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Counterfeit Geographical Indications: Challenges and Consequences

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ABSTRACT

Falsification of GI tagged products and its impact on public interest is the subject matter of this article. Counterfeiting has highly affected the authenticity of the geographical indicators which tend to uphold the distinctiveness of goods that originate from specific regions. This study intend to reveal the threat that is posed by fabrication of GIs in the market space and its effect on economy, investors and consumers. The inadequate enforcement mechanisms for GI protection and possible remedies to overcome the hurdles are also included.

Keywords: geographical indications, counterfeiting, consumer interest, economy, legal system

Introduction

Geographical indications are tags on articles owing to their place of origin and specific feature. They possess unique elements of authenticity. Their distinctive character is given protection under the ambit of intellectual property rights so as to support the distinctive features and the customary legacy connected with some geographical areas and craftsmanship. In India, The Geographical Indications of Goods (Registration and Protection) Act, 1999 grants the producers rights of registration and protection. The Act mandates that only the registered creators from the corresponding areas can use the GI marker. The producer can initiate legal action if the product is counterfeited. The GI tags also help the creators to sell their products for comparatively high rates and this helps the small scale producers to get more income as well. An apt example is the increase in export value of Darjeeling Tea after its GI registration. (Bagade & Metha, 2014)

The GI marking system also triggers employment opportunities specifically for the traditional artisans and in rural areas. This in turn improves the standard of living of the rural communities and mitigate poverty. Tourism initiatives are another advantage of Geographical indications where by the particular areas renowned for the authentic products attract tourists. The visits to such places of GI tagged product origin gives a chance to personally experience the traditional methods of craftsmanship and pave way to bring an increase in rural and local economy. The protection granted to GIs also support cultural preservation and traditional methods of production which are motivated to be passed down to generations. (*geographical indications : legal perspective on preserving india 's cultural heritage*, 2024) The customary weaving methods of Kancheepuram silk sarees and special puliyilakkara border of Chendhamangalam handwoven materials are examples. The GI tags also provide international recognition fostering high esteem and pride among both the producers and local communities. It showers encouragement on more people for continuous production of value based and authentic articles.

The TRIPs Agreement provides the standards for GI protection in the International level. It widens the scope of protection for all edible and non-edible objects from Champagne to Swiss watches. Apart from these frameworks, the Paris Convention states that the geographical indications, especially those of origin have to be protected under the ambit of industrial property. Lisbon Agreement, on the other hand, deals with international registration of geographical indicators with an intention to help the countries that opt for international protection. The European model is way forward with an established system of GI protection through labels like the PDO (Protected Designation of Origin) and PGI (Protected Geographical Indication). These labels ensure the place of origin and traditional methods of manufacture. (Lukose, 2007)

With the protection and rights conferred on the GI labels both in the national and international level, the consumers are assured about the authenticity and quality of a particular GI product in one way. The expertise of the producers and communities are highly valued on the other hand. India is rich in traditional products ranging from edible items to varieties of region based wearing apparels and designs. Hence protection of geographical indicators are important as far as our country is concerned. But falsification of GIs seriously pose a threat to the authenticity and economic security of such articles. It also affect the population that consider this as their means of livelihood. The duplication in GIs is an important topic to be seriously studied and adequate measures to mitigate the issue is to be sorted out. This article tend to undertake an intense study on the problems arising from GI frauds and to suggest some measures to overcome the cultural and economic disintegration caused by the same.

Impact on consumers

Counterfeited Geographical Indications often deceive consumers about the origin and quality of a particular product which they believe to belong to their choice and expected standard. When products are falsified by labelling or marketed as that of the original one with a GI, it results in deception of the consumer. Falsely representing the origin of products marketed under a GI name deceives consumers. For example, marketing tea grown in the north east as "Darjeeling Tea" deceives consumers who are made to believe that they are purchasing the original GI tagged product from Darjeeling. Thus mislabeling and fake claims about origin mislead the end user about the authenticity and quality of the product. (Marie-vivien & Berard, 2024)

Other than this there are other ways of defrauding the customer like using deceptively similar names that resemble a registered geographical indication. The consumers are brought to the belief that the product at hand is the very same one with the genuine GI. Copying and replicating fake products with an authentic GI tag also cause purchasers to misinterpret them as original products. This results in dilution of the unique nature of GI and mislead the consumers on the authenticity of the commodity. Passing off and deceptive packaging or using symbols similar to those of existing GI products also tend to confuse the customers about the genuineness of the article. Continuous deception faced by the consumers diminish their confidence in the authenticity of GI tagged articles which in turn affect the market space and harm the purchasers as well the manufacturers. (Smirtha & Harshini, 2024)

An analysis of the multifarious elements that stimulate counterfeiting of GI paves way for suitable methods of proper resolution. For this we need to focus on the driving factors, behavioral tendencies of consumers, economic and social consequences, regulatory frameworks, and alleviation plans. With proper coordination in technological, legal and societal interventions GI falsification can be mitigated to a reasonable extent. Preservation of authenticity is the only way to uphold consumer confidence.

Impetus for counterfeit GI

The proliferation of falsified GI is due to several reasons like globalization, development in technology, shortfalls in regulations, etc. Globalization gives an exposure of products to international market as well as counterfeiting sources which in turn abuse the goodwill of authentic GIs. Technology supports counterfeiting with its tools like digital printing and innovative duplication of packaging whereby the GI labels are recreated with shocking accuracy never giving a chance for detecting the same. Inadequate regulatory framework never poses a threat to such inconsistent activities. It lags behind the advanced technologies and innovations with a weak enforcement strategy. (Ghosh et al., 2025)

Several economic, social, and psychological factors can be understood as the reason and motivation for the growing consumer interest in counterfeit GIs. The key motivation is the flexibility in bargaining offered for counterfeited goods whereby the consumer demands for accessible luxury are exploited. The quality and actuality of the real GI tagged products will be lacking in the so called counterparts. Social factor that affect the desire for counterfeited goods is the intense aspiration for status and recognition. It instigates more purchases of fake goods with forged labels. A general trend among the purchasers of counterfeited goods is to prioritize the brand symbol over authenticity which can be counted as the psychological factor.

Implications on consumer, economy and culture

Consumer trust is highly eroded due to the existence of counterfeited goods mimicking GI labelled products. The legitimacy of brands is often shadowed and majority of consumers hang back from purchasing the GI labelled goods due to fear of duplication. This in turn reduce the demand for genuine goods and affect the market economy as well. (Lukose, 2007)

Counterfeiting in fact brings about huge financial losses to the authentic producers as well as the related economies. For example, the Darjeeling Tea sold worldwide is about 40% counterfeited which has notably brought annual losses of several millions to the industry. Similar is the case with several other GI tagged products with premium status. Such distortive activities dispirit investors in upholding quality based methods of production. This will perpetuate undesirable downturn in worth full and standard products and also the financial outcome of genuine producers.

Cultural heritage is another affected factor by counterfeit GIs when it relates to conventional or traditional methods of making the product. Cultural importance of the products with age old craftsmanship is lost with the intensive duplications in the market space. Several surveys reveal that more than half of the existing GI tagged products are counterfeited and this has posed a threat to cultural integrity. It is high time that immediate measures are to be introduced to safeguard the traditional artisans and their specific knowledge. (Bagade & Metha, 2014)

Notable GI Disputes

Basmati Rice Dispute:

Basmati is a rice variety produced in the specific Indian and Pakistani geographic regions with a particular aroma and flavor. This is inherent in this variety owing to the unique geographical conditions of the above mentioned areas. This product is GI protected. The dispute came up when some other countries including the United States started selling similar rice grown somewhere other than India and Pakistan under the label 'Basmati'. This was a clear case of violation of GI protection owned by the traditional Basmati producers of India and Pakistan. Another issue was whether the name 'Basmati' could be registered and protected outside the place of origin. Anyhow it was established without doubt that India and Pakistan are the original owners of the GI tag of Basmati rice and it is an authentic and exclusive agricultural product of the specified geographical region. (Bagade & Metha, 2014)

Scotch Whiskey GI infringement:

The GI for Scotch whiskey is held by the Scotch Whiskey Association (SWA) and it is mandated that only the whiskey produced in Scotland can be named as 'Scotch'. An Indian company infringed the GI labelling by marketing their product as Scotch whiskey though not all produced in Scotland. Supporting the contentions of SWA, the court upheld the rights of the real GI tag owners to protect the GI rights they owned. The court further clarified that the GI holders could enforce their rights even if the infringement happens in foreign jurisdictions. (Bikram, 2014)

Champagne GI infringement:

A GI protection for the sparkling wine produced in the Champagne region of France was infringed by several other countries by using the name 'Champagne' for the wine produced in those countries. The issue under question was whether the said GI could be used for similar products which were not produced in the Champagne region. The judgment reaffirmed that the term represents geographical origin and hence cannot be used for products originating from outside the area. The decision reiterated an international standard for protection of geographical indications and emphasized the need to conserve the authenticity of goods from designated regions.

Apart from being mere GI infringements, the above mentioned and all other violations leads to consumer confusion and disintegration of product reputation and authenticity. From these case studies we can distill out the negative impacts of GI falsification equally and severely on the consumer, manufacturer and economy. Counterfeiting GI tagged goods not only endanger the goodwill and image of such goods but also results in financial losses and deterioration of distinctive features of authentic products.

Schemes to reduce counterfeiting and improve consumer confidence

Innovative technologies like QR code tracing system, block chain platforms, tamper indicating packing, etc. are efficient tools to fight duplication of GIs. These help the consumers to check the source of products without much delay. A unique track and trace system helps the customer to trace down the whole journey of a product from its producer to the customer thus assuring him of the authenticity of the product. The Devgad Alphonso Mango producers are placing block chain chips in packing cases to help the purchasers trace the fruits from their source of origin to the market. These tips increase transparency and diminish counterfeiting. Certification labels with hologram seals are also a requirement to prevent counterfeiting of GI tagged products. (Marie-vivien & Berard, 2024) These ensure authenticity of the article and also make the customer more dependent on such products.

Another method of mitigating counterfeits is to bring awareness among the consumers about the worth of original GIs, their authenticity and the hard work behind the production. This realization will reduce the consumer demand for duplicate goods. Campaigning programs highlighting the socio-economic effect of authentic products, giving support to preserving the traditional methods and culture and the impact of the same on rural livelihood etc. may bring a shift in consumer choices to opt for genuine goods. Several luxury brands like Gucci have started awareness campaigns calling attention to the craftsmanship behind authentic goods and the risks of buying counterfeit goods. (Lukose, 2007)

International collaboration for cross border agreements is another suitable measure to protect the concept of geographical indications and mitigate counterfeiting. Multilateral agreements to jointly enforce regulations against falsification helps to prevent the duplicate products across borders.

Priority should be given for strict penalties by the policy makers. The legal framework should be made more stringent and the punishments for infringements to be toughened. In India, the GI Act has strong and effective provisions for tackling counterfeiting and fraudulent use of GI labels but the falsification is a way ahead of all these measures. They should also promote funding for enforcement mechanisms, and take measures to provide producer subsidies. Global enforcement efforts should be strengthened through various platforms working for the harmonizing of GI standards. International cooperation is ensured by the activities in this field undertaken by WIPO, oriGIn, etc. (*Wipo_geo_in_09_geuze*, n.d.)

Conclusion

After a run through over the causes and impact of GI counterfeiting, a few recommendations to tackle the issue have been framed out which are suggestive in nature and might have already been under consideration. The primary suggestion is the strengthening of legal and policy framework wherein effective GI protection and mitigation of counterfeiting is to be ensured by updation of existing laws. Unauthorized use of GIs can be handled with strict punishments along with enhanced resources to enforcement bodies. Simplification of registration processes also inspires more manufacturers to ensure protection for their goods.

Awareness given to producers and consumers also help to avoid the dissemination of counterfeited GI goods. Training and support as to the application process and compliance with regulations should be given to manufacturers to understand the benefits of GI tagging. Consumers can be educated about the importance of geographical indications and the need to support the quality and traditional existence of such goods. Moreover a consensus is to be built up among the authorities, producers and the public to join hands against GI falsification.

Mechanisms to share information on GI protection with the best methods undertaken by countries and their experiences is yet another way to strengthen international cooperation to facilitate GI protection. Initiatives for supporting the countries with more number of GI tags and encouraging other countries to frame stronger protective framework also helps in strengthening the preservation of authenticity and increase in economy along with protecting consumer interest.

Considering all the factors discussed above, we can come to a conclusion that a multifarious approach is required to refurbish protection of geographical indications and mitigate counterfeiting. It is up to the nations worldwide to build a strong strategy in compliance with the recommendations shared above for making a vigorous framework to protect GIs and benefit the consumers, producers and global economy.

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