Journal of Law and Intellectual Property Rights
ISSN: 3049-0979, Volume 2 Number 2 (Dec' 2025) pp. 62-69

https://www.jlipr.in
Article Received: 15 Sep' 2025; Accepted: 24 Oct' 2025.

OPEN ACCESS

Review Article

Geographical Indications and Trademarks: Navigating Legal Overlaps, Cultural Identity Protection, and Policy Conflicts in IP Law

Manjunath Ravi Heggade D.

Assistant Professor of Law, Patel Law College, Bengaluru, India.

Email: manjunathraviheggade@gmail.com

ABSTRACT: ***The interface of Geographical Indications (GIs) and trademark law raises complex legal problems that need the given conceptual distinctions to an analysis, along the lines of protection mechanisms, and conflict resolution mechanisms. This paper examines the fundamental grounds for distinguishing between GIs and trademarks, delves into the possibilities geographical names in trademarks open up to their protection rights, and also onto frameworks for the resolution of conflicts between the two scales of intellectual property. Through examining the comparative legal sources in India and the world, coupled with case studies, this study attempts to expose the policy gap for the promotion of the integration of GI and trademark protection.***

KEYWORDS: ***TRIPS Agreement, Geographical Indications (GI), Trademark Law, Conflict Resolution, Comparative Law, Indian IP Law.***

INTRODUCTION

The globalization of commercial activity has heightened the significance of intellectual property protection, particularly regarding geographical indications (GI) and trademarks. GI is a sign, such as a name or symbol, used on products that have a specific geographical origin and possess qualities or a reputation that are attributable to that origin. These qualities often result from natural factors or local human skills unique to the place of origin. A trademark (also written trade mark or trade-mark) is a form of intellectual property that consists of a word, phrase, symbol, design, or a combination that identifies a product or service from a particular source and distinguishes it from others. Both serve to identify and protect commercial interests, but in their fundamental purposes and in their legal frameworks, they usually constitute overlapping jurisdictions leading to conflicts. Hence, Geographical Indications protect products that have certain characteristics concerning their geographical origins, whereas trademarks protect any sign used in commerce that distinguishes goods or services of one entity from another. The conflict arises when geographical names are incorporated into trademark applications, thereby potentially conflicting with existing or future GI rights.

This paper sets out to answer three important questions: first, in what ways GIs are different from trademarks in concept and law; second, how the use of geographical names in trademarks

affects their abilities of protection; third, how conflicts between GIs and trademarks can be best resolved. The gist of these matters is of great interest to policymakers, actors in the legal sphere, and businessmen working on the global stage.

CONCEPTUAL AND LEGAL DISTINCTIONS BETWEEN GIS AND TRADEMARKS

Concept and Purpose

Geographical Indications and trademarks fundamentally address different areas of the intellectual property framework. GIs target products with qualities or reputation essentially linked to a certain geographical area.[1] The main aim of GIs is to protect the collective heritage and traditional knowledge of certain regions so that products bearing a geographical name cannot completely sever their association with the name-giving area. Trademarks are distinctive signs identifying a product or service as being made or provided by a single enterprise and distinguishing those products or services from those made or provided by others. Main reason to give protection for trademark is to make sure there will be no confusion in the minds of the consumers and to protect commercially the goodwill that certain goods or services have acquired by association with certain brands. Unlike GIs, which are collective in nature, trademarks usually give exclusive rights to individual entities.

Legal Grounds of Protection

The legal grounds for protection greatly diverge when it comes to GIs and trademarks. The GIs, under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), are indications used to identify a good as originating in the territory of a member where a given quality, reputation, or other characteristic of that good is essentially attributable to its place of origin. The main emphasis in the definition is that of the collective and territorial nature of GI protection. Trademark law set forth by TRIPS in Article 15 is interested in distinctiveness or an ability to distinguish goods or services. Its international registration system, the Madrid Protocol[2], further strengthens an idea of trademarks being individual in nature. This basic difference in legal conceptions forms the very basis of a probable conflict between the two systems.

Rights and Ownership Structure

Yet another major distinction lies in the ownership structure of GIs and trademarks. GIs are usually owned collectively by the producers of a certain place or geographical area and represent the people's communal culture and traditional knowledge.[3] They oppose any sort of single ownership to monopolize on the commercial use of geographical names. Trademark rights are held by either individual persons or commercial firms; hence, they confer on the proprietor the exclusive right to use specific marks in trade. This exclusivity principle creates a conflict when geographical names are used in trademarks, pitting the marks against producers in a geographical area who may legitimately have to use their geographic identifier.

[1] Agreement on Trade-Related Aspects of Intellectual Property Rights art. 22.1, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

[2] Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, June 27, 1989, 828 U.N.T.S. 389.

[3] Dev Gangjee, Relocating the Law of Geographical Indications 89–112 (Cambridge Univ. Press 2012).

Cultural Preservation: The Specific Nature of GIs

Geographical Indications serve altogether a different function in protecting cultural identity than trademarks. GIs protect not commercial interests but thousands of years of traditional knowledge, cultural practices, and regional heritage comprising community identity.[4] The protection of products such as Champagne, Parmigiano-Reggiano, or Darjeeling tea transcends the commercial aspects to protect traditional ways of production, local terroir, and cultural authenticity that have been transmitted through generations. Herein lies the cultural aspect of GIs in terms of protecting intangible cultural heritage and systems of traditional knowledge. The main difference is that while trademarks are commercial, GIs associate the products with their cultural context and ensure the preservation of traditional methods of production and regional characteristics for future generations. Such a preservation function becomes tremendously important for developing nations where traditional knowledge and cultural practices are under threat from globalization and commercialization.

Limitations of Trademark Law in Protecting Cultural Identity

In effect, the traditional laws of trademark evidently present certain limitations in sustaining a cultural identity and protecting traditional knowledge. Trademark law's individual ownership concept cannot sufficiently address the collective nature of cultural heritage and traditional production methods. When trademark registration appropriates geographical names or traditional terms, they may be stripped of their cultural context and commercialized without regard for their traditional significance. Distinctiveness requirements under trademark laws often conflict with the descriptive tradition of certain terms and geographical names that have been generically used for centuries within the community.[5] Here lies a big moral question where operators of traditional knowledge are prohibited from using their own cultural terminology as a result of trademark monopolization by outside entities. Limitations set by the law of trademarks toward their owners in the commercial use of traditional nomenclatures further result in unfairness of such commercial owners against indigenous communities who may never have been engaged in such formal commercial activities or marketing practices in recent history.

THE IMPACT OF GEOGRAPHICAL NAMES IN TRADEMARKS AND THE RIGHT OF PROTECTION

Descriptiveness and Distinctiveness Challenges

Since the insertion of geographical names into trademarks may constitute a serious impediment from the point of view of the requirements of descriptiveness and distinctiveness, traditionally, under trademark law, geographical terms have been treated as descriptive terms which go in denial of trademark protection unless they have acquired a secondary meaning of their own.[6] However, the practical application of that principle varies widely from country to country. In the United States, registration of geographical terms under the Lanham Act of 1946 is prohibited if the term is primarily descriptive of geography, unless it has acquired a distinctiveness in use.

[4] Irene Calboli, Expanding the Protection of Geographical Indications of Origin Under TRIPS: "Old" Debate or "New" Opportunity? 10 Marq. Intell. Prop. L. Rev. 181, 195–201 (2006).
[5] Barton Beebe, The Semiotic Analysis of Trademark Law, 51 UCLA L. Rev. 621, 662–75 (2004).
[6] J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 14:2–14:6 (5th ed. 2017).

Prior Rights and Good Faith Considerations

Protection of geographical names in trademarks must consider prior rights and good faith use. Where geographical names have been used in commerce prior to GI registration, complicated questions may arise on the legitimacy of continued use. The TRIPS Agreement attempts to address this in Article 24, which admits exceptions for trademarks that have been applied for or registered in good faith prior to the time at which the geographical indication was protected. There is, however, a great diversity of interpretation of the term "good faith" across jurisdictions. In some jurisdictions, emphasis is placed on the priority in time of the trademark applications, whereas, in others, the focus is on the legitimate relation between the geographical name and the region of origin.[7] Such contrast would certainly create havoc for businesses operating in more than one jurisdiction.

Limitations on the Scope of Protection

Using names of geographical locations in trademarks can radically cut down on the scope of protection that could be awarded to a trademark holder, as well as to the producers of a region. Trademark protection in relation to geographical terms is usually narrow-narrowing to civil marks concerning those determined goods or services for those designated markets.[8] This limitation is in line with the principle that geographical names should be kept free-for-use by the local producers truly stemming from those areas. On the contrary, a trademark protection that is overly broad for geographical names can stop established regional producers from entering international markets under their usual geographical appellations. This poses a policy dilemma in respect of protecting established commercial interests versus conserving access to geographical heritage for the regional communities.

MANAGEMENT OF CONFLICTS BETWEEN GIS AND TRADEMARKS

Principles and Frameworks for Coexistence

The successful settling of the GI-trademark conflicts would require the existence of coexistence principles that balance contending interests. The World Intellectual Property Organization (WIPO) has put forth a number of frameworks for resolving such conflicts, bringing special attention to issues of temporal priority, good faith use, and consumer protection. Generally, a coexistence arrangement restricts trademark use geographically and by product so as to leave each right functional within certain defined limits. Hence the careful drafting of such agreements is crucial if they are to serve first of all to avoid any confusion in the consumer's mind and finally to protect the legitimate interest of both trademark owners and regional producers.

Alternative Dispute Resolution Mechanisms

When it comes to conflicts between GIs and trademarks, it is often found that traditional litigation does not serve as an adequate remedy because of the peculiar nature of the factual and legal issues. Hence it is said that the controversy resolution mechanism has shifted toward other dispute resolution alternatives such as mediation and arbitration.[9] Such mechanisms consider unique cultural and economic interests vis-à-vis geographical indications while

[7] Daniel J. Gervais, The TRIPS Agreement: Drafting History and Analysis 264–67 (4th ed. 2012).
[8] Graeme B. Dinwoodie & Mark D. Janis, Trademarks and Unfair Competition: Law and Policy 156–89 (4th ed. 2014).
[9] Thomas Cottier & Marion Panizzon, Legal Perspectives on Traditional Knowledge: The Case for Intellectual Property Protection, 7 J. Int'l Econ. L. 371, 398–402 (2004).

interacting with commercial disputes in an efficient manner. The Specialized Procedures for Intellectual Property Disputes, as developed by the WIPO Arbitration and Mediation Centre, may be adaptable to GI-trademark conflicts.[10] These procedures emphasize expert determination and culture-sensitive issues, which become very relevant in geographical indication disputes.

Legislative and Policy Solutions

All-encompassing legislative solutions require collaboration between GI and trademark laws to try to address conflicts before they develop. Certain jurisdictions have invested into integrated solutions that consider both types of rights during registration and enforcement proceedings. The Double Protection System of the European Union, which affords protection both at the GI and trademark level-but under separate but coordinated regimes-suggests an appropriate way to attempt to resolve potential conflicts.[11] It makes provision for the examination of conflicts between proposed registrations and existing rights and thereby sets out a framework for the avoidance of disputes.

INDIAN LEGAL FRAMEWORK ANALYSIS

India's framework

It is established through the Geographical Indications of Goods (Registration and Protection) Act, 1999, offers comprehensive protection for geographical indications while trying to harmonize them with the trademarks law. The Act defines GIs broadly to include agricultural, natural, and manufactured goods originating from a specific place. The Indian framework attempts to address conflicts with trademarks. Section 25 of the GI Act provides that registration of a GI shall not affect the validity of registration of a trademark that has been used continuously and in good faith before the commencement of the Act. This provision attempts to balance existing commercial interests with new GI protections.

Trade Marks Act, 1999, and GI Interface

According to the Indian Trade Marks Act, 1999, interference with geographical indication protection does exist. Section 9 bars registration of marks which consist exclusively of signs or indications which may serve in trade to designate the geographical origin. This provision still remains complex in application vis-à-vis GI rights. The Indian legal framework potentially creates a lacuna where geographical names may be protected as trademarks if they have acquired secondary meaning or distinctiveness even though such names may well qualify for GI protection. This dual prospect creates uncertainty for business enterprises and regional producers in seeking to protect their geographical heritage.

GLOBAL LEGAL FRAMEWORK COMPARISON

The European Union Model

It is one of the most sophisticated GI-trademark conflict management systems based on an integrated method of intellectual property protection. The EU system contemplates the separate

[10] WIPO Arbitration and Mediation Center, WIPO Guide to Intellectual Property Mediation 15–22 (2018).
[11] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on Quality Schemes for Agricultural Products and Foodstuffs, 2012 O.J. (L 343) 1.

but coordinated protection of GIs under Regulation 1151/2012[12] and the protection of trademarks under Regulation 2017/1001.[13] Under this EU framework, specific conflict resolution mechanisms exist, such as opposition and cancellation procedures to challenge based on conflicting rights. There is a very rich jurisprudence coming from the European Court of Justice on GI and trademarks clash cases, which considers at least two main lines of argument: one is consumer protection, and the other is the protection of traditional ways of production.

USA Model

The United States gives a different flavor to GI protection, practically employing certification marks and collective marks rather than having a separate GI system. This consequently differs in the management of conflicts with traditional trademarks, as all instances of protection happen under the same legal umbrella. The American legal structure places great emphasis on first-use rights, affording them very strong protection, even where arguably such protection is inimical to geographical claims.

TRIPS Agreement Framework

At the international level interplay between GI and trademark protection finds its basis in the TRIPS Agreement. It fixes minimum standards but allows the flexibility needed by various member states in implementing its provisions. Articles 22-24 deal with geographical indications, whereas Articles 15-21 deal with trademarks, thereby setting up parallel systems between GI and trademarks that in some instances might clash. The TRIPS and beyond provide some mechanisms for conflict resolution, among others, an exception of prior trademark rights and the use of good faith. The problem is that the interpretation and application of these provisions greatly diverge among the member countries, thus bringing difficulties for international businesses and for local producers.[14]

CASE STUDY OF GI-TRADEMARK CONFLICTS

Champagne vs. Champagne Trademarks

One of the most monumental examples of a conflict concerning GI and trademarks alluded to the word "Champagne." The Champagne region of France has been diligently trying to obtain a worldwide protection for the geographical indication "Champagne" while the said word "Champagne" used to be granted trademark registrations in the names of various companies associated with products outside of wines. In the case of Comité Interprofessionnel du Vin de Champagne vs. Wineworthy Group[15], consideration was given to the question whether use of the word "Champagne" in trademarks for wine-related products could be permitted to co-exist with GI protection or not. The decision stressed on the importance of consumer confusion, or non-confusion, bearing on the strength of the geographical connection.

Cambozola vs. Gorgonzola Case

The Cambozola vs. Gorgonzola case highlights the complexity of trademark creation vis-a-vis geographic indication protection in the cheese industry. Cambozola, a German cheese produced

[12] Regulation (EU) No. 1151/2012 of the European Parliament and of the Council of 21 November 2012 on Quality Schemes for Agricultural Products and Foodstuffs, 2012 O.J. (L 343) 1.
[13] Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union Trade Mark, 2017 O.J. (L 154) 1.
[14] Daniel J. Gervais, The TRIPS Agreement: Drafting History and Analysis 258–75 (4th ed. 2012).
[15] Comité Interprofessionnel du Vin de Champagne v. Wineworthy Grp., 631 F.3d 1202 (Fed. Cir. 2010).

by combining features of Camembert and Gorgonzola[16], was opposed by Italian Gorgonzola producers who claimed that the name confused the consumers with their protected geographical indication. The European Court of Justice addressed whether the use of elements from a protected geographical indication in a trademark might constitute infringement. The court found that the similarity between "Cambozola" and "Gorgonzola" was enough to create consumer confusion and to inculpate the invocation of the protected geographical indication. This case laid down important principles regarding the ambit of GI protection and the extent to which derivative trademarks may or may not be created from elements of protected geographical names.

POLICY SUGGESTIONS AND SOLUTIONS

Harmonization of Legal Regimes

Generally, for GI and trademark conflicts to be resolved sufficiently well, there needs to be better harmonization of legal regimes, no matter what the jurisdiction; at the national level as well as at the global level. The definitions of 'non-GI' trademark, 'GI' and 'trademark', related procedures for examination, enforcement procedures should be harmonized to include both potential rights. The international organizations such as WIPO and WTO should develop further detail of how GI and trademark issues can be resolved. This should include any special situations such as temporal priority; good faith use; counterparts and quantitative coexistence arrangements.

Improved Examination Procedures

Examining authorities must have improved examination procedures to account for potential issues and conflicts relating to GI and trademark applications, as well as implement relevant databases that they can draw on to identify conflict or potential conflict in the early stages of registration. Coordination between GI registration authorities and trademark registration authorities is critical because an effective GI registration regime must also be able to prevent conflicts. This would involve collaboration from time to time to exchange information, harmonized examination procedures and to apply the same substantive principles in resolving conflicts.

CONCLUSION

Geographical indications crossed with trademark law pose very serious challenges and often require sophisticated legal and policy responses. Given that GIs and trademarks serve different purposes along the course of intellectual property, jurisdiction cases coming at cross purposes are possible and should thus be cautiously handled. This paper showed that effective management of GI-trademark conflicts would require conceptual clarity, harmonized legal frameworks, and functional mechanisms of conflict resolution. In the different jurisdictions, experience has shown that it is possible to have more than one approach, but consistency and clarity are crucial to legitimately protect the interest of all parties. The Indian legal regime sets the basic foundation for managing these conflicts, but it still requires improvement in terms of coordination among the registration authorities and in setting clearer guidelines for resolving

[16] Case C-87/97, Consorzio per la Tutela del Formaggio Gorgonzola v. Käserei Champignon Hofmeister GmbH & Co. KG, 1999 E.C.R. I-1301 (ECJ).

conflicts. These global frameworks, especially under TRIPS, provide some cardinal principles but are deficient in their guidance for more detailed implementation.