

INDIAN LAW RELATING TO GEOGRAPHICAL INDICATIONS: MAKING NEW INROADS? – A COMMENT ON TEA BOARD INDIA V. ITC LIMITED

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ABSTRACT

Intellectual Property Law provides for the protection of a variety of entities. One such group of entities are Geographical Indications, better known as GI, which have been accorded a special status under the existing intellectual property rights regime in order to safeguard the interests, both economic and cultural, of the various communities who have cradled such GIs over a long period of time. One of the most prominent GIs existing within India is “Darjeeling Tea”. The usage of this very name by a corporate entity unrelated to Darjeeling Tea in its original form forms the core dispute in the case of *Tea Board India v. ITC Limited*. This decision of a Division Bench of the Calcutta High Court (the first ever by an Indian Court with respect to GI) is sought to be analyzed in this comment. The decision assumes importance as there existed no definitive judicial authorities relating to GIs in India prior to it. The decision has also contributed to the conceptual development of GI-related offences with regard to similar concepts found in IPR, like cross category claims; as well as in other branches of law, like the tort of ‘passing-off’. Finally, the decision lays down a healthy precedent by limiting the extent of control vesting with the owner of a GI, thus furthering the noble objectives behind the enactment of a specific GI-centric legislation in India.

INTRODUCTION

The term ‘Intellectual Property’ refers to those creations of human mind or intellect, which, although hidden, are important means of accumulating tangible wealth.¹ Intellectual property, being a form of ‘property’ at its very core, must be understood to be as much susceptible to abuse and misuse as other conventional kinds of property. The only difference, which arises with regard to intellectual property vis-à-vis other kinds of property, is the form and manner of such abuse. This may be witnessed on comparing the pilferage of tangible property to the duplication of intellectual property.² However, the latter is much more dangerous, as legitimate access to information is the backbone of intellectual property law. The moment the legitimacy of such access ceases to exist, it defeats one of the fundamental functions of intellectual property law, viz. ensuring complete control of oneself over one’s own ideas, thoughts and plans. This serves as a pointer towards the fact that intellectual property law, because of its nature, is exposed

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1 DR. B.L. WADEHRA, LAW RELATING TO INTELLECTUAL PROPERTY xv-xvi (5th ed. 2011).

2 *Id.* at xvi.

to various dangers and risks which can at the most be described as different from the conventional threats, which have been known to exist to property. However, shifting our attention to the silver lining to this dark cloud, we must recognize the various new domains where its provisions may be used to protect, preserve and enhance the rights of specific groups along with the general local culture. One such domain is “Geographical Indications”, and this is where the instant case comes into picture.

The case of *Tea Board of India v. ITC Ltd.*³ is a landmark case in the realm of intellectual property law in India, chiefly because it was the first case to be decided by an Indian Court on the issue of the infraction of a Geographical Indication⁴ in India. In this case, the Calcutta High Court in addition to clearly demarcating the extent to which the proprietor of a GI could exercise control over it, also paved new paths in creation of new rights by opining and advocating the inclusion of specific rights within the scope of the provision of the laws relating to GI in India.

The chief aim of this comment is to offer a fair critique of the judgment given by the Division Bench of the Calcutta High Court in the case of *Tea Board India v. ITC Limited* and analyze its repercussions with regard to the laws relating to both trademarks as well as GI in India, with special emphasis on the latter, which happens to still be in its infancy. Part I seeks to enumerate a few fundamental concepts relating to GI both domestically as well as internationally; with special regard to drawing a comparison between GI and other IPR instruments. Part II serves to initiate the entire discussion around the case of *Tea Board India v. ITC Limited*, while dealing with the factual and argumentative matrices. Part III analyzes the Judgment while dealing with the various allied aspects dealt with by the Court like passing-off, cross-claims etc. Finally, the conclusion highlights the need for strict GI-centric laws in India, as well as the promise and potential, which the instant decision holds for the future of GI in India in specific, and of Intellectual Property Law in general.

I. THE LAW RELATING TO GEOGRAPHICAL INDICATIONS : CONCEPTS & COMPARISONS

The principal statute governing GI in India is the Geographical Indications of Goods (Registration and Protection) Act, 1999.⁵ The *raison d’etre* of such a law may be understood at two levels – general and specific. On a general level, such an Act was needed to enhance the economic prosperity of the producers as well as the health and safety of the consumers of those goods, which bore an Indian GI and were being showcased in the international trade scene as top-quality products.⁶ On a specific level, however, such a need was felt in order to fulfill the obligations which existed under the

3 GA No.3137 of 2010: CS No.250 of 2010.

4 Hereinafter GI.

5 Hereinafter GI Act.

6 WADEHRA, *supra* note 1.

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Agreement on Trade Related Aspects of Intellectual Property Rights⁷ on importers of a good which, though a GI in its country of origin, was not protected under any law in that country.⁸ This in turn put a reverse burden on India which was obliged under the said Agreement to protect the GI as many imported goods were protected by specific statutes⁹ in their respective countries or origin; where such statutes are binding on all parties transacting in the protected product and are enforceable in any Court¹⁰ in a member State. All these factors ultimately culminated in the enactment of the aforesaid GI law.

A. GI: POSITION UNDER INDIAN LAW

The GI Act is a unique legislation, as it completely focuses on GI, a category of goods, which had not been dealt with by any other legislation till the GI Act was brought into effect. Section 2(e) of the GI Act defines a ‘Geographical Indication’. It states, *inter alia*, that such an indication aids in identifying agricultural, natural or manufactured goods as where such goods’ quality, finesse or reputation can be attributed to its geographical origin. Further, it specifies that in case of manufactured goods, one or more activities out of the preparation, processing or production or such goods must occur in the geographical territory so specified.

B. GI: POSITION UNDER INTERNATIONAL LAW

On an international level, a GI may be used for either appealing to a particular people or taste by connecting the origin of the goods in question to a particular place where such taste may reasonably be connected¹¹, or even for denoting that a particular product belongs to a particular trader.¹² Hence, the scope of GI under international law is wider than the scope attached to it under the GI Act in India. The rationale behind granting a GI is basically to create a global brand recognizable by its quality. This is because such brands can only result from the preservation of the distinctiveness of the concerned geographical entity.

C. GI VIS-A-VIS OTHER INSTRUMENTS

The case of *Tea Board India v. ITC Ltd.* makes valuable contributions towards developing an understanding of the consequences, which entail on dilution and infringement of GI. This is relevant in the context of the legal provisions relating to infraction upon trade and related marks, which are both better defined (on account of there being proper precedents for the same) as well as more stringent. While the main

7 Hereinafter TRIPS.

8 Uruguay Round Agreement on Trade Related Aspects of Intellectual Property Rights, art. 24(9)(3), January 1, 1995.

9 Council Regulation (EEC) 2081/92, Jul. 14 1992.

10 *Consorzio del Prosciutto di Parma v. Asda Stores Ltd*, (2001) UKHL 7 (H.L.).

11 DAVID I. BAINBRIDGE, *INTELLECTUAL PROPERTY* 650 (5th Ed. 2002).

12 *Montgomery v. Thompson*, (1891) AC 217 (H.L.) (*Per* LORD HANNEN, J.)

objective of a GI is to denote the place from where a particular *good* originates and to which place the qualitative characteristics of such *goods* may be attributed, a trademark is basically used by an enterprise in relation to *goods and services* so as to distinguish them from the others.¹³ Hence, the scope of a GI is restricted when compared to that of a trademark. Further, a GI may also be distinguished from a Certification Trademark; which again is applicable to both goods and services. The provisions relating to Certification Trademarks allow for right of action where the certification trademark has been used for a *good* and the impugned trademark relates to a *service* and vice-versa. Thus, there is a scope for cross-category claims under ‘certification trademark’, but not so under GI and it is this fallacy, which has been effectively dealt with by the Court in the following case.

II. TEA BOARD INDIA V. ITC LIMITED

A. THE BACKGROUND

The Plaintiff in this case was a statutory body¹⁴ named Tea Board India.¹⁵ The Board was the registered proprietor of two different certification trademarks for tea; which fall under Class 30.¹⁶ The first of the two ‘certification trademarks’ was a word mark¹⁷ for “Darjeeling”¹⁸ and the second was a device mark¹⁹ for an image of a lady holding two tea-leaves along with a bud in her left hand along with the word “Darjeeling” inscribed to the left of the image.²⁰ It may be noted that the aforementioned marks had also been separately registered by the plaintiff in 2003 under the GI Act as a GI.²¹ The Board sued ITC Ltd., a premier Indian industrial house that operates many premier hotels across the country, for having named a portion of its famous luxury hotel in Calcutta, the ITC Sonar Hotel as “The Darjeeling Lounge”.

Ironically, the Board came to know of the alleged infringement when ITC Ltd. applied for a trademark on the name “Darjeeling Lounge” in Class 41 when the said

13 WADEHRA, *supra* note 1.

14 Formed under Section 4 falling under Chapter II of the Tea Act, 1953 as an autonomous and non profit-making enterprise.

15 Hereinafter the Board.

16 Trademarks in India are divided into 45 classes; with Classes 1-34 relating to goods (divided according to industry / area of usage) and Classes 34-45 dealing with services (divided on the basis of industry/vocation).

17 A standardized textual or graphical representation of an entity; used for branding, identification or immediate recall of a product.

18 Trademark No. 831599.

19 A standardized trademark relating to a particular brand and including text or images synonymous with a particular brand; thereby aiding that particular brand maintain its goodwill or reputation in the market. *See* I&R Morley v. Mackey Logan Caldwell Ltd, (1921) NZLR 1001.

20 Trademark No. 532240.

21 The word and the logo were assigned GI Nos. 1 and 2 respectively; being the first GI to be applied for in India.

application was advertised in the Trademarks Journal.²² On making enquiries, the Board came to know that the impugned Lounge was operating for a practical, commercial purpose i.e. to provide customers with food, beverages and other edible items.²³ It was, in terms of both the nature as well as conduct of its business, intrinsically a restaurant.

The Board's chief contention was that the usage of the word "Darjeeling", which was protected by a trademark by ITC Ltd. was nothing short of an infraction upon its GI mark.²⁴ The Board also contended that it was a direct violation of the certification trademark registered by the Board which amounted to an act of 'passing-off'²⁵ with respect to unfair and unwarranted competition leading to an effective dilution of the very brand value attained by Darjeeling Tea because of its status as a GI.

B. THE GROUNDS

The Board contended that the usage of the word "Darjeeling" in the nomenclature of a particular section of a hotel being run by ITC Ltd. was done with the sole intent of cashing in upon the brand value, which was enjoyed by Darjeeling Tea, which in the first place was registered under the sole proprietorship of the Board. The Board claimed that apart from openly infringing upon the Board's GI and Certification Marks; ITC Ltd. had also indulged in "passing-off" of the aforementioned marks.²⁶ As a final contention, the Board also claimed that naming their lounge as "The Darjeeling Lounge" which carried out commercial activities; amounted to an action of 'dilution' of their brand, viz. Darjeeling Tea.

On the other hand, ITC Ltd. contended that the provisions of the GI Act could only be applied to *goods*, whereas the Darjeeling Lounge, which was at the centre of the entire controversy, was providing mere *services*.²⁷ On similar lines, ITC Ltd. also made a contention about the non-applicability of the provisions, which protect Certification Trademarks of a *good* to usage of the same mark in relation to any *service*. The third contention of the Defendants was with respect to whether the GI Act had retrospective effect, for they also claimed exemption on the ground that the hotel in dispute had been operative since 2003, before the GI Act came into force.²⁸

In addition to the above, a major contention on which the Defendants heavily relied was the issue of the suit being time-barred, as the lounge in question had been

22 *Tea Board India*, *supra* note 3, at 5, ¶ 9.

23 *Id.* at 6, ¶ 10.

24 *Id.* at 9, ¶ 3.

25 *Id.* at 9, ¶ 3.

26 *Id.* at 12, ¶ 7.

27 *Id.* at 13, ¶ 8.

28 The GI Act came into force on 15th September 2003, whereas the ITC Sonar Hotel commenced operations from December 31st 2002.

within the frame of awareness of the Plaintiff Board since 2005, yet they had filed a suit five years later, i.e. in 2010.²⁹ The remaining two contentions of ITC Ltd. were based on questions of fact rather than of law, for they claimed that the lounge only catered to “high-end” and “exclusive” customers³⁰ and that it had been named “The Darjeeling Lounge” to give their customers a glance of the culinary and cultural finesse of Bengal.³¹

III. THE JUDGMENT – A CRITICAL FOREGROUND

A Division Bench of the Calcutta High Court, in its Judgment dated 24th August 2011, delivered by Justice Bhaskar Bhattacharya, upheld the decision passed by a single Judge of the same Court on April 20th, 2011. The Court refused to grant an Interlocutory Injunction to Tea Board India against the use of the word “Darjeeling” for the lounge run by the defendants, i.e. ITC Ltd. It is submitted that the decision of the Division Bench is sound in fact as well as in law, and may be heralded as a landmark judgment since it was the first such decision regarding a GI in India which has lucidly yet definitively settled numerous questions that arose in the course of the enforcement of the GI Act in India.

It is further submitted that the Court has also determined how far the proprietor(s) of a ‘registered certification trademark’ may exercise absolute control over the products so protected. Thus, the decision of the Division Bench goes a long way in removing certain ambiguities, which existed with respect to GI and other intellectual property instruments.

The Bench deliberated extensively on various aspects of the law, the most prominent amongst them being the tort of ‘passing-off’, which ITC Ltd. was alleged to have been indulging in. With ‘passing-off’ being the central argument on the side of the Board, the Bench made use of the judgment to clearly define the scope and nature of activities which would constitute the tort of ‘passing-off’ as well as its interplay with trademark dilution *per se*. Further, the Bench also considered the possibility of foreign decisions (in which the Board was itself a party) being applied to the present case. The final major point of law, which the Bench addressed, was the degree of control, which the proprietor of a GI could exercise by virtue of registration.

A. THE CONCEPT OF ‘PASSING-OFF’

The chief contention of the Board was that ITC Ltd. was indulging in ‘passing off’ amounting to unfair competition by naming their lounge as “the Darjeeling Lounge”

²⁹ *Tea Board India*, *supra* note 3, at 13, ¶ 8.

³⁰ *See* *Tea Board India v. ITC Limited* (Preliminary Judgment dated 20.04.2011) accessible at: <http://www.patentindia.com/tea.pdf> (Last accessed 07.04.2012), at 14.

³¹ *Id.* at 12, ¶ 15.

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which gave the public the wrong impression that the tea served at the lounge was the same tea grown under the aegis of the Board in Darjeeling.³² The scope of ‘passing-off’ under intellectual property law is quite wide and it can protect unregistered business names, unregistered trademarks, advertising or anything in general which is distinctive of the claimant’s goods, services or business as a whole.³³ There is a fundamental difference between trademark infringements and passing off; as while the former requires some actual or distinct use of the said mark; the latter requires just an implied use or mention of a trade name, i.e. the latter does not require and expressly evident usage of the protected entity.³⁴ It can thus be safely stated that the concept of passing off is much more volatile in nature than trademark infringements. Cases like *Harrods Ltd. v. R. Harrod Ltd.*³⁵ where the Defendant named his money-lending company to “pass off” his company as having relations with the Plaintiff (which was a very respected banking company and was prohibited from money-lending because of its Articles of Association) go a long way in explaining that a mere implication of undue advantage being taken is enough to attract the provisions of the concept of “passing off”.

However, in respect of this case, it is important to note that the trademarks, which were granted to the Board, were for only one substance i.e. tea. The Lounge in question served food, beverages and a host of other items of which tea was only a unitary item. Further, the Court, while considering the fact that the contention of the Board was based on the concept of ‘passing off’, went on to state that the basic objective behind a Defendant indulging in passing off is to portray its own goods as those of the Plaintiff.³⁶ The Court averred, and rightly so, that the facts of the case help us to understand clearly the fact that the Board was just a statutory body, and was not in any manner associated with the direct trade of tea, or with providing food, beverages or hospitality to people.³⁷ These activities were indulged in by the Defendant, i.e. ITC Ltd. Hence, no *prima facie* case of passing off one’s goods as another’s could be made out since both the parties engaged in totally different modes of business. The point above may also be compared to the *Harrods Ltd.* case wherein even though the two companies engaged in two evidently different activities, yet they formed a part of the same industry i.e. provision of financial services.

It was a taut observation by the Court that the registration of a ‘certification trademark’ was chiefly instrumental for the Board in protection of its *own* authority to undertake the certification of a beverage³⁸ i.e. tea, that too with respect to it having been

32 *Tea Board India*, *supra* note 24, at 12, ¶ 15.

33 WADEHRA, *supra* note 1.

34 *Id.* at 651.

35 (1924) 41 RPC 74.

36 *Tea Board India*, *supra* note 3, at 18, ¶ 24.

37 *Id.* at 18, ¶ 24.

38 *Id.* at 18, ¶ 24.

produced in Darjeeling. Hence, it is a correct averment of the Court that the registration of the ‘certification trademark’ in essence protects the Board’s authority of certification of tea and relief can be sought under such a ‘certification trademark’ and only if another body attempts to usurp this authority of the Board to certify.³⁹ Since no such attempt was made by ITC Ltd., which was quite content running hotels across India, there is in essence no scope for the application of the concept of ‘passing off’ against ITC Ltd. in this case.

It needs to be seen that this was not the first instance where the Board was involved in a legal dispute over improper GI usage. It had engaged in litigation earlier as well to protect the Darjeeling label, that too on foreign shores. The Bench considered as to whether the result of those cases was to be allowed to affect the present one. As such decisions involved the commercial usage of the very term in dispute, viz. “Darjeeling”, a scrutiny of the same by the Bench was not just logical, but necessary.

B. FOREIGN JUDGMENT APPLICABILITY

The Counsel for the Board, in an effort to further fortify his arguments, cited two foreign case-laws, both involving Tea Board India, wherein the Board had gone ahead and prevented other business entities from using the word ‘Darjeeling’ in their respective products.⁴⁰ In the first case, viz. *Tea Board India v. Jean-Luc Dusong*⁴¹, the Paris Court of Appeal held that the registration by a French trader of a trademark name bearing the word ‘Darjeeling’ along with the image of a teapot was null.⁴² In the second case, viz. *Tea Board of India v. Republic of Tea, Inc.*⁴³, the United States Trademark Trial & Appeal Board held that a trademark application⁴⁴ for the name “Darjeeling Nouveau” for a kind of tea served was void. The reason being that there was bound to be a lot of confusion in the minds of the general public, since both the products, however repackaged, were in actual fact the same commodity, i.e. tea.

The Counsel for the Board iterated that the abovementioned decisions would provide ample precedent to the Court for it to analyze the extent of control that Tea Board India had over the Darjeeling Tea brand. The Court’s refusal to take into consideration the Judgments mentioned above, for the simple reason that such cases by virtue of not having got a chance to deal with the legislations dealing with Trademarks and GI in India⁴⁵ could not be held to be valid precedents, is thus completely justified – both legally as well as logically.

39 *Id.* at 18, ¶ 24.

40 *Id.* at 18, ¶ 23.

41 Case No. 05/20050 (Paris Ct. App. Nov. 22, 2006).

42 Justin Hughes & Diane Artal, *Translation of The Tea Board v. Dusong - Court of Appeals of Paris, 05/20050, Decision of November 22 2006*, 28 CARDOZO ARTS & ENT. L. J. 435 (2010).

43 80 USPQ2D1881 (TTAB 2006).

44 Application Serial No. 75748952, filed on July 13, 1999.

45 *Tea Board India*, *supra* note 3, at 18, ¶ 23.

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The matter at hand fell within the provisions of the Trade Marks Act, 1999 on one hand and the Geographical Indications of Goods (Registration and Protection) Act, 1999 on the other (which were the governing laws for determination of disputes relating to trademarks and GI respectively in India). In this connection the Court laid proper emphasis on the Statement of Objects and Reasons which precedes the provisions of the GI Act.⁴⁶ The final sentence of the Statement reads as under:

... in view of the above circumstances, it is considered necessary to have a comprehensive legislation for registration and for providing adequate protection for geographical indications. Hence the Bill.

It is crucial for us to look at the word “comprehensive” in relation to the Act. By using such a term, the Statement effectively states that the GI Act is an all-pervasive legislation, the provisions of which cover each and every aspect of GI in India. In the instant case, both the parties carry on their respective businesses in India and hence, the Court was right in rejecting the Counsel’s claim for consideration of decisions which were passed by foreign Courts; as the foreign courts had not passed the Judgments according to the two Acts under the provisions of which the current matter came.

It would augur well to observe that in both the *Jean-Luc Dusong* and well as *Republic of Tea* cases, the impugned registration of trademarks was always sought only for the same product; which had been registered under the proprietorship of the Board. This cannot be said about the instant case, where ITC Ltd. was catering to a few customers by providing food, beverages and other refreshments, of which tea was just one of the items. It is submitted that this observation is essential in understanding the level of control over the Darjeeling GI, which was vested with the Board, as the same was the third major point of law, which was deliberated upon and settled by the Board.

C. TO TEA OR NOT TO TEA?

A fundamental aspect of the Calcutta High Court’s decision was its disambiguation of exactly how far the right of the Board could exist over the object protected, Darjeeling Tea.⁴⁷ At this juncture, it would do us good to go through the definition of ‘Certification Trademark’ as given under Section 2(e) of the Trade Marks Act, 1999. It runs as follows:

‘Certification trade mark’ means a mark capable of distinguishing the goods or service in connection with which it is used in the course of trade which are certified by the proprietor of the mark in respect of origin, material, mode of manufacture of goods or performance of service not so certified and registrable as such under Chapter IX in respect of those goods or service in the name, as proprietor of the certification trade mark, of that person.

⁴⁶ *Id.* at 19, ¶ 25.

⁴⁷ *Id.* at 22, ¶ 27.

The phrases “in connection with which it is used” and “in respect of those goods or services in the name” signify that the provisions relating to certification trademarks apply only to those goods, which have been registered under such trademarks. Hence, it becomes clear that there was absolutely no infringement on the registered certification trademark for tea as Tea Board India possessed the certification trademark for Darjeeling Tea only with respect to certifying the tea grown in Darjeeling⁴⁸ and not with respect to set-ups operating within the scope of the Hotel industry.

It must further be noted that Section 28 of the Trade Marks Act, 1999 states that the rights conferred by a trademark are given to the registered only in relation to the goods and services for which the trademark is sought. Hence, only the rights with respect to the tea produced in Darjeeling vest safely with the Board. The Board essentially has no rights against use of the term Darjeeling in connection with something other than tea, such as a hotel lounge in this case.⁴⁹ Also, it is clear in the light of the objective of the GI Act⁵⁰, that by attempting to stop the usage of the word ‘Darjeeling’ (a geographic name), that too in a field over which the Board had no jurisdiction, the Board was in effect defeating the very purpose of the GI Act.⁵¹ This is because the GI Act was enacted to give better protection to GI, not concentrate all usage of the same in the hands of a single entity. Hence, the provisions of the GI Act were also correctly held by the Court to be inapplicable in this case.

A few other aspects of the case were also decided with optimum attention paid by the Court. A path-breaking point made by the Court was that despite the GI Act being applicable solely to goods, cross-category complaints (i.e., complaints protected goods & impugned services and vice versa) *could* be initiated under Sections 22(1) (b) and 20(2) of the Act. The Act allowed prosecution against the use of any GI in a manner, which leads to unfair competition including passing off.⁵² Further, it also rejected the plea of ITC Ltd. that the suit was time-barred⁵³; as in spite of the suit being filed in 2010, the Board had been communicating in the form of letters to ITC Ltd., protesting communications before the Trademark Registry etc. Lastly, the Court left the question of the GI Act having retrospective effect in consequence of it holding that the Board could not take the aid of provisions of the GI Act.

48 *Id.* at 22, ¶ 28.

49 *Id.* at 22, ¶ 27.

50 See Geographical Indications of Goods (Registration and Protection) Act, 1999 (“An Act to provide for registration and better protection of geographical indications related to goods”).

51 *Tea Board India*, *supra* note 3, at 22, ¶ 27.

52 See Explanations 1 & 2, Section 22 (1) (b), GI Act.

53 *Tea Board India*, *supra* note 30, at 12, ¶ 7.

54 Sudhir Ravindran & Arya Matthew, *The Protection of Geographical Indications in India – A Case Study on Darjeeling Tea*, INTERNATIONAL PROPERTY RIGHTS INDEX – 2009 REPORT, Property Rights Alliance (2009).

IV. CONCLUSION – PAVING PATHWAYS TO CERTAINTY

Scholarly opinion suggests⁵⁴ that the protection of Geographical Indication (GI) has emerged as one of the most contentious IPR issues in the realm of the TRIPS Agreement. This statement stems from the fact that GIs, in almost all cases, embody within themselves a certain uniqueness of nature, be it through taste, aroma, texture etc. This uniqueness makes every GI susceptible to external harm and infraction. Hence, a functional legal system for the protection of GI is vital for the true realization of the commercial promise embodied within them. The landmark decision in *Tea Board India v. ITC Limited* is thus the proverbial stone, which kills not two, but many birds. These ‘birds’ are the indefiniteness of the legal status of a GI, ambiguity relating to the relationship between trademark law and law related to GI, limitations relating to the scope of rights within the GI Act (which have been dealt with the advocacy of cross-category rights) and finally, the exercise of excessive control over a geographical entity’s identity. All these measures have extensively contributed to the preservation of the heart and soul of the GI Act.

This definitely paves ways for certainty regarding the inter-connection between trademark laws and laws relating to GIs in India. It has carved out a definitive understanding in relation to the extent to which control may be exercised by the proprietor in relation to his/her certification trademark. The decision has also opened a plethora of opportunities for future litigants by emancipating a ray of hope for the inclusion of cross-category rights within the GI Act. Lastly, the Calcutta High Court has protected the *raison d’être* of the GI Act, viz. the proper registration as well as protection of GI in India by rejecting the plea of the Board, which if accepted would have created a dubious precedent with regard to the exercise of absolute control by the Board over the geographical name- “Darjeeling”.