

Intellectual Property Rights, and Competition Law
Prof. K D Raju
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology, Kharagpur

Lecture - 03
Geographical Indications

Dear students, we will discuss in this class another category of Intellectual Property Law i.e. Geographical Indications. You may have heard about geographical indications. And so, you can see the Darjeeling tea, that is the first geographical indications which is registered from India. And all other parts of the world's registered geographical indications are there.

(Refer Slide Time: 00:48)

What is GI (S.2(e)).

"geographical indication", in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

© KDR/IIT KGP/RGSOIPL/IPR-2019
NPTEL © KDR/IIT KGP/RGSOIPL/IPR-2019

So, what is this geographical indications? And, Geographical indications are indications relating to *Goods, not services*. So, indication which identifies such goods, it can be agriculture goods, it can be natural goods, it can be manufactured goods and originating from a particular part of the territory, a particular region of the territory.

And that territory which gives that particular product *a quality, a reputation and other characteristics* which is *essentially attributable* to that particular product because, of that origin and, such goods manufactured goods, whether it is a manufactured goods and such

production, processing, preparation of goods takes place in that particular territory or region or locality which gives that particular reputation or quality to the product. Then it is known as geographical indication.

(Refer Slide Time: 01:50)

The slide is titled "Why to protect a GI" and features four blue text boxes on a light green background. The text boxes contain the following points:

- Geographical indications are more than just a name or a symbol.
- They reflect a reputation strongly linked to geographical areas of varying sizes, thus giving them an emotional component.
- A geographical indication's reputation is a collective, intangible asset.
- If not protected, it could be used without restriction and its value diminished and eventually lost.

At the bottom of the slide, there is a yellow banner with the NPTEL logo, the text "© KDR/IT KSP/RGSOIPL/IPR 2019", and a small video inset of a man in a white shirt speaking.

So why we should protect geographical indication? Most importantly geographical indication is a community right, it does not belong to a particular individual and it is owned by a group of individuals, group of producers or group of people those who are interested in that particular product; they can register it as a GI. And, you can say that geographical indications are name and it can be a symbol as well.

So, It strongly relates to a particular region or the name of a particular place in any particular country. So, this particular product has a close relation with the reputation of the product which is very important. So, if you want to protect Darjeeling tea it must be important. For example, the tea board says that they produce every year approximately 10 tons of tea, every year from the particular designated plantations of darjeeling in West Bengal.

But, all over the world almost double quantity of Darjeeling tea is sold. Where is this another 10,000 tons of tea coming from? Definitely the fake Darjeeling tea is coming from other parts of the world. So, in order to protect your Darjeeling tea you have to

register it as a geographical indications so that you can protect it in other parts of the world.

(Refer Slide Time: 03:23)



And I will show you a series of geographical indications which are registered in India from different parts of different states, belonging to the different states. Aranmula kannadi this is a specific mirror, kannadi means mirror, mirror made up of metal. And, this is also a trade secret which belongs to a particular group of people, only a small group of people from Kerala.

(Refer Slide Time: 03:52)



And you can see the alleppey coir which belongs to again the state of Kerala.

(Refer Slide Time: 03:56)



The rice products

(Refer Slide Time: 03:59)



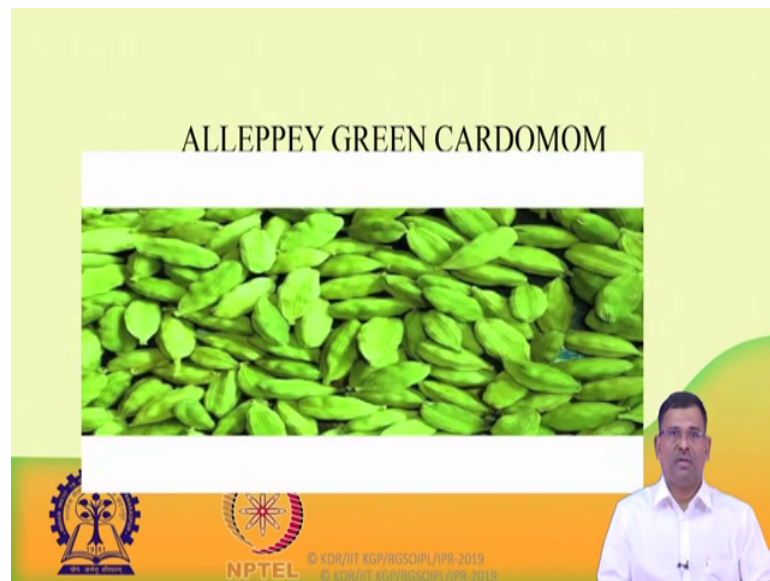
Another rice which is red in colour palakkadan matta

(Refer Slide Time: 04:03)



And the pepper the famous Malabar pepper

(Refer Slide Time: 04:07)



And then cardamom green cardamom or ilaichi, which is known as the Alleppey cardamom.

(Refer Slide Time: 04:13)



Then there is instrument which we can see is a manufactured products; maddalam.

(Refer Slide Time: 04:18)



And, then the brass products

(Refer Slide Time: 04:22)



And, then again rice specific qualities of rice

(Refer Slide Time: 04:26)



Pineapple, there is one famous pineapple which is known as the Vazhakulam pineapple and which is now, all these are registered GI's from the Kerala specifically.

(Refer Slide Time: 04:34)



Then furnishings

(Refer Slide Time: 04:38)



Then you can find the textile products, different qualities of textile products.

(Refer Slide Time: 04:45)



And then sarees you can find.

(Refer Slide Time: 04:47)



Then different other products

(Refer Slide Time: 04:49)



Then again the Ayurvedic rice which is known as jeerakasala rice, belongs to another state in Wayanad of Kerala.

(Refer Slide Time: 04:58)



Then another rice which you can find, gandasala rice.

(Refer Slide Time: 05:03)



Then this pavithra ring, payyannur pavithra ring. Again, there is a dispute on the registration of this particular product and which will we discuss later.

(Refer Slide Time: 05:13)



Dispute

Registered in 2004 as a GI.
Payyannur Pavithra Ring Artisans and
Development Society.
2012 it is suspended due to multiple
ownership claims IPAB.
Still a GI without ownership.
Payyannur Pavithra Ring, Artisans & Devp v. K
Balakrishnan [2009 (41) PTC 719 (GIG)]
SubhashJewellery v. Payyannur Pavithra Ring
Artisans

The slide features a green and yellow background with a white speaker box on the right. At the bottom, there are three logos: the Indian National Emblem, the NPTEL logo, and a copyright notice: © KDR/IT KGP/RGSOIPL/IPR 2019.

Because, as I told you GI can be registered only by a group of people those who either are the artisans or a group of traders or those who are interested in that particular product or goods. So, this is registered GI in 2004 but this is not only made by the artisans which belongs to Payyannur in Kannur districts, but other artisans also claim that they also make this.

So, there was a dispute before the Intellectual Property Appellate Board, the IPAB. You can see that the registered proprietor of this particular geographical indication is the Subhash jewellery actually filed case against these Payyannur pavithra ring artisans. So, what this case shows is that there will be always a conflict of interest between different group of people who owns what? That is most important thing.

(Refer Slide Time: 06:25)



And, will come back to the disputes later.

(Refer Slide Time: 06:28)



And, you can find I will quickly show you all other GIs which is registered in India.

(Refer Slide Time: 06:32)

Chengalikodan Nendran Banana



© KDR/IT KGP/RGSOIPL/IPR 2019



(Refer Slide Time: 06:35)

Kuthampally Dhories & Set Mundu



© KDR/IT KGP/RGSOIPL/IPR 2019



And you can find different kind and different qualities of product.

(Refer Slide Time: 06:38)



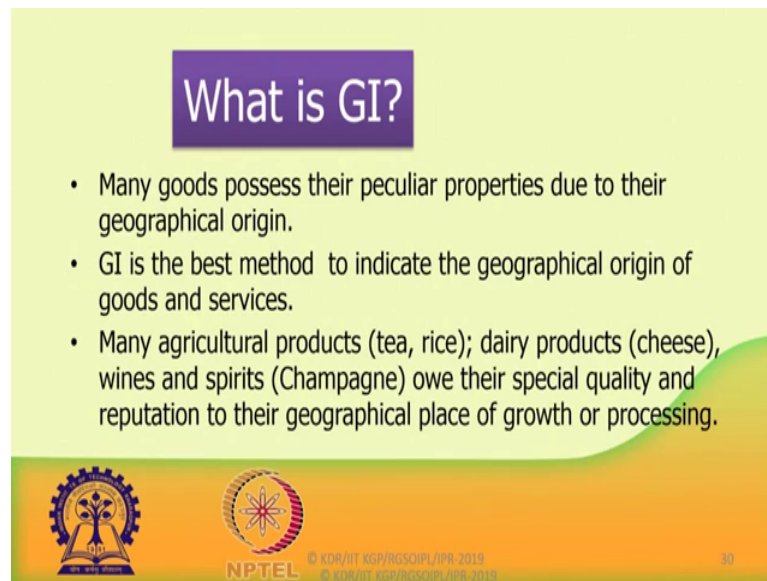
Whether it is a textile or it is a manufactured product or which is a Nilambur teak. The teak wood, which is a naturally existing and that is also registered as a GI.

(Refer Slide Time: 06:48)





And, also most of the majority of the products registered GI's in India are either textiles or handicrafts items.

(Refer Slide Time: 06:58)



What is GI?

- Many goods possess their peculiar properties due to their geographical origin.
- GI is the best method to indicate the geographical origin of goods and services.
- Many agricultural products (tea, rice); dairy products (cheese), wines and spirits (Champagne) owe their special quality and reputation to their geographical place of growth or processing.

  © KDR/IT KSP/RGSOIPL/IPR 2019
© KDR/IT KSP/RGSOIPL/IPR 2019 30

So, simply you can see that these are the goods, known goods because of their reputation which belongs to a particular region. So, it can be agriculture goods, it can be manufactured goods and it can be naturally existing goods which belongs to a particular region of the country.

(Refer Slide Time: 07:21)



Protection of GI

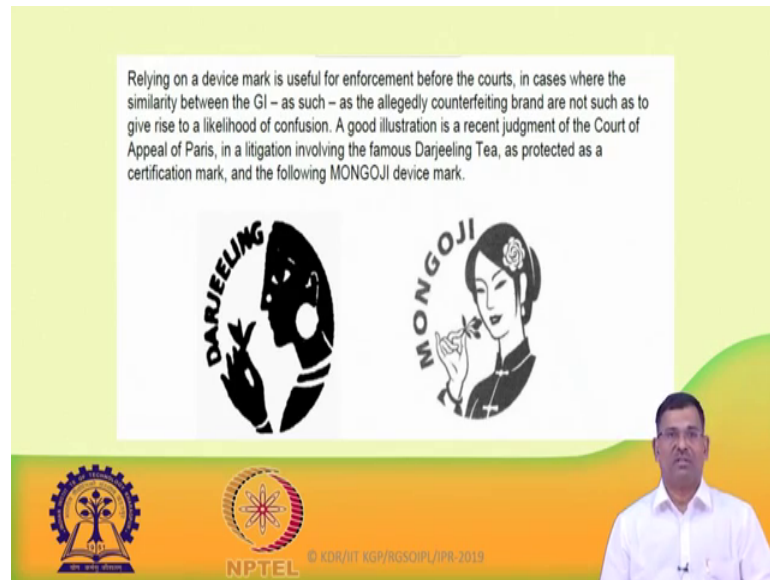
- GI is not owned by a single owner
- Any producer in the region can use the GI on the product provided it is prepared by the norms set out for the use of that GI.
- GI is registered in the national register and is similar to the certification mark identifying the origin of the good.
- Govt. can register GI in the international register maintained by WIPO for world wide protection.
- It is an offence to use false GI on goods.

  © KDR/IT KSP/RGSOIPL/IPR 2019



And, most important thing is that the GI is not owned by a single owner, it is always owned by a group of people. So that is why the geographical indications are known as *community rights* and it is not owned by a particular person, a single person.

(Refer Slide Time: 07:40)



Why should we protect geographical indication or these reputed products? So, you can see the Darjeeling logo or the registered logo of Darjeeling or a certification mark of Darjeeling tea or you can see a similar tea is Mongoji tea, Mongoji tea. So, you can see these are the marks which are registered in other countries.

So, tea board has to fight, tea board has to file disputes in other countries and fight against these deceptively similar products in other jurisdictions and in other countries for protecting the intellectual property which belongs to India i.e. the geographical indications of the Darjeeling tea.

So, if it is a registered geographical indications you can very well fight the case in other countries otherwise this kind of you can see the similarity of the logos, only the lady changes and her attire changes. So, its deceptively similar. So, you can protect the intellectual property law.

(Refer Slide Time: 08:51)



You can see in this particular picture, there is, one is the handloom and other one is the power loom, which you cannot distinguish. The consumers have always this in their mind, which one is original and which one is the duplicate.

(Refer Slide Time: 09:06)



So, who can apply for a geographical indications? Already told you, an individual cannot register for a geographical indication. It must be an association of persons, association of producers, association of organisations or authority established by law also can apply. It

products, he can register it. In the case of handicrafts, manufacturing the dealers also can approach for registration of the particular product.

(Refer Slide Time: 11:03)

The slide features a light green background with a blue rounded rectangle containing text. Below it, another blue rounded rectangle provides an example. At the bottom, there are logos for IIT Kharagpur and NPTEL, along with a small video inset of a man in a white shirt. Copyright information is visible at the bottom center.

Rights

A geographical indication right enables those who have the right to use the indication to prevent its use by a third party whose product does not conform to the applicable standards.

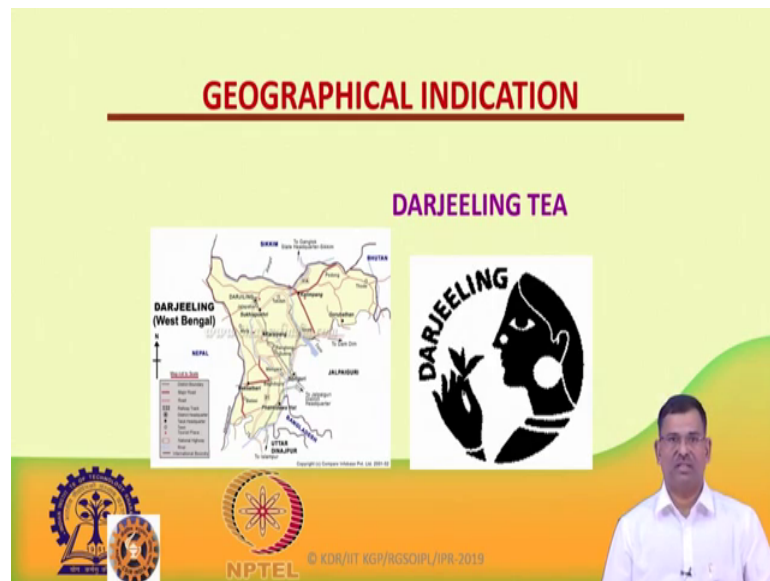
For example, in the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude use of the term "Darjeeling" for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication.

© IIT Kharagpur
NPTEL © IIT Kharagpur/RGSOIPL/IPR-2019

And, what are the rights given to geographical indications? The geographical indication rights as I told you which gives a community right, right to use the indication and also to prevent others, the third parties from using this particular product or producing this particular product which is not in conformity with the applicable standards, which is prescribed in the GI application. And, also the standards prescribed by the producers at the time of registration of the GI.

And the jurisdiction for example, the Darjeeling tea, Darjeeling tea cannot be, it can be cultivated in Nilgiris, it can be cultivated in Munnar and it can be cultivated in any other high ranges. But, it cannot be called as Darjeeling tea because the Darjeeling tea belongs to Darjeeling because of the quality and reputation of the product which belongs to Darjeeling. So, it can very well be cultivated in any parts of India, but it cannot be called as Darjeeling tea.

(Refer Slide Time: 12:07)



And, let me show you some more geographical indications which are registered. There is as I told you the Darjeeling tea is the first geographical indications registered by India. Darjeeling tea is the first registered geographical indications in India along with its logo.

(Refer Slide Time: 12:26)



Then other products which you can find are, Kangra tea.

(Refer Slide Time: 12:30)



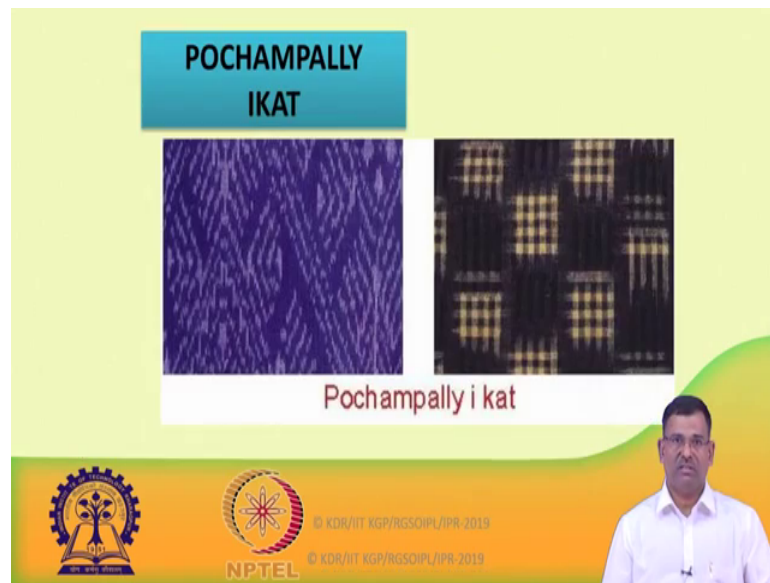
Kotpad saree.

(Refer Slide Time: 12:31)



Then Orissa ikat.

(Refer Slide Time: 12:33)



Then Pochampally ikat.

(Refer Slide Time: 12:35)



Chanderi saree.

(Refer Slide Time: 12:37)



Kota doria.

(Refer Slide Time: 12:38)



Then Kanchipuram saree, very famous in Tamil Nadu.

(Refer Slide Time: 12:42)



Then Bhavani jamakalam.

(Refer Slide Time: 12:45)



Salem fabric

(Refer Slide Time: 12:46)

SOLAPUR CHADDAR AND TERRY TOWEL

SOLAPUR CHADDAR & TERRY TOWEL

Applicant Name: 1. Textile Engineering Consortium,
259, Road, Indanagar, Pune, Maharashtra - 411 005

Geographical Indications: **SOLAPUR**

- Solapur & Terry Towel formed in its own right in 1983.
- Production activity in Solapur area of Maharashtra.
- Fine textile production in Solapur area since 1900. Fine handloom, power-loom, weaving, spinning, finishing, printing and dyeing.
- Handloom weaving originates from the production in Solapur.
- The fabric used for manufacturing the apparel & Towel with its unique & historic technique has a distinct & identifiable trademark.

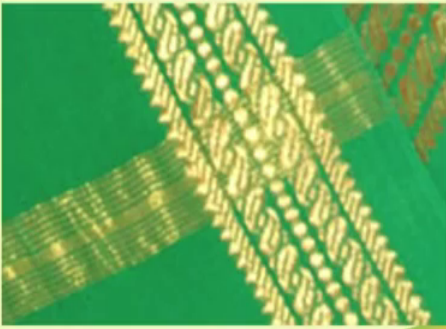



 © KDR/IT KGP/RGSOIPL/PR 2019

And also Solapur chaddar or towel.

(Refer Slide Time: 12:49)

MYSORE SILKS



 © KDR/IT KGP/RGSOIPL/PR 2019

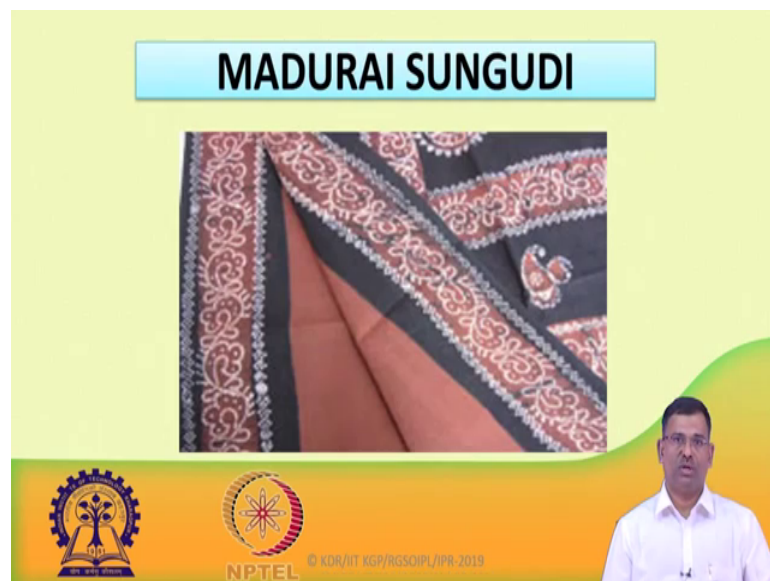
And Mysore silk

(Refer Slide Time: 12:52)



Kullu shawl

(Refer Slide Time: 12:53)



Madurai sungudi

(Refer Slide Time: 12:55)



Then a series of products, which is Mysore agarbathi.

(Refer Slide Time: 13:03)



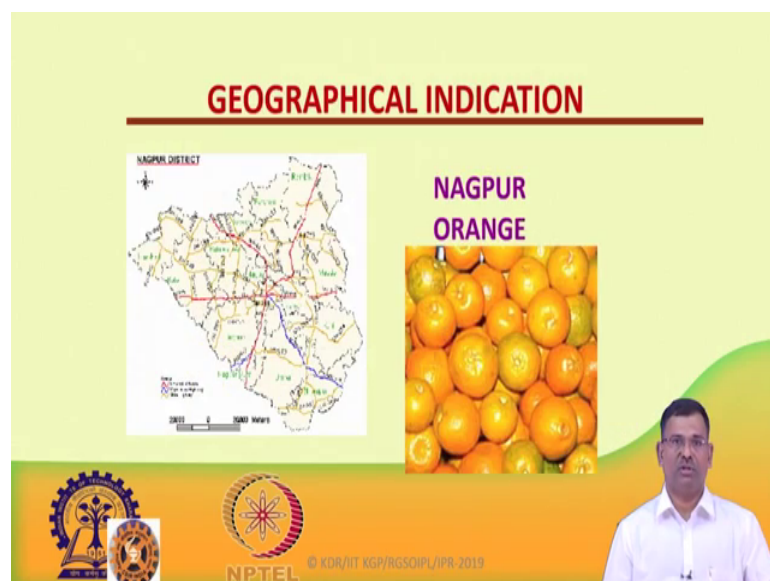
Then, Also, we can find industrial products, manufactured products from again Mysore. Mysore sandal soap is very famous, oil.

(Refer Slide Time: 13:10)



This aranamula kannadi which I already talked about.

(Refer Slide Time: 13:14)



Then natural products, Nagpur orange

(Refer Slide Time: 13:17)



Coorg orange

(Refer Slide Time: 13:18)



Nanjanagud banana

(Refer Slide Time: 13:20)



Then bidriware

(Refer Slide Time: 13:23)



Channa pattna toys

(Refer Slide Time: 13:24)



Then rose wood, rosewood belongs to the Mysore rose wood furnitures.

(Refer Slide Time: 13:33)



Then industrial products: Coimbatore wet grinder.

(Refer Slide Time: 13:36)



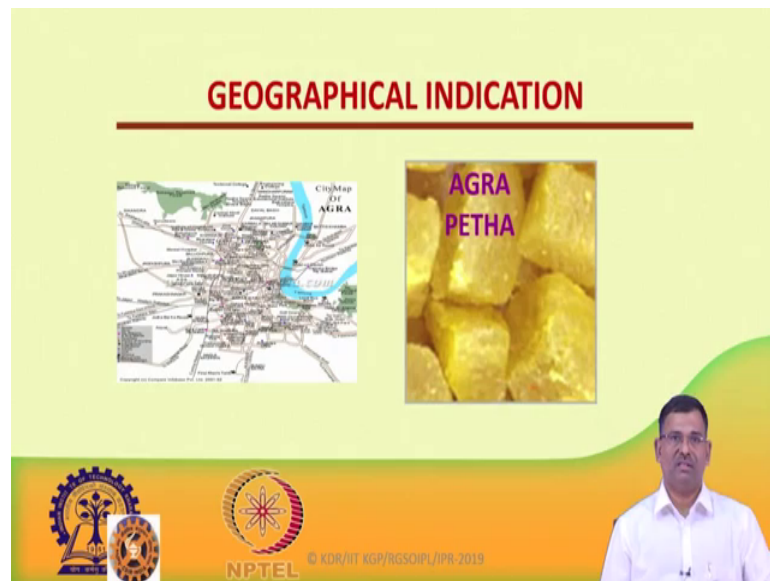
Then Kasuti embroidery.

(Refer Slide Time: 13:38)



Then Mysore traditional painting.

(Refer Slide Time: 13:41)



Then the famous Agra petha.

(Refer Slide Time: 13:44)



Then, The Rajiv Gandhi school also registered 6 GIs from Orissa, specifically belongs to Orissa and the first one is Sambalpuri bandha saree and fabrics.

(Refer Slide Time: 13:55)



Then Behrampur patta phoda kumbha saree and joda

(Refer Slide Time: 14:00)



And Bomkai saree.

(Refer Slide Time: 14:01)



(Refer Slide Time: 14:03)



And, then also we can find other products which we registered from Orissa. And, you can find the Darjeeling tea here sold by many people; Darjeeling tea is sold by many people, but they never use the logo of Darjeeling. And, logo belongs to the tea board of India which is a Government of India enterprise. But you can see the product, on which they never use this logos.

(Refer Slide Time: 14:28)



And, this is also Darjeeling tea which is beautifully packed, but Darjeeling logo is not used.

(Refer Slide Time: 14:34)




Here also you can see this Lipton Darjeeling, but again the Darjeeling logo is not used.

(Refer Slide Time: 14:40)

Punishment

- S.39 - Falsification or false application of a GI is punishable with a minimum imprisonment of six months, which may extend to three years and with a minimum fine of fifty thousand that may extend to two lakh rupees.
- S.40 - Selling falsified goods - The offence under this class shall be punishable with a minimum imprisonment of 6 months that may be extended to 2 years and a minimum fine of fifty thousand rupees that may be extended to two lakh rupees.
- *Enhanced Penalty:* Every second and subsequent act that falls in the above mentioned classes of offences shall be punished with a minimum imprisonment of 1 year that may extend to 3 years and a minimum fine of 1lakh that may extend to 2 lakh rupees.

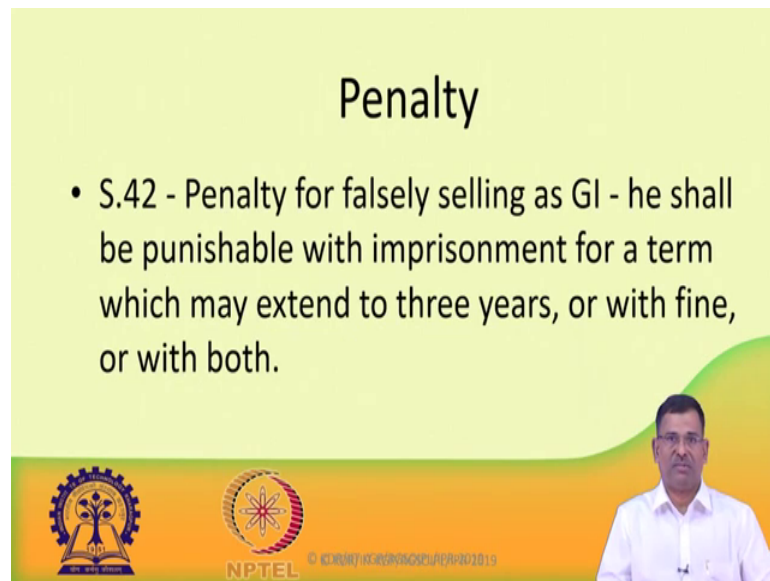


The slide features a green and yellow background. At the bottom, there is a banner with the NPTEL logo on the left, a man in a white shirt on the right, and the text 'NPTEL © KIRIT KIRITROSHI/PAU/2019' in the center.

And, if you look into why? what it shows? so when you come out with this kind of protection which is for the public, which is for the protection of a particular product and which is supposed to benefit the groups, those who register it. And in our *Act* and in our *Rules* there is no specific provision for the mandatory use of logos in the products which you can definitely see from these particular packages. There is no provision so far. These provisions has to be included in the rules for mandatory use of logos.

And, you can find one of the legislation where we can find punishments for the violation of the provisions of the Geographical Indications Act. And, section 39 of the Act and 40 of the Act which provides different penalties for violation of the Act and even repeated offences there is an enhanced penalty. So, this is one of the intellectual property legislations where punishment is prescribed.

(Refer Slide Time: 15:44)



Penalty

- S.42 - Penalty for falsely selling as GI - he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

The slide features a light green background with a yellow-to-orange gradient at the bottom. On the left, there are two circular logos: the first is the emblem of the Government of India, and the second is the NPTEL logo. To the right of the logos is a small inset video of a man in a white shirt. The text is centered in the upper half of the slide.

And, it clearly and specifically says that there can be jail time for the violation of the specific provisions of the Act.

(Refer Slide Time: 15:52)



Part-B Registration

The slide features a light green background with a yellow-to-orange gradient at the bottom. On the left, there are two circular logos: the first is the emblem of the Government of India, and the second is the NPTEL logo. To the right of the logos is a small inset video of a man in a white shirt. The text is centered in the upper half of the slide.

And, most important is the part B registration. And there are two parts of registration; the part A registration and part B registration. Part A registration of the geographical indications means that part A is for the proprietor and part B is for the beneficiaries. Part A registration which we already said that a group of people can register, a small group of

people can register in part A as proprietor. And, part B any indefinite number of people can be registered in part B registration as beneficiaries.

For example, if a Sambalpuri bandha saree is registered by the Department of Textiles, Government of Orissa, in part B registration all the weavers even if in thousands or in lakhs, those people can be registered under the part B registration as beneficiaries. So, all these beneficiaries can produce this particular product and they will be the beneficiaries under part B registration. So, there is a part A registration and part B registration.

(Refer Slide Time: 17:03)



S.7(3) – Authorized User

- Particulars relating to the registration of “Authorized users” shall be incorporated in Part-B of the register.
- S.17(1) – Authorized user – Application for registration as authorized user.
- Who can be the Applicant – a person claiming to be the *producer* of the goods in respect of the registered GI.

Who is producer - Agricultural Goods includes the production, processing, trading or dealing.

Natural Goods includes exploiting, trading or dealing.

Handicrafts or Industrial goods includes making, manufacturing, trading or dealing.

The slide also features logos for IIT Kharagpur and NPTEL, and a small video inset of a man in a white shirt.

If you look into the part B registrations, part B registration as I told you, beneficiaries or authorised users, only the authorised users are supposed to manufacture the product, the registered geographical indication products, otherwise no other people are supposed to make the products.




But, the authorised users registration, if you take the case study of India there are only few thousand authorised users registered for around 336 products which is registered so far in India. That means, around more than 300 products are registered as part A registration, in the part B there must be lakhs of registrations. It must be, is supposed to happen, but it has not happened. Few products, few part B registrants are registered as

authorised users so far. So, the authorised users, number must increase then only they are going to get some kind of benefits out of these part B registrations.

(Refer Slide Time: 18:03)

Authorised User

- Rule 56 – Form No. GI-3 – Application
- Statement of case and Affidavit, how he claims to be the producer of registered GI.
- Consent of the Proprietor is necessary.






© KDR/IIT KGP/RGSOIPL/IPR-2019

As I told you the part B registration is very simple. Very simple applications to be filled along with a fees. So that anybody can become, with the consent of the proprietor, they can become an authorised user.

(Refer Slide Time: 18:16)

Authorized user - GI 193

- **'Hyderabad Haleem - PISTA HOUSE** which had applied for the **'Authorised User'** certification under **Part 'B'** for **'Hyderabad Haleem'**, which is a registered Geographical Indication (GI) (**GI # 193**) granted Authorized user certificate.



© KDR/IIT KGP/RGSOIPL/IPR-2019

So, the part B registrations are now slowly starting because lack of awareness among the weavers or among the producers is a hindrance to the part B registration. Slowly it is starting, the part B registration of authorised users. So, as I told you the geographical indications is one of the very important category of intellectual property as far as rural India is concerned. There are thousands of products which we can identify all over India as a potential registration of geographical indications.

But, the number of registration in India is not so encouraging mainly because of the complexities involved in the part A registration and or filling the applications. So, it must be, simple applications to be introduced to increase the number of registrations or online platforms can be used for hassle free registration of geographical indications.

So, as I told you earlier also I have mentioned that this is the only one so called community right which belongs to a group of people and all other intellectual property rights are privatised, exclusively privatised and this is a community right. So, we have to protect Darjeeling tea, we have to protect our all other products and it can also be used as a tool of good marketing all over the world. So, we have to protect geographical indications from fake products.

Thank you.