

The Collision of Geographical Indications and Trade Marks: India-EU Approaches to Geographical Names



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GEOGRAPHICAL NAMES AS TRADE MARKS

A geographical name is not automatically excluded from trade mark protection, and it is important to see if it functions as a mark of commercial origin or as a description of the geographical origin. In India, Section 9(1) (b) of the Trade Marks Act, 1999 prohibits registration of marks consisting of signs or terms that may serve in trade to indicate the geographical origin of goods or services. However, such a mark may still be registered if it has acquired distinctiveness through use or qualifies for protection on other recognised grounds.

The EU follows a similar starting point, as a geographical term may be refused registration if it is descriptive or misleading. In addition, Art. 7(1)(j) of the EU Trade Mark Regulation provides the ground of refusal where a trade mark conflicts with protected designations of origin or geographical indications. Thus, both India and the EU are careful where a trade mark seeks exclusivity over a name that indicates geographical origin or regional reputation.

GI FRAMEWORK IN INDIA

In India, GIs are protected under the *Geographical Indications of Goods (Registration and Protection) Act, 1999* (Indian GI Act), while trade marks are governed by the *Trade Marks Act, 1999*. The Indian GI Act protects geographical indications for goods where a given quality, reputation or other characteristic is essentially attributable to geographical origin. Section 25 of the Indian GI Act deals with the conflict between trade mark and GI, requiring refusal or invalidation of a trade mark containing or consisting of a GI where its use for goods not originating in the indicated territory is likely to confuse or mislead consumers as to the true place of origin.

For instance, in the *Darjeeling Lounge* case,¹ the Calcutta High Court distinguished between use of 'Darjeeling' for tea from its use in a hospitality setting, showing that GI protection in India depends on the goods

or services involved, consumer perception and the manner of use. The *Scotch Whisky Association* case before the Madhya Pradesh High Court further bolsters the enforcement position of registered GI proprietors by recognising their ability to sue for infringement without necessarily joining authorised users as co-plaintiffs.²

GI FRAMEWORK IN THE EU

On 11 April 2024, Regulation (EU) 2024/1143 was adopted, which governs GIs for wine, spirit drinks and agricultural products. Art. 26 protects GIs from direct misuse, imitation and evocation, meaning that a sign may be objectionable if it recalls a protected GI or takes unfair advantage of its reputation, even without direct consumer confusion.

The EU framework also recognises limited coexistence under Art. 31, which deals with the relationship between GIs and earlier trade marks. The framework permits continued use and renewal of earlier trade marks adopted or registered in good faith before the relevant GI application. However, the trade mark must not be otherwise liable to invalidity or revocation.

Under Regulation (EU) 2023/2411 on craft and industrial GIs of 1 December 2025 producers can apply to register craft and industrial product names as GIs at the EU level. Additionally, in 2026, the reformed

EU GI framework, under the Commission Implementing Regulation (EU) 2026/558 of 16 March 2026, cancelled the registration of the PGI 'Colli Aprutini' under Art. 25(2) of Regulation (EU) 2024/1143.³ Separately, in May 2026, 'Porcelaine de Limoges' became the first craft and industrial product to receive EU-wide GI protection under the new system.⁴

PRIOR RIGHTS AND CO-EXISTENCE

Both India and the EU recognise that conflicts may involve either earlier good faith trade marks or later marks seeking to appropriate regional reputation. In India, while Section 25 of the Indian GI Act gives significant weight to registered GIs, factors such as the goods covered, date of adoption, geographical descriptiveness, acquired distinctiveness, and likelihood of confusion must be considered.

In the EU, Regulation (EU) 2024/1143 deals with the relationship between GIs and trade marks. Art. 31 permits the continued use and renewal of certain earlier trade marks that were applied for, registered or established by use in good faith before the relevant GI application, provided the trade mark is not vulnerable to invalidity or revocation under EU trade mark law.⁵ The EUIPO also examines whether a trade mark conflicts with a protected GI under Art. 7(1)(j) of the

EU Trade Mark Regulation and whether the protected GI is relevant for the goods or services claimed.

Coexistence may be appropriate where there is no deception, unfair advantage or erosion of the GI's reputation. It becomes difficult where a private mark captures the value of a geographical name that should remain available to legitimate producers from that region.

CONCLUSION

India and the EU share the common issue that geographical names should not be monopolised or misused in ways that mislead consumers or misappropriate regional reputation. Yet, the EU has a more expansive GI protection framework with the anti-evocation approach, integrated examination of trade marks conflicting with protected GIs, and the new craft and industrial GI regime. The primary takeaway here is that geographical name branding requires approval under both trade mark and GI law. Applicants must assess whether the name is descriptive, protected as a GI, genuinely connected with the goods, and likely to imply origin, quality, style or reputation. Ultimately, the protection of geographical names requires a balance between preserving honest trade mark use and preventing appropriation of a region's reputation.«



¹ Tea Board, India vs. ITC Ltd., 2011 SCC OnLine Cal 1083.

² *Scotch Whisky Association vs. J.K. Enterprises*, 2023 SCC OnLine MP 5352.

³ Commission Implementing Regulation (EU) 2026/558 of 16 March 2026 cancelling the registration of the protected geographical indication 'Colli Aprutini' (PGI), 2026 O.J. (L 558).

⁴ European Union Intellectual Property Office, 'Porcelaine de Limoges Becomes the First EU Craft GI', 18 May 2026, <https://www.euipo.europa.eu/en/news/porcelaine-de-limoges-becomes-the-first-eu-craft-gi>.

⁵ Regulation (EU) 2024/1143, Art. 31.