

The Importance of Distinctive Signs: An Introduction to Collective Marks, Certification Marks and Geographical Indications for SMEs

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IP and Marketing

- Trademarks
- Designs

- Collective marks
- Certification marks
- GIs

Individual marketing

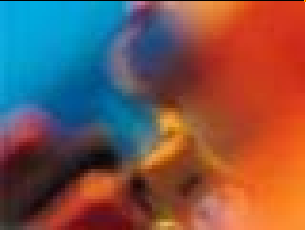
Joint marketing

What is a collective mark?

- Sign ‘capable of distinguishing the origin or any other **common characteristics**, including the quality’ of the goods/services of **different enterprises** which use the sign under the **control** of the registered owner
- Typically, the owner of collective mark is an **association** of which those producers are members
- Registered as such in trademarks registry

How does a collective mark work?

- **Regulation of use** (art 24 Slov Law)
 - persons authorized to use
 - criteria for membership
 - conditions of use
 - e.g. particular features/qualities of the products
 - sanctions against misuse
- **Authorization to use**
 - membership
 - application or automatic
 - comply with the rules
- **Control**



- **Thus, function of collective mark is to **INFORM** the customers :**
 - **About the origin of the products**
 - e.g. ceramic artisan, member of a specific association in Ljubljana
 - **About a level of quality or accuracy, geographical origin, or other features set by the association**

Benefits for SMEs

1. **Economies of scale** (registration cost, advertising campaign, enforcement, etc.)
2. **Reputation** acquired on the basis of common origin or other characteristics of the products made by different producers/traders
3. May facilitate **cooperation** amongst local producers/traders

4. Creation of collective mark hand in hand with development of certain standards and criteria (rules) and common strategy

→ collective marks can become powerful tool for **local development**

→ harmonization of products/services, enhancement of **quality**

☹ no licenses

Example: “Interflora”

- To buy, order and send flowers at almost anywhere in the world
- > 70.000 florists in 150 countries
- Emblem : Mercurio with flowers in hand
- Slogan: “Say it with flowers”
- Guarantees freshness, flower quality and value of every Interflora relay order



What is a certification mark?

- Sign indicating that the goods/services have been **certified** by an independent body in relation to one or more characteristics
 - composition, manner of manufacture, quality, origin, material, accuracy, etc.
- Owner is usually an **independent** enterprise, institution, governmental entity, etc. that is **competent** to certify the products concerned

How does a certification mark work?

- **Regulations of use**
 - quality, composition or other characteristics of the goods/services
 - control measures
 - sanctions
- **Authorization to use**
 - anyone who meets with the prescribed standards
 - **not confined to membership**
 - generally: licence agreement (fee)
 - owner not allowed to use
- **Control**

Benefits for SMEs

- Guarantee for consumers of certain quality
- Benefit from the confidence that consumers place in users of certification mark
- Strengthen reputation

- For example, certify that:
 - ❖ Product is handmade
 - ❖ Certain ecological requirements have been respected in the production procedure
 - ❖ No children were employed in the production process
 - ❖ Products have been produced in specific geographical region
 - ❖ Products are made 100% of recyclable materials
 - ❖ Products are made by indigenous group

Example: “**RUGMARK**”

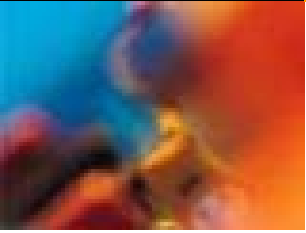
- Global non-profit organization working to end child labor and offer educational opportunities for children in India, Nepal and Pakistan
- RUGMARK label is assurance that no illegal child labor was employed in the manufacture of a carpet or rug



HELP CHANGE A SMALL PART OF THE WORLD.

“RUGMARK”

- To be certified by RUGMARK, carpet-manufacturers sign legally binding contract to:
 - Produce carpets without illegal child labor
 - Register all looms with the RUGMARK Foundation
 - Allow access to looms for unannounced inspections
- Carpet looms are monitored regularly by RUGMARK
- Each labeled carpet is individually numbered
 - enables origin to be traced back to the loom on which it was produced
 - also protects against counterfeit labels



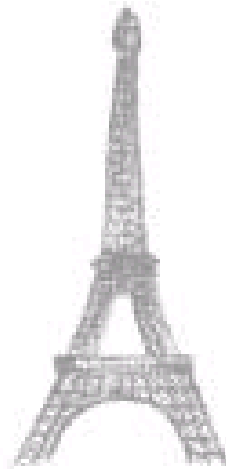
What is a GI?

- Sign used on goods that have a specific **geographical origin** and possess **qualities** or a **reputation** that are due to that place of origin
- Source identifiers
- Indicators of quality

- Most commonly, consists of the name of the place of origin of the goods
 - Country, region, city
 - E.g. Champagne (France), Nuoc Mam (Vietnam)
- In some countries : can also be figurative element
 - E.g. Eiffel tower, Egyptian pyramid
 - E.g. birds, animals associated with a place



**Matterhorn,
Switzerland**



**Eiffel Tower,
Paris**



**Tower Bridge,
London**

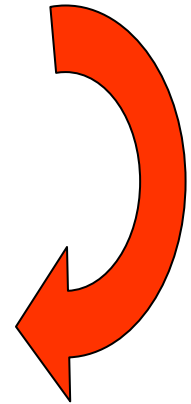
How does a GI work?

- **Authorization to use**

- Each enterprise located in the area has right to use
 - For products originating from that area → **LINK**
 - Possibly subject to certain **quality requirements**

- **Link between product and place**

- Place where product is produced (industrial products, crafts)
- Place where product is extracted (clay, salt)
- Place where product is elaborated (liquor, cheese)

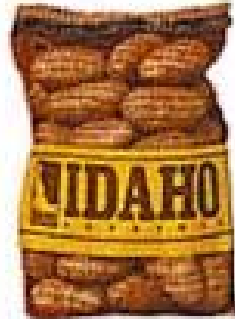


- Unauthorized persons may not use GIs if such use is likely to **mislead** the public as to the true origin of the product
 - for not originating from geographical place
 - for not complying with prescribed quality standards

- **Sanctions:**
 - Court injunctions preventing unauthorized use
 - Payment of damages
 - Fines
 - Imprisonment

Typical examples:

- **Agricultural products** that have **qualities** that derive from their place of production and are influenced by specific local factors, such as climate, type of soil, altitude, etc
 - E.g. wine, champagne, cognac, port, sherry, whiskey
 - E.g. cheese, yoghurt
 - E.g. olive oil, ham, potatoes, honey, rice



Typical examples:

- Also: **handicrafts** and **medium-tech goods**
 - E.g. ‘Hereke’ (Turkey) for carpets
 - E.g. ‘Limoges’ (France) for porcelain
 - E.g. ‘Swiss’ for watches
 - E.g. ‘Arita’ (Japan) for ceramics



Example: “*Talavera de Puebla*”

- Considered to be one of the finest ceramics in Mexico
- Handmade and painted by hand
- Historical linked with Arabic culture
- Typical are the geometric designs in blue color painted on a white background
- The design and colours of the artwork are created following traditional rules and know-how



How is a GI protected?

- **National**
- **Regional**
- **International**

Protection on national level

– **Specific title of protection**

- Registration with IP office (Russia)
- Decree (France)
- Special laws for the protection of GIs (India)

– **Certification marks or collective marks**

- Cert: e.g. in the U.S.A.: Darjeeling, Swiss, Stilton
- Coll: e.g. Japan; agricultural label in France

– **Passing-off, Unfair Competition, Consumer Protection laws**

- If reputation + misleading
- Pass off: e.g. Scotch whisky – Peter Scot in India
- Cons prot: e.g. ‘made in Japan’; Egyptian cotton

Protection on international level

- No legally binding international register for all GIs

- Bilateral agreements
 - e.g. EU-Bulgaria for wine names

- International treaties

– International treaties

- **TRIPS:**

- minimum standard of protection for WTO members
- if misleading or act of unfair competition
- enhanced level of protection for wines and spirits
- no protection if GI is generic term for the goods in the member state

- **Lisbon:**

- international registration system
- member countries must prohibit imitations, including terms like “type” or “kind”
- cannot become generic, as long as protected country of origin

Benefits for SMEs

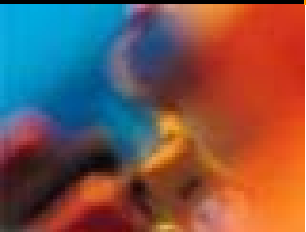
- **GIs shift the focus of production to quality**
 - increased production
 - local job creation
- **Reward producers with higher income in return for efforts to improve quality**
- **Provide consumers with high-quality products whose origin and mode of production is guaranteed**

Disadvantages

– Inconsistent protection

- Absence of GI system in many countries
- Civil law
 - Registration
 - Only similar goods
- Common law
 - Reputation enough (e.g. Champagne in India)
 - Also dissimilar products
- Additional protection for wines and spirits

– GIs may become generic terms (e.g. Chablis in America)



Thank You

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