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# **THE ROLE OF GEOGRAPHICAL INDICATIONS IN PREVENTING COUNTERFEITING AMIDST TRADEMARK CONFLICTS**

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## **ABSTRACT**

Geographical Indications (GIs) serve as a critical legal and economic tool in the fight against counterfeit goods. By granting exclusive recognition to products linked to a specific region, GIs help maintain quality, protect cultural heritage, and promote economic sustainability for local producers. However, the increasing prevalence of counterfeit GI products in global markets threatens these objectives. Counterfeit goods not only deceive consumers but also cause substantial financial losses to legitimate producers and diminish the market value of authentic GI-certified products.

A major challenge in enforcing GI protection arises from conflicts with trademark **laws**. While trademarks provide exclusive ownership to individual businesses, GIs safeguard the collective rights of producers from a specific geographic area. This fundamental difference has led to legal disputes when companies attempt to trademark GI-related names, preventing legitimate regional producers from using their own historical product designations. Such conflicts create regulatory uncertainty, delay GI recognition, and provide counterfeiters with loopholes to exploit.

This paper examines the role of GIs in combating counterfeit goods, the challenges posed by GI-trademark conflicts, and potential policy and legal reforms to strengthen GI enforcement globally. Through an in-depth analysis of case studies, enforcement mechanisms, and technological advancements such as blockchain and AI-based authentication, the paper proposes a comprehensive approach to preserving the integrity of GI products in international markets.

**Keywords:** Geographical Indications, Counterfeit Goods, Trademark Conflicts, Intellectual Property, Market Protection, Economic Impact, Enforcement Challenges, Consumer Protection, Legal Reforms

## INTRODUCTION

In an increasingly globalized economy, counterfeiting has emerged as a significant problem, threatening not only businesses but also consumer trust, public health, and economic stability. Counterfeit goods mislead consumers, undercut authentic producers, and cause substantial financial losses, particularly for industries that rely on the reputation of their products. One of the most effective mechanisms to combat counterfeiting, particularly for region-specific goods, is Geographical Indications (**GIs**). GIs protect products that derive their distinct qualities from a specific region, ensuring their authenticity and economic value remain intact.<sup>1</sup>

Geographical Indications are a specialized form of intellectual property (IP) **protection**, offering collective ownership to producers from a designated area. Unlike trademarks, which provide exclusive branding rights to an individual business, GIs preserve the rights of an entire community to market their products under a specific regional name. Examples include Darjeeling Tea (India), Champagne (France), and Parmigiano Reggiano (Italy), all of which are protected under GI regulations to prevent unauthorized use of these names by external parties.

Despite their importance, GIs face significant challenges in enforcement, particularly due to the rise of counterfeit products in international markets. Unauthorized use of GI names leads to consumer deception, loss of market exclusivity, and economic harm for genuine producers. Additionally, the conflict between GIs and trademarks creates a legal battleground, as businesses attempt to trademark GI-related names, effectively restricting local producers from using the very names that define their products. Such conflicts delay GI recognition, create regulatory uncertainty, and provide counterfeiters with opportunities to exploit legal loopholes.

This research paper aims to analyze the effectiveness of GIs in combating counterfeit goods, explore the legal and economic challenges posed by GI-trademark conflicts, and propose policy

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<sup>1</sup> World Intellectual Property Organization (WIPO), "What is a Geographical Indication?" [Online Resource]

and technological solutions to strengthen GI protection on a global scale. The study will highlight key case laws, examine current enforcement mechanisms, and discuss innovations such as blockchain authentication and AI-based verification systems to enhance the security of GI products.

## **RESEARCH OBJECTIVES**

1. To analyze the effectiveness of GIs in preventing counterfeit goods and protecting authentic regional products.
2. To examine the economic and legal impact of GI-trademark conflicts on producers, consumers, and global trade.
3. To explore strategies for improving the enforcement and global recognition of GI protection.

## **PROBLEM STATEMENT**

One of the biggest legal challenges in protecting Geographical Indications (GIs) is their conflict with trademark laws. While trademarks provide exclusive rights to individual businesses, GIs protect entire regions and communities. This fundamental difference leads to disputes when companies attempt to trademark GI-related names, preventing legitimate regional producers from marketing their products under their traditional names. This issue has significant economic and legal consequences, delaying GI recognition, allowing counterfeiters to exploit the market, and restricting fair competition. This paper explores the impact of GI-trademark conflicts and examines potential solutions to enhance GI protection against counterfeiting.

## **RESEARCH QUESTIONS**

1. How do conflicts between Geographical Indications (GIs) and trademarks impact the ability of regional producers to protect their products against counterfeiting?
2. What legal and policy frameworks can be implemented to resolve GI-trademark conflicts and enhance global GI protection?



## RESEARCH METHODOLOGY

The research methodology adopted in this study follows a qualitative doctrinal research approach, focusing on legal analysis, case law evaluation, and comparative legal study to examine the conflicts between Geographical Indications (GIs) and trademarks and their role in combating counterfeit goods. The research is based on secondary data sources, including legal texts, treaties (TRIPS Agreement, Lisbon Agreement), national GI and trademark laws, judicial precedents, scholarly articles, and government reports. A case law-based methodology has been utilized, where landmark judicial decisions from India, the European Union, and other international jurisdictions are analyzed to assess legal reasoning and enforcement patterns. Additionally, a comparative legal approach is applied to highlight differences in GI protection frameworks across jurisdictions, particularly in India, the EU, and the US. The study is limited to legal and policy analysis and does not include empirical economic assessments. While key cases and enforcement challenges are examined, ongoing legal disputes and evolving regulatory changes may not be fully covered. Despite these limitations, this methodology provides a comprehensive legal analysis of GI-trademark conflicts, offering insights into necessary policy and legal reforms to enhance GI enforcement and combat counterfeiting.

### Historical Evolution of GI Protection

The protection of Geographical Indications (GIs) has developed over centuries, transforming from informal recognition in trade practices to formalized international legal frameworks. The evolution of GI protection reflects the growing recognition of the need to safeguard region-specific products against misuse, misrepresentation, and counterfeiting. Below is a detailed overview of the major milestones in the development of GI protection.

#### 1. Ancient and Medieval Origins of GI Protection

The concept of linking product quality and reputation to specific geographic regions dates back to ancient civilizations. Many historical trade routes facilitated the exchange of regionally distinctive goods, where the origin of the product was an assurance of its quality.

- Ancient Egypt and Mesopotamia: Seals and inscriptions were used on goods like wine and grains to indicate their place of origin.

- Silk Road Trade (China & Persia): Silk from China and Persian carpets were highly valued due to their specific craftsmanship and origins.<sup>2</sup>
- Greek and Roman Recognition: Greek wines and Roman olive oils were identified based on their geographic origins, influencing trade practices and consumer preferences.<sup>3</sup>

## 2. European Developments in the 19th and 20th Centuries

Europe played a significant role in formalizing early legal protections for GIs.

- Paris Convention for the Protection of Industrial Property (1883): Introduced provisions on indications of source and appellations of origin, laying the groundwork for modern GI protection.<sup>4</sup>
- Appellation d'Origine Contrôlée (AOC) System (France, 1935): Established a national GI protection framework, initially focusing on wines and cheeses such as Champagne and Roquefort.<sup>5</sup>
- Spanish and Italian Developments: Spain and Italy introduced similar GI protections for wines, cheeses, and cured meats, leading to stronger regional branding.<sup>6</sup>

## 3. TRIPS Agreement and Global Recognition (1995-Present)

A major global milestone in GI protection was achieved with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, under the World Trade Organization (WTO).

- TRIPS Agreement (1995): Established minimum standards for GI recognition and enforcement, requiring member states to implement legal frameworks for GI protection.<sup>7</sup>
- Articles 22-24 of TRIPS: Provide varying levels of GI protection, with enhanced protections for wines and spirits.

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<sup>2</sup> K. Anderson, *The International Origins of Geographical Indications*, Journal of World Trade Law, Vol. 42, Issue 3 (2018).

<sup>3</sup> S. Zappalaglio, *The Legal Framework of Ancient Geographical Indications: A Comparative Study*, European Intellectual Property Review (2020).

<sup>4</sup> Paris Convention for the Protection of Industrial Property, World Intellectual Property Organization (1883).

<sup>5</sup> French Appellation d'Origine Contrôlée Law (1935).

<sup>6</sup> European Commission, *The Evolution of GI Protections in Europe* (2021).

<sup>7</sup> TRIPS Agreement, Part II, Section 3, World Trade Organization (1995).

- Lisbon Agreement (Revised 2015): Strengthened international cooperation on GI registration and enforcement.<sup>8</sup>

#### 4. National and Regional GI Systems

Following TRIPS, countries and trade blocs established national GI protection laws, ensuring stronger legal enforcement:

- European Union (EU) GI System: The Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) schemes safeguard products like Parmigiano Reggiano, Prosciutto di Parma, and Feta Cheese.
- India's Geographical Indications of Goods (Registration and Protection) Act, 1999: Created a national GI registry, offering protection for Darjeeling Tea, Mysore Silk, and Basmati Rice.<sup>9</sup>
- United States and Trademark-Based GI System: Unlike the EU and India, the US treats GIs as a subset of trademarks, creating conflicts with international GI laws.

#### 5. Present-Day GI Protection and Emerging Challenges

The modern landscape of GI protection continues to evolve due to globalization, digital commerce, and counterfeiting threats.

- Rise of Online Marketplaces: Platforms such as Amazon and Alibaba have become channels for counterfeit GI products, necessitating stricter e-commerce regulations.<sup>10</sup>
- Blockchain for GI Authentication: Countries are adopting blockchain-based traceability systems to verify the authenticity of GI-certified goods.<sup>11</sup>
- Stronger Customs Enforcement: Nations are collaborating through WIPO and WTO agreements to enhance border control measures against GI infringement.

The historical evolution of GI protection highlights its growing importance in international trade, cultural heritage preservation, and economic development. However, as GI enforcement expands, conflicts with trademarks and challenges related to counterfeit goods remain pressing concerns that require ongoing legal and policy innovations.

<sup>8</sup> Lisbon Agreement for the Protection of Appellations of Origin, WIPO (1958, revised 2015).

<sup>9</sup> The Geographical Indications of Goods (Registration and Protection) Act, 1999 (India).

<sup>10</sup> International Anti-Counterfeiting Coalition Report, *GIs and E-Commerce Enforcement Challenges* (2022)

<sup>11</sup> Blockchain Authentication for GI Products, International Chamber of Commerce Report (2021).

## The Importance of GI Protection in Modern Trade

Before delving into conflicts between GIs and trademarks, it is crucial to understand why GI protection holds immense significance in today's global trade environment. GIs not only serve as an instrument for intellectual property protection but also contribute to economic sustainability, cultural preservation, and fair trade practices.

### Economic Benefits to Local Producers

GIs provide a competitive edge to producers by allowing them to market their products at a premium price due to their recognized authenticity and quality. This protection ensures that the economic value generated from the production of a GI product benefits the local community rather than being exploited by large corporations or counterfeiters. Studies indicate that GI-certified products can command prices up to 50% higher than their non-GI counterparts, making them a crucial driver of rural development and economic sustainability.<sup>12</sup>

### Consumer Trust and Market Transparency

One of the main objectives of GI protection is to provide consumers with clear and accurate information about the origin and quality of a product.<sup>13</sup> In an era where counterfeit goods flood global markets, consumers often struggle to distinguish between authentic and fake products. By establishing legal protection, GIs ensure greater market transparency, allowing consumers to make informed purchasing decisions based on verified product origins.<sup>14</sup>

### Preservation of Traditional Knowledge and Heritage

Many GI-certified products are deeply rooted in centuries-old traditions and methods of production.<sup>15</sup> Whether it is Kobe beef from Japan, Bordeaux wine from France, or Banarasi silk from India, these products are more than just commodities; they are representations of cultural heritage and artisanal expertise. GI protection helps safeguard these traditional skills and knowledge, preventing their dilution or exploitation by external commercial entities.

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<sup>12</sup> WTO Report, *The Role of GIs in Economic Development*, World Trade Organization (2019).

<sup>13</sup> WIPO, *Consumer Trust and GI Protection*, World Intellectual Property Organization (2021).

<sup>14</sup> OECD, *Counterfeit Goods and Market Transparency*, Organization for Economic Cooperation and Development (2022).

<sup>15</sup> UNESCO, *Intangible Cultural Heritage and GI Recognition*, United Nations Educational, Scientific and Cultural Organization (2021).

### Fair Trade and Sustainable Development

GIs contribute to the ethical and sustainable development of industries by preventing market monopolization by large corporations.<sup>16</sup> Without GI protection, multinational companies could trademark traditional product names, depriving local artisans and farmers of their rightful market access. For example, in multiple instances, corporations have attempted to trademark regional product names, effectively barring local producers from using their own historical identifiers in global trade. Strong GI enforcement helps prevent such practices, ensuring fair market participation.

### Global Trade Impact and Economic Growth

GI protection plays a vital role in international trade agreements. The European Union, for instance, has established Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) systems, which have successfully boosted exports of GI-certified products.<sup>17</sup> Countries with well-established GI laws have witnessed increased foreign demand for regionally certified goods, which in turn boosts exports and economic growth.

### Environmental and Agricultural Sustainability

GIs also contribute to environmental sustainability by promoting traditional farming methods that prioritize biodiversity and soil conservation.<sup>18</sup> Many GI-certified agricultural products follow strict ecological and organic farming practices, making them more environmentally sustainable compared to mass-produced, industrial alternatives. For example, the production of Parmigiano Reggiano cheese adheres to strict traditional methods that limit artificial additives, ensuring environmental sustainability.<sup>19</sup>

## Challenges in GI Protection and Growing Counterfeiting Threats

Despite the clear advantages of GI protection, the rise of counterfeit goods and digital fraud continues to pose significant threats to GI-certified producers. Counterfeiters misuse GI names to

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<sup>16</sup> International Trade Centre, *Fair Trade and GIs: Strengthening Rural Economies*, ITC Report (2020).

<sup>17</sup> European Union Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) Regulations (2012).

<sup>18</sup> FAO, *GIs and Sustainable Agricultural Practices*, Food and Agriculture Organization (2019).

<sup>19</sup> *Parmigiano Reggiano Consortium v. Kraft Foods*, European Court of Justice (2002).

sell inferior-quality goods at reduced prices, misleading consumers and damaging the reputation of genuine GI products.<sup>20</sup> The impact is particularly severe in industries such as food, wine, textiles, and handicrafts, where authenticity is key to market value.

Additionally, global enforcement inconsistencies make it difficult to uniformly protect GI rights. While the EU and India offer strong legal protections, countries like the United States treat GIs as trademarks, which weakens enforcement efforts in cross-border trade.<sup>21</sup> This fragmented regulatory environment creates loopholes that counterfeiters and trademark opportunists exploit. Given these significant advantages and challenges, the conflict between GIs and Trademarks has emerged as a major legal issue, threatening the effectiveness of GI protection. Businesses that secure trademarks for GI-associated names often restrict regional producers from legally using their own historical product names, leading to legal disputes, market barriers, and trade restrictions.<sup>22</sup> This creates an urgent need to examine the fundamental conflict between GIs and trademarks, which will be explored in the next section.

### **Understanding the Conflict Between GIs and Trademarks**

The conflict between Geographical Indications (GIs) and trademarks is one of the most pressing legal challenges in intellectual property law. While both GIs and trademarks serve as identifiers of product origin and quality, their underlying principles and objectives differ significantly. These differences create legal disputes that impact producers, consumers, and the global market.

#### **Definition and Legal Distinction Between GIs and Trademarks**

Geographical Indications (GIs) are a form of collective intellectual property that protects products originating from a specific geographic region, ensuring that only producers from that area can use the designated name. This protection applies to agricultural products, handicrafts, wines, and industrial goods whose qualities and reputation are inherently tied to their place of origin.

On the other hand, trademarks are exclusive rights granted to an individual or company to

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<sup>21</sup> WIPO, *Challenges in Global GI Protection*, World Intellectual Property Organization (2020).

<sup>22</sup> WTO Panel Report on *European Communities—Protection of Trademarks and Geographical Indications*, WTO Dispute Settlement Body (2005).



distinguish their goods or services from competitors.<sup>23</sup> Unlike GIs, which belong to an entire community of producers, trademarks give a single entity the legal right to use and control a name or symbol.

The fundamental difference lies in ownership and exclusivity: while GIs emphasize collective regional rights, trademarks focus on exclusive brand identity. This contrast often leads to conflicts when businesses attempt to trademark GI-related names, limiting the rights of authentic regional producers.

### Why Do GI-Trademark Conflicts Arise?

Several factors contribute to the growing number of disputes between GIs and trademarks:

1. **Commercial Interest and Market Control** – Large corporations or foreign businesses often seek to trademark GI-related names to monopolize branding rights in specific markets. This practice prevents legitimate producers from using their own traditional product names internationally.<sup>24</sup>
2. **Legal Loopholes in Trademark Laws** – Some jurisdictions, such as the United States, treat GIs as certification marks or trademarks, making it easier for private businesses to claim exclusive rights over GI-associated names.<sup>25</sup>
3. **Global Trade and Export Barriers** – Many GI producers face challenges when exporting products to regions where trademarks have already been secured for similar names. This creates market restrictions and unfair competition.<sup>26</sup>
4. **Lack of Global Harmonization in GI Protection** – Unlike trademarks, which follow standardized international agreements, GI protection varies widely across different countries, leading to legal inconsistencies and enforcement difficulties.

### Real-World Examples of GI vs. Trademark Conflicts

Several high-profile cases illustrate how conflicts between trademarks and GIs impact global markets:

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<sup>23</sup> US Patent and Trademark Office (USPTO), *Trademark-Based GI Protection in the United States* (2020).

<sup>24</sup> International Trade Centre, *The Monopoly of GI Names in International Trade*, ITC Report (2021).

<sup>25</sup> European Commission, *Legal Conflicts Between GIs and Trademarks*, EU Policy Report (2022).

<sup>26</sup> FAO, *Geographical Indications and Export Barriers*, Food and Agriculture Organization (2020).

1. Parmigiano Reggiano vs. Parmesan (EU & US Dispute) – In the European Union, Parmigiano Reggiano is a protected GI, meaning that only cheese produced in designated Italian regions can use the name.<sup>27</sup> However, in the United States, “Parmesan” is treated as a generic term, allowing American companies to produce and sell cheese under the same name. This conflict creates consumer confusion and weakens GI protection internationally.<sup>28</sup>
2. Darjeeling Tea vs. US Trademark Owners – India’s Darjeeling Tea is a globally recognized GI, but multiple companies attempted to trademark the Darjeeling name in the US and Japan.<sup>29</sup> Indian authorities had to engage in legal battles to reclaim the GI rights and prevent unauthorized businesses from misusing the name.<sup>30</sup>
3. Champagne vs. Sparkling Wine Producers – The French Champagne industry has faced numerous trademark disputes, particularly in the United States, Australia, and Russia, where some producers market non-French sparkling wine as “Champagne.”<sup>31</sup> The EU has strongly enforced its GI rules, leading to trade agreements banning misuse of the Champagne name outside France.

### **The Impact of GI-Trademark Conflicts**

The legal battles over GIs and trademarks have significant economic and market consequences:

- Market Inaccessibility for Authentic Producers – GI producers often lose access to key international markets where trademarks for their product names have already been registered.<sup>32</sup>
- Consumer Deception and Quality Dilution – Trademarked versions of GI products often lack the same quality standards, misleading consumers and damaging the reputation of authentic products.

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<sup>27</sup> European Commission, *Protected Geographical Indications: Parmigiano Reggiano vs. Parmesan*, EU Intellectual Property Office (2021).

<sup>28</sup> WTO Report, *The Global Parmesan Dispute: Implications for GI Protection*, World Trade Organization (2020).

<sup>29</sup> Tea Board of India v. ITC Limited, Calcutta High Court, (2011 & 2013).

<sup>30</sup> WIPO Case Study, *Darjeeling Tea GI and Trademark Disputes*, World Intellectual Property Organization (2019)

<sup>31</sup> European Court of Justice, *Champagne vs. Sparkling Wine Producers*, C-393/16 (2017).

<sup>32</sup> FAO, *Impact of Trademark Conflicts on Geographical Indication Producers*, Food and Agriculture Organization (2021).

- Rise in Counterfeit and Imitation Goods – Trademark-related restrictions on GIs create a loophole for counterfeiters to flood markets with fake products, worsening the problem of fraudulent goods.<sup>33</sup>
- Legal Costs and Delays in GI Recognition – Many regional producers are forced to engage in lengthy and expensive legal disputes to challenge trademark claims over GI names.

## Legal Precedents in GI vs. Trademark Conflicts:

Legal disputes between Geographical Indications (GIs) and trademarks have resulted in significant judicial rulings across different jurisdictions. These cases highlight how courts have interpreted conflicts, the legal reasoning behind decisions, and their implications for GI protection and counterfeit goods. This section examines both international and Indian case laws that have shaped the legal landscape of GI enforcement.

### 1. Coonawarra Wine Region v. Registered Trademark Owners (Australia, 2001)

- Background: The Coonawarra wine region in Australia is known for its high-quality wines and holds GI protection. However, multiple wineries outside the region attempted to register "Coonawarra" as part of their trademark.
- Legal Conflict: Local producers argued that allowing "Coonawarra" in trademarks by outside wineries diluted the GI's value and misled consumers.
- Court's Judgment: The Australian courts ruled that Coonawarra was a GI and could not be used in trademarks by producers outside the region.
- Impact: This case reinforced GI rights over trademark registrations and ensured that only regional producers could use the name legally.

### 2. Cambozola Case (Germany vs. France, EU Court of Justice, 1999)

- Background: A German company trademarked the name "Cambozola", a cheese name inspired by Gorgonzola (a protected GI from Italy).
- Legal Conflict: Italian cheese producers argued that Cambozola was misleadingly similar to Gorgonzola, violating EU GI regulations.
- Court's Judgment: The EU Court ruled in favor of the Gorgonzola producers, stating that Cambozola's name closely imitated the GI and could confuse consumers.

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<sup>33</sup> OECD, *Counterfeit Goods and the Role of Trademarks in GI Disputes*, Organization for Economic Cooperation and Development (2022).

- Impact: This case confirmed that trademarks cannot imitate protected GIs in a way that confuses consumers.

### 3. Morbier Cheese Case (France, EU Court of Justice, 2021)

- Background: Morbier is a French cheese with GI protection under EU law. A dairy company outside the region used the name "Morbier" in their trademark application.
- Legal Conflict: French producers argued that trademarking the name violated GI laws and misled consumers.
- Court's Judgment: The EU Court ruled in favor of Morbier GI holders, preventing the misuse of GI names in trademarks.
- Impact: This case reinforced strict EU protections against trademarks copying GI names.

## Indian Case Laws on GI vs. Trademark Conflicts

### 1. Tea Board of India v. ITC Limited (Darjeeling Tea Case, 2011 & 2013)

- Background: ITC Limited used "Darjeeling" as part of a trademark for its lounges, even though it was unrelated to tea.
- Legal Conflict: The Tea Board of India (owners of the Darjeeling GI) filed a case stating that "Darjeeling" was a registered GI and could not be used as a trademark.
- Court's Judgment (2011): The Calcutta High Court ruled in favor of ITC, stating that GI protection does not extend to unrelated services.
- Court's Judgment (2013 - Appeal): The case was partially overturned, reinforcing that even indirect use of a GI name must not mislead consumers.
- Impact: This case became a landmark ruling in India, reinforcing GI exclusivity over trademark registrations while recognizing the need for consumer awareness.

### 2. Andhra Pradesh Handicrafts Development Corporation v. Konda Reddy (2017, Pochampally Ikat Case)

- Background: Pochampally Ikat, a traditional Indian textile, holds GI status. A private business tried to trademark "Pochampally" for its textile brand.
- Legal Conflict: The Andhra Pradesh Handicrafts Development Corporation argued that trademarking a GI name violated the rights of all weavers.

- Court's Judgment: The Indian courts ruled in favor of the GI holders, stating that a trademark cannot override a registered GI.
- Impact: This ruling protected traditional artisans and set a precedent against trademark claims over GI-protected names.

### 3. Geographical Indications Registry v. PepsiCo (Bikaneri Bhujia Case, 2016)

- Background: Bikaneri Bhujia, a famous Indian snack, received GI protection in 2010. PepsiCo attempted to trademark the name "Bikaneri" for its snack products.
- Legal Conflict: The GI owners filed a case against PepsiCo, arguing that trademarking "Bikaneri" would mislead consumers and violate GI laws.
- Court's Judgment: The Geographical Indications Registry ruled in favor of the GI holders, preventing PepsiCo from using "Bikaneri" in its trademark.
- Impact: This case established that multinational corporations cannot trademark GI-protected names for commercial advantage.

## Challenges in Enforcing GI Protection

Despite the legal recognition of Geographical Indications, enforcing GI protection remains a significant challenge. The rise of counterfeiting, legal loopholes, weak enforcement mechanisms, and a lack of global harmonization in GI laws create obstacles that allow infringers to exploit GI-protected names.

### 1. Weak Border Controls and Market Infiltration

One of the biggest challenges in GI enforcement is the lack of strong border controls. Counterfeiters often exploit weak customs enforcement in various countries, allowing counterfeit GI products to enter legitimate markets. This is particularly problematic in the case of food, wine, and textile industries, where fraudulent labeling misleads consumers.

- Example: Fake "Darjeeling Tea" produced outside India is exported globally, misleading consumers and harming authentic producers.
- Consequence: Genuine GI producers lose market share, and the reputation of the GI product declines.

### 2. Legal Loopholes and Lack of Standardized Global Enforcement

GI laws vary significantly across different countries. While the European Union (EU) has strong GI protections, countries like the United States treat many GIs as trademarks rather

than separate intellectual property rights. This leads to legal inconsistencies, where GI protection is strong in some jurisdictions but weak in others.

- Example: The Parmesan cheese dispute between the EU and the US illustrates how differences in legal frameworks create enforcement gaps.<sup>34</sup>
- Consequence: Counterfeiters exploit legal loopholes in jurisdictions where GI protection is weak, making enforcement difficult for authentic producers.

### 3. Trademark Conflicts with GIs

Many GI products face direct competition from trademark registrations that attempt to monopolize GI-related names. Companies file trademarks for names that resemble GI products, effectively restricting legitimate producers from using their own product names in certain markets.

- Example: The Tea Board of India v. ITC Limited case demonstrated how businesses use trademarks to control GI-related names, leading to legal disputes.
- Consequence: Small producers struggle with expensive legal battles, and GI enforcement is delayed.

### 4. Consumer Awareness and Misleading Labels

Consumers often struggle to differentiate between genuine GI products and counterfeit goods. Some companies exploit this by using misleading branding, generic labeling, or deceptive advertising to sell non-GI products as authentic.

- Example: Many wine producers outside France use the term “Champagne” on their sparkling wines, even though true Champagne is only produced in the Champagne region of France.<sup>35</sup>
- Consequence: Misleading branding harms consumer trust and allows counterfeiters to dominate markets.

### 5. Digital Counterfeiting and E-Commerce Challenges

The rise of e-commerce platforms has intensified the problem of counterfeit GI goods. Online marketplaces allow sellers to distribute fake GI products without strong regulatory oversight.

<sup>34</sup> WTO, *EU-US Parmesan Cheese Dispute* (2020).

<sup>35</sup> European Commission, *The Protection of Champagne GI in Global Trade* (2022).



- Example: Fake Basmati rice and Pochampally Ikat textiles are frequently sold on international e-commerce platforms, damaging the reputation of GI-certified producers.<sup>36</sup>
- Consequence: Online platforms often lack proper enforcement mechanisms, making it difficult to remove counterfeit GI products.

## Strategies for Strengthening GI Enforcement

To address these challenges, several policy and enforcement measures need to be implemented:

### 1. Strengthening Border Protection and Customs Enforcement

- Governments should implement stricter customs inspections to detect counterfeit GI products before they enter markets.<sup>37</sup>
- Harmonization of GI border control policies can enable customs officials to recognize and seize counterfeit goods more effectively.
- Example: The EU has established strong customs regulations that seize counterfeit GI goods at the border, preventing their distribution in legal markets.

### 2. Global Harmonization of GI Laws

- The WTO and WIPO should push for stronger GI recognition under the TRIPS agreement to ensure uniform protection across all jurisdictions.<sup>38</sup>
- Bilateral and multilateral trade agreements should include clear GI protection clauses to avoid enforcement discrepancies.
- Example: The Lisbon Agreement provides an international framework for GI protection, but participation needs to expand to ensure widespread enforcement.<sup>39</sup>

### 3. Stricter Regulations on Trademark Registrations

- National trademark offices should ensure that trademarks do not infringe upon existing GIs, preventing the monopolization of traditional product names.<sup>40</sup>
- Governments should introduce legal reforms prioritizing GI rights over misleading trademarks, ensuring that GI producers are not excluded from their own markets.

<sup>36</sup> International Trade Centre, *E-Commerce and the Challenge of GI Protection* (2021).

<sup>37</sup> WIPO, *Customs Enforcement of Geographical Indications* (2021).

<sup>38</sup> TRIPS Agreement, World Trade Organization (1995).

<sup>39</sup> Lisbon Agreement for the Protection of Appellations of Origin, WIPO (1958, revised 2015).

<sup>40</sup> European Court of Justice, *Legal Precedents on GI vs. Trademark Conflicts* (2021).

- Example: The Bikaneri Bhujia case in India prevented PepsiCo from trademarking a GI name, setting a legal precedent for future conflicts.<sup>41</sup>

#### 4. Use of Technology for GI Authentication

- Blockchain tracking and AI verification systems can create transparent supply chains, allowing consumers and regulators to verify the authenticity of GI products.
- Smart labeling and QR codes linked to blockchain records can provide instant authentication, helping combat counterfeiting in digital and physical marketplaces.
- Example: French wine producers use blockchain technology to certify the authenticity of Champagne, reducing the presence of counterfeit goods in global markets.

#### 5. Consumer Awareness Campaigns

- Public awareness initiatives should educate consumers on identifying authentic GI products through proper labeling and certification.<sup>42</sup>
- Retailers and online marketplaces should be required to label GI-protected products accurately to help consumers make informed choices.
- Example: The Tea Board of India has initiated labeling programs to verify authentic Darjeeling Tea, ensuring consumers can distinguish between genuine and counterfeit products.<sup>43</sup>

#### 6. Strengthening Legal Frameworks for Digital Marketplaces

- E-commerce platforms should be legally mandated to remove counterfeit GI products and provide GI producers with enforcement mechanisms.<sup>44</sup>
- Algorithmic tracking systems should be implemented to flag and take down counterfeit products before they reach consumers.<sup>45</sup>
- Example: Amazon and Alibaba have faced increasing pressure to remove counterfeit GI products from their platforms, highlighting the need for stronger legal requirements for online marketplaces.<sup>46</sup>

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<sup>41</sup> Geographical Indications Registry of India, *Bikaneri Bhujia Case* (2016).

<sup>42</sup> WIPO, *Consumer Awareness and GI Labeling Initiatives* (2020).

<sup>43</sup> Tea Board of India, *Darjeeling Tea Labeling and Verification Program* (2019).

<sup>44</sup> International Trade Centre, *E-Commerce Regulations for GI Protection* (2021).

<sup>45</sup> OECD, *Algorithmic Tracking Systems for GI Counterfeits* (2022).

<sup>46</sup> WTO, *Challenges in Digital Marketplace Enforcement of GI Rights* (2020).

## Conclusion

Enforcing GI protection remains a complex challenge due to legal loopholes, weak customs enforcement, trademark conflicts, and digital counterfeiting. However, by strengthening border regulations, improving global legal harmonization, integrating technology-based authentication systems, and increasing consumer awareness, countries can ensure that GI protection effectively combats counterfeit goods.

The increasing commercialization of counterfeit GI products poses a serious threat to legitimate producers, consumer trust, and cultural heritage. Without robust enforcement, counterfeiters will continue to exploit GI-related names, weakening the economic value of authentic products and misleading consumers.

A multi-pronged approach involving legal, technological, and policy-based measures is essential to ensure that authentic GI producers are protected from unfair competition and trademark-related conflicts. Stronger enforcement strategies, in combination with cooperative international agreements, digital innovations, and proactive legal reforms, will play a key role in safeguarding the integrity of GI products in global markets.

Ultimately, the success of GI protection depends on coordinated efforts from governments, international organizations, businesses, and consumers. With stricter laws, enhanced digital tracking systems, and stronger cross-border collaborations, GI enforcement can become a powerful tool in combating counterfeit goods, preserving regional economies, and maintaining cultural authenticity.