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BEYOND REGISTRATION: LEGAL PROTECTION AND ENFORCEMENT OF GEOGRAPHICAL INDICATIONS FOR TRADITIONAL TEXTILES IN INDIA

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ABSTRACT

Geographical Indications are a central instrument for protecting India's handloom heritage, yet registration alone does not stop imitation. This paper examines the protection and enforcement of Geographical Indications for traditional textiles under the Geographical Indications of Goods (Registration and Protection) Act, 1999, read with the TRIPS Agreement. It analyses the statutory scheme, the limited case law, including Tea Board, India v. ITC Ltd. and Scotch Whisky Association v. J.K. Enterprises, and published field studies of Pochampally, Banaras and Kutch. It identifies five reasons why enforcement lags registration: uneven authorised-user registration, absent inspection, the goods-only limit of infringement, weak complementary handloom protections, and the cost and capacity burdens on weavers. It recommends reforms to authorised-user onboarding, inspection and traceability, enforcement funding, the scope of infringement and coordination with handloom laws.

Keywords: Geographical Indication, Traditional Textiles, Handloom, Enforcement, Authorised User, Passing Off.

Statement of Problem

India has registered many Geographical Indications for traditional textiles, but evidence of effective enforcement is thin. The published record shows few infringement actions, sparse judicial interpretation, uneven authorised-user registration and persistent powerloom imitation.

ISSN: 2582-6433

The Act also confines infringement to goods, which leaves a place-name exposed to use in services and unrelated trade. The problem is the gap between the protection registration promises and the enforcement weavers can obtain.

Research Questions

1. Does the Act, read with TRIPS, adequately protect registered textile Geographical Indications against counterfeit and misleading use?
2. What have courts decided on infringement, standing and relief, and what does it mean for textiles?
3. Why does enforcement lag registration, and which reforms would close the gap?

Research Objectives

1. To analyse the statutory scheme for registration, use and enforcement of Geographical Indications.
2. To examine judicial interpretation and documented enforcement experience in textile clusters.
3. To recommend legal and institutional reforms.

Research Methodology

The paper is doctrinal. It relies on the Act, TRIPS, reported decisions, official publications and published field studies.

Introduction

A weaver in Pochampally or Varanasi sells more than cloth. The product carries the reputation of a place and of the skills of its people. Under TRIPS, a Geographical Indication identifies a good as originating in a territory, region or locality where a given quality, reputation or other characteristic is essentially attributable to its geographical origin.[1] Because reputation alone suffices, handlooms, whose value lies in skill rather than soil, fit the concept well.

India legislated through the Geographical Indications of Goods (Registration and Protection) Act, 1999,[2] which became operational in 2003, with registrations beginning in 2004 - 05.[3] The

[1]The Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994, art. 22(1).
[2]The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act 48 of 1999).
[3]Press Information Bureau, Government of India, "GI Tags: Scaling Traditional Wealth into Global Brands" (Aug. 4, 2026), *available at*:

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register now holds more than 800 products, including 445 handicraft products,[4] and the Ministry of Textiles has reported 104 registered handloom products among 658 registered at the time of its reply.[5]

Registration, however, is a beginning and not an outcome. Authentic Banarasi sarees are often sold far below their value because buyers cannot tell them from imitations.[6] A right that cannot be exercised against the imitator does little for the weaver. This paper therefore asks how textile Geographical Indications are protected in practice. It sets out the legal framework, examines registration and use, analyses the enforcement toolkit and the case law, identifies five structural barriers, considers the international dimension, and ends with recommendations.

The Legal Framework

Article 22(2) of TRIPS requires members to give interested parties legal means to prevent misleading use of an indication and any use amounting to unfair competition under Article 10bis of the Paris Convention.[7] The higher protection that bars use even with words such as "kind" or "imitation" is confined to wines and spirits.[8] Textiles therefore rest on the lower "misleading use" standard. India may grant additional protection to notified goods under section 22(2), as it did for Scotch Whisky from 28 November 2011.[9] The sources consulted record no textile notification, which should be confirmed against the Gazette.

The Act defines a Geographical Indication as an indication identifying goods as originating in a territory where a quality, reputation or other characteristic is essentially attributable to origin; for manufactured goods, at least one of production, processing or preparation must occur there.[10] For handicraft goods, a "producer" includes a person who trades or deals in them.[11] A collective of producers, or an organisation or authority established by law, applies for registration. The register has Part A for Geographical Indications and Part B for authorised users, and registration lasts ten years, renewably.[12] Registration gives the registered proprietor

https://static.pib.gov.in/WriteReadData/specificdocs/documents/2026/aug/doc202684942501.pdf (last visited on Nov. 13, 2026).

[4]*Supra* note 3.

[5]Ministry of Textiles, Government of India, Reply to Lok Sabha Unstarred Question (ref. AU2797) by Shri Pabitra Margherita, Minister of State for Textiles, *available at*: https://eparlib.sansad.in/bitstream/123456789/3013242/1/AU2797_vMsziq.pdf (last visited on Nov. 13, 2026).

[6]*Supra* note 3.

[7]*Supra* note 1, art. 22(2); The Paris Convention for the Protection of Industrial Property, 1883, art. 10bis.

[8]*Supra* note 1, art. 23(1).

[9]*Scotch Whisky Association v. J.K. Enterprises*, Misc. Petition No. 4543 of 2021, para. 3 (M.P. H.C., Dec. 18, 2023).

[10]*Supra* note 2, s. 2(1)(e).

[11]Id, s. 2(1)(k).

[12]*Supra* note 2, ss. 6, 7, 11, 17, 18(1); Supra note 9, paras. 21-22.

ISSN: 2582-6433

and authorised users the right to relief for infringement and gives authorised users the exclusive right to use. The right cannot be assigned, and a Geographical Indication cannot be registered as a trade mark.[13]

From Registration to Use

The state has lowered the cost of registration. Fees fell by 80 per cent under the 2025 amendment to the Rules, and the renewal fee dropped from ₹3,000 to ₹500.[14] Support of up to ₹2 lakh for registration and up to ₹1.5 lakh for enforcement is available.[15] The enforcement amount is modest against the cost of litigating in a district court.

Applications are usually filed by collectives. The 2009 Banarasi application came from nine organisations, including two NGOs, two government agencies, two traders' associations and three cooperatives; ordinary weavers were absent, and most interviewed did not know the Geographical Indication existed.[16] Authorised users rose from 365 to about 29,000 in the ten years to January 2025,[17] but the figure is not broken down by Geographical Indication, so coverage within any textile cluster cannot be stated. Earlier data show that registration alone does not produce enforcement: in Bhavani Jamakalam, several cooperatives became authorised users but did not know how to use that status against powerloom competition.[18] A senior official reported that no complaint had been registered, because producers did not know whom to approach.[19]

The Registry began receiving authorised-user applications in May 2009. By 31 March 2017 it had received 3,897 applications and issued 1,466 certificates, and registration was relatively higher for textiles, probably because cooperatives and exporters' associations filed most textile applications.[20] Higher registration, however, measures the paperwork and not the capacity to act on it.

[13] *Supra* note 2, ss. 21(1), 24, 25.
[14] *Supra* note 3.
[15] *Ibid*.
[16] Amit Basole, "Authenticity, Innovation and the Geographical Indication in an Artisanal Industry: The Case of the Banarasi Sari" Working Paper No. 2014-09 14-16 (Department of Economics, University of Massachusetts Boston, 2014).
[17] *Supra* note 3.
[18] N. Lalitha and Soumya Vinayan, "Infringements in GI Protected Products: How Do We Protect the Producers and the Consumers?" Working Paper No. 256 5-6 (Gujarat Institute of Development Research, Ahmedabad, 2019).
[19] Id. at 6.
[20] *Supra* note 18 at 5-6.

ISSN: 2582-6433

The Enforcement Toolkit

A registered Geographical Indication is infringed by a non-authorised user who uses it to suggest a false origin in a misleading manner, or in a way that amounts to unfair competition, including passing off.[21] Suits lie before the district court, with injunctions and damages or an account of profits.[22] The Intellectual Property Appellate Board no longer exists, and rectification now lies with the Registrar or the High Court.[23]

A Geographical Indication is a collective right owned by all producers in the defined area, so an infringement injures every producer of the product in that region and calls for prompt collective response.[24] That is why the identity of the party who may sue matters.

On standing, the Madhya Pradesh High Court in Scotch Whisky Association read "and" in section 21(1)(a) as "or". It held that the registered proprietor and the authorised user each have an independent right to sue, interpreting the Act purposively in light of TRIPS.[25] Textile proprietors are generally cooperatives or societies, so the reasoning lets them sue without first enrolling every weaver, though the decision is persuasive only outside Madhya Pradesh and concerned spirits.

The Act also creates criminal offences. Falsifying or falsely applying a Geographical Indication, or selling goods bearing a false one, attracts imprisonment of six months to three years and a fine of ₹50,000 to ₹2 lakh, with higher penalties for repeat offences.[26] On paper, these provisions give weavers a remedy that does not depend on funding a civil suit. In practice the remedy is unused where producers do not know the offences exist or where to complain, as the Bhavani experience shows. Section 20 bars infringement actions for unregistered Geographical Indications but preserves passing off.[27]

Judicial Interpretation

The only textile enforcement action reported in the sources arose in 2005, when machine-made sarees were sold as Pochampally Ikat through a retail chain. A temporary injunction was obtained, but the dispute ended in a settlement under which the manufacturer destroyed unsold stock and undertook not to repeat the practice.[28] The weavers' associations later said a decision

[21] *Supra* note 2, s. 22(1); Supra note 18 at 3.
[22] *Supra* note 2, ss. 66, 67.
[23] *Supra* note 2, s. 2(1)(a) (omitted by Act 33 of 2021, s. 22, w.e.f. Apr. 4, 2021).
[24] *Supra* note 18 at 1-3.
[25] *Supra* note 9, paras. 16-17, 31-33.
[26] Supra note 2, ss. 38-41.
[27] *Supra* note 2, s. 20; Supra note 9, para. 23.
[28] *Supra* note 18 at 12.

ISSN: 2582-6433

would have set an example for punitive action against infringement of non-agricultural Geographical Indications.[29] The only textile enforcement action thus left no precedent.

The leading decision arises from tea but bears directly on textiles. The Tea Board sued ITC Ltd. over its "Darjeeling Lounge". Interim relief was refused in 2011,[30] and the suit was dismissed on 4 February 2019.[31] The reported reasons were that the lounge pre-dated the Act and was saved as prior good-faith use, that rights under the Act extend to goods and not services, that the Tea Board's certification mark covered goods, and that no confusion was proved.[32] On this reasoning, a boutique or restaurant using "Kanchipuram" or "Banarasi" as a business name falls outside the Act, and weavers must prove confusion in passing off or trade mark law. This applies reported reasoning to textiles by analogy; no court has held so for a textile Geographical Indication. The decision also reflects a legitimate concern against monopolising geographical names, but the practical result for textile collectives, which lack the Tea Board's resources, is that a name registered for goods stays exposed in the wider market. Courts have thus treated the Act as a goods-based right of limited reach, while reading its standing provisions generously in favour of the proprietor. Few authorities exist, none decides a textile case on the merits, and the law is less settled than the register suggests.

Why Enforcement Lags Registration

Authorised-User Gaps

Where authorised users are unregistered, no record shows who may use the Geographical Indication and the product cannot be traced. Many proprietors do not identify authorised users and some renew without completing that part of the register.[33]

Absent Inspection

For 22 per cent of products studied, no inspection body was set up, and for 34 per cent only an agency's name was given without its role.[34] Failure to set up inspection is not a ground for refusing registration.[35] The rules of use are written but not policed. In Pochampally, state and

[29]*Supra* note 18 at 12.
[30]Tea Board, *India v. ITC Ltd*, G.A. No. 3137 of 2010 in C.S. No. 250 of 2010 (Cal. H.C., Apr. 20, 2011); the order was upheld in appeal, see Tea Board v. ITC Ltd., 2011 (48) PTC 169 (Cal).
[31]Tea Board, *India v. ITC Ltd*., C.S. No. 250 of 2010 (Cal. H.C., Feb. 4, 2019).
[32]Manu Sebastian, "Geographical Indication Rights Applicable Only To Goods And Not Services, Holds Calcutta HC Dismissing Tea Board's Suit Against ITC" LiveLaw, Feb. 7, 2019, *available at*: https://www.livelaw.in/news-updates/darjeeling-for-hotel-lounge-not-infringing-gi-darjeeling-tea-calcutta-hc-teaboard-against-itc-142721 (last visited on Nov. 13, 2026).
[33]Supra note 18 at 3-5.
[34]Id. at 7; The Geographical Indications of Goods (Registration and Protection) Rules, 2002, r. 32.
[35]Yogesh Pai and Tarun Singla, "'Vanity GIs': India's Legislation on Geographical Indications and Missing Regulatory Framework", in Irene Calboli and Ng-Loy Wee Loon (eds.), Geographical Indications at the

ISSN: 2582-6433

district inspection committees were formed, but few meetings took place and nothing concrete followed.[36]

Powerloom Competition and Weak Complementary Laws

In Kutch, 84 per cent of 204 producers surveyed knew duplicates affected their sales, and about seven years after registration the competition had not been effectively countered.[37] In Machilipatnam Kalamkari, machine printing costs about ₹5 a metre against ₹30 for vegetable-dye printing, which explains the incentive to copy, and authorised users reported that the textile ministry had not acted against violators.[38] In Banaras, passing off machine-made cloth as handmade was common despite the reservation law.[39] The number of items reserved for handlooms fell from 22 to 11 in 1993, and reported violations were as low as 5 to 15 nationwide.[40] Marks help only if controlled: the Handloom Mark carries serial numbers after inspection, while the Geographical Indication logo can be copied, and only 15 of the 204 producers used it.[41]

Cost and Capacity

Banaras weavers receive about ten per cent of retail value, and found the authorised-user procedure, with its application in Chennai and a no-objection certificate from the proprietor, onerous.[42] Individual weavers cannot fund litigation, and many hesitate to antagonise the traders who supply their yarn. Consumer awareness is also low, which weakens the market penalty on imitation. These pressures explain why a right that is legally available is rarely invoked by those it was designed to help.

Control and Specification

Because producers include traders, one dealer may sell both genuine and counterfeit goods, and traceability is lost.[43] Stringent standardisation can hinder innovation,[44] and the Banaras specification, written without broad weaver participation, risks freezing a dynamic craft.[45] A specification weavers did not write is one they are less likely to defend.

Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific 359-379 (Cambridge University Press, 2017).

[36]*Supra* note 18 at 12-13.
[37]*Supra* note 18 at 9-11.
[38]*Supra* note 18 at 11.
[39]*Supra* note 16 at 20-22.
[40]*Supra* note 18 at 13; The Handlooms (Reservation of Articles for Production) Act, 1985 (Act 22 of 1985).
[41]*Supra* note 18 at 10-11, 14.
[42]*Supra* note 16 at 11-12, 15-17.
[43]*Supra* note 18 at 3-4; *Supra* note 2, s. 2(1)(k).
[44]Kasturi Das, "Prospects and Challenges of Geographical Indications in India" 13 Journal of World Intellectual Property 148 at 164-65 (2010).
[45]*Supra* note 16 at 17-20.

ISSN: 2582-6433

The International Dimension

Domestic enforcement also affects India's position abroad. The Madhya Pradesh High Court noted that unless a Geographical Indication is protected in its country of origin, TRIPS imposes no obligation on other members to protect it.[46] India now treats Geographical Indications as a trade priority: a dedicated agreement is under negotiation in the India-EU talks, and New Zealand has committed to enabling registration of Indian Geographical Indications.[47] Those commitments will carry weight only if registered textile names are visibly protected at home.

Suggestions

The analysis points to six practical reforms. Each targets a barrier identified above and relies on institutions that already exist, so none requires a new statute apart from the fourth, which is a question for Parliament.

1. Run organised authorised-user drives through state handloom departments, with standardised, regional-language documentation, and publish authorised-user numbers for each Geographical Indication, so that proprietors can see which names have the collective base to enforce.
2. Require a funded inspection body in each textile application and tie it to serialised, traceable labels on the model of the Handloom Mark, so that a label cannot be reproduced at will.
3. Create standing enforcement cells with empanelled counsel at reduced fees, and brief police and magistrates on sections 38 to 41. Counsel engaged at reduced cost for the Pochampally weavers in 2005 shows the model can work.
4. Consider a narrowly drawn extension of infringement to services and unrelated goods that exploit a Geographical Indication's reputation, preserving good-faith and descriptive use, to avoid the monopolisation of place-names the Calcutta High Court cautioned against.
5. Coordinate enforcement of the reservation law, the Handloom Mark and the Geographical Indication, including clear "powerloom" labelling of imitations.
6. Draft specifications participatively, review them periodically, and publish enforcement data for each Geographical Indication.

[46]Supra note 9, para. 16.
[47]Supra note 3.

ISSN: 2582-6433

Conclusion

India has built an accessible, and now cheaper, registration system for textile Geographical Indications, and the Act offers civil, criminal and passing-off remedies. The enforcement ecosystem around it is far less developed. Authorised-user coverage is uneven, inspection is often absent, powerloom imitation persists, litigation is costly, and Tea Board v. ITC confirmed that the Act protects goods and not services. The one textile enforcement action ended in settlement. Closing the gap requires institutions and funding rather than new rights: authorised-user onboarding, traceability, collective legal support, a reasoned revisit of the goods-only limit and participatory specifications. India's credibility abroad and the livelihoods of the weavers whose skill these names carry depend on it. The reforms proposed are deliberately modest. They do not create new rights but make existing ones usable by weavers, who hold the knowledge the name protects and bear the loss when it is imitated. They also depend on better evidence: without published data on authorised users, inspections, complaints and prosecutions for each Geographical Indication, neither Parliament nor the proprietors can judge whether the regime is working. A Geographical Indication that exists only on the register protects neither the name nor the weaver.

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ISSN: 2582-6433

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