



सत्यमेव जयते

MANUAL OF GEOGRAPHICAL INDICATIONS PRACTICE AND PROCEDURE

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**OFFICE OF THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND
TRADEMARKS & REGISTRAR OF GEOGRAPHICAL INDICATIONS**

BOUDHIK SAMPADA BHAWAN, S. M. ROAD, ANTOP HILL, MUMBAI (INDIA)

Preface

The Geographical Indications of Goods (Registration and Protection) Act, 1999 and the Geographical Indications of Goods (Registration and Protection) Rules, 2002 came into force on 15th September, 2003. The Geographical Indications (GI) Registry was established in Chennai with effect from the same date.

By March 2011, more than 230 GI applications have been filed for registration and about 150 have been registered. Being a relatively new enactment, the practice of the Registry has been evolving for the last decade. The experience of the Registry has been that different applicants have filed applications in varying conformity with the provisions of Act and Rules resulting in many formal objections being raised by the Registry and resultant delay in registration.

In order to act as a practical guide to prospective Applicants and GI Practitioners, a draft GI Manual was published in the Official Website of the Controller General of Patents, Designs and Trade Marks on 31st March, 2011 inviting comments from stakeholders. After due consideration of the comments, the GI Manual has now been finalized.

It is ardent hope of the GI Registry that this manual will be beneficial to all the stakeholders in speedy prosecution of their applications. This manual may be considered as a practical guide for effective prosecution of GI Applications in India. However, it does not constitute rule making and hence, does not have the force and effect of law.

The manual will be revised from time to time based on interpretations by a Court of Law, statutory amendments and valuable inputs from the stakeholders.

(P. H. Kurian)

Controller General of Patents, Designs and Trade Marks
& Registrar of Geographical Indications
GI Registry, IPO Building, G.S.T. Road,
Guindy, Chennai-600032

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CHAPTER - I

INTRODUCTION

❖ Evolution of GI

The desire of mankind for quality and genuine premium products such as silk, cotton and spices, having distinct characteristics originating from a particular region, have over centuries created an impact on human civilization which has resulted in discovery of new sea routes and new continents. These identifications became so important that these regions started specializing in producing these unique products, which led to identifying such goods as originating from a particular region, which over a period of time has become renowned globally.

Rising demand for such products among the consumers, gave rise for counterfeit products, which began to tarnish the image of genuine products. A effort to safeguard the interest of the producers and consumers led to evolution and conceptualization of “Geographical Indications”.

❖ Concept of Geographical Indication

Because of the diverse ways in which the protection of Geographical Indications has evolved, there was no universally accepted terminology. The following are the conventional definitions which can be found in the literature on geographical indications.

The culture of winemaking greatly prospered under the Catholic Church who held widespread influence over Christian Europe. Eventually, this led to the recognition of their winemaking capability, practices and wine varieties. With the

rising popularity also came an increase in wine fraud and adulteration, there was a need to safeguard the wine tradition and reputation.

Accordingly, the Portuguese created the first Appellation system in the world, in order to safeguard their oldest wine tradition – Port from the Douro region of Portugal. It dates back, when the popularity of Port, or "blackstrap" as it was sometimes known because of its dark color and astringency, continued to increase among the English in England which resulted in misrepresentation of authentic Port from the Douro from wines prepared from grapes grown in other parts of the European region. Therefore, the sales and imports of “Port” wine in England dropped dramatically. The Portuguese Prime Minister Sebastiao Jose de Carvalho e Melo, Marquis of Pombal in order to regulate the trade and production of Port wine established in 1756 the Douro Wine Company. One of the first official duties of the company was the delineation of the boundaries of the Douro wine region, to supervise the production of Port in all stages of winemaking from harvesting to winemaking to aging and finally shipping. This act essentially made the Douro the world's first regional Appellation.

Due to its vineyard history, France is the first country to afford a protection to Geographical indication through the legal instrument, the *French appellation d'origine controlee (AOC)*. This legislation is founded on the concept of the protection of origin that was born out of the crises that rocked the French wine trade in early 20th Century. The concept emerged with law of 1919 that established GIs as collective intellectual property and granted legal recognitions to unions for the protection of appellations of origin.

“Indication of Source”, which nomenclature has been used in the Paris Convention, refers to an indication of the origin of the product from a place or country, such as “Made in India” or “Product of France” etc. Such indications do not reflect the quality of the product, rather it merely shows its origin. This terminology, which was used at the end of the 19th Century, when the concept of Geographical Indication had not yet evolved in its current meaning. The whole idea was a product with some unique characteristic should not be falsely represented as originating from some other place.

Broadly, “Appellation of Origin” refers to a sign that indicates that a product originates in a specific geographic region only when the characteristic qualities of the product are due to the geographical environment, including natural and human factors.

“Geographical Indications” as being used currently includes both the above concepts and it refers to *“... indications which identify a good as originating in the territory of a country, 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.” (Article 22.1 of the TRIPS Agreement)*

❖ **The Geographical Indications of Goods (Registration & Protection) Act, 1999**

Consequent upon India joining as a member state of the TRIPS Agreement a sui –generis legislation for the protection of Geographical Indications was enacted in 1999.

The Object of the Geographical Indications of Goods (Registration and Protection) Act, 1999 is three fold, firstly by specific law governing the geographical indications of goods in the country which could adequately protect the interest of producers of such goods, secondly, to exclude unauthorized persons from misusing geographical indications and to protect consumers from deception and thirdly, to promote goods bearing Indian geographical indications in the export market.”

CHAPTER - 2

KEY DEFINITIONS

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| 02.01 | General | |
| | For better appreciation of this manual, the user may require to have clear understanding of certain terms which are defined in the Act or Rules. Some of the important definitions are as under: | |
| 02.02 | Definitions | |
| 02.02.01 | <p>“Registrar” means the Registrar of Geographical Indications.</p> <p>Registrar of Geographical Indications is the Controller of Patents, Designs and Trade Marks appointed under sub-section (1) of Section 3 of the Trade Marks Act, 1999.</p> <p>The Central Government may appoint such officers for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act, as he may from time to time authorize them to discharge.</p> <p>Senior Joint Registrar of Trademarks & GI, Joint Registrar of Trademarks & GI, Deputy Registrar of Trademarks & GI and Assistant Registrar of Trademarks & GI may function in the GI Registry with such powers as authorized by the Registrar of Geographical Indications from time to time.</p> | Section 2(1)(o), 3. |

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| 02.02.02 | ‘ Goods ’ means any agricultural, natural or manufactured goods or any goods of handicraft or of industry and includes foodstuff. | Section 2(1) (f) |
| 02.02.03 | ‘ Indication ’ includes any name, geographical or figurative representation or any combination of them conveying or suggesting the geographical origin of goods to which it applies. | Section 2(1) (g) |
| 02.02.04 | <p>‘Producer’ in relation to goods, means any person who, --</p> <ul style="list-style-type: none"> i. if such goods are agricultural goods, produces the goods and includes the person who processes or packages such goods; ii. if such goods are natural goods, exploits the goods; iii. if such goods are handicraft or industrial goods, makes or manufactures the goods, iv. and includes any person who trades or deals in such production, exploitation, making or manufacturing, as the case may be, of the goods. | Section 2(1) (k) |
| 02.02.05 | “ Registered proprietor ”, in relation to a geographical indication, means any association of persons or of producer or any organisation for the time being entered in the register as proprietor of the geographical indication. | Section 2(1) (n) |
| 02.02.06 | <p>“Authorised user” means the authorised user of a GI Registered under Section 17.</p> <p>Any person claiming to be a producer of the goods in respect of which a geographical indication has been registered may apply for registration as an authorized user</p> | Section 2(1) (b) |

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| 02.02.07 | <p>“Geographical Indication” , in relation 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 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 goods are 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.</p> | Section 2(1) (e) |
| 02.02.08 | <p>“Tribunal” means the Registrar or, as the case may be, the Appellate Board before which the proceeding concerned is pending.</p> | Section 2(1) (p) |
| 02.02.09 | <p>“Convention Application” means an application for the registration of a geographical indication made by virtue of Section 84.</p> | Rule 2(1) (h) |
| 02.02.10 | <p>“Divisional Application” means a divided application made by the division of a single initial application for registration of a geographical indication for different classes of goods.</p> | Rule 2(1) (i) |
| 02.02.11 | <p>“Graphical Representation” means the representation of a geographical indication for goods in paper form.</p> | Rule 2(1) (l) |
| 02.02.12 | <p>“Appellate Board” means the Appellate Board established under Section 83 of the Trade Marks Act, 1999.</p> | Section 2(1) (a) |

CHAPTER 3

FILING OF GEOGRAPHICAL INDICATIONS APPLICATION

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| 03.01 | The Applicant Any association of persons or producers or any organisation or authority established by or under any law representing the interest of the producers of the concerned goods may apply for registration of a Geographical Indication. The Applicant has to be a legal entity and should be representing the interest of producers of the good applied for. Any such organisation or association being not that of the producers may have to prove that they represent the interest of producers. Any Applicant Authority also have to prove that they represent the interest of producers. | Section 11 |
| 03.02 | Jurisdiction The GI Registry is situated at Geographical Indications Registry, Intellectual Property Office Building, G.S.T. Road, Guindy, Chennai – 600032 having all-India Jurisdiction. Application or any other document may be filed directly in the GI Registry, Chennai, or may be sent by post or registered post or speed post or courier services. | |

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| 03.03 | <p>Type of Applications</p> <ul style="list-style-type: none"> • Ordinary Application: An Application which has been filed to register a Geographical Indication of India. • Convention Application: An Application filed for registration of a Geographical Indication from a convention country, along with proof of registration / filing of that Geographical Indication in the Home Country. • Single Class Application: An application which has been filed to register for a specification of goods included in one class. • Multi Class Application: A single application filed for registration of Geographical Indications for different or more than one classes of goods. | |
| 03.04 | <p>Receiving of Documents in GI Registry</p> <p>1) All Applications, notices, statements or other documents or any fee authorised or required to be filed, served, left, made or given under the Act or Rules, shall be made, served, left, sent or paid at the office of Geographical Indications Registry, Intellectual Property Office Building, G.S.T. Road, Guindy, Chennai – 600032.</p> <p>2) All Applications or documents, if sent by post or registered post or speed post or courier service, shall be deemed to have been filed, left, made or given at the time when the mail containing the same would have been delivered in the ordinary course of post or</p> | <p>Rule 7</p> <p>Rule. 14</p> |

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| | <p>be accompanied by the name of the signatory in English (in capital letters) or in Hindi.</p> <p>5) It is desirable that the documents are filed as Annexures to Application and Statement of Case. The Applicant or the authorized Signatory shall append his signature at the end of each annexure or document.</p> <p>6) The model form for filing GI Application with Annexures is enclosed herewith for reference.</p> | |
| <p>03.06</p> | <p>Fees:</p> <p>The prescribed fee to be paid in respect of applications, oppositions, registration, renewal or any other matters or for various proceedings under the Act or the Rules is given in First Schedule.</p> <ol style="list-style-type: none"> 1. Fee payable under the Act may either be paid in cash or money order or may be sent by bank draft or cheque. 2. The cheque / bank draft shall be in favour of the Registrar of Geographical Indications. The bank draft shall be drawn on a schedule bank at Chennai. 3. If sent by post, the fee shall be deemed to have been paid on the date on which the money order or draft or cheque would have reached the Geographical Indications Registry in the ordinary course of mail. 4. Any document shall not be deemed to have been filed at the Registry, until the fees have been paid. | <p>Section 80</p> <p>First</p> <p>Schedule</p> |

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| | 5. The Registrar shall not act on any document under GI Act and Rules until the fees has been paid. | |
| 03.07 | <p>Filing of a Geographical Indications Application</p> <ul style="list-style-type: none"> • An Indian application for the registration of a geographical indications can be made in triplicate in Form GI – 1(A) for single class and in GI – 1 (C) for multiple classes. • A Convention Application shall be made in triplicate in Form GI – 1(B) for single class and in GI – 1 (D) for multiple classes. • Power of Attorney, if required. • An Application shall be signed by the applicant or his agent. | Form GI – 1(A), 1(B), 1(C), 1(D) |
| 03.08 | <p>Contents of Application</p> <p>A GI Application shall contain the following:</p> <ol style="list-style-type: none"> 1. Application for registration of a GI shall contain the duly filled Application form. A model Application Form is given in Annexure-I. <p style="margin-left: 40px;">Specification, description of goods, proof of origin, method of production, uniqueness, inspection body and other details, as required under rule 32, may be made as statement of case and enclosed along with the duly filled application form. A guideline for drafting a statement of case is given in 03.08.01.</p> 2. Three copies of map of the geographical area of production | Form GI-1 |

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| | <p>showing the title, name of publisher and date of issue. The copies shall be certified by a competent authority.</p> <ol style="list-style-type: none">3. List of members of the association of producers. Such list may contain the list of producers, who initially propose to get the GI registered and need not be an exhaustive list of all the producers.4. Two additional representations as required under rule 27. As the application forms are digitized by the GI Registry, only two additional representations are sufficient, instead of five.5. An Affidavit, as required under rule 32(6)(a). No affidavit is required to be submitted if the applicant is an association of producers of goods.6. Registration certificate from the competent authority along with the bye-laws / articles of association / memorandum of association clearly describing the objectives of association. Self attested copy of English Translation may be submitted, if these documents are in a language other than English or Hindi. <p>A clause for removal of members of an association on the ground of not conforming to the standards of production of the goods is advisable. Such a clause would ensure consistency in quality of goods produced by members of the association.</p> | |
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| | <p>7. In case of Convention Applications, a Certificate shall accompany the application. The certificate shall be issued by the Competent Authority at the Geographical Indications Office of the Convention Country, along with a Statement indicating the Filing Date of the Foreign Application relied upon in the Convention Country where it was filed, and serial number, if available. However, such a certificate can be filed within two months from the date of filing of the Application.</p> | |
| <p>03.08.01</p> | <p>A document entitled ‘statement of case’ (in triplicate), to be annexed to the documents mentioned in 03.08, shall contain:</p> <p>1. Specification – A brief statement describing the special characteristics and quality parameters of the goods in about 50 to 100 words.</p> <p>2. Description of goods giving its uniqueness and geographical linkage – A detailed description of the GI shall clearly indicate its special characteristics, unique features, linkage to the specific geographical location including human creativity involved. Environmental factors such as soil, water and climatic condition may be clearly brought out. This part shall also contain the standard benchmark set by the producers of the GI. Fixing such a standard may be necessary for quality control, inspection and enforcement of the GI.</p> | <p>(Classification of Goods) Fourth Schedule</p> |

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| | <p>3. Method of Production – This part shall describe in detail the method of production, including the process involved, raw materials and tools, packaging specialty if any, etc.</p> <p>4. Uniqueness of the product – This part may contain the comparison with other similar products, so as to establish its uniqueness of the goods for which registration is applied. This part may be described in not more than 100 words.</p> <p>5. Proof of Origin - Historic proof in the form of documentary evidence, shall be submitted, to prove the existence of the Geographical Indications such as, gazetteers, published documents, news articles, advertisement materials, for clearly bringing out the historic development of the Geographical Indications.</p> <p>6. Inspection Body - This part may contain details of the Inspection Body set-up by the Applicant to monitor the production in respect of quality, integrity and consistency of the product as well as the genuine use of the GI.</p> <p>7. Present scenario of the GI product – This part shall elaborate the present market of the GI product with the details of exports, if any, total turnover of the product, and the activities undertaken by the applicant association in development and promotion of the GI.</p> | |
| 03.08.02 | Special requirement for homonymous Geographical Indications: | |

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| | <p>Where the geographical indication is a homonymous indication to an already registered geographical indication, the material factors differentiating the application from the registered geographical indications shall be provided.</p> <p>The Particulars of protective measures adopted by the applicant to ensure consumers of such goods are not confused or misled or confused in consequence of such registration.</p> | |
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CHAPTER - 4

EXAMINATION

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| 04.01 | Preliminary Examination | |
| | <p>On receipt of an application, the Examiner/Authorised Officer shall scrutinize the application and the accompanying Statement of Case as to whether it meets the requirements of the GI Act and the Rules viz.:</p> <ul style="list-style-type: none">• application has been filed in a proper Form• prescribed Fees have been paid• applicant or his agent has appended his signature in the Application• application has been filed along with Five Additional representations• application has been filed along with Statement of case in Triplicate• application has been filed along with Three Certified copies of Map, which should clearly indicate the latitude and longitude of the Geographical Indications Area.• address of Service in India is provided in case of a Convention Application.• power of attorney or Authorisation Form has been executed | |

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| | <p>and submitted in Original.</p> <ul style="list-style-type: none"> • class of Goods has been mentioned correctly. • documentary evidence (Original / Notarised / Attested) relating to the legal status of applicant such as Memorandum and Articles of Association, Bye - laws, Registration certificates, etc has been filed. • translation / transliteration of the non-English / Hindi text has been provided. • certificate from the competent authority of the convention country has been filed along with the necessary particulars. | |
| <p>04.02</p> | <p>Communication of deficiencies found in preliminary examination:</p> <ol style="list-style-type: none"> 1. Deficiencies if any found through a preliminary examination as mentioned in the above paragraph shall be communicated by the Examiner/Authorised Officer to the Applicant or his Agent. 2. The deficiencies shall be complied with in a time limit mentioned in the communication as above. 3. If the Applicant fails to remedy any deficiencies within the stipulated time so notified, the Application may be treated as abandoned. However, the Applicant may file a request of extension of time of One month in Form GI-9(C) with prescribed fee. | <p>Rule 31</p> <p>Form GI-9(C)</p> |

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| | 4. When the deficiencies are complied the Examiner/Authorised Officer shall submit the Application to the Registrar of GI for his consideration. | |
| 04.03 | Examination of Application | |
| 04.03.01 | <p>Upon compliance of the deficiencies, the Registrar shall ordinarily constitute a Consultative Group of not more than seven representatives to ascertain the correctness of the particulars furnished in the Statement of Case.</p> <ol style="list-style-type: none"> 1. The Consultative Group is chaired by the Registrar of Geographical Indications. 2. The remaining members are identified from any organisation, authority or persons well versed in the varied intricacies of the Geographical Indications Law or field, to ascertain the correctness of the particulars furnished in the statement of Case. 3. As a matter of practice, for the benefits of the Applicants the Consultative group meeting are being held at the GI Registry, Chennai and Intellectual Property Offices situated in Delhi, Mumbai and Kolkata. The Meetings may also be held at other locations if the situation so warrants. 4. The Applicant will be invited to make a detailed presentation before the Consultative Group to explain the statement of case. The Consultative Group ascertains the correctness of | Rule 33, 34 |

the particulars of Statement of Case and recommends for amendments, corrections or furnishing of further documents.

The Group may visit the production area in order to further assess the correctness of the Statement of Case.

5. The proceeding before the Consultative group will be ordinarily completed within three months from the date of constitution.
6. There upon the Registrar shall consider the Application on merits and based on observation / comments of Consultative Group, issues an Examination Report.
7. The Examination Report may contain objections to the acceptance of the Application or proposal to accept it subject to such conditions, amendments, modification or limitations as the Register may think fit to impose.
8. The Applicant shall within two months of the date of communication of Examination Report comply with proposals mentioned in the Examination Report or submit his observation or apply for a Hearing.
9. If the applicant fails to amend his application or submit his observations in writing or fails to apply for a hearing or fails to attend the hearing, the application shall be dismissed.
10. If the Application is found to be in order, the Registrar accepts the Application and publishes it in the ensuing GI

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| | Journal. | |
| 04.04 | <p>Correction and Amendment of Application</p> <p>The applicant may, anytime before or after acceptance but before registration, may apply in Form GI -5 with the prescribed fee for correction of any error in or in connection with his Application or any amendment in his Application provided such proposed amendments does not relate to the amendment of the GI or description of Goods or to the definite territory, region or locality, as the case may be, that would have the substantially altering or substituting the original application.</p> <p>An amendment of GI or in the description of goods, or the territory, region or locality that would have the effect of substantially altering or substituting the original application will not be allowed.</p> | Section 11(2), 15. Rule 32, 36. |
| 04.05 | <p>Acceptance</p> <ul style="list-style-type: none"> • The Registrar may accept the GI Application absolutely or subject to such amendments, modification, conditions or limitations as he thinks fit. • The objections and/or proposal for conditional acceptance are to be communicated to the applicant. <p>In case of objections to the acceptance of the application or conditional acceptance, the grounds of objection or for refusal or conditional acceptance and the materials used by him arriving at</p> | Section 11 |

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| | the decision shall be recorded. | |
| 04.06 | <p>Advertisement in GI Journal</p> <p>The Registrar of GI publishes all the GI Applications and authorised user applications in the Official GI Journal. The GI Journal is being published and is made available to the Public ordinarily in the first week of every month, through the Official Website. CD-ROMs of each Journal can be obtained from the GI Registry on payment of Rs. 250.</p> <p>GI Application is published with the following details:</p> <ul style="list-style-type: none"> (A) Name of Geographical Indication alongwith Logo (B) GI Application Number : (C) Name of the Applicant : (B) Address of the Applicant : (C) List of association of persons/ Producers / organization/ authority: (D) Type of Goods & Class : (E) Statement of Case | <p>Section 13</p> <p>Rule 38</p> |

CHAPTER – 5

PROHIBITION OF REGISTRATION OF CERTAIN

GEOGRAPHICAL INDICATIONS

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| 05.01 | <p>Prohibition of registration of certain Geographical Indications:</p> <p>For registrability, the GI must fall within the scope of the definition of the expression ‘geographical indication’. In addition such a GI should not fall within the purview of prohibitions as contained in Section 9.</p> | Section 9 |
| 05.01.01 | <p>The use of which would be likely to deceive or cause confusion.</p> <p>Deception or confusion need not be actual. It may be probable. In GI law, protection of public interest is the paramount consideration before the Registrar. The Registrar would consider the circumstances of the case whether the particular GI is likely to deceive or cause confusion.</p> | |
| 05.01.02 | <p>The use of which would be contrary to any law for the time being in force.</p> <p>For instance, if the GI applied for is prohibited under the Emblems and Names (prevention of Improper Use) Act, 1950.</p> | |
| 05.01.03 | <p>Which comprises or contains scandalous or obscene matter</p> <p>The GI that has been applied for registration is scandalous or obscene has to be decided on the facts and circumstances of each case. In case of</p> | |

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| | <p>an objection to registration, the onus is on the applicant to show that the GI applied for registration is not scandalous or obscene.</p> | |
| 05.01.04 | <p>Which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India</p> <p>A GI, which may hurt the religious and moral susceptibilities of a section of citizens, may fall under this prohibition.</p> | |
| 05.01.05 | <p>Which would otherwise be disentitled to protection in a court</p> <p>The Registrar would not normally extend the protection “to persons whose case is not founded in truth” (<i>Eno v Dunn 7 RPC 311, pg.318</i>).</p> | |
| 05.01.06 | <p>Which are determined to generic names or indications of goods and are, therefore, not or ceases to be protected in their country of origin, or which have fallen in to disuse in that country.</p> <p>The sub clause has to be read in conjunction with Explanation 1 and 2 as given. According to Explanation 1 ‘generic names or indications’ means the name of a goods which, although relates to the place or the region where the goods was originally produced or manufactured, has lost its original meaning and has become the common name of such goods and serves as a designation for or indication of the kind, nature, type or other property or characteristics of the goods. In other words the name has ceased to be distinctive of a particular source and become common to the trade.</p> <p>This provision corresponds to Article 24(9) of the TRIPS Agreement, which declares “there shall be no obligation under this agreement to</p> | |

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| | <p>protect GIs which are not or cease to be protected in their country of origin, or which have fallen in to disuse in that country”.</p> <p>It need not be mentioned that the value of a GI diminishes if the product has no longer the exclusive meaning and its origin loses relevance. The GI no longer indicates to the market place the source of the product and instead it is considered the common general name of the product.</p> | |
| <p>05.01.07</p> | <p>Which, although literally true as the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be.</p> <p>Geographical indication, which falsely represents to the persons that the goods originate in a locality other than of its origin, though literally true as to the locality of origin, cannot be registered. This provision intends to prevent deception and falsification of GIs.</p> | |

CHAPTER - 6

OPPOSITION

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| 06.01 | Introduction: After advertisement of a Geographical Indication in the Geographical Indications Journal, any person may within three months oppose the registration of an application for GI. This period may be extended by a period, not exceeding one month, by making an application to the Registrar along with the prescribed fee. Such an application for extension shall be filed before the expiry of the period of three months. The Notice of Opposition shall be filed only before the Registrar of Geographical Indications at Chennai. | Section 14 Form GI-2 |
| 06.01.01 | Who may oppose: Section 14 provides that “any person” may give a Notice of Opposition to the registration of a Geographical Indications. In an opposition proceeding, it is more important to consider the matter from the point of view of the public than from the point of view of two parties to the proceedings and, therefore, merits or demerits of the opponent are irrelevant The Tribunal will take cognizance of any facts that would render registration improper. | Section 14 |
| 06.01.02 | Essential requirements for filing of Notice of Opposition | |

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| | <ol style="list-style-type: none"> 1. The Notice of Opposition should be on the FORM GI-2 (A) in triplicate, accompanied by fee of Rupees 1000/- per class. 2. The notice shall include a statement of the grounds upon which the opponents objects to the registration of the geographical indication. 3. A copy of notice of opposition shall be ordinarily served by the Registrar to the applicants within two months from the receipt of the same. | <p>Rule 41</p> <p>Form GI-2(A)</p> |
| 06.01.03 | <p>Verification of Notice of Opposition</p> <ol style="list-style-type: none"> 1. The notice of opposition shall be verified by the opponent. 2. The person verifying shall state specifically by reference to the numbered paragraphs of the notice of opposition, what he verifies of his own knowledge and what he verifies upon information received and believed to be true. 3. The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed. | <p>Rule 42</p> |
| 06.02 | <p>Counter-statement</p> <ol style="list-style-type: none"> 1. The counter-statement should be on the Form GI-2 (B) in triplicate, accompanied by fee of Rupees 1000/-. 2. It should be made within two months from the receipt by the applicant of the copy of the notice of opposition from the Registrar. 3. Counter Statement shall set out what facts, if any, alleged in the | <p>Rule 43</p> <p>Form GI-2 (B)</p> |

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| | <p>notice of opposition, are admitted by the applicant.</p> <p>4. The counterstatement shall be verified in the same manner as the notice of opposition.</p> <p>5. A copy of the counter-statement shall be served by the Registrar on the person giving notice of opposition ordinarily within two month from the date of receipt of the same.</p> | |
| 06.03 | <p>Evidence in support of Opposition by the Opponents</p> <p>1. The Evidence shall be filed by the Opponent before the expiry of the two months period, from the date of receipt of the copy of counterstatement. The Opponent can also file request for One month of Extension of time on Form – GI – 9 (C) with Fee of Rupees 300/- for filing the evidence.</p> <p>2. The Opponent can file such evidence by way of affidavit in support of opposition or intimate the Registrar and the applicant in writing that he does not desire to adduce evidence, but intents to rely on the facts stated in the notice of the opposition.</p> <p>3. The opponent shall deliver to the applicant copies of any evidence in support of opposition filed by him, under intimation to the Registrar.</p> <p>4. If the opponent fails to take action as mentioned above, the opponent will be deemed to have abandoned his opposition.</p> | <p>Rule 44</p> <p>Form GI-9(C)</p> |
| 06.04 | <p>Evidence in support of Application by the Applicant</p> <p>1. The Evidence shall be filed by the Applicant before the expiry</p> | <p>Rule 45</p> <p>Form GI-9(C)</p> |

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| | <p>of the two months period, from the date of receipt of the Evidence. The Applicant can also file request for One month of Extension of time on Form – GI – 9 (C) with Fee of Rupees 300/- for filing the evidence.</p> <p>2. The Applicant can file such evidence by way of affidavit in support of Application or intimate the Registrar and the applicant in writing that he does not desire to adduce evidence, but intends to rely on the facts stated in the Counter Statement or on the evidence already filed in connection with the Application. In that case the Applicant shall deliver the copies thereof to the opponent.</p> | |
| 06.05 | <p>Evidence in reply by opponent</p> <p>1. The Evidence shall be filed by the Opponent within one month from the receipt of the copies of the applicant's affidavit and shall deliver the copies of the same to the Applicant. This evidence shall be confined to matters strictly in reply.</p> <p>2. The Opponent can also file request for One month of Extension of time on Form – GI – 9 (C) with Fee of Rupees 300/- for filing evidence.</p> | <p>Rule 46</p> <p>Form GI-9(C)</p> |
| 06.06 | <p>Further evidence</p> <p>1. No further evidence shall be left on either side, but in any proceedings before the Registrar.</p> <p>2. However, if the Registrar thinks fit, he can give leave to either the</p> | <p>Rule 47</p> |

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| | <p>applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.</p> | |
| 06.07 | <p>Exhibits</p> <p>Where there are exhibits to affidavits filed in an Opposition, a copy of the exhibit or impression of each exhibit shall be sent to the other party on his request and at his expense, or, if such copies or impression cannot conveniently be furnished, the original shall be left at the Registry in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.</p> | Rule 48 |
| 06.08 | <p>Translation of Documents</p> <p>Where a document in a language other than Hindi or English is referred to in any proceedings before the Registrar, counter-statement or an affidavit filed in an opposition, an attested translation thereof in English or Hindi shall be furnished in duplicate.</p> | Rule 49 |
| 06.09 | <p>Hearing and decision</p> <p>The Registrar shall give notice <i>within three months</i>, upon completion of the evidence, to the parties of a date when he will hear the arguments in the case.</p> <p>1. The date of hearing shall be for a date <i>at least one month</i> after the date of the first notice. When the parties consent for a shorter notice that can also be allowed by the Registrar.</p> | Rule 50 |

2. *Within fourteen days* from the receipt of the first Hearing notice, any party who intends to appear shall notify the Registrar in writing.
3. Any party who does not notify the Registrar within the time last aforesaid shall be treated as not desiring to be heard and the Registrar shall proceed ex-parte in the matter.
4. If sufficient cause is shown, not more than two requests for adjournment for one month each by either parties can be allowed. The request for adjournment for One month by either parties can be filed on Form – GI – 9 (C) with Fee of Rupees 300/- accompanied with the grounds for such request.
5. If the applicant is not present at the adjourned date of hearing and has not notified his intention to appear at the hearing, the Registrar may treat the application as dismissed.
6. If the opponent is not present at the adjourned date of hearing and has not notified his intention to appear at the hearing, the Registrar may treat the Opposition as dismissed for want of prosecution and the application may proceed to registration.
7. In every case of adjournment the Registrar shall fix a day for further hearing of the case and shall make such order as to cost occasioned by the adjournment or such higher costs as the Registrar deems fit.
8. The fact that the Agent or Advocate on record of a party is

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| | <p>engaged in another court, shall not be a ground for adjournment.</p> <p>9. Where illness of an advocate on record or agent or his inability to conduct the case for any reason is put forward as a ground for adjournment, the Tribunal shall not grant the adjournment unless it is satisfied that the advocate on record or agent, as the case may be, could not have engaged another agent or advocate in time.</p> <p>10. The Registrar shall take on record written arguments if submitted by a party to the proceeding.</p> <p>11. The Registrar shall have powers to limit time for oral arguments.</p> <p>12. The decision of the Registrar shall be notified to the parties in writing.</p> | |
| <p>06.10</p> | <p>Security for costs</p> <p>Where an applicant or opponent does not reside or carry on business in India. Section 14(6) empowers the Registrar to require such party to give security for costs of the proceedings. Full discretion is given to the Registrar to determine the scale of costs.</p> | <p>Rule 51</p> |

CHAPTER - 7
REGISTRATION

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| 07.01 | Registration Where no Notice of Opposition is filed to an application for the registration of a geographical indication advertised or re-advertised in the Journal within the period specified or where an opposition is filed and it is dismissed and the appeal period is over, the Registrar shall, enter the geographical indication in Part A of the Register on receipt of a request. | |
| 07.02 | Entry in the Register of Part A The entry of a geographical indication in the register shall specify the date of filing of application, the actual date of the registration, the goods and the class in respect of which it is registered, and all particulars required including - <ul style="list-style-type: none">• the name and description of the applicant, the address of the principal place of business in India, if any, of the proprietor of the geographical indication.• where the proprietor of the geographical indication has no place of business in India his address for service in India together with his address in his home country. | Sec. 16 Rule 53 |

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| | <ul style="list-style-type: none"> • in the case of an association of persons or producers, where none of the association of persons or producers has a principal place of business in India, the address for service in India as given in the application together with the address of each of the association of persons or producers in his home country. • particulars of the trade, business, profession, occupation or other description of the proprietor or of the association of persons or producers of the geographical indication as entered in the application for registration; • particulars affecting the scope of the registration or the rights conferred by the registration; • the priority date, if any, to be accorded pursuant to claim to a right of a convention application made under Section 84; • summary of the particulars furnished under Rule 32 as finally accepted by the Registrar; and; • the appropriate office of the Geographical Indications Registry in relation to the Geographical Indication. | |
| <p>07.03</p> | <p>Certificate of Registration</p> <ol style="list-style-type: none"> 1. The certificate of registration of a geographical indication or an authorised user to be issued by the Registrar shall be on Form-O2, with such modification as the circumstances of a case may require. 2. The Registrar may issue a duplicate or further copies of the | <p>Sec. 16 (2)</p> <p>Rule 55</p> <p>Form - O2,</p> <p>GI - 7</p> |

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| | <p>certificate of registration of a geographical indication on request by the registered proprietor on Form GI-7. The certificate of registration) shall not be used in legal proceedings or for obtaining registration abroad, as for such purposes a certified copy of entry in the register is required to be obtained.</p> | |
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CHAPTER - 8

AUTHORISED USER REGISTRATION

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| 08.01 | <p>General</p> <p>The concept of Authorised User in the Indian GI law system is very unique. A Registered Geographical Indications being a community Intellectual Property and the Registered Proprietor being an Organisation or Authority, the system of Registration of Authorised User offers protection to the individual producers, manufacturers and traders. This system ensures the bonafide of a GI product dealt with or produced by a genuine person and further ensures the protection to the consumers.</p> <p>Authorised Users gets the exclusive right to use the Registered Geographical Indication and can independently sue an infringer.</p> <p>The Authorised User can also renew or restore a registered Geographical Indications, if the Registered Proprietor fails to renew the same. He further gets the right to be impleaded in any rectification proceedings against a Registered Geographical Indication or Appellate Board.</p> <p>It is imperative that every producer / dealer / manufacturer/ trader/ exporter to register as an Authorised User for their respective</p> | Section 17, 21(1) |
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| | Registered GI for better protection, increase market value and brand promotion of GI. | |
| 08.02 | <p>GI Authorised User Application</p> <ol style="list-style-type: none"> 1. Any person, who produces, makes, manufacturers, trades, packages or dealing with a Registered Geographical Indications can apply for Registration as an authorised user of that GI. 2. An application for registration of Authorised User shall be made in triplicate in Form GI-3 (A) alongwith required fee. The Application shall be jointly made by the registered proprietor and the proposed authorised user. A consent letter from the Registered Proprietor clearly recommending the Application can also be enclosed. 3. It shall be accompanied by a Statement of Case as to how the Applicant claims to be the Producer and shall be in the form of an affidavit. The Statement may be supported by documents such as Artisans Card issued by Central or State Government, Purchase Agreement from a Producer / Manufacturer of GI. 4. When a consent letter as required from the Registered Proprietor is not enclosed with the Application, the Applicant shall endorse a copy of Application to the Registered Proprietor and the proof of service of the same should be provided to the Registrar. The Registrar may in addition seek consent of the Registered Proprietor before proceeding further on the matter. In case | Rule 56, 57, 58 & 59. Form GI -3(A). |

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| | <p>Registered Proprietor objects for the Registration of the Application the Registrar may communicate the objection to the Applicant through the Examination Report.</p> <p>5. The Application will be examined and if found to be in order the same will be published in the ensuing Geographical Indications Journal.</p> <p>6. Any person may file an opposition against Registration of Authorised User within four months of publication of the Application in the GI Journal.</p> <p>7. The Opposition will be dealt with in the same manner as in the case of a Geographical Indication Application as explained in Chapter - 5.</p> | |
| <p>08.03</p> | <p>Entry in the Register</p> <p>1. If no notice of opposition is filed within the four months of publication of the Journal or when the Opposition has been dismissed and the appeal period of three months is over, the Application shall be registered and entered in the Part – B of the GI Register.</p> <p>2. If any condition has been imposed in the Part –A of the Register the same shall be entered in Part-B of the Register.</p> <p>3. The Applicant may make a request in Form –GI -3 (B) alongwith the required fee, for issuance of Registration Certificate and such certificate shall be issued within Fifteen</p> | <p>Form-GI-3(B)</p> |

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| | days of receipt of such request. | |
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CHAPTER - 9

RECTIFICATION

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| 09.01 | <p>Rectification</p> <p>Application to rectify or remove a Geographical Indication from the register</p> <p>An application can be made to the Registrar for cancelling, expunging or varying of any entry relating to a geographical indication or of the Statement of Case referred to under rule 32(1).</p> <p>It shall be made in triplicate on Form GI-6 or Form GI-5, as the case may be in respect of what is recorded in the Register of Geographical Indication or an authorised user in the register.</p> <p>It shall be accompanied by a statement in triplicate setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks.</p> <ol style="list-style-type: none">1. The Registrar shall serve a copy of the Application and Statement of Case within two months to the Registered Proprietor or to any other person who appears from the Register to have an interest in the Geographical Indications.2. A counterstatement would be forwarded within two months or within such further period not exceeding two months in the aggregate from the receipt by a registered proprietor of the copy of the application from the Registrar. | <p>Section 27.</p> <p>Rule 65, 66.</p> <p>Form GI-2, 5, 6.</p> |
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| | <p>3. It shall be send to the Registrar and to the person making the application on Form GI-2.</p> <p>4. It shall be served in triplicate of the grounds on which the application is contested.</p> <p>5. The Registrar shall serve a copy of the counterstatement on the person making the application within one month of the receipt of the same.</p> <p>6. The provisions of Rules 44 to 51 shall thereafter apply <i>mutatis mutandis</i> to the further proceedings on the application.</p> <p>7. The Registrar shall not, however, rectify the register or remove the geographical indication or any authorised user from the register merely because the registered proprietor or the authorised user has not filed a counterstatement unless he is satisfied that the delay in filing the counterstatement is wilful and is not justified by the circumstance of the case.</p> | |
| 09.02 | <p>Intervention by third parties</p> <p>1. Any person alleging interest in a registered geographical indication in respect of which an application is made may apply on Form GI-6 for leave to intervene, stating the nature of his interest.</p> <p>2. The Registrar may refuse or grant such leave after hearing.</p> | <p>Rule - 67 Form GI-6</p> |
| 09.03 | <p>Rectification of the register by the Registrar of his own motion</p> <p>1. The notice, which the Registrar is required be given shall be sent in writing to the registered proprietor and to any other person</p> | <p>Rule – 68</p> |

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| | <p>who appears from the register to have any interest.</p> <ol style="list-style-type: none"><li data-bbox="326 268 1219 520">2. It shall state the grounds on which the Registrar proposes to rectify the register and shall also specify the time, not being less than one month from the date of such notice, within which an application for a hearing shall be made.<li data-bbox="326 562 1219 741">3. Any person so notified fails to send to the Registrar within the specified time a statement in writing, he may be treated as not desiring and the Registrar may act accordingly.<li data-bbox="326 783 1219 888">4. If the Registrar decides to rectify the register he shall communicate his decision in writing to all concerned. | |
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CHAPTER – 10

APPEALS

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| | <p>APPEALS</p> <ol style="list-style-type: none">1. An appeal to the Intellectual Property Appellate Board from any decision of the Registrar under the Act or the rules shall be made within three months from the date of receipt of such decision or within such further time as the said Appellate Board may allow.2. A copy of every application to the said Intellectual Property Appellate Board under the Act or the rules shall be served on the Registrar. | <p>Section 31 Rule 98</p> |
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CHAPTER - 11

ENFORCEMENT OF GEOGRAPHICAL INDICATIONS

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| 11.01 | Offences The Act details certain acts as offences punishable by imprisonment or with fine or with both. The legislature has taken a strong view of infringement, piracy, falsification, misrepresentation and has now made them penal offences. The chapter apart from listing penalties for the above-mentioned offences also details the penalty and procedure of prosecution. | Chapter VIII |
| 11.02 | The following are the acts deemed as offences:- <ul style="list-style-type: none">▪ In the context of offences what constitutes the meaning of ‘applying geographical indication’ has been dealt with in Section 37 and the expression geographical indication has been defined in Section 2 (1) (e).▪ Section 38 list two kinds of offences namely:-<ul style="list-style-type: none">(a) falsifying a GI and(b) falsely applying a GI.▪ The penalty for falsification of GIs and the circumstances in which a person applies false GI are enumerated in Section 39.▪ Selling goods to which false GI is applied as outlined in Section | Section 37 |

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| | <p>40.</p> <ul style="list-style-type: none"> ▪ Enhanced Penalty for subsequent convictions for the offences of falsifying, falsification of GIs or selling goods with false GIs. ▪ Falsely representing a GI as registered as listed in Section 42. Misrepresenting the GI as Registered, which has not been actually registered is an Offence. ▪ Improperly describing a place of business as connected with the GIs Registry as listed in Section 43. ▪ Falsification of entries in the Register as listed in Section 44. ▪ No offence in certain cases ▪ Forfeiture of Goods ▪ Exemption of certain persons employed in ordinary course of business ▪ Procedure where invalidity of registration is pleaded by the accused | |
| <p>11.03</p> | <p>Cognizance of certain offences – Search & Seizure:</p> <ul style="list-style-type: none"> ▪ Section 50 (2) clearly lays down that no court inferior to that of a Metropolitan Magistrate or judicial Magistrate of first class shall try an offence under this Act. ▪ Subsection (3) lays down that the above stated offences under Sections 39, 40 and 41 shall be cognizable. ▪ Sub section (4) enacts that a police officer not below the rank of Deputy Superintendent of Police or equivalent, if he is satisfied | <p>Section 50</p> |

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| | <p>that a cognizable offence has been committed or is likely to be committed, may search and seize- without warrant- the goods, die, block, machine, parts, plates, or other instruments or things involved in the commission of the offence, and whenever found shall be produced before the magistrate at the earliest.</p> <p>However, the proviso to sub section (4) clearly mandates that the police officer before making any search and seizure shall obtain the opinion of the Registrar on the facts involved in the offence relating to the GI and shall abide by the opinion of the Registrar.</p> <p>In Addition to the above, the Registered Proprietor or Authorised User can obtain relief in respect of infringement of the Geographical Indications in the manner provided by this Act.</p> | |
| <p>11.04</p> | <p>Offences by Companies</p> <p>When an Offence is committed by a Company, the Company as well as person responsible in the company for conducting the business of the Company shall be liable.</p> | <p>Section 49</p> |

CHAPTER – 12

RENEWAL OF REGISTRATION AND RESTORATION

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| 12.01 | <p>Renewal of Registration</p> <p>An application for the renewal of the registration of a geographical Indication or an authorised user of a registered geographical indication shall be made on Form GI-4 or Form GI-3.</p> <p>It can be made at any time not more than six months before the expiration of the last registration of the Geographical Indication or the authorised user.</p> <p>Notice before removal of Geographical Indication or authorised user from register.</p> <p>If no application on Form GI-4 or Form GI-3 as the case may be, for renewal of the registration of a geographical indication or of an authorised user together with the prescribed fee has been received, the Registrar shall notify the registered proprietor or the authorised user, as the case may be, within a period of not less than one month and not more than three months before the expiration of the last registration, of the approaching expiration of the GI and the renewal due information in writing on Form - O3 or O5, as the case may be.</p> <p>If no application on Form GI-4 or Form GI-3 as the case may be, for</p> | Rule – 60 Form GI-3, 4 |
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renewal of the registration of a geographical indication or of an authorised user together with the prescribed fee has been received the Registrar shall notify the registered proprietor or the authorised user of the approaching expiration of the GI and the renewal due information in writing on Form - O3 or O5, as the case may be.

In the case of an association of persons or producers of a registered geographical indication each of the association of persons, producers registered as registered proprietors or the person authorised to act on their behalf would be intimated.

This information would be communicated to the address of their respective principal places of business in India as entered in the register or where such registered proprietor or authorised user has no principal place of business in India at his address for service in India entered in the Register.

Advertisement of removal of geographical indication or the authorised user from the register

If at the expiration of last registration of a geographical indication or an authorised user, the renewal fee has not been paid, the Registrar may remove the geographical indication or the authorised user, as the case may be, from the register and advertise the fact forthwith in the Journal.

Provided the Registrar shall not remove the geographical indication or the authorised user from the Register if an application is made in

Form GI-4 within six months from the expiration of the last registration of the geographical indication or the authorised user.

Restoration and renewal of registration

An application for the restoration of a geographical indication or authorised user to the register and renewal of its registration, shall be made in Form GI-4 after six months and within one year from the expiration of the last registration of the geographical indication or the authorised user as the case may be.

Notice and advertisement of renewal and restoration

Upon the renewal or restoration and renewal of registration, a notice to that effect shall be sent to the registered proprietor or the concerned authorised user and the said renewal or restoration and renewal shall be advertised in the Journal.

CHAPTER – 13
GENERAL SERVICES

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| 13.01 | Certificate for Legal use A copy of any entry in the Register or of any document certified by the Registrar and sealed with the seal of the Registry is admissible as evidence. It can be produced in all courts and in all proceedings without production of the original. | |
| 13.02 | Certificate for Use in Obtaining Registration Abroad <ol style="list-style-type: none">1. Where a certificate relating to the registration of a Geographical indication is desired for use in obtaining registration in any territory outside India, The Registrar shall include in the certificate a copy of the geographical indication for use in obtaining registration in any territory outside India.2. The Registrar may require the applicant for the certificate to furnish him with a copy of the geographical indication suitable for that purpose.3. The Registrar may refuse to issue the certificate, if the applicant fails to do so.4. Where a Geographical indication is registered without limitation | |

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| | <p>of colour, the copy of the geographical indication to be included in the certificate, may be either in the colour in which it appears upon the register or in any other colour or colours and it shall be stated in the certificate that the geographical indication is registered without limitation of colour.</p> <p>5. The Registrar may state in the certificate such particulars concerning the application for registration or the registration of the geographical indication as may deem fit to him, and may specify the terms and conditions and other limitation appearing on the Register.</p> | |
| <p>13.03</p> | <p>Inspection of Documents</p> <p>1. The documents mentioned in sub-section (1) of section 78 shall be available for inspection at the Head office of the Geographical Indications Registry.</p> <p>2. The inspection shall be on payment of the prescribed fee and at such times on all the days on which the offices of the Geographical Indications Registry are not closed to the public, as may be fixed by the Registrar.</p> <p>3. Distribution of copies of Journal and other documents. The Central Government may direct the Registrar to distribute the journal and any other document which it may consider necessary, to such places as may be fixed by the Central Government in consultation with the State Governments and notified from time</p> | |

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| | to time in the Official Gazette. | |
| 13.04 | <p>Certified Copies of Documents</p> <p>Upon receipt from any person of an application on Form GI-7 accompanied by the prescribed fee.</p> <ol style="list-style-type: none"> 1. The Registrar may furnish certified copies of any entry in the register or certified copies of any documents. 2. Any decision or order of the Registrar, or give a certificate other than a certificate under sub-section (2) of section 16 as to any entry, matter or thing which he is authorised or required by the Act or the rules. 3. The Registrar shall not be obliged to include in any certificate or certified copy a copy of any geographical indication unless he is furnished by the applicant with a copy thereof suitable for the purpose. | <p>Section 78(1)</p> <p>Form GI-7</p> |

CHAPTER – 14

MISCELLANEOUS PROVISIONS

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| 14.01 | Affidavits <ol style="list-style-type: none">1. Every affidavit filed before the Registrar in connection with any of the proceedings under the Act or the rules shall be duly stamped under the law for the time being in force.2. The Affidavits required shall be headed in the matter or matters to which they relate.3. It shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered, and each paragraph shall, as far as practicable, be confined to one subject.4. Every affidavit shall state the description and the true place of abode of the person making the same, shall bear the name and address of the person filing it and shall state on whose behalf it is filed.5. Where two or more persons join in an affidavit, each of them shall depose separately to such facts which are within his personal knowledge and those facts shall be stated in separate paragraphs.6. Affidavits shall be taken- | |
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a. In India -before any court or person having by law authority to receive evidence, or before any officer empowered by such Court as aforesaid to administer oaths or to take affidavits,

b. in any country or place outside India - before a diplomatic or consular officer, within the meaning of the Diplomatic and Consular Officers (Oaths and Fee) Act, 1948, of such country or place, or before a notary public, or before a judge or magistrate, of the country or place.

7. Any affidavit purporting to have affixed, impressed or subscribed thereto or therein the seal or signature of any person authorised by sub-rule (3) to take an affidavit, in testimony of the affidavit having been taken before him, may be admitted by the Registrar without proof of the genuineness of the seal or signature or of the official character of that person.

8. Alterations and interlineations shall, before an affidavit is sworn or affirmed, be authenticated by the initials of the person before whom the affidavit is taken.

9. Where the deponent is illiterate, blind or unacquainted with the language in which the affidavit is written, a certificate by the person taking the affidavit that the affidavit was read, translated or explained in his presence to the deponent, that the deponent seemed perfectly to understand it and that the deponent made his

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| | signature or mark in his presence, shall appear in the jurat. | |
| 14.02 | <p>Translation of Documents</p> <p>Where a geographical indication contains a word or words in characters other than Devnagari or Roman, in the Applicant shall provide a sufficient transliteration and translation of the same.</p> <p>Where an application for a geographical indication or authorised user contains a word or words in a language other than Hindi or English, the Registrar may ask for an exact translation.</p> <p>Where a document in a language other than Hindi or English is referred to in any proceedings before the Registrar, counter-statement or an affidavit filed in an opposition, an attested translation thereof in English or Hindi shall be furnished in duplicate.</p> | |
| 14.03 | <p>Procedure for Giving Notice of Non-Completion of Registration</p> <ol style="list-style-type: none"> 1. The notice which the Registrar is required by sub-section (3) of section 16 to give to an applicant, shall be sent to the applicant at the address of his principal place of business in India. 2. If he has no principal place of business in India at the address for service in India as stated in the application. 3. If the applicant has authorised an agent for the purpose of the application, the notice shall be sent to the agent and a duplicate thereof to the applicant. 4. The notice shall specify twenty one days time from the date thereof | Form O1, GI-9 |

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| | <p>or such further time as the Registrar may allow on a request for completion of the registration.</p> | |
| 14.04 | <p>Power of Registrar</p> <p>The registrar is conferred with the following powers in respect of the proceeding under the Act.</p> <p>(a) The powers of the civil court or the purposes of received evidence, administering oath, enforcing the attendance of witness, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;</p> <p>(b) To make such order as to costs as he considers reasonable, subject to any rules made under section 87.</p> <p>(c) To review his own decision, on an application made in that behalf.</p> <p>Exercise of discretionary power by Registrar</p> <p>The Registrar can exercise of discretionary or other power vested in him by the Act or the Rules.</p> <p>The Registrar shall not exercise these powers without giving to the person against whom he intends to use an opportunity of being heard, following the principles of natural justice.</p> <p>This section is however circumscribed by the provision of <i>relating to grant of extension of time</i> for which the law provides that the Registrar is not bound to hear the parties before disposing off an application for extension of time.</p> | <p>Section 61, 64, 87 Rule 85</p> |

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| | <p>The decision of the Registrar in the exercise of any discretionary power given to him by the Act or the Rules shall be notified to the person affected.</p> | |
| 14.05 | <p>Awards of Costs</p> <p>Registrar may award costs in any proceedings as he considers reasonable having regard to all the circumstances of the case, subject to the provisions of rule 89 and 90.</p> | <p>Rule 89, 90, 91</p> |
| 14.06 | <p>Review</p> <p>The Registrar is empowered to review his own decision, on an application made in the prescribed manner. Normally review is preferred when the application is abandoned and applicant is serious in prosecuting his application and with no intention to abandon it, as an alternative to filing of fresh application.</p> <p>Review of Registrar’s decision:</p> <p>It is open to the applicant to file an application on Form GI-7 for review of the Registrar’s decision, setting out the grounds in a statement to be annexed to the request.</p> <p>The application for review has to be filed within a period of one month from the date of the decision or within such period not exceeding one month thereafter as the Registrar may, upon request, allow.</p> <p>Where the decision in question concern any other person in addition to the applicant, such application and statement shall be left in triplicate and the Registrar shall forthwith transmit a copy each of the application</p> | <p>Section 60(c) Rule 92</p> |

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| | <p>and statement to the other person concerned.</p> <p>The Registrar may, after giving the parties an opportunity of being heard, reject or grant the application either unconditionally or subject to any conditions or limitation, as he thinks fit.</p> | |
| <p>14.07</p> | <p>GI Agent</p> <p>The following categories of persons, who are duly authorized, can act on behalf of another person before the Registrar in respect of any matters under the Act:</p> <ul style="list-style-type: none"> (a) a legal practitioner; (b) a person registered in the prescribed manner as a GI agent ; (c) a person in the sole and regular employment of the principal. <ul style="list-style-type: none"> • The authorization of an agent for is to be executed in Form GI-10. • When there is a proper authorization, service upon the agent of any document relating to the proceeding is deemed to be service upon the person so authorizing him. • The Registrar, however, may require the personal signature or presence of an applicant or opponent, authorized user, etc, in any particular case. • The duly authorized agent is entitled to perform any act required to be done before the Registrar on behalf of his client, except the making of an affidavit. • It has been held that an agent is entitled to enter into a compromise, acting in a bona fide manner, unless there are | <p>Section 76</p> |

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| | <p>express directions to the contrary.</p> <ul style="list-style-type: none">• Rules 102 to 114 prescribed detailed rules concerning registration of a person as a GI Agent.• It relates to the qualification, manner of making application, qualifying requirements, registration, continuance of the name in the Register, removal, restoration of removed names, alteration of name or address etc. in the Register of GI Agents and power of Registrar to refuse to deal with certain agents. | |
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CHAPTER 15

TIME SCHEDULES

| S. No. | ACTIVITY | TIME SCHEDULE |
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| 1 | Issuance of Formality Check Report under rule 31 to remedy the deficiencies in the application for Registration of G.I | Within Two <i>months</i> from the date of Receipt of the Application |
| 2 | Compliance of the notice under rule 31 to remedy the deficiencies in the application for Registration of G.I | Within one <i>month</i> from the date of Receipt of the Notice |
| 3 | Finalization of examination of application by the Consultative Group | Within three <i>months</i> from the date of constitution of the consultative group |
| 4 | Advertisement | Within three <i>months</i> of the acceptance of the application |
| 5 | Registration | Average time taken Twelve <i>months</i> from the date of Receipt of Application |
| 6 | Notice of opposition | Within three <i>months</i> or further period not exceeding one <i>month</i> in the aggregate from the date when the Journal was made available to the public |
| 7 | Forwarding of the copy of notice of opposition to the applicant | Within two <i>months</i> of the receipt of the notice by the Registrar |

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| 8 | Filing of counter statement | Within <i>two months</i> from the receipt of the applicant of the copy of the notice of opposition from the Registrar |
| 9 | Serving of the counter statement on Opponent | Within <i>two months</i> from the date of receipt of the counter statement by the Registrar |
| 10 | Evidence in support of opposition by the opponent | Within <i>two months</i> from the date of serving of the copy of the counter statement or within such further period not exceeding <i>one month</i> in the aggregate thereafter as the Registrar may on request allow |
| 11 | Evidence in support of application by the applicant | Within <i>two months</i> or within such further period not exceeding <i>one month</i> thereafter in aggregate as the Registrar may on request allow, on the receipt by the applicant of the copies of affidavits in support of opposition or of the intimation that the opponent doesn't desire to adduce any evidence. |
| 12 | Filing of Evidence in reply by opponent | With in <i>one month</i> from the receipt by the opponent of the copies of the applicant's affidavits or within such further period not exceeding <i>one month</i> thereafter as the Registrar may on request allow |
| 13 | Notice for Hearing | Within <i>3 months</i> of completion of the evidence |
| 14 | Transmission of application and statement for the rectification. | Within <i>two months</i> of receipt of the application by the Registrar |
| 15 | Filing of Counter-Statement by Registered Proprietors | Within <i>two months</i> or within further period not exceeding <i>two months</i> in the aggregate from the receipt of the copy of the |

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| | | application for rectification by Registered Proprietor |
| 16 | Serving of the counter statement on the applicant | Within one <i>month</i> from the date of receipt of the counter statement by the Registrar |
| 17 | Evidence in support of Rectification by the Applicant | Within two <i>months</i> from the date of serving of the copy of the counter statement or within such further period not exceeding one <i>month</i> in the aggregate thereafter as the Registrar may on request allow |
| 18 | Evidence in support of Registered G.I. by the Registered Proprietor | Within two <i>months</i> or within such further period not exceeding one <i>month</i> thereafter in aggregate as the Registrar may on request allow, on the receipt by the Registered Proprietor of the copies of affidavits in support of rectification or of the intimation that the applicant doesn't desire to adduce any evidence. |
| 19 | Filing of Evidence in reply by Applicant | With in <i>one month</i> from the receipt by the applicant of the copies of the Registered Proprietor's affidavits or within such further period not exceeding <i>one month</i> thereafter as the Registrar may on request allow |
| 20 | Notice for Hearing | Within <i>3 months</i> of completion of the evidence |
| 21 | Appeal to the Appellate Board | Within <i>3 months</i> from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal |

The Geographical Indications of Goods (Registration & Protection) Act, 1999
The Geographical Indications of Goods (Registration & Protection) Rules, 2002

*(To be filed in triplicate alongwith the Statement of Case accompanied
by Two Additional representation of the Geographical Indication)*

(One representation to be fixed within the space and other to be enclosed with the
Application)

FORM GI-1

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| A | Application for the registration of a Geographical Indication in Part A of the Register Section 11(1), Rule 23(2) Fee: Rs. 5,000 (See entry No.1A of the First Schedule) | |
| B | Application for the registration of a Geographical Indication in Part A of the Register from a Convention Country Section 11(1), 84(1), rule 23(3) Fee: Rs. 5,000 (See entry No.1B of the First Schedule) | |

1. Application is hereby made by _____ for the Registration in Part A of the Register of the accompanying geographical indication furnishing the following particular:-

(A) Name of the Applicant :

(B) Address :

- (C) Name of the Geographical Indication: (Herein, type the GI and paste the logo, if any)
- (D) Type of Goods : (Natural / agricultural / manufactured / industrial / handicraft / textile / food stuff / wines / spirits)
(Select appropriate) :
- (E) Class / Classes :
- (F) Specification :
- (G) Description of goods :
- (H) Proof of origin : **Annexed as Statement of Case**
- (I) Method of production :
- (J) Uniqueness :
- (K) Inspection body :
- (L) Other :

Along with the Statement of Case in Class _____ in respect of _____ in the name(s) of _____ whose address is _____ who claims to represent the interest of the producers of the said goods to which the geographical indication relates and which is in continuous use since _____ in respect of the said goods

2. The application shall include such other particulars called for in Rule 32(1) in the Statement of Case.

3. All communications relating to this application may be sent to the following address in India

4. In the case of an application from a convention country the following additional particulars shall also be furnished.
 - a) Designation of the country of origin of the Geographical Indication
 - b) Evidence as to the existing protection of the geographical indication in its country of origin, such as the title and the date of the relevant legislative or administrative provisions, the judicial decisions or the date and number of the registration, and copies, of such documentation

Signature

Name of the Signatory

(In block Letters)

This ____ day of _____ 20 ____.