



## CORPORATE LOGOS

In our last essay on Corporate Logos, we saw how the Rupee symbol was a part and parcel to national pride and a component of the Brand India building exercise. This essay explains to the reader the new wave of protection of Geographical Indications in India that is gaining momentum. In India, the Geographical Indications of Goods (Registration and Protection) Act, 1999 came in force with effect from September 2003.

### What is Geographical Indication?

According to the World Intellectual Property Organization (WIPO), a geographical indication is a sign used on goods that have a specific geographical origin and possess qualities, reputation or characteristics that are essentially attributable to that place of origin. Most commonly, a geographical indication includes the name of the place of origin of the goods. Agricultural products typically have qualities that are derived from their place of production and are influenced by specific local factors such as climate and soil. Whether a sign is recognized as a geographical indication is a matter of national law. Geographical indications may be used for a wide variety of products whether they are natural, agricultural or manufactured. At an

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## Geographical Indication



Darjeeling Tea and Geographical Indication

One of the first significant measures was taken by the Tea Board to protect Darjeeling as a Geographical Indication about 15 years ago by developing a "Darjeeling" logo. The Tea Board has obtained "home protection" by registering the Darjeeling logo and also the word "Darjeeling" as a Certification Mark under the Indian Trade and Merchandise Marks Act, 1958. Under the new Geographical Indication of Goods (Registration & Protection) Act, 1999, (which had become operational on September 15, 2003), the Tea Board has also filed applications for the Darjeeling logo as well as "Darjeeling" word to be registered as a geographical indication. Since February 2000, the statutorily compulsory system of certifying the authenticity of the Darjeeling tea being exported was put in place under the provisions of the Tea Act, 1953. The system requires all dealers in Darjeeling tea to compulsorily enter into a license agreement with the Tea Board India and pay an annual license fee. The terms and conditions of the Agreement provide that the licensees would furnish information relating to production, manufacture and sale of Darjeeling tea through auction or otherwise. The Tea Board is thus able to compute and compile the complete volume of Darjeeling tea produced and sold in any given period. No blending whatsoever with teas of other origin is permitted. Under this authentication process, 171 companies dealing with Darjeeling tea have registered with the Tea Board. Certificates of Origin are then issued for export consignments. Data is entered from the garden invoices (the first point of movement outside the factory) into a database and export of each consignment of Darjeeling tea is authenticated by issue of the Certificates of Origin by crosschecking the details. This ensures the supply-chain integrity of Darjeeling tea until consignments leave the shores of India. The Customs authorities in India have officially issued instructions, instructed all Customs checkpoints to check for and ensure that Certificates of Origin accompany Darjeeling Tea consignments.

During the last four years, the Tea Board has spent approximately US \$200,000 on legal and registration expenses, cost of hiring an international watch agency and fighting infringements in overseas jurisdictions. This does not account for administrative expenses including manpower working on the job in the Tea Board, cost of setting up monitoring mechanisms, software development costs etc. It is a great challenge for every Geographical Indication right-holder to incur such expenses for protection. Considering that protection of Darjeeling as a Geographical Indication is the responsibility of the Tea Board as a statutory body of the Government of India along with other public policy objectives and concerns for the welfare of the average plantation workers and other interests involved in the industry, the exorbitant and phenomenal resources spent by the Tea Board for worldwide protection and enforcement constitute a significant drain on the already strained budgets of developing countries such as India. This is harsher because India has Geographical Indications primarily in the field of agriculture and handicrafts. Nevertheless, the Tea Board has recognized the importance of protection and despite the cost, has striven to ensure that Darjeeling tea is protected for the benefit of the producers and consumers.



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international level, 'Champagne', 'Havana', 'Tequila', 'Scotch Whisky', 'Bordeaux', 'Burgogne', 'Irish Whisky', 'Porto', 'Cognac', 'Sherry', 'Camembert', 'Gouda' and many others are some of the popular examples.

WIPO is in charge of the administration of a number of international agreements which deal partly or entirely with the protection of geographical indications. Furthermore, through the work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), made up of representatives of Member States and interested organizations. WIPO explores new ways of enhancing the international protection of geographical indications.

In India the famed "Pashmina" of Kashmir received Geographical Indication (GI) rights last year and recently Banarasi silk products joined the league along with Tirupati laddu. Herein, we discuss the case of Darjeeling Tea, Banarasi saris and Tirupati Laddu.

### Darjeeling Tea

India is the world's largest producer of tea. Among the tea varieties cultivated in India, the most celebrated one is Darjeeling. Connoisseurs will assert that without Darjeeling, tea would be like wine without the prestige of Champagne. Tea has been cultivated, grown and produced in tea gardens geographically located in this area for the last 150 years. The unique and complex combination of agro-climatic conditions prevailing in the region and the production regulations imposed, lends the tea a distinctive and naturally-occurring quality and flavor which has won the patronage and recognition of discerning consumers all over the world for well over a century. The tea produced in the region and having special characteristics is and has for long been known to the trade and the public all over the world as "Darjeeling" tea. A major part of the annual production of Darjeeling tea is exported. The key buyers of Darjeeling tea are Germany, Japan, U.K., U.S.A. and other European countries such as Netherlands, France, etc.

Given that Darjeeling has a high reputation, both the Tea Board and the Darjeeling Planters Association have been involved at various levels in protecting this common heritage. The protection is essentially geared to:

- prevent misuse of the word "Darjeeling" for other types of tea sold world-wide

- enable the commercial benefit of the equity of the brand to reach the Indian industry and hence the plantation worker
- achieve international status similar to Champagne or Scotch Whisky both in terms of brand equity and governance/administration

### Banarasi Silk Sari

The Banarasi silk sari was given the GI tag on September 3 last year. The Banarasi sari is the finest Indian sari. The fine silk, opulent embroidery and silver and gold brocade makes them highly sought after. The intricate Mughal designs with intertwining foliate and floral motifs are characteristic features of these saris. The Banarasi silk saris are an inevitable part of any Indian bride's trousseau. All Indian women wear the Banarasi sari on important occasions like weddings and are complemented by their finest jewellery. The Banarasi Silk Sari gets its recognition in the name of 'Banaras Brocades and Sarees'. Banarasi Bunkar Samiti, an organization of Banarasi handloom weavers along with eight other organizations had initiated the effort to receive the right to the Banarasi silk product. The Banarasi sari has been facing a lot of competition recently from saris manufactured in cities like Bhagalpur, Surat and Bangalore and the Geographical Indication is expected to cut the duplicates which are tagged off as Banarasi. Almost 12 lakh people associated directly or indirectly with the silk industry benefit from the GI status as this would restrict the misuse of the brand name - Banarasi Sari. According to the GI certificate, Banarasi silk product fall under four classes (23-26) namely silk embroidery, textile goods, silk brocades, silk sari and dress material. The most important aspect of the GI certification is that no brocade or sari made outside the six identified districts of Uttar Pradesh, India can legally be sold as Banarasi sari and Brocade. The certificate states that henceforth only saris produced in Varanasi, Azamgarh, Chandauli, Jaunpur, Mirzapur and Sant Ravi Dass Nagar (Bhadohi) will be considered Banarasi saris. The certificate covers silk brocades like Amru; textile goods not covered elsewhere such as bed and table covers; silk saris and dress materials such as jamdani, jangla, jamawar tanchoi, tissue, cut work, 'butidar' and silk embroidery saris.

### Tirupati Laddu

The Tirumala Tirupathi Devasthanam (TTD), the Trust which administers the ancient



Tirupati Laddu

temple of Sri Venkateshwara in Andhra Pradesh secured a GI protection for the sacred prasadam offered to the devotees under of the GI Act to prevent others from making and marketing laddus under the same name. This is arguably the first time anywhere in the world that an offering at a religious shrine has been recognized as a GI.

The increasing demand for these delicious Laddus had given birth to a thriving black market in and around Tirupati during the last two decades. Attempts made by the temple authorities, including raids by its security and vigilance wings, had failed to remedy the situation. According to the temple officials, they were left with no option but to seek GI protection in order to tackle the menace of hawkers and black marketers who were producing fake and spurious Laddus and selling them to unsuspecting pilgrims.

The Tirupati Laddu, is made from boondi mixed with sugar syrup and pure cow ghee and contains a variety of other ingredients such as cashewnuts, cardamom, diamond sugar candies, raisins and almonds. They are made in two sizes, the small ones weighing between 170 and 180 grams and the big ones weighing between 700 to 720 grams. Over 1.25 lakh Laddus are prepared everyday in "pottus" or kitchens of the Tirumala temple. The size and flavor of the Laddu are its defining characteristics which can be attributed to the use of the highest quality raw materials in adequate proportion and the skill of the cooks at various stages of preparation. A few Laddus are offered before the main idol in sanctum sanctorum and after the Puja they are taken to the Pottu where they are mixed with the ingredients to make more Laddus. This ensures that the food offered to the Lord as naivedyam gets mixed with the rest of the Laddus. Thus, according to TTD, the Laddu, derives its sanctity, reputation and uniqueness from its being offered as naivedyam to the Lord. ■