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Quality Control Challenges in Geographical Indication in India

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ABSTRACT

In the nearby past it can be seen that Geographical indication had emerged as an important issue in the domain of Intellectual property rights in the Indian subcontinent. Since the inception of Indian Geographical Indication Act in 2003 It had witnessed more than 100s of the Indian products have been registered as Geographical Indication However, there are different challenges that had been confronted in the field of Geographical Indication such as the quality issues during the pre-grant and post grant of the Geographical Indications. This quality issue has a greater impact in the product such the price of the product is deteriorated in the market and thereby the objective of the Geographical Indication value reputation of the product is being at stack. This study also deals with the case study of the Geographical Indications implemented in 4 different jurisdictions – USA, EU, Australia and India for understanding the protection aspects of Geographical Indications and the proper institutional mechanisms paving the market strategy of these Geographical Indications.

Keywords: *Geographical Indication, Indian Geographical Indication Act, Quality challenges, Geographical Origin, Quality tag, Traditional Knowledge*

I. INTRODUCTION

Intellectual property is a result of the creation of a mind. Intellectual Property rights are the exclusive rights that are provided to the creators and the owner by both common law and the legislative enactments of codified laws and provisions to protect the work and balance the relationship between the creator and the public. (WIPO 2004) In the specified period, the owner or licensed person will be the exclusive producer and seller of the product, by meeting the specification and avoid infringement and passing off by other competitors in the market.

The protection granted includes a variety of goods, services, and technology. This law actually provides the exclusivity for the products and thereby can further The law protects intellectual property by the creator by various provisions like patents, copyrights, trademarks, trade secrets,

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and Geographical Indication tags. (WIPO - World Intellectual Property Organisation n.d.)

The different IP domains had been involved in the protection of the creations and the traditional practise around the world by providing the exclusivity over the property. (Chaichan Chareonsuk 2008) This indeed provides a better value to the property and this had been substantial part of the research and the commercial market by providing the status of greater significance to these intangible assets. It had created a better footstep in the regime of technology, entertainment and consumer regime in the world

II. GEOGRAPHICAL INDICATIONS

Geographical Indication can be referred to the tag that is given to the particular collection of goods that are either naturally produced or manufactured goods that are limited to a certain geographical area. (WIPO 2004)

The Geographical Indication goods are usually either originated or traditionally prepared in a certain delimited territory that have immense reputation for the distinct quality and characteristics that defines the product. This had been an effective tool in determining the quality and characteristic of the product and this had led to the fine line distinguishing the market availability and reputation of the products. (Kal Raustiala 2007)

This tag adds value to the unique characters of the product and thereby plays an important role in the valuation of the products in the market by conferring the exclusivity of these products in the market. The Geographical Indication tag actually add upon the physical and cultural asset value to the product which turns out to be the baseline for such products.

This links between the different aspects of the product such as place of originating, Traditional method of preparation and the quality that distinguish these products and make them be prominent in the market adding to the monetary value of the product. It also provides a certain market credibility to these products which in turn provides confers the exclusivity of quality and expectations of the product in the consumer chain.

The range of Geographical Indication in India can be listed from different goods such as agricultural food products, handicrafts, traditional cuisines and manufactured goods. It includes a long list of 370 Geographical Indications registered in our country which includes Darjeeling tea, Aranmula Kannadi, Basmati rice, Single turmeric, Pochampally Ikat, Feni Muga silk Rasagula, Hyderabad Haleem.

III. QUALITY CONTROL OF GEOGRAPHICAL INDICATION IN INDIAN JURISDICTION

In the Indian context the “quality “has broader interpretation in terms of inclusion of different

factors or the quality check had been included such as human factors as well as the natural factors. Section 11(2)(a) of the Geographical Indication Act had elaborated the concept of the natural and human factors that attribute to the Geographical Indication tags by the words “geographical environment, with its inherent natural and human factors”. (Das 2010)

The natural factor that contribute to this ranges from the geotechnical factors, topographical factors, climate factors especially in terms of the agricultural products and the human factors such as the skillset of the artisan, cuisine recipes and different traditional customary practices of art in terms of the manufactured goods such as handicrafts, food, paintings

The dependence of the quality of the Geographical Indication on the human factor can be analysed by the following case of the Madurai Sungari Saree registration number 16 under the class of 24 and 25. Especially elder Women’s prefer this Saree for casual wear because of the softness.

This saree follows the traditional knot dying process, and all knots evenly spread only tied knots are coloured loose knots remain uncoloured. Natural colour from vegetables uses as a dye. From olden days, it has known for its attractive colour and purity. The Sungari Saree Unique because uses a single thread for the entire Saree.

This Saree is different from others; the yarn bleaches before dye applied. It is famous for the firmness of the knot. This Saree absorbs heat and light in weight; women can wear for an entire day, especially during the summers. The whole work is done by hands, and each design varies from another. It is a very good demonstration of natural and human factor involvement in the quality of the product.

The implementation of quality checks at different stages are an important criteria in case of ensuring the quality reputation of the goods. This can bring a greater share in the appropriate marketing strategy and fame of the Geographical Indications and this can only be achieved by the implementation of the proper mechanism of the checks and clearances at different stages of the approval

Case Study of Pattamadai Pai

The Geographical Indication plays an important role in promoting the folklore and traditional arts and this case study is based on the traditional handcraft of Tamilnadu – S ecofriendly fiber which had been significant in the area of Pattamadai.

Name of The Applicant who had filed for the Geographical Indication protection was Tamil Nadu Handicrafts Development Corporation

Pattamadai Pai, the traditional handicraft of the Pattamadai is made of vegetable fiber, and productivity is similar to cotton. The mat made of Korai Gras known as “Reed Plant” available near the rivers beds of Thamirabarani. It is of the rectangular size of various colors and designs. The fineness of the mat based on the count, higher the count, higher the fineness. It is mainly used for sleeping, eating, praying, and nowadays, it used as a handicraft.

This ecofriendly and traditional handicraft had been a ethnic piece of handicraft that had been prominent in the area of Pattamadai, a small, famous village in Tirunvenalli district of Tamil Nadu, know for Mats or Pai and is famous The Labia Muslim community weaves the mat by using Reed Plant from river flows in this village for their livelihood. They harvest twice in the year in October and March. In the Gazetteers of India, Tamil Nadu State, Tirunvenalli District Volume I has the elaborated details of the Pattamadai Pai.

Process Involve in the making of the Pattamadai Pai includes the process of collecting the raw materials. boiling, drying and dyeing of the fabric. The raw materials are available naturally from the river beds harvests twice in the year. The outer part of the plant used for weaving the mats. These strips of grass core dry under the sun and turn yellowish-green when it's dry fully. Then it boils in water and dries again until it became three fourth of it. Both natural and chemical dyes used to obtain colors, and the standard colors are red, green, and black.

This dye has multiple uses for making cloth, wool, paper, mat, etc. The one end grass inserts in the hole of the long stick by the needle and then passes to the loom. The rod and the grass give on both sides and twisted to form the round shape. Once the weaving completes, it dries under the sun before polishing.

Uniqueness of the fabric is that natural raw materials are unique for weaving the Pattamadai Pai. Climate and soil helps the grass to grow in abundance, which is useful for weaving. The most popular variety of korari grass “Karungadukori” grows in the opposite village from Pattamadai. It called a silk mat for delicate features and quality of the carpet.

IV. QUALITY CONTROL OF GEOGRAPHICAL INDICATION IN EUROPEAN UNION JURISDICTION

The EU have developed two methods of protecting the Geographical tags for agricultural stuffs and traditional cuisines and making a special provision for the wines and alcohol. The quality plays an important role in determining the market reputation of the product. The quality policy of the EU protect the quality at different stages as it is important for the reputation of the product. (Calboli 2002)

In case of the PGI products it had been made compulsory that it must adhere to the specified precise set of quality guidelines for the products and it must contain the PGI logo. This logo ensures the specific quality associated with the product and maintain the reputation of the product

EU has emphasised a strict control on the check of the quality of the product during the different stages of the manufacturing to ensure the reputation of the product. The process of commercialisation of the GI tagged products had been successfully implemented by the system of regular check on the quality at different stages of the production

V. QUALITY CONTROL OF GEOGRAPHICAL INDICATION IN UNITED STATES JURISDICTION

The GI tags that are provided in USA is different from the other countries that they provide the protection for the indigenous agricultural and handicrafts that have a specific quality reputation and a specific origin. It is usually provided using three different methods that are practised by USPTO (United States Patent and Trademark Office) –Trademarks, Certification marks and Collective marks.

GI as Trademark :Unlike the conventional GI system that had been used the trademark for GI does not include the marks that contains the geographic terms or signs.This measure had been undertaken by the USPTO as the geographic descriptive or miss descriptive terms that defines the origin can mislead the customers.This system can only apply to the conditions where the product or goods had been primarily identified by the geographical origin and secondarily by the geographic description it can be used as the trademark

GI as Certification marks: In USA the certification marks had been used as a tag to identify the goods that had been assigned exclusively for the user to represent a third party goods or service. (Babcock 2015)

This certification had been based on the certain quality requirements that are followed in every stage of the goods or production in order to attain the marks. There had been specific checks on every stage of the production of the goods. The quality measure plays an important role rather than the geographical origin.

The US system of GI protection using the trademark have eventually made it possible that it had paved the way for the exclusive use of the rights over the tag for the right holders which intact had assured the quality reputation of the products or goods in the market.It had ensured the market of the product and had eventually had been a good measure undertaken and executed

by the USPTO to protect the market reputation of the product

VI. QUALITY CONTROL OF GEOGRAPHICAL INDICATION IN AUSTRALIAN JURISDICTION

In Australia the GI products had been assigned based on the quality reputation and origin of the products. These different rules and regulations have the primarily objective to protect the consumers right to choose the genuine products by the inclusion of certified tags or registered names that maintain the specific quality (Blakeney 2012)

The system of CTM had been administered by IP Australia and assessed by the Australian Competition and Consumer Commission. Certification mark standards can replicate the GI's country of origin specification Both the trade mark registration and the associated standards are open to third party objections

In Australia there deploys a separate system for the GIs that are granted for the wines and beverages and they are administrated by the organisation Wine Australia. The system deploys controls the quality check of the regional winery and ensure the quality of the wines at different stages from the pre-production including the raw materials to the post production. It also ensures the process and procedures are also enacted to the description that had been provided for the GI tagged wine

VII. MEASURES TO IMPROVE THE QUALITY ISSUES OF GI

Implementation of checks at different stages:

There must be checks on the quality that must be implemented at different stages of the production. It can start from the raw materials till the end products. In case of the handicrafts and artefacts the raw materials must be checked at different stages and further process be also be checked upon. (O'Connor 2003) This would improve the quality reputation in the market. It can be seen that market is actually reciprocal in relation with the quality.

The checks can be that proper and strict standards must be formulated for the different stages of the production. Let's take the example of the Muga silk of Assam, where the implementation of check from the raw material i.e. in cultivation of cocoons, weaving and post-production work are generally done for the better user interface and reputation

Certification marks to be implemented for the tags to ensure the quality

This is the method of carrying the product by the quality and thereby an assurance to the goods quality. This method can be implemented by a tags of quality check Likewise certain

certification marks must be implemented as a counter check on the quality of the product.

For agricultural products and raw materials, the basic geotechnical conditions to growing condition must be checked to ensure the quality. The marks must be strictly enforced so as the market could recognise the product by the tag or the mark. The consumer must enumerate the quality and reputation of the product in a way that the certification mark can act as a branding strategy for the producers.

This would increase the market patentability of the goods and thereby the standardised price can be set up for the products. This would increase the market rate of the products in the domestic market which indeed open up a greater opportunity for the international market. The market reputation adds up to the value of the product for the domestic as well as the export field

Setting up of legally authorised institutions for the checks and production

The bodies to check the quality of the goods is better method to impose the market eruption of the product. Standards play an important role in improving the efficiency of production and facilitating international trade, for example, by ensuring the compatibility of products.

Companies in many countries thus engage proactively in the development of standards. Compliance to standards is usually voluntary, but governments may take necessary measures in the public interest. So the setting up of associations and legally bodies to ensure the quality and promotion of the proud cuts would indeed increase the market patentability of the goods.

In our country the constant check on the products have become necessary to maintain the endorsement and market of the product both locally and in the international market. Rather than the enforcement of the rights of monopoly and unfair competition in the market the success of Geographical Indications is indirectly dependent on the quality of the product.

VIII. CONCLUSION

Comparatively the quality control of the products is the important factor regarding the Geographical Indications in the pre and post grant. There are different procedural checks on the quality control of Geographical Indications around the world which ensures the quality reputation of the product and this had actually balanced the control between the quality and market of the products. even though one of the main criteria for the registration for the Geographical indications

Geographical indications in our country the constant check on the products have become necessary to maintain the endorsement and market of the product both locally and in the

international market. Rather than the enforcement of the rights of monopoly and unfair competition in the market the success of Geographical Indications is indirectly dependent on the quality of the product.

The multilevel check on quality would improve the reputation of the goods in the market. It adds up the brand value to the product and this would help the consumers in identifying the product. This measure on quality check would add up to the market for the goods both domestic and international market. The process of commercialisation of the GI tagged products can only be successfully implemented by the system of regular check on the quality at different stages of the production

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