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# **GEOGRAPHICAL INDICATIONS IN THE AGE OF E-COMMERCE: LEGAL CHALLENGES AND THE NEED FOR STRONGER DIGITAL ENFORCEMENT IN INDIA**

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## **ABSTRACT**

The increasing use of digital marketplaces has changed the way geographical indication (GI) products are produced, promoted, and sold. While Geographical Indication protection is intended to preserve the identity, reputation, and economic value associated with products originating from a particular region, the growth of online commerce has created new avenues for unauthorised use and misrepresentation of protected geographical names. Sellers operating through digital platforms may advertise products using GI names without satisfying the standards or geographical requirements associated with those indications. Such practices can mislead consumers while simultaneously affecting genuine producers who depend upon the reputation of the GI for their livelihood.

This research examines whether the existing Indian legal framework is sufficiently equipped to address the misuse of GI-protected products and names in the digital marketplace. It focuses particularly on the Geographical Indications of Goods (Registration and Protection) Act, 1999, and considers the practical difficulties involved in identifying, monitoring, and removing potentially infringing online listings. The study adopts a doctrinal approach, supported by an examination of relevant judicial decisions, statutory provisions, international developments, and the changing nature of e-commerce.

The paper argues that traditional mechanisms of GI enforcement may not adequately respond to the speed, scale, and cross-border nature of online transactions. It therefore explores the possibility of developing stronger cooperation between GI proprietors, authorised producers, regulatory authorities, and digital platforms. The research ultimately proposes measures for improving online monitoring, strengthening enforcement mechanisms, and ensuring greater accountability in the digital marketplace so that technological development does not undermine the commercial, cultural, and regional significance attached to India's geographical indications.

**Keywords:** Geographical Indications; E-Commerce; Intellectual Property Rights; Digital Marketplaces; GI Infringement; Online Enforcement; India

## 1. INTRODUCTION

Geographical indications occupy a distinctive position within intellectual property law because they protect a relationship between a product and a place. Unlike an ordinary trademark, which ordinarily identifies the commercial source of goods or services, a geographical indication communicates that a product possesses a particular quality, reputation or other characteristic essentially attributable to its geographical origin. The value of a GI is therefore collective: it belongs to a geographical community and is sustained by producers who comply with the conditions associated with the indication.<sup>1</sup>

India has a particularly strong interest in the effective protection of geographical indications. Its agricultural products, handicrafts, textiles, food products and traditional manufactured goods frequently derive commercial value from regional reputation and inherited production methods. Darjeeling Tea, Banarasi Brocades and Sarees, Kanchipuram Silk, Pochampally Ikat, Madhubani Painting and numerous other registered indications illustrate how geographical reputation can become an economic asset while simultaneously preserving cultural knowledge and local livelihoods.

The commercial environment in which these goods are sold, however, has changed considerably. E-commerce platforms enable a producer in one district to reach consumers throughout India and, potentially, overseas markets without maintaining a physical retail presence. The same technological structure that expands legitimate market access also enables an unauthorised seller to reproduce a product description, copy packaging photographs, use a protected geographical name in a listing title, or present an ordinary product as an authentic GI product. Search algorithms and sponsored advertisements can further increase the visibility of such listings before a proprietor or authorised users become aware of them.

The central problem is therefore not simply whether a false use of a GI is unlawful. The more difficult question is whether a legal system designed around identifiable sellers, physical goods and relatively stable commercial channels can operate effectively when infringement occurs through thousands of rapidly changing digital listings, social-media posts, advertisements and cross-border transactions. The Geographical Indications of Goods (Registration and Protection) Act, 1999 (GI Act) provides substantive rights and remedies, but it does not contain

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<sup>1</sup> Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48 of 1999, India

a detailed, GI-specific architecture for platform-based enforcement.

## 2. CONCEPT AND ECONOMIC SIGNIFICANCE OF GEOGRAPHICAL INDICATIONS

A geographical indication is fundamentally a sign of geographical origin connected with a product characteristic. Article 22.1 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) defines a GI as an indication identifying a good as originating in the territory of a Member, or a region or locality therein, where a given quality, reputation or other characteristic is essentially attributable to geographical origin. This definition captures two essential elements: a geographical connection and a qualitative or reputational connection with that place.<sup>2</sup>

The economic logic of GI protection is closely related to collective reputation. Consumers often pay a premium for products associated with a recognised region because the geographical name functions as a shorthand for expected characteristics. A GI can consequently reduce information costs: instead of investigating every individual producer, consumers can rely upon the reputation attached to the indication. That collective reputation is fragile. If goods that do not comply with the relevant specifications are repeatedly sold under the same name, consumers may lose confidence and genuine producers may suffer reputational and financial harm.<sup>3</sup>

GI protection also has a developmental dimension. For small producers, artisans and agricultural communities, the protected name can create market differentiation that would otherwise be difficult to achieve. The legal protection of the name may support rural employment, preservation of traditional techniques and regional branding. Nevertheless, registration alone does not automatically create a functioning market. The economic benefits of a GI depend upon quality control, producer participation, traceability, marketing and credible enforcement.

E-commerce makes these benefits both more attainable and more vulnerable. A genuine producer can use digital platforms to reach customers directly, bypass geographical limitations and tell the story behind the product. At the same time, an unauthorised seller can appropriate the same geographical reputation without bearing the costs of production, compliance and quality control.

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<sup>2</sup> TRIPS Agreement, arts. 22-24, WTO.

<sup>3</sup> World Trade Organization, "Geographical Indications: Background and the Current Situation".

### 3. INDIAN LEGAL FRAMEWORK

India adopted the Geographical Indications of Goods (Registration and Protection) Act, 1999 to comply with its international obligations and to establish a sui generis system for geographical indications. The Act creates a register of geographical indications and a separate framework for authorised users. The Registrar of Geographical Indications and the GI Registry administer the registration system. The official Indian IP administration presently provides access to the Act, the 2002 Rules and the 2025 amendment rules, showing that the regulatory framework continues to evolve.<sup>4</sup>

### 4. E-COMMERCE AND NEW FORMS OF GI MISUSE

Online infringement can occur in several forms. The most direct form is the use of a registered GI in a product title where the goods do not originate in the protected region. A seller may, for example, use a protected name as a marketing keyword even though the goods are produced elsewhere. Another form is the use of phrases such as “style”, “type”, “inspired by” or “like” to suggest association with a protected product while avoiding an obvious claim of authenticity. Whether such wording is unlawful depends upon the relevant GI, the statutory test and the overall presentation to consumers.

A second problem concerns visual misrepresentation. Product photographs may reproduce labels, certification marks, packaging or motifs associated with genuine GI goods. Consumers commonly make purchasing decisions from images and short descriptions rather than from detailed verification of provenance. A copied image can therefore create an immediate association with authenticity even when the physical product shipped to the consumer is unrelated to the protected region.

A third challenge is keyword and search manipulation. A seller may place a GI name in hidden tags, metadata or promotional keywords to attract consumers searching for authentic products. Even when the name does not appear prominently on the final product, the association may divert consumers toward non-compliant goods. Digital advertising can amplify this conduct because platforms rank or promote listings according to algorithms that may prioritise relevance, clicks, conversion and commercial bids rather than geographical authenticity.

A fourth problem arises from social commerce. GI products are increasingly promoted through social-media accounts, influencers, live-stream shopping and messaging applications. The promotional statement may disappear quickly, be reposted by another account or lead

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<sup>4</sup> Id., s. 21

consumers to an external seller. Traditional enforcement that depends on a stable physical storefront is poorly suited to such fragmented activity.

Cross-border sales present an additional layer of difficulty. A GI protected in India may not receive identical protection in the country from which an online seller operates. Even where the foreign jurisdiction protects the GI, the proprietor may need to establish local rights, identify the foreign seller and use foreign enforcement procedures. Domain names and online advertising can also create conflicts because the geographical name may be used as part of a web address or social-media handle before the proprietor becomes aware of it.

## **5. KEY CHALLENGES IN ENFORCING GIs ONLINE**

5.1 Identification and continuous monitoring. The first difficulty is discovering infringement. Unlike a physical market where inspectors can visit a limited number of shops, the online market contains an enormous and changing number of listings. The same product can appear on several platforms under different seller accounts. Automated monitoring can assist, but automated matching cannot by itself determine whether a seller is an authorised user or whether a product satisfies a GI's specifications.

5.2 Determining authenticity. GI enforcement often requires more than identifying a protected word. The enforcement authority may need to establish the product's actual origin, production method, quality characteristics and the status of the seller. A platform may therefore receive a complaint that is legally plausible but factually incomplete. If platforms remove listings without adequate verification, legitimate sellers may be wrongly excluded. If they demand excessive proof before acting, infringing listings may remain online.

5.3 Platform liability and intermediary status. Digital marketplaces frequently describe themselves as intermediaries that connect sellers and consumers. The legal consequences of their knowledge, participation, control and response to complaints may differ according to the applicable law and factual circumstances. GI law does not provide a comprehensive platform-liability code, creating uncertainty about how much proactive monitoring should be expected from a marketplace.

5.4 Speed of digital dissemination. A counterfeit listing can generate hundreds of sales before a proprietor completes a conventional legal process. By the time an injunction is obtained, the seller may have changed the account name, removed the listing or moved to another platform. Effective GI enforcement therefore requires early-stage intervention and preservation of digital evidence.

5.5 Anonymous and repeat sellers. Online sellers may operate through incomplete identity

information or multiple accounts. A notice against one listing may not prevent the same seller from uploading a new listing. Repeat infringement therefore requires account-level risk management, seller verification and information sharing, subject to privacy and due-process requirements.

5.6 Cross-border enforcement. Traditional civil remedies are principally territorial, whereas online commerce is geographically dispersed. Jurisdictional questions may arise concerning the place of infringement, location of the seller, location of the platform and place where consumers are affected. International cooperation is consequently necessary, particularly for major Indian GIs with export markets.

5.7 Consumer confusion and evidence. GI infringement frequently depends on whether a presentation misleads consumers regarding geographical origin. Online evidence changes rapidly: a product title, price, image or seller profile can be edited after a complaint. Screenshots, URLs, timestamps, transaction records and archived copies can become crucial evidence. A modern enforcement system should make preservation of such evidence easier and more standardised.

5.8 Fragmented institutional responsibility. GI enforcement may involve the GI Registry, courts, customs authorities, consumer regulators, police, cybercrime units and digital platforms. The absence of a single coordinated channel can force producer groups to approach multiple institutions. Small producer associations may lack the resources to pursue repeated actions across different platforms.

## **6. JUDICIAL DEVELOPMENTS AND THEIR RELEVANCE TO DIGITAL GI DISPUTES**

Indian judicial decisions demonstrate that GI protection must be assessed in relation to the goods, the nature of the use and the likelihood of deception or unfair competition. In *Tea Board, India v. ITC Ltd.*, the Calcutta High Court considered the use of “Darjeeling” for a hotel lounge. The court examined the statutory scope of GI protection and the relationship between goods, services and passing off. The decision is important for digital commerce because it cautions against treating every use of a geographical name as automatically infringing; the legal analysis depends upon the connection between the indication, the relevant goods or services and the surrounding circumstances.<sup>5</sup>

The *Bikanervala* litigation also illustrates the distinction between a geographical name and a

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<sup>5</sup> *Tea Board, India v. ITC Ltd.*, 2011 SCC OnLine Cal 2189 (Calcutta High Court).

distinctive commercial mark. Courts have recognised that a geographical term itself may not be monopolised merely because it appears in a trademark, while a distinctive composite mark may acquire protection through use and secondary meaning. This distinction is especially relevant online because sellers may use geographical words descriptively, legitimately or deceptively, and the legal analysis must focus on the total presentation rather than the mere presence of a place name.<sup>6</sup>

A particularly contemporary development is the 2026 Delhi High Court proceedings concerning the use of “Bidri” by Lenskart. The case involved allegations that eyewear marketed as “Bidri by Lenskart” infringed the registered GI “Bidriware”, and the court issued notice. The proceeding is significant not because it finally determines liability, but because it shows how GI disputes are increasingly intersecting with modern branding, online promotion and social-media dissemination. It demonstrates the continuing relevance of Section 22 in a digital commercial setting.<sup>7</sup>

These cases suggest that courts can apply the existing GI Act to new commercial environments, but litigation is inherently reactive. A producer must identify the infringement, gather evidence, incur legal expense and seek relief. Judicial adaptability therefore cannot substitute for a preventive digital enforcement architecture.

## **7. IS THE EXISTING INDIAN FRAMEWORK SUFFICIENT?**

The answer is only partially affirmative. Substantively, the GI Act is broad enough to reach many forms of online misuse. A false claim of geographical origin in a product listing can fall naturally within the language concerning designation or presentation of goods. Related consumer and intermediary rules provide additional tools against misleading or infringing content. Courts also have procedural flexibility to issue injunctions and other appropriate relief.<sup>8</sup>

The weakness is therefore less about the absence of a prohibition and more about the absence of an integrated enforcement process. The GI Act predates the modern platform economy. It does not expressly set out a rapid notice-and-action procedure for online listings, define standard evidentiary requirements for digital GI complaints, establish duties for platforms to verify authorised-user status, or create a coordinated database through which platforms can

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<sup>6</sup> M/s Bikanervala v. M/s New Bikanerwala, 2005 (30) PTC 113 (Delhi).

<sup>7</sup> M/s Bikanervala v. M/s Bikaner & Ors., TM No.107/2011 (Delhi District Court, Oct. 11, 2012).

<sup>8</sup> Md Mohsin & Ors. v. Lenskart Solutions Ltd., CS(COMM) 185/2026, order dated Feb. 25, 2026 (Delhi High Court).

confirm whether a seller is entitled to use a particular GI.<sup>9</sup>

The 2023 Jan Vishwas amendments and the 2025 GI Rules demonstrate a willingness to modernise the regulatory structure, but neither development specifically solves the platform-enforcement problem. A future reform should therefore focus on institutional coordination and digital procedure rather than simply increasing penalties.

## 8. PROPOSED REFORMS

8.1 National GI digital verification registry. India should develop an interoperable digital database connecting registered GIs, product specifications, registered proprietors, authorised users and relevant certification or authentication information. Platforms could use an application programming interface to verify whether a seller claiming to offer a GI product is connected with an authorised user. The database should distinguish between the GI itself and individual commercial brands so that geographical rights are not confused with private trademarks.<sup>10</sup>

8.2 Standardised GI notice-and-action procedure. A dedicated online portal should allow a GI proprietor or authorised user to submit a complaint with the registration number, evidence of the listing, explanation of the geographical mismatch and supporting documents. Platforms should acknowledge complaints promptly and adopt risk-based response periods. Clearly fraudulent uses could receive faster action, while disputed or ambiguous cases could be referred for human review.<sup>11</sup>

8.3 Verified seller and authorised-user badges. Platforms should consider a government-linked verification badge for authorised GI users. Such a badge would help consumers distinguish genuine producers from ordinary sellers who merely use the geographical name. Verification should not become an exclusive private certification scheme; the underlying status should be traceable to the official GI register.

8.4 Platform cooperation agreements. The GI Registry and major marketplaces should establish standard operating protocols for repeat infringement, evidence preservation and account-level enforcement. A repeat offender who moves from one listing to another should not be able to defeat enforcement simply by changing the product title. At the same time, platforms should

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<sup>9</sup> TRIPS Agreement, art. 22.2(a)-(b), requiring legal means to prevent misleading use and acts constituting unfair competition.

<sup>10</sup> The distinction between collective GI rights and individual commercial marks follows from the statutory architecture of the GI Act, including the registration of proprietors and authorized users and the prohibition on assignment of registered GIs.

<sup>11</sup> The proposed digital verification model is a policy recommendation of the author, intended to reduce information asymmetry without converting the GI register into a private trademark database.

provide an appeal route for legitimate sellers who believe their listing was wrongly removed.

8.5 Consumer-facing traceability. QR codes or other digital identifiers could connect consumers with authorised-user information and product specifications. This would not make counterfeiting impossible, but it would reduce information asymmetry and give consumers a simple method to check authenticity. For high-value GI goods, traceability could be linked with batch or producer information.

8.6 Specialised GI enforcement cell. A dedicated unit involving the GI Registry, customs, consumer authorities and cybercrime personnel could support producer associations in identifying online infringements. Small artisan communities should not be expected to possess sophisticated digital-investigation capabilities. A shared enforcement mechanism would reduce the cost of protection.

## 9. CONCLUSION

E-commerce has not reduced the importance of geographical indications; it has magnified it. The same digital infrastructure that allows an artisan, farmer or regional producer to access distant consumers also allows an unauthorised seller to appropriate geographical reputation at very low cost. The problem is therefore not technological development itself but the mismatch between the speed of digital commerce and the traditionally reactive nature of GI enforcement. India possesses a substantial statutory foundation. The GI Act provides registration, authorised-user status, infringement provisions and civil and criminal consequences. The Consumer Protection (E-Commerce) Rules and intermediary framework can supplement those protections, while courts have demonstrated an ability to apply GI principles to evolving commercial circumstances. Nevertheless, the current system remains fragmented. It does not provide a dedicated digital mechanism for verification, notice, evidence preservation, repeat-infringer control and cross-platform coordination.

The appropriate response is not to impose unlimited liability on online platforms. Instead, India should build a cooperative enforcement ecosystem in which the GI Registry supplies authoritative data, producer organisations identify and substantiate infringement, platforms act upon credible complaints and regulators coordinate difficult or repeated cases. Digital verification, standardised notice procedures, traceability tools and specialised enforcement support can make protection faster without sacrificing due process.

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