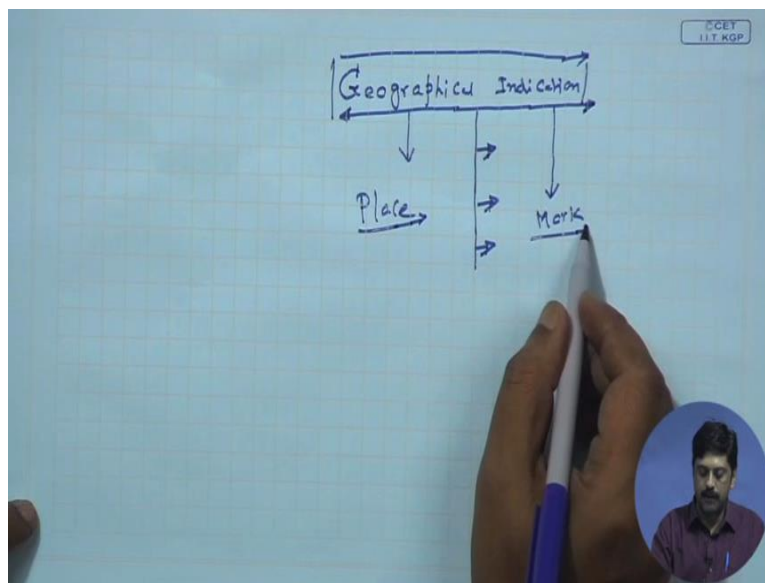


Introduction on Intellectual Property to Engineers and Technologists
Prof. T. K Bandyopadhyay
Department of Metallurgical and Materials Engineering
And
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology, Kharagpur

Lecture - 28
Geographical Indication

(Refer Slide Time: 00:21)



Now, we will discuss about, just like say I have decided that at least I will give an idea of all the forms of IPs, to the technologists and engineers. And now you have to decide, where, which form of IP will be interesting for you. So, considering that, I am just thought about give the idea of all the forms of IP, although for engineers and technologists, specific forms of IP will be more interesting or more useful, just like patents and copyrights and utility model, actually (Refer Time: 01:06) designed, but even trademark, but it should not deny, the importance of others also, if you are managers or you are working in a organizations.

All can be an valuable asset for an organizations including the branding you know that, brand value, nowadays, people are more conscious about the branding and other part,

there are you cannot deny the role of trademark, whatever we discussed. And now, virtual world the role of trademark in internet, that was the things. Now very important part, I will discuss now, that is somehow related to even India was in the India, is a traditional knowledge based country, then how that additional knowledge of any particular region, can be, you can be considered as a valuable asset for micro economic situation created, then, as a social architect or, as a economist, how can you create a particular framework for that part you may learn, from this particular forms of intellectual property.

Although you may ask what, why, what creativity, what sorts of things has associated with that, all by following the fresh convention and you may consider this is a industrial property, but let see, how, this is also a interesting for you, that you may consider why, what engineering, what technology, involved in that part, but I will say, some managerial aspect, some social aspect some economical aspects is associated with these forms of IP. So, you should not deny the importance of these forms of IPs.

Now the name itself, that the IP, I will not go the (Refer Time: 03:30) aspects the original aspect, how it has come up as a separate forms of IPs, and that I will not come up, then, I discuss the two topics just a previous class certification marks and trademark, certification marks and collective marks, you may get some sorts of relevancy with reference to with reference to this, the name itself suggesting the geographical indications. Geographical means, definitely the place. Indication means, mark. So, layman understanding, I am telling the place mark, what is let say, this is, you are, you may asking whether you are telling the place mark, geographic and mark. So, let see how this thing can be correlated the nice way.

(Refer Slide Time: 04:40)

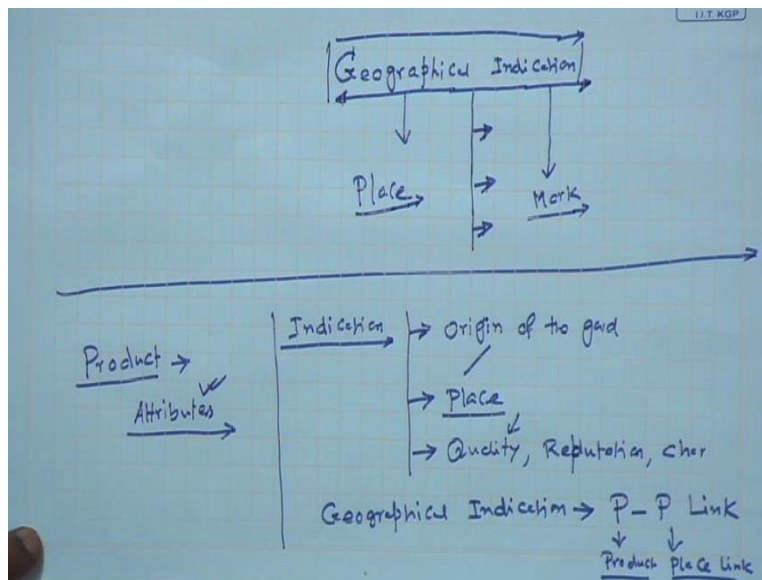
❖ Geographical indications are, **indications** which identify a **good** as originating in the territory, or a region or locality in that territory, where a given **quality, reputation** or **other characteristic** of the good is essentially attributable to its geographical origin.

✓ **Indication:** “Darjeeling Tea” (Geographical Name);
Feni, Basmati (Non Geographical Name)



So, indication means, let us say, indication let us, I am just reading the definitions of the geographical indications, then I will discuss, about on the important, about the, different attributes of this thing. So, geographic indications are indication, which identify goods, as goods, as originating in the territory or a region, or locality, in that territory where a given quality, reputation, other characteristic of the good is essentially attributable to it is geographical origin. So, what is the say the things.

(Refer Slide Time: 05:19)



Let say, I, we are correlating now with the definitions. So, what we are getting, that is indication, not deny, I am not denying it is indication. Indication what, indication of what? Indication of a goods, then you (Refer Time: 5:40) indication of goods, there I am telling the marks. So, you may consider indication, indication is also like a mark, but indication to identify goods. So, trademark also identify a goods but, what, here let see the difference. As originating in that territory or a region, or locality in that territory, now, to use the geographic indication over goods, what we are getting? Should, should be originated goods, what will be originated? Originated, origin of the good, linked with a particular place, that way telling the territory, originating the territory or region or locality in that territory. So, if it is originated the territory locality is sufficient? No, along with that it should have some quality or characteristics, or reputations, should have quality.

So, from that place that place, goods, and quality, reputation, reputation, or other characteristics. So, other characteristics, if I say that, geographical indication establish product, place, P P link, P for product, P for place. Now, that part, now that way so, you understood for a geographical indication or mark, nice way you may design a mark, indication just like say, when I construct a trademark, what are the different types of indication mark you can use, similarly here also different types of indication, just like say

what, label, you can use for indications that things. But special thing what you are getting, that particular product place link, product and place link, and that product have some sorts of attributes. So, product also required some attributes, the product also should have some attributes but e s. So, what type of attributes the product should have? Should have some reputation, it should have some other characteristics.

Let us see, basmati rice. So, basmati rice have characteristics, aroma. So, characteristic aroma of basmati rice, the Darjeeling tea, has also particular aroma, because of the characteristic leaves, see that Assam tea, maybe different characteristics because of different aroma. Odissa Ikat, have been different types traditional art, compared to Andhra Ikat. Pachampulis saree, or Pachampulis sadi, is different from Sambalpuri saari, with reference to the traditional art. So, what I want to mention, what each goods having some sorts of attributes. Similarly, let say Agra petha (Refer Time: 10:03), Thirupathi Laddu, Chanderi saree, Bikaner Bhujia, then, Pasma, Hyderabad biriyani, Sherri, then, then, Scotch whiskey, then, let us then, particular pork based product in china.

So, all those product have some sorts of attributes, because of maybe the agro climatic conditions, and soil conditions, of that particular place, or may be the knowledge of the people of the localities or the that locality have acquired that skill or knowledge by virtue of traditions. So, are based on that the product have some reputations, reputation has built because of that, just like a place linked this, Agra petha, if you consider definitely have some reputation, and definitely that have some attributes also. Now how to capitalize the attributes of the product originated from a particular place, their lies the role of geographical indications.

So, that lies a way, that product place link, there lies the attributes, the attributes are maybe subjectively verifiable or objectively linked. Subjectively verifiable, just like a Darjeeling, in a particular tea gardens, the locality I am indicating in that locality, the soil having some sorts of characteristics with reference to the (Refer Time: 12:22) the role of agricultural scientist agricultural engineers, the soil having this particular alkalinity, acidity, may be salt contents, nitrogen contents all sorts of things. Then they have a particular humidity level agro climatic condition, soil condition, that lead to the

development, or generation of a particular tea, a put it out, let say, tea, trees. So, they are definitely lies the tree leaves characteristics, or tree leaves characteristics, you are linking that particular tree leaves a linked with and other part you are linking, and their tree you are linking with reference to the aroma, of that tea.

So, what you got it, so Darjeeling tea, from those maybe particular 30 tea gardens. Having, you are getting a particular range of a agro climatic and soil condition, that is providing some sorts of tea leaf characteristics and tea leaf characteristics, giving some particular varieties of tea, that is provide you some sorts of aroma. So, how to capitalize that objective, subjective characteristics, that lead to the aroma, then there lies the geographical indication, then you get a Darjeeling tea. The tea geographical name as an indications of the goods, originated from that or you may create this type of logo. So, they are lies the creativities or you know the logo of Darjeeling tea, that a two women plucking the trees from the tree leaves.

Nice way they created again this logo is also creativities involved, in the creation of logo. So, these indications, they may use with reference to that particular tea taste of this product is linked and that way, they can do marketing. So, this will ultimately provide the people to, with reference to the source and quality based on this logo will indicate, that this is originated from that particular tea gardens or Darjeeling tea names will indicate the logo Darjeeling tea is the tea produced from the gardens of that particular 30 gardens. Look at it in a Darjeeling hilly areas of the Darjeeling's, then that type of things. So, indications, I want to mention, you may indication come up in the formal place name like Agra petha, Hyderabad biriyani or may come up in the form of a non geographical name, just like a Feni, Goa feni, Basmati, Pasmeeena, Chandiri, all those things.

So, some cases you try to capitalize the place name, some cases you may utilize, use a particular names, that peoples are using with reference to that product, maybe, and that way you indicate the goods originated from that particular place. So, with reference to intellectual property the creation of that indications creativity involve in that part, with reference to the economy, use, just likes a, how that product place link, how will you establish the product place link, with reference to the particular place. What

characteristics with reference to that goods, you will put to separate it from the other similar kinds of goods, just like Andhra Ikat versus Orissa Ikat, Pasmeeana, with reference to that you know the, issues with reference to pok and pak, pak occupied Kashmir, and another part, Kashmir Indian part, Kashmir. So, with reference to that issue, so a Basmati issue is not yet settled properly.

(Refer Slide Time: 16:55)



- ✓ **Establish Product- Place Link (Recognizes the essential role played by geographical/Climatic/human skill in the end quality of certain products)**
- ✓ **Help producers to differentiate their products from competing products in the market**
- ✓ **Community Right compare to Private Right [club good]**
- ✓ **Build a reputation and Goodwill around their Product (Price premium associated with better reputation)**
- ✓ **Protect Cultural Heritage [cultural property??]**

So, that way she understood that role of geographical indications, with reference to with that, with reference to intellectual property and with reference to particular, particular economy, why I am totaling the economy, because with reference to particular product, if you established a product place link based on some attributes of that product, then you can thought about particular indication to market that product, how you know that European communities have capitalized their wine and fruit product in the form of some indications. Just like you know, the Sherri verses (Refer Time: 17:48) cases, then Scotch whiskey associations cases in different jurisdiction, cases in India. So, these are the things, that how, that particular indication is so important with reference to a particular product. So, on that context, just like see if I try to mention, that economy and management part. So, now, learned about that, it established product place link, so that recognizes essential role played by geographical climatic and human skill to, with reference to that quality.

That product place link how you are linking, may be geographical position is giving some sorts of climatic conditions, or some sorts of human skill, just like a traditional skill acquired by, let say, handloom industries of Orissa for reflecting a particular traditional art in a textile product like cycle, let us say, some time you call that, how will you put a animate, animal object, in a textile goods, and how really make that animal, lively in a textile product, that will ultimately give marketability with reference to the that product. So, there lies the role of human skills. So, human skill you are translating in the form of an important intellectual, important industrial property, intelligent property by virtue of that geographical indication. Just like a human skill part, I refer Sambalpuri saree that also definitely the skills have acquired by virtue of traditions.

So, similarly that climatic conditions, with reference to the Paseena and Pasweena, have been used for manufacturing of the shawl and other kinds of things, particular varieties of is, is used for that product. So, that way, if we, as a social architect or economist, you are thought about, you can nice way, use this tools for economic development of a particular localities. So, what way you can that, you find out that, how human skill is reflected in a product, or some product with reference to the that, skill, you can linked with reference to the product, then immediately you try to establish a geographical indication, and indication which reference to the product and nice way you get an indication, try to market that product and create a governance of or supplies an integrity, with reference to that product, then definitely will get some return on investment, that will be a transfer to the every individuals, who having this skill and who is producing with reference to produce, producing that goods.

So, that way, you understood that the role of geographical indications, for development of micro economy is important. So, that way you understood that, somehow the, I am not answering the legal, legal part, but managerial part, and economical part is also essential here. So, it is totally economy, economy part. And also you have understood that, they are how the skill part, you are translating their objective part, objective way, you are linking with reference to their product. So, it helps to producers to differentiate their product from competing product in the market, just like say Darjeeling tea verses Nilgiri

tea, similarly, let say, that that, what I want to mention, Orissa Ikat verses Andhra Ikat, Orissa Ikat, it is different from the other Ikat.

So, one important part is that, that here not, an individual's, it is linked with a particular place, then definitely linked with a particular communities or the producers of that producer of that good, with reference to the particular place. So, somehow it is not a private right. So, whatever you consider the monopolistic attitude, by means of private right, like a patents, somehow, will not reflected here, it is a community rights the community people, in that particular localities can acquire rights, with reference to that particular geographical indication. So, greater goal is for the development of communities using a particular product, their community involvement or with reference to the product, by virtue of, as virtues as producers, by virtue as a producer, just like a textile industries or handloom industry. The weavers of the weavers can be a weavers, can get some return out of their labors, or investment, and difference return, with difference to their skill.

So, then, you are thinking about these, not as a reference to that private property, and monopolistic attitudes. So, total economy driven, and community driven. So, you call it, is call, sometime you call it, not it is not a private right, but somehow a community rights, a community rights. So, we call public goods, public, it was not sorry, are not public good, is a economical context, public right, it is with reference to the particular good, and we majorly consider as a community right, means producers rights, producers rights, producers rights, producers means who produces that goods, in that localities, by virtue of what? Say virtue of their origin, virtue of their origin in that particular place, or virtue of their skill they acquired, with reference to that good, because of their location, because of their origin or location in that particular place.

So, then build a reputations and goodwill, around their product. Then price premium associated with the better reputations, that this is also a particular product, having some reputation with reference to that place, because of their traditional knowledge, or traditional skill. So, then definitely they will built a reputations with reference to that goods, and they will maintain a particular supplies, in integrity, they are lying the role of

managers, I have understood that, or is a social managers or producers along the producers and then they will asked for a price premium, premium associated with the better product reputations and they will ask what a wise premium as they have some reputations with reference to that product for that particular localities, understood the value of Darjeeling tea in our days, Darjeeling tea, and it is a fame is used, in a several countries, and definitely they have acquired some reputation, reputation is associated with particular place, and that aroma.

So, they have to maintain, they are getting a price premium out of that. So, then, it also try to protect the cultural heritage, sometimes people try to put it is cultural property, because of that cultures, that because of that particular place, particular skill, they have developed a particular cultures with reference to that product. So, those products, by virtue of that geographical indication, try to protect the cultural heritage of that particular locality. Just like a culture developed based on the skill, a skill have to reflected, you could have particular, just like particular weavers family, then weavers family, how their association create a particular cultures, out of that, just like say, in that culture it will be reflected in their activities. So, understood that roles, sometime place, at a geographical indication, to protect the culture cultural heritage, of the particular community. So, whether it is a cultural property, these are the different philosophical questions, you understood.

(Refer Slide Time: 26:16)



NEED OF PROTECTION

- ▶ **Commercial potential (May Boost Rural Development e.g Feta Cheese) [Economic value in France 17 Billion Euro approx, Italy 12 Billion Euro]**
- ▶ **Free ride on reputation by competitors**
- ▶ **Loss of revenue to genuine GI rights holder if not protected**
- ▶ **Consumers are misled (GI informs consumers the specific characteristics)**
- ▶ **Protect Traditional Knowledge**

GI protection protects the interest of both the Producers & Consumer of GI as a large societies



Then, why need protection of the geographical indication? It has huge commercial potential, just like it may boost rural development, feta cheese, feta cheese, feta cheese, an economic value, France, seventeen billion euro, Italy, twelve billion euro. So, somebody if you do not, commodity should not get protection of that particular product, having reputation and the skill involved, then ultimately from may free ride on their reputation, or in their skill. Then that lead to the loss of revenue of genuine GI right holders, or producers.

And consumers also will be misled now, if a private firm people are using the geographical indication, is using a particular indication, and marketing their product, they are not definitely will try to give that same thing and it will be misled and definitely try to protect the traditional knowledge of a particular produce. So, GI protection protects the interests of both the producers, and the consumers of the GI, as a large societies because product producers will get benefit out of that, and consumers will get that genuine product from the actual GI, the, GI right holders or producers. So, then automatically it will create a win-win situation for the producers and consumers.

(Refer Slide Time: 27:40)

Geographical Indication: Legal Protection

- *Sui generis system for the protection*
- *Trademark Law (Certification Mark and Collective Mark)*
- *Un-Fair Competition*

There are currently more than 10,000 protected Geographical Indications or GIs in the world with an estimated trade value of more than US\$ 50 billion

*Source :http://www.intracen.org/publications/Freepublications/Geographical_Indications.pdf

Category	Count
Meat	203
Fish	15
Animal products	28
Oils and fats	105
Fruit, vegetables and cereals	190
Beverages and beer	48
Spices and other	23
Bread and confectionery	31

So, there lies the role of geographical indication. So, what type of protection mechanism available? So, they thought about, whether it will be protected by this certification mark and collective mark, whatever I discussed earlier. So, this thing is also keep some quality attribute, this thing associated with the group of people association, yeah you may use these things also, but their lies some pros and cons with reference to the use of certification mark and collective mark, the geographical indication, although us they try to try to perform the geographical indication, by means of certification mark collective mark, till date.

But you, the sui generis for protection, form of protection, wants it is own kind of protection, just like geographical indication registration is more important. It is also can be unfair competition, common law type of tools can be used for with reference to reputation, that and they are used. So, unfair competitions law can be enforced for protection of geographical indication, but most of the countries they are they created a sui generis forms of laws, based on the tips agreement, tips agreement, as they sign the tips agreement, based on their tips agreement, they have created a taking the general frame law, from the tips, they created the law there is geographical indication act in India, we have. So, follows the geographical Indian, on geographical protection based on geographical indication of goods act, 1999.

US a may be governed by certification mark and collective mark, that geographical indication. Some cases common law protection is also available so. So, now, let us wind up with reference to, geographical indication, why it is important, how intellectual property, what is the role of you people, as a social architect, or little bit knowledge is economy, how you can used, this geographical indication, as an important tool, for your localities development, and definitely I told you that India is having the huge traditional knowledge, with reference to, that may be with reference to the particular localities, skill, or particular locality have a particular product, having some reputations by virtue of it is non-traditions, associated with that.

So, how can you use that thing, as potential marketing tools, for the economic development of that particular locality? There lies the role of geographical indications, and also get the benefits so, the producers, of that localities and also consumers will also get a genuine product if GI, GI goods and the other goods, understood GI goods have some price premium, with reference to the other goods. And that premiums will all be somehow, by reverse flow will reach to that producers, who is actually the grass root worker, involved grass root people involved, with reference to the that product. So, let us, wind up with reference to geographical indication here.