and secondary sources of information which have been studied and examined in a holistic manner. Primary data includes acts, documents, international conventions, judgement reports, working papers. Secondary data includes books, articles, journals, newspapers and the other official data mainly available from libraries and the internet.

### 1.3 Object and Scope of the study

The purpose of research work is to analyze the laws relating to protection of geographic indications of goods. Object of this research work is also to figure out those spheres under IPRs which are capable of providing protection to geographical indications of goods. Another object of this research work is to make out and analyze the statutory provisions provided at national and international level. The scope of protection for geographical indications is largely based on the principles that postulate for protection against the use of indications in manner that might either mislead the public or be construed as deceptive and protection against the use of indications in a manner that are acts of unfair competition.

### 1.4 Research Hypothesis

The aim of the present research work is to explore and analyze the areas where protection to geographical indications can be provided. It also examines those areas under IPR which can provide remedies against infringement of geographical indications. The issues include:

1. Is it correct for the traders to use the geographical indications as a trademark?
2. Whether there is need of new laws on geographical indication?
3. How the intellectual property rights regime is providing protection to unregistered geographical indication?

### 1.5 Definition of Geographical Indication

Geographical indications have been defined to mean “indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

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Indication may be a name, mark or any other representation used for the purpose of representing the goods originating from a specific locality to which the quality and reputation of the good can be attributed. Geographical indications entered into international intellectual property law field with its inclusion in the TRIPS agreement. The TRIPS agreement is based largely on two prior international conventions viz. The Paris Convention for the protection of industrial property (Paris Convention), The Berne the protection of Literary and Artistic works (Berne Convention). There are two notions involved in recognizing geographical indications:

### **1.6 Need for Legal Protection of Geographical Indications**

Given the enormous commercial implications of geographical indications, the legal protection of this IPRs evidently plays a significant role in commercial relations both at the national as well as at the international level. Without such protection geographical indications run the risk of being wrongfully used by unscrupulous businessmen and companies. Because they can misappropriate the benefits emanating from the goodwill and reputation associated with such geographical indications, by way of misleading the consumers. Such unfair business practices not only result in huge loss of revenue for the genuine right holders of the geographical indications concerned but can also hamper the goodwill and reputation associated with those indications over the longer run.

### **Legal System of Geographical Indication Protection in India**

The member-countries of World Trade Organization (WTO), in accordance with the agreement of TRIPS, are bound to extend protection to the geographical Indication. As a member of WTO, India has enacted The Geographical Indications of Goods (Registration and Protection) Act, 1999 to provide for the registration and protection of geographical indications relating to goods.

The new Indian Geographical Indications Act has an elaborate procedure for registering Geographical Indications at an office located in the southern city of Chennai. Authorities claim that this Act has two key characteristics: (i) protection of producers against counterfeiting and misleading commerce, and (ii) striking of balance between trademark and geographical indications protection. According to this Act, once a geographical indication is registered, any person claiming to be the producer of the good designated by the registered geographical indications can file an application for registration as an authorized user. The Geographical Indications Act is to be administered by the Controller General of Patents, Designs and Trade Marks who is the Registrar of Geographical Indications. The registration of a geographical indication is for a period of ten years. Renewal is possible for further periods of ten years. If a registered geographical indications is not renewed, it is liable to be removed from the register.

### **1.7 Protection at international level**

The protection of Geographical Indications (henceforth Geographical Indications) has, over the years, emerged as one of the most contentious intellectual property rights (IPRs) issues in the realm of the World Trade Organisation (WTO). Notably, the Agreement on Trade Related Aspects

of Intellectual Property Rights (TRIPs)- an integral part of the WTO Agreement, which was concluded among 117 countries of the world in April 1994, at Marrakesh-specifies norms and standards for the protection of Geographical Indications, along with six other categories of IPRs.

Under the Paris Convention, protection against misleading use of indications of geographical origin equally applies to appellations of origin and indications of source, is applied in instances where the denomination may be either 'directly' indicated or indirectly (i.e. symbols and emblems) imputed. The Madrid Agreement broadens the scope of this doctrine to include 'deceptive' indications of source. Deceptive indications are those that are literally true but nevertheless misleading: Where two geographical areas, possibly in two different countries, have the same denomination but only one of them so far has been used for the purposes of an indication of source for certain products and such indication is used for products originating from the other geographical area in the way that the public believes that the products originate from the first area, then such use is considered as a deceptive use because the public believes that the products originate from the geographical area for which the indication traditionally has been used. Protection against the false and misleading use of geographical indications is provided under the TRIPs agreement. A higher level of protection for wines and spirits this doctrine exists under the agreement where there is no need to establish the public is misled otherwise, the indication cannot be used if the goods do not originate in the indicated geographical area. The Lisbon Agreement makes strong implementation of this doctrine in, i.e. "protection shall be ensured against the usurpation or imitation even if the true origin of the product is indicated or if the appellation is used in translated form or accompanied by terms such as 'kind', 'type', 'make', 'imitation', or the like. Given the recent trends in the world market, where consumers, especially those in the developed world, are increasingly becoming finicky about the quality and authenticity of the products that they are buying and are gradually developing preferences for environmentally sound and/or socially responsible products, Geographical Indications are increasingly gaining in importance as weapons for such niche marketing. Because, the information conveyed by Geographical Indications makes it possible to meet the new consumer criteria by identifying products with added value and specific qualities due to their origin.

Leaving aside such economic and commercial benefits, Geographical Indications also serve to convey the cultural identity of a nation, region or locality, and add a human dimension to goods, which are increasingly subject to standardized production for mass consumption. Often Geographical Indications are also associated with other social benefits, such as, the protection of traditional knowledge and community rights.

### **1.8 Protecting Geographical Indications can be daunting**

The implications of different protection approaches in terms of requirements, effectiveness and costs are not clear-cut. The lack of a single or coherent international approach, or even a common registry of Geographical Indications, makes it difficult to secure protection in different overseas markets. This is exacerbated by often fragmented, overlapping, and unclear national protection system. The 167 countries that actively protect Geographical Indications as a form of intellectual property fall into two main groups: 111 nations

with specific or sui generis systems of geographical indications laws and 56 that prefer to use their trademark systems.

The major markets for geographical indications products, including those in the EU and the United States, appreciate the validity of Geographical Indications yet their marketing and protection systems have evolved to be very different.

This publication offers a clear framework for sorting out the main differences, and the opportunities associated with Geographical Indications. It focuses primarily on agri-food products and does not explicitly cover wines and spirits or crafts though many of the lessons are quite similar and can certainly be extended to them.

### 1.9 Necessity for protection of Geographical Indication

Many of GIs have acquired valuable reputation over centuries, which if not adequately protected may be misrepresented by commercial operators. False use of geographical indications by unauthorized parties is detrimental to consumers and legitimate producers. If there is no protection, anybody can market the product as if it originates from a particular territory when it is actually not. The consumer will be deceived and led in to believing to buy a genuine product with specific qualities and characteristics, while they get a worthless imitation.

The Geographical Indication of goods (Registration and Protection) Act, 1999 is the main Act which has been enacted to provide for the registration and better protection of geographical indications relating to goods 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 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.”

The Controller-General of Patents, Designs and Trade Marks, under the Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, is the ‘Registrar of Geographical Indications,’ it directs and supervises the functioning of the Geographical Indication of Goods (Registration and Protection) Act, 1999 and the Rules there under.

GIs are source identifiers as they help the consumers to identify the place of origin of the goods as well as act as the indicator to the quality, reputation and other distinctive characteristics of goods, that are essentially due to that place of origin.

Any duplication and false use of GIs by unauthorized parties is detrimental for both the consumers as well as legitimate producers. Because of this, former are likely to be deceived as they get a worthless imitation of product, which they buy by considering as genuine product with specific qualities and characteristics. While, the producers suffer losses and damages as their valuable business is taken away from them and their established reputation for the products is damaged.

### 1.10 The benefits of registration of Geographical Indications

- i. Provides legal protection to Geographical Indications in India, which in turn gives boost to the exports.

- ii. Prevents unauthorized use of a registered Geographical Indication by others.
- iii. Promotes economic prosperity of producers of goods produced in a geographical territory.
- iv. Promotes consumers’ welfare by providing goods of reputation and quality etc.

Most of the 106 registered geographical indications have been for handloom textiles and handicrafts, two areas predominated by the small scale sector. So far at least, the experience of a couple of textile products, including the Chanderi saree and Pochampalli ikat, has been that the protection provided by registration as geographical indications helped the producers to boost their economic returns significantly. India, therefore, must continue to make efforts to get all products with a in many geographical indication tag on the register.

Getting products on the GIs registry is only the first step towards realizing their economic potential. Even this, itself has been a major problem. Most of the people engaged in small units, although in the same area. Convincing them to organize in to associations to move the application for registration was a Herculean task in many instances. It is also necessary to draw up standards and inspection mechanisms to ensure quality. These, however, are just teething troubles, once the system gets organized it should be able to take care of itself.

The second step will be the development of appropriate marketing strategies, particularly with regard to exports. This would involve obtaining legal protection for Indian GIs in the major markets of the world. Here again, small players are at a disadvantage since they do not have the wherewithal to engage attorneys to study the systems available in the countries that are best suited for their products. They also lack the economic strength to get in to high-end marketing to generate demand for their goods as desirable premium products. This is unlike the case of wines and spirits industries in the developed world.

### Duration, Renewal, Removal and Restoration of Registration

The initial registration of geographical indication and the validity of registration of an authorized user shall be for ten years. But both the registrations can be renewed for a next term of ten years and this term can be extended from time to time provided the application for renewal with prescribed fee is made before the expiration of term. However, if the renewal is not effected within prescribed period of time the geographical indication or the name of authorized user, as the case may be, is liable to be removed from the register. Provision is also made for restoration of registration.

### Right conferred by Registration

Registration of geographical indications shall give following rights:

- i. The registered user shall have exclusive right to use the geographical indication in relation to the goods in respect of which the geographical indication in relation to the goods in respect of which the geographical indication is registered. However, this exclusive right to use shall be subject to any conditions and limitations imposed in the registration itself.
- ii. The registered proprietor of the geographical indication and the authorized user or users thereof shall have right to obtain relief in respect of infringement.

A brief survey of various provisions relating to registration indicate that whereas the geographical indications can be registered by group of persons, any person who is a producer can also individually obtain registration as authorized user. Like trade mark, the registration of geographical indications can also be renewed from time to time.

### 1.11 The basmati controversy

The grant of US patent to Ricetec Inc a US multinational company in the name of Basmati necessitated the urgency of enacting law for protection of geographical indications.

After hard work of two and half years, India put together the data challenged the patents of Ricetec Inc. in April 2000. The US patent and trade mark office (USPTO) issued patents to only three strains of hybrid "basmati" grain out of twenty claims developed by the Ricetec while rejecting a more sweeping claim by the company. The three strains of Basmati to which protection was afforded, were patently and noticeably different.

As far as the use of geographical indication "Basmati" by Ricetec Ind. Was concerned, the patent office stated that Ricetec could use the Basmati appellation because it was not a trademarked name or a geographic indicator, unlike "champagne" or "port" which were specific to a region. It was further stated that "Basmati" was not a geographic indicator even in India. It was grown all over India, Pakistan and even in Thailand. It was also stated that the "Basmati" saga had a turbulent history ever since the perceived transgression in the mid-1990s was first reported when "Textmati" and "Jasmati" hit the shelves of grocery chain stores. This ruling of USPTO. Goes against Indian interest so far as geographical indication of "Basmati" is concerned.

The Basmati controversy was an eye opener and India enacted the Geographical indications of goods (Registration and Protection) Act, 1999 (hereinafter an act). This is the first specific law which provides for the registration and protection of Geographical Indications.

### 1.12 Protection of Darjeeling Tea as a Geographical Indication

The first application received by the Geographical Indications Registry was for Darjeeling tea. Dated 27 October 2003, it was filed by the Tea Board of India, an authority established by the government. The history of Darjeeling tea goes back to the 18<sup>th</sup> century, when tea was planted in the salubrious climate of the Darjeeling hills of Eastern India. Due to the special weather and soil conditions in the region, Darjeeling tea has a unique taste. The application was examined by a consultative group comprising legal and technical expert, as well as the Registrar of Geographical Indications. It was also advertised inviting oppositions, if any.

#### (A quest for intellectual property rights)

Nearly 10 million kgs of tea grown every year, 87 Tea gardens grow this fabled tea; at over 5,000 mts. Above sea level; spread over 17,500 hectares of land; 4 flushes "Better to be deprived of food for three days, than tea for one"—Ancient Proverb

The quality, reputation and characteristics of Darjeeling tea are essentially attributable to its geographical origin. It possesses a flavor and quality which sets it apart from other teas, giving it the stature of a fine vintage wine. As a result

it has won the patronage and recognition of discerning consumers worldwide for more than a century. Any member of the trade or public in ordering or purchasing Darjeeling tea will expect the tea to be cultivated, grown and produced in the defined region of the District of Darjeeling and to have the special characteristics associated with such tea. Consequently, Darjeeling tea that is worthy of its name cannot be grown or manufactured anywhere else in the world. Darjeeling tea cannot be replicated anywhere. It is this equality that is sought to be protected by the Tea Board and the Ministry of commerce under the norms of the TRIPS Agreement of the WTO.

As champagne cannot be manufactured in any place other than the champagne District of France ( even though the grapes used are the same kind) but has to be referred to as sparkling wine, in the same manner only tea grown and produced in the defined area of Darjeeling District in state of West Bengal, India can be called DARJEELING tea. Any tea grown in any other region from the same sort of tea plants cannot be called Darjeeling tea. Darjeeling tea, a rare coveted brew which is desired globally, but is only grown in India.

### Darjeeling- A Paradise

In the northeast Indian region of Darjeeling, women tea pluckers make their way up the steep mountain paths every day at dawn towards the 87 fabled gardens that have been producing the highly prized black teas for over 150 years. Located on grand estates some perched at altitudes of over 5,000 mts. The gardens are in fact plantations that, at times, stretch over hundreds of acres. But, they are still 'garden', because all tea grown here bears the individual name of the garden in which it is grown.

First planted in early 19<sup>th</sup> century, the incomparable quality of Darjeeling teas is the result of unique and complex combination of agro-climatic conditions prevailing in the region, altitude, meticulous manufacture and disdain for quantity. The climate of Darjeeling is perfect for tea cultivation. Tea requires at least 50 inches of rainfall annually. Alternate spells of rain and sunshine are considered good for the crop. Also, the fog helps in maintaining the required level of moisture. The tea bush grows at a height of 700 to 7000 metres above sea level, so it has all the space that it needs to grow.

### Why is the location such a hallmark?

There are both scientific as well as popular religious beliefs behind why Darjeeling is the most suitable place to grow tea. The local people believe that the Himalayan range is the abode of Shanker Mahadeva and the breath of god brings winds that cool the brow of the sun filled valley, and the mist and fog which provides the moisture. The fountain that flows from the piled hair of shiva provides water for the crop and it thrives. The diversity of Darjeeling tea is further accentuated by differences in wind and rainfall that depend on the altitude and exposure of the slopes under cultivation. The quality, reputation and characteristics of Darjeeling tea are essentially attributable to its geographical origin. It possesses a flavour and quality which sets it apart from other teas, giving it the stature of a fine vintage wine. As a result it has won the patronage and recognition of discerning consumers worldwide for more than a century. Any member of the trade or public when ordering or purchasing Darjeeling tea will expect the tea to be the tea cultivated,

grown and produced in the defined region of the District of Darjeeling and to have the special characteristics associated with such tea.

Consequently, Darjeeling tea that is worthy of its name cannot be grown or manufactured anywhere else in the world. Darjeeling tea cannot be replicated anywhere.

### 1.13 Darjeeling tea- a geographical indication

Under international law, geographical indication mean indications which identify a product as originating the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin.

Darjeeling tea is India's treasured Geographical Indication and forms a very important part of India's cultural and collective intellectual heritage. It is of considerable importance to the economy of India because of the international reputation and consumer recognition enjoyed by it.

In the legal sphere, countries are seeking to protect Geographical Indications as geographical indications, collective marks or certification marks.

#### (a) Tea Board of India

All teas produced in the tea growing areas of India, including Darjeeling, are administered by the Tea Board, India under the Tea Act, 1953. Since its establishment, the Tea Board has had sole control over the growing and exporting of Darjeeling tea and it is this control which has given rise to the reputation enjoyed by Darjeeling tea. The Tea Board has been engaged on a world-wide basis in the protection and preservation of this treasured icon of India's cultural heritage as a geographical indication.

At a legal level, Tea Board is the owner of all intellectual property rights in the DARJEELING word and logo both in common law and under the provisions of the following statutes in India:

- i. The Trade Marks Act 1999: DARJEELING word and logo are registered certification marks of Tea Board.
- ii. The Geographical Indications of Goods (Registration and Protection) Act, 1999:

Darjeeling word and logo were the first Geographical Indications to be registered in India in the name of the Tea Board.

The copyright Act, 1957: The DARJEELING logo is copyright protected and registered as an artistic work with the Copyright Office.

Use of the DARJEELING word and logo are protected as Geographical Indications in India and as certification Trade Mark in UK, USA and India. A major development in this area is the registration of the Darjeeling word as a community collective mark in the European Union.

The DAEJEELING logo is registered in Belgium, Netherlands, Luxembourg, Germany, Austria, Spain, France, Portugal, Italy, Switzerland, former Yugoslavia, Egypt and Lebanon as a collective mark, in Canada as an official mark, as a trademark in Japan and Russia. The DARJEELING word is also registered as a trademark in Russia. Tea Board has pending applications for registration of the Darjeeling word as a certification mark in Australia, as a community collective mark in the EU and as a collective mark in Germany and Japan.

As a pre-requisite for domestic and international protection of Darjeeling as a certification trade mark and a Geographical indication, the Tea Board has formulated and put in place a comprehensive certification scheme wherein tea that:

- a) Is cultivated, grown or produced in the 87 tea gardens in the defined geographic areas and which have been registered with the Tea Board.
- b) Has been cultivated, grown or produced in one of the said 87 tea gardens.
- c) Has been processed and manufactured in a factory located in the defined geographic area, and
- d) When tested by expert tea tasters, is determined to have the distinctive and naturally occurring organoleptic characteristics of taste, aroma and mouth feel typical of tea cultivated, grown and produced in the region of Darjeeling, India.

The certification scheme put in place by the Tea Board covers all stages from the production level to the export stage and meets the dual objective of ensuring that (a) tea sold as Darjeeling tea in India and worldwide is genuine Darjeeling tea produced in the defined regions of the District of Darjeeling and meets the criteria laid down by the Tea Board and (b) all sellers of genuine Darjeeling tea are duly licensed. This licensing program affords the Tea Board the necessary information and control over the Darjeeling tea industry to ensure that tea sold under the certification marks adheres to the standards for DARJEELING tea as set forth by the Tea Board.

Thus, only 100% Darjeeling tea is entitled carry the DARJEELING logo. While purchasing Darjeeling tea, you need to look for Tea Board's certification and license number otherwise you will not get the taste and character that you should expect from Darjeeling tea.

At the administrative level, Tea Board has taken the following steps to ensure the supply chain integrity of Darjeeling tea.

1. The use of Darjeeling tea in multi-origin mixtures made subject to correct labeling requirements to protect the customer against any deception or confusion.
2. The use of the expression "blended Darjeeling tea" or its variants restricted to a blend of Darjeeling teas only drawn from more than one tea garden within the definition of Darjeeling tea.
3. Labeling guidelines formulated and issued to govern and regulate use of Darjeeling name and logo marks as part of trademarks and thus prevent any misuse thereof for teas other than Darjeeling tea.
4. Detailed inspection procedures put in place to ensure the integrity and purity of the supply chain for grant the certificate of origin by the Tea Board.
5. Customs notification dated June 25, 2001 issued making all exports of Darjeeling Tea subject to mandatory proof of such certificate of origin.

While the efforts to obtain statutory protection in the DARJEELING word and logo are an essential part of the strategy to protect the integrity of Darjeeling tea, a major plank of all initiatives undertaken by the Tea Board has been to prevent dilution of the integrity of Darjeeling tea in the following ways:

1. Preventing dealings in tea which is not drawn from any of the 87 gardens or which is a mixture of non-Darjeeling and Darjeeling tea and sold under and by

- reference to the name DARJEELING and/or DARJEELING logo.
- Action against attempted registration and/or use of Darjeeling not only in respect of Tea or related products but other diverse dissimilar products or service as well.
  - This is also part of India international obligations under TRIPS which mandates that no country is obliged to protect Geographical Indications unless it is demonstrated that such Geographical Indication enjoy home protection in their countries of origin.
  - Based on feedback received from the World Wide Watch agency compuMark which was appointed in 1988 to monitor conflicting marks globally and in the last couple of years, several instances of misuse and

attempted registrations have been found and challenged by the Tea Board by way of oppositions/invalidations/cancellation actions (22), legal notices (8), court actions (2) and domain name cancellations (2) against third party misuse of Darjeeling. These action covered countries like Bahrain, Belarus, Bangladesh, Canada, Estonia, France, Germany, Israel, Japan, Kuwait, Latvia, Lebanon, Lithuania, Norway, Oman, Russia, Sri Lanka, Taiwan, UK and USA. In some countries like France, Germany, USA more than one action is pending. In India over 20 legal notices have been served and 15 oppositions have been filed.

**Annexurea:** [Source Tea Board of India: [www.teaboard.gov.in](http://www.teaboard.gov.in)] List of Registrations for DARJEELING word and logo marks as on October 23, 2006

No	Country	Nature and subject matter of registration	Application / Registration No.	Date of Application	Date of Registration	Validity
1.	Australia	Certification Mark for DARJEELING logo	998593	20.04.2004	7.11.2005	20.04.2014
2.	Benelux Registration – Belgium, Netherlands, Luxembourg	Collective Mark for DARJEELING Logo	444511	11.03.1988	11.03.1988	11.03.2008
3.	Canada	Official Mark for DARJEELING logo	0903697	15.03.1989	15.03.1989	Valid until voluntarily abandoned or expunged pursuant to a court order.
4.	EU member countries	Community Collective Mark for DARJEELING word	004325718	07.03.2005	31.03.2006	07.03.2015
5.	Egypt	Trademark for DARJEELING Logo	103072	29.09.1996	08.04.1999	28.09.2016
6.	International Registration – Germany, Austria, Spain, France, Portugal, Italy, Switzerland and former Yugoslavia.	Collective Mark for DARJEELING logo	528696	09.09.1988		09.09.2008
7.	India	Copyright registration for DARJEELING logo	A-67292/2004	08.08.2003	11.05.2004	Valid Registration
8.	India	Certification Mark for DARJEELING logo	532240	09.10.1986	09.10.1986	09.10.2007
9.	India	Certification Mark for DARJEELING word.	831599	10.12.1998	10.12.1998	10.12.2015
10.	India	DARJEELING word as a geographical indication	1	27.10.2003	27.10.2003	27.10.2013
11.	India	DARJEELING logo as a geographical indication	2	27.10.2003	27.10.2003	27.10.2013
12.	Japan	Trade Mark for DARJEELING logo	2153713	08.07.1986	31.07.1989	31.07.2009
13.	Lebanon	Collective mark for DARJEELING word	102594	13.06.2005	13.06.2005	13.06.2020
14.	Lebanon	Collective mark for DARJEELING Logo	102595	13.06.2005	13.06.2005	13.06.2020
15.	Russia	Trademark for DARJEELING Word	249970	20.04.1999	27.06.2003	20.04.2009
16.	Russia	Trademark for DARJEELING Logo	300276	02.11.1999	16.01.2006	02.11.2009
17.	Russia	Trademark for Darjeeling Logo	289609 & 169877	15.07.1997	25.05.2005	15.07.2017
18.	U.S.A.	Certification Mark for DARJEELING logo	1632726	01.07.1988	22.01.1991	22.01.2011
19.	U.S.A.	Certification Trade Mark for DARJEELING word.	2685923	10.01.2002	11.02.2003	01.10.2012
20.	U.K.	Certification Mark for the DARJEELING logo	1307518	16.04.1987	11.10.1996	16.04.2008
21.	U.K.	Certification Mark for DARJEELING word.	2162741	30.03.1998	03.08.2001	30.03.2008

List of Applications for DARJEELING word and logo marks

No.	Country	Nature and subject matter of registration	Application No.	Status
1.	Australia	Certification Mark for DARJEELING word	998592	Accepted but pending registration
2.	Germany	Collective mark for DARJEELING word	30456356	Under examination
3.	Japan	Collective mark for DARJEELING word	2004-32171	Rejected on grounds of non-distinctiveness. Appeal filed.

**Annexure B:** [Source: Operationalisation of GI Protection in India: A Preliminary Exploration By Biswajit Dhar] Misuse of Darjeeling' Opposed by the Tea Board of India

Country	Nature of misuse and product category
France	DARJEELING – perfumes, articles of clothing and Telecommunication
Germany	Device applications with Darjeeling logo
Israel	DARJEELING - agricultural & horticultural products
Japan	DIVINE DARJEELING – coffee, cocoa, tea DARJEELING with India map DARJEELING Logo - serving tea, coffee, soft drinks
Norway	DARJEELING – telecommunication
Russia	DARJEELING – Tea DARJEELING Logo – Tea
Sri Lanka	SAKIR DARJEELING TEA – Tea
U.S.A.	DARJEELING NOVEAU – Tea

### 1.14 Conclusion

Protection of geographical indications can be a large and sometimes difficult undertaking. The first step is at the domestic level and while many countries now have functioning systems to handle Geographical Indications they are not always easy to navigate. The efforts embodied in several international accords and the TRIPs Agreement offer only a loose framework for protection. In the absence of internationally accepted procedures or systems, a prospective geographical indications must consider the type of protection to undertake in each country where it may be necessary. The learning process can be considerable. It requires careful balance of costs, effectiveness, and structures that will offer the most value to as many stakeholders as possible. Some of the potentially negative aspects associated with Geographical Indications are not necessarily intrinsic to them. Instead, geographical indications failures seem to be largely the result of unrealistic expectations, poor planning, and inadequate governance structures.