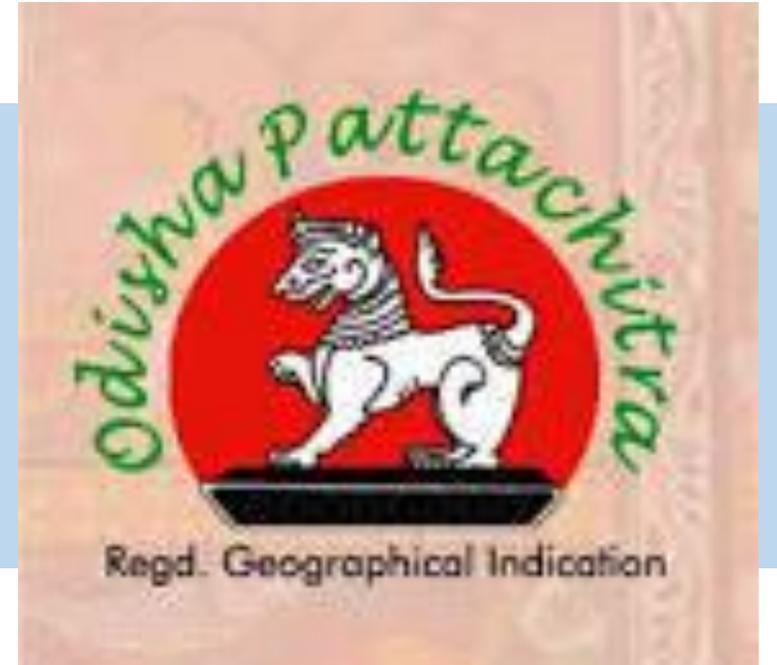




Harnessing IP Rights of Traditional Communities



Dr. Santosh Mohanty

Trustee, NPS Trust | Fellow, Institute of Directors | Director, VK-AICYAM | Ex-VP, Tata Consultancy Services



Harnessing IP Rights of Traditional Communities

Objective

The objective of this presentation is limited to

- Sharing a summary of the state of Intellectual Property and the associated Rights related to Indian Traditional Knowledge
- Introduction to TKDL (Traditional Knowledge Digital Library), its Focus and Achievements

Coverage

- Trademark Concepts
- Geographical Indication (GI) Concepts
- Traditional Knowledge
- Traditional Knowledge – India Context
- Opportunity for India

Trademarks

Trademarks: A trademark is a **sign** capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights.

Trademarks: Protection

At the national/regional level, trademark protection can be obtained through registration, by filing an application for registration with the national/regional trademark office and paying the required fees. At the international level, you have two options: either you can file a trademark application with the trademark office of each country in which you are seeking protection, or you can use WIPO's Madrid System.

Trademarks: Protection Timeline

The term of trademark registration can vary, but is usually ten years. It can be renewed indefinitely on payment of additional fees. Trademark rights are private rights and protection is enforced through court orders.

Trademarks: Types

Product Mark, Service Mark, Collective Mark, Certification Mark, Shape Mark, Sound Mark, Pattern Mark, and Geographic Indications (GIs)

Types of trademarks



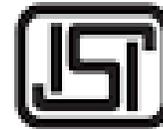
Product & Service



Geographical Indicators



Collective



Certification



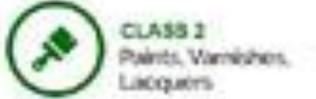
LOGO

Trademarks Classes in India (Registration for Protection)

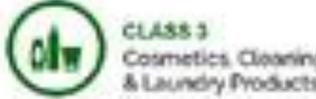
Trademark Classes in India



CLASS 1
Chemical Products



CLASS 2
Paints, Varnishes,
Lacquers



CLASS 3
Cosmetics, Cleaning
& Laundry Products



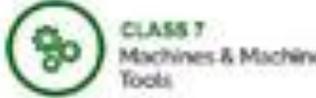
CLASS 4
Industrial Oils,
Greases & Lubricants



CLASS 5
Pharmaceutical
Products & Veterinary



CLASS 6
Common Metals &
Alloys



CLASS 7
Machines & Machine
Tools



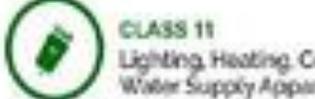
CLASS 8
Hand - Tools &
Implements



CLASS 9
Scientific & Engineering
Devices (Apparatus)



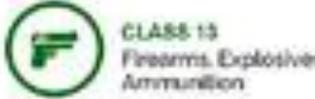
CLASS 10
Medical Devices &
Apparatus



CLASS 11
Lighting, Heating, Cooking,
Water Supply Apparatus



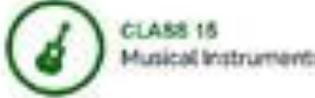
CLASS 12
Vehicles (Automobile)



CLASS 13
Firearms, Explosives &
Ammunition



CLASS 14
Precious - Metals &
Stones, Jewellery



CLASS 15
Musical Instruments



CLASS 16
Stationery & Paper
Goods



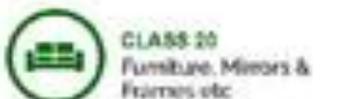
CLASS 17
Rubber & Extruded
Plastic Products



CLASS 18
Leather & Leather
Goods



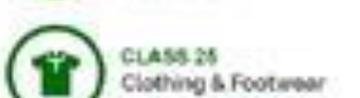
CLASS 19
Building & Construction
Material (Non Metallic)



CLASS 20
Furniture, Mirrors &
Frames etc



CLASS 21
Houseware &
Glassware



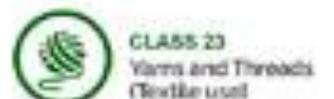
CLASS 25
Clothing & Footwear



CLASS 27
Carpets, Floor Coverings &
Wall Hangings (Non Textile)



CLASS 22
Ropes, Fibre, Stuffing
Material



CLASS 23
Yarns and Threads
(Textile use)



CLASS 24
Textiles, Textile Goods &
Fabrics



CLASS 26
Fancy Goods - Lace,
Embroidery, Ribbons etc



CLASS 28
Toys, Games & Sports
Goods



CLASS 29
Meats & Processed
Foods



CLASS 30
Staple Foods (Flour,
Cereals etc)



CLASS 31
Agri & Horticulture
Products, Live Animals



CLASS 32
Beer, Mineral Water &
Non Alcoholic Drinks



CLASS 33
Alcoholic Beverages,
except Beer



CLASS 34
Tobacco Products



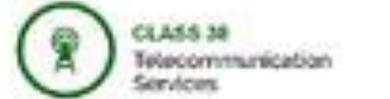
CLASS 35
Advertising & Business
Services



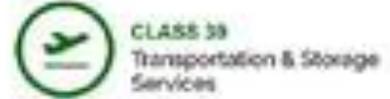
CLASS 36
Insurance, Financial &
Real Estate Services



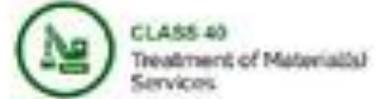
CLASS 37
Construction & Building
Repair Services



CLASS 38
Telecommunication
Services



CLASS 39
Transportation & Storage
Services



CLASS 40
Treatment of Materials
Services



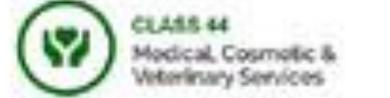
CLASS 41
Education & Entertainment
Services



CLASS 42
Scientific, Technological
and Computer Services



CLASS 43
Food & Restaurant
Services



CLASS 44
Medical, Cosmetic &
Veterinary Services

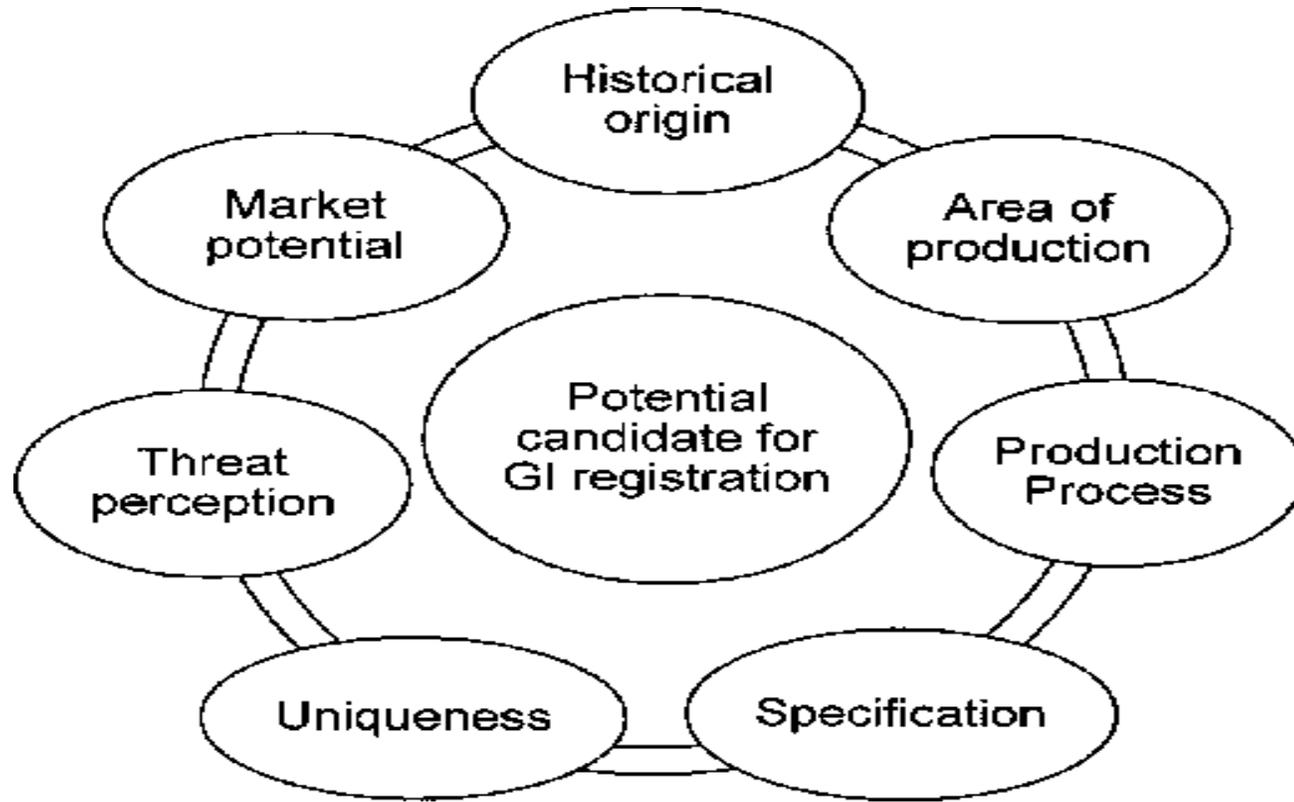


CLASS 45
Legal & Security
Services

email: hello@legaldocs.co.in



Geographical Indication (GI)



A geographical indication (GI) is a **sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin**. In order to function as a GI, a sign must identify a product as originating in a given place.

The qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.

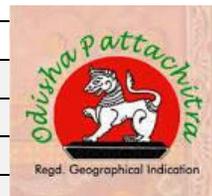
A protected geographical indication does not enable the holder to prevent someone from making a product using the same techniques as those set out in the standards for that indication. Protection for a geographical indication is usually obtained by acquiring a right over the sign that constitutes the indication.



Geographical Indication (GI) – India Data

India GI Registration Data (GI Registration Granted - April 2004 to June 2025)

FY	Total	Indian States	Other Nations	Odisha State	GI Artefacts from Odisha State	Registered GI by Subject Areas
FY 05	3	3	0	0		As of 2024-06-30 GI Applications Processed: 1100+ Granted: 658
FY 06	24	24	0	2	Kotpad Handloom Fabric (H); Odisha Ikat (H)	
FY 07	3	3	0	0		
FY 08	31	31	0	0		
FY 09	45	45	0	3	Konark Stone Carving (H); Odisha Patachitra (H); Pipli Applique Work (H)	
FY 10	14	14	0	0		
FY 11	29	25	4	1	Khandua Saree and Fabrics (H)	
FY 12	23	20	3	3	Gopalpur Tussar Fabric (H); Ganjam Kewda Rooh (M); Ganjam Kewda Flower (A)	
FY 13	21	20	1	5	Dhalapathar Parda & Fabric (H); Sambalpuri Bandh Saree & Fabric (H); Bomkai Saree & Fabric (H); Habaspuri Saree & Fabrics (H); Berhampur Patta Saree and Joda (H)	
FY 14	22	22	0	1	Orissa Pattachitra - Logo (H)	
FY 15	20	20	0	0		
FY 16	26	26	0	0		
FY 17	33	30	3	0		
FY 18	26	25	1	0		
FY 19	23	22	1	1	Araku Valley Arabica Coffee - jointly with Andhra Pradesh (A)	NG: Chunar Balua Patthar (Appl. 557), UP NG: Marthandam Honey (Appl. 800), TN NG: Ambaji White Marble (Appl. 1114), GJ
FY 20	22	21	1	2	Kandhamal Haladi (A); Odisha Rasagola (F)	
FY 21	5	5	0	0		
FY 22	50	36	14	0		
FY 23	55	50	5			
FY24	160	157	3	9	Kendrapara Rasabali; Odish Khajuri Guda; Dhenkanal Magji; Similipal Kai Chutney of Odisha; Nayagarh Kanteimundi Brinjal; Dungari Kondh Embroidery Shawl (Kapadaganda); Koraput Kalajeera Rice; Painting of Lanjia Saura (IDITAL); Cuttack Rupa Tarakasi	
FY25*	23	22	1	0		
	658	621	37	27	Odisha (Agriculture: 03; Handicraft: 13; Manufactured: 01; Food Stuffs:01; Natural Goods: 0)	



Traditional Knowledge and Indigenous Knowledge

Traditional knowledge (TK) and Indigenous Knowledge (IK) are generally referred to knowledge systems embedded in the cultural traditions of regional, indigenous or local communities. As per WIPO and UN, both traditional knowledge and traditional cultural expressions (TCE) are types of indigenous knowledge.

Traditional knowledge includes types of knowledge about traditional technologies and processes of subsistence (e.g., tools and techniques for hunting, agriculture, traditional medicines, craft skills, climate conditions, and others). These kinds of knowledge, crucial for subsistence and survival, are generally based on accumulations of empirical observation and on interaction with the environment. In many cases, traditional knowledge has been passed for generations from person to person, through oral communication.

Some forms of traditional knowledge find in expression, culture, stories, legends, folklore, rituals, songs, laws, languages, dance, games, mythology, architecture and designs, falling under the category of Traditional Cultural Expressions (TCE).

Indigenous knowledge are the treasure troves of ancient wisdom and are developed through trial-and-error, experiences gained over the centuries, and are tested over the time. Most of the IKs were known to be scientifically effective and valid and some of them are substantiated by scientific evidences.

TK/TCE/IK typically distinguishes one community from another.

For simplicity, we will use the word 'Traditional Knowledge' to represent TK/IK/TCE for the rest of the slides.

Traditional Knowledge and Communities

In many scenarios, the Traditional Knowledge practiced by the community has a 'Belief' system around location based biodiversity and biophysical environment such as plant, animal species, landforms, and watercourses. Therefore one or more of the following way, Traditional Knowledge impacts/influences the community.

- It reflects communities' interest
- It is used for survival
- It carries personal/spiritual meanings

Additionally, the knowledge of these communities is often embedded in a cosmology, and any distinction between "intangible" knowledge and physical things can become blurred. As per communities 'Belief System', traditional knowledge in such cosmologies is inextricably bound to ancestors and ancestral lands. Knowledge may not be acquired by naturalistic trial and error, but through direct revelation through conversations with "the creator", spirits, or ancestors.

These communities often have custodianship over the knowledge rather than ownership and customary law may guide the usage and obligations of different kinds of knowledge at particular times and places. For example, a hunter might be permitted to kill an animal only to feed the community, and not to feed himself. Misappropriation and misuse of knowledge is considered as offensive to traditions, and may have spiritual and physical repercussions. These communities expects others to have respect and sensitivity while using their traditional knowledge.

Traditional Knowledge and Rights

The following is a consolidation of 'demands' or 'asks' by the communities owning or having the custodianship of Traditional Knowledge:

- Equitable use of the traditional knowledge - according to restrictions set by their traditions, or requiring benefit sharing for its use according to benefits they define.
- Greater protection and control over traditional knowledge and resources.
 - Publication and Distribution of traditional songs and stories after explicit consent
 - Protection against misappropriation and misuse of "intangible" knowledge and cultural heritage
 - Prevention of traditional symbols and designs getting used as mascots and in handicraft derivatives
 - Patent filing after explicit consent of the community.

Three broad approaches to protect traditional knowledge are:

1. Protect traditional knowledge as a form of cultural heritage
2. Protect traditional knowledge as a collective human right
3. Investigates the use of existing or novel 'sui generis' (in a class-by-itself) measures to protect traditional knowledge (Recommended by WTO and WIPO)

Traditional Knowledge and Rights – India Context (1 of 3)

- Traditional Knowledge (TK) is a valuable yet vulnerable asset to indigenous and local communities who depend on TK for their livelihood.
- The healthcare needs of more than 70% population and livelihood of millions of people in India is dependent on traditional medicine. Globally too there has been renewed attention and interest in the use of traditional medicine increasing its vulnerability to exploitation.
- The grant of a US patent for the ‘wound healing properties of turmeric’ flags the danger of complacency in not proactively guarding the traditional knowledge.
 - The time, effort and money spent on revocation of turmeric patent at USPTO highlighted the need for putting in place a proactive mechanism for TK protection.
- The problem related to Indian TK is further compounded by the fact that India’s traditional medicinal knowledge exists in languages such as Sanskrit, Hindi, Arabic, Urdu, Tamil, Odia, etc. and that too in ancient local dialects that are no more in practice. Thus, the published Indian TK literature is neither accessible nor understood by patent examiners at international patent offices.

Traditional Knowledge and Rights – India Context (2 of 3)

Traditional Knowledge Digital Library (TKDL) is a pioneering initiative of Government of India to protect Indian traditional medicinal knowledge and prevent its misappropriation at International Patent Offices. In 2001, the **TKDL** was setup as a repository of various systems of Indian medicine (such as Ayurveda, Unani and Siddha) and Yoga postures (Asanas).

- **TKDL** has overcome the language and format barrier by systematically and scientifically converting and structuring the available contents of the ancient texts on Indian Systems of Medicines and translating the same to five foreign languages (English, German, French, Spanish and Japanese) using Information Technology (IT) tool and an innovative classification system (called '**TKRC**' – Traditional Knowledge Resource Classification).
- As on date, more than **4.24 lakh** formulations/ practices have been transcribed into the TKDL database. TKRC has structured and classified the Indian Traditional Medicine System into several thousand subgroups for Ayurveda, Unani, Siddha and Yoga. TKRC enabled incorporation of about **200 sub-groups** under **A61K 36/00** in **International Patent Classification** instead of few sub-groups earlier available on medicinal plants under A61K 35/00, thus enhancing the quality of search and examination of Prior Art with respect to patent applications filed in the area of **Indian TK**.
- India has also non-disclosure agreements (NDAs) with fifteen patent offices (European Patent Office (EPO) and national patent offices of Canada, Chile, Denmark, France, Germany, India, Japan, Malaysia, Peru, Russia, Spain, UK, and US) to prevent the grant of a patent application by giving patent examiners at International Patent Offices access to the TKDL database for the purpose of prior-art search and examination only and the patent examiners cannot reveal the contents of TKDL to any third party unless it is necessary for the purpose of citation.

Traditional Knowledge and Rights – India Context (3 of 3)

Some of the key legislative measures to protect Traditional Knowledge in India are

- The Biological Diversity Act (2002)
- The Protection of Plant Varieties and Farmers' Rights Act (2001)
- The Geographical Indication of Goods (Registration and Protection) Act, 1999

TKDL is proving to be an effective deterrent against bio-piracy and has been recognized internationally as a unique effort.

TKDL has set a benchmark in TK protection around the world, particularly in TK-rich countries, by demonstrating the advantages of proactive action and the power of strong deterrence. The key here is to prevent the grant of wrong patents by ensuring access to TK related prior-art for patent examiners.

- So far TKDL team has identified nearly 1200 patent applications filed in other patent offices having prior-art evidence in TKDL library. More than 375 patent applications have either been set aside/ withdrawn/ amended, based on the prior art evidences present in the TKDL database without any cost and in few weeks/months of time, whereas APEDA had to spend about seven crores towards legal fee only for getting few claims of Basmati rice patent revoked.

In 2016, Shashi Tharoor, Member of Parliament from Thiruvananthapuram introduced a Private Bill (the Protection of Traditional Knowledge Bill, 2016) for the "**protection, preservation and promotion**" of traditional knowledge system in India. However, the bill was criticised for failing to address the real concerns associated with Traditional Knowledge and the Owner/Custodian Communities.

TKDL's Outcome against Bio-Piracy

Traditional knowledge is a vast treasure of knowledge susceptible to misappropriation because of its immense potential. Traditional knowledge, particularly, related to the treatment of various diseases has provided leads for development of biologically active molecules.

Bio-piracy of codified Indian traditional knowledge continues, since, this information exists in regional languages, and there exists a language barrier due to which the patent offices are unable to search this information as prior art, before granting patents. Formulations used for the treatment of human ailments from traditional knowledge are time-tested since they have been in practice for centuries. The reliability of the traditional medicine systems coupled with the absence of such information with patent offices, provides an easy opportunity for interlopers for getting patents on these therapeutic formulations derived from traditional medicine systems.

Patent Office	# of Cases
European Patent Office (EPO)	154
US Patent & Trademark Office (USPTO)	34
CGPDTM, India	134
Canadian IP Office (CIPO)	37
IP Australia (AIPO)	15
UK Patent & Trademark Office (UKPTO)	1
Total	375

Beginning July 2009, TKDL team has identified several patent applications at international patent offices like United States Patent and Trademark Office (USPTO), European Patent Office (EPO), Canadian Intellectual Property Office (CIPO), German Patent and Trade Mark Office (DPMA), United Kingdom Patent & Trademark Office (UKPTO), IP Australia and Controller General of Patents Designs and Trademarks (CGPDTM, India), with respect to Indian Systems of Medicine. In these cases, prior-art evidences from Traditional Knowledge Digital library have been filed at pre-grant stage under relevant provisions at these patent Offices. In a number of cases like those listed in the table, patent applications have either been withdrawn/cancelled/declared dead/terminated or have had claims amended by applicants or rejected by the Examiner(s) on the basis of TKDL submissions. (**Source:** TKDL Website)

Opportunity for Stakeholder

Long Range Strategy: To collaborate with TKDL/ CSIR

- Identifying a priority set of TK areas where International Communities are/will be engaged in IP creation
- Investigate the use of existing or novel 'sui generis' measures to protect traditional knowledge as GIs
- Investigate the opportunities of economic returns in the value chain
- File Patent in case of economic potentials (by identifying technical uniqueness in the specific TK)
- Build Patent Portfolios around Traditional Knowledge

Near Term Action Points: Establish 'Odisha Jan Jati Traditional Knowledge' (OJTK) Community with 2-3 representations of people from each Jan Jati with deeper knowledge about the community. Conduct workshops to discuss, deliberate and document

- What traditional knowledge (TK) need to be protected as a form of cultural heritage
- What traditional knowledge (TK) need to be protected as a collective human right
- How to detail the 'Equitable Use' of the traditional knowledge - according to restrictions set by the community
- Based on Workshop throughput, design and run projects with milestone driven commitments
 - Plan, Publish, and Report Out activities and deliverables towards promotion, protection and economic of 'identified set of traditional knowledge' under the scope of projects



Thank You.
Stay Curious.



Dr. Santosh Mohanty

Trustee, NPS Trust | Fellow, Institute of Directors | Director, VK-AICYAM | Ex-VP, Tata Consultancy Services