

# Protecting through Geographical Indications: Experience of India's Traditional Textile Industry

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# Motivation

- Expiration of the MFA forced the T&A industry worldwide to restructure and restrategise
- Most export-led firms today focus on value-addition to boost/retain competitive edge through:
  - Brandbuilding and focused marketing
  - Development of specialty product lines
  - Use of exclusivity according tools as IP
- Traditional textiles/fabrics forms the bedrock of Indian T&A export story and prospects in medium term

**Does the industry use IPRs?**

# Significance of Trad Tex in modern India

- Analysis of Indian T&A export basket clearly shows the preponderance and use of traditional Indian textiles, fabrics and craftsmanship
  - More so, in the modern apparel and design sector, where the inspiration is mughal, kamasutra, monsoon, holi or paisely
- Hence, protecting the indigenous knowledge and ensuring that the commercial gains reach the stakeholders/communities is important
- Also, increasing further India's T&A exports' unit value realisation through the non-price edge that IPRs can accord cannot be ignored – use designs and innovation

# Geographical Indications (GI) Act

- India votary of stronger international protection through GIs for products other than wines and spirits
- Indian GI Act legislated in 1999, implemented in 2003
  - On 30 June 2008, 83 GIs registered
  - Of these 24 are in textiles, 29% of all GIs registered
- GIs are collective marks, and largely national rights (talks on for introducing a international registry for GIs – but only in wines and spirits for now)
  - Protected in accordance to national laws
  - Right holders can obtain relief in case of infringement

# Use of GI in India

- Relevant even in the most dynamic modern ready-to-wear apparel (regular as well as high-end fashion wear) segment
- Use of GI more relevant, since India's age-old textile expertise, craftsmanship and specialisation cannot lend itself to stronger IPRs like patents
- However Indian T&A firms increasingly using trademarks and copyrights

# Use of GI in India

(contd...)

- Small traditional weaving firms/weaver associations need handholding
  - Viz. government patronage and legal advise to finance and file the registration properly
- Despite government support, use of GI limited; also very rarely Industrial design protection registered to complement the GI
  - Right holders uncertain about commercial benefits of GI, a negative right; GI on its own not useful unless branding and marketing undertaken, which is costly and time consuming
  - Thus companies with limited financial resources prefer to focus on brand-building and niche small runs of specialty products

# Use of GI in India

(contd...)

- Concerns and challenges:
  - GI by itself is not an effective marketing tool
  - Operation of rights yet to begin for most Indian GIs
  - Need for strong policing and rigorous inspection for piracy prevention
  - Modern Indian Apparel industry an important user; but though beneficiaries, not keen to support the downstream fabric industry in gaining stronger IPRs



Thank You

**Protecting through Geographical Indications**  
***A Case Study of the Textile Industry in India***

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## Abstract

Removal of the quantitative restrictions on trade of textiles and apparel (T&A) following the expiration of the Multi-Fibre Agreement (MFA) in January 2005 has brought a sea change in the T&A industry worldwide, resulting in significant structural adjustments. Countries that aspire to maintain an export-led strategy in textiles and apparel are making efforts to complement their strength in manufacturing by developing expertise in brand building and focused marketing, in addition to the development of specialty product lines. It is in this new regime of growing creative content in a volatile and rapidly transforming global industry that the use and efficacy of exclusivity-according tools such as intellectual property rights (IP rights or IPRs) gains new relevance in the context of traditional sectors such as T&A.

Given that traditional fabric and textiles continue form the bedrock of the Indian T&A exports and its prospects, this paper will evaluate and analyse the role, limitations as well as opportunities of use of Geographical Indications (or GIs) in maintaining/boosting the global T&A trade. An analysis of the impact of GIs in not only protecting traditional textile knowledge but transferring commercial gains to the rights holders is important because (1) in many countries/communities protecting traditional sectors is critical for the economy's economic and cultural survival, and the latter is often channeled through the trade route, and (2) many communities have recourse to only GIs as a tool of IP protection for their indigenous knowledge and cultural uniqueness.

In this paper we analyse how well the traditional segment of the Indian textile industry lends itself to the use of the recently implemented GI Act, and focus on the use and efficacy of GIs in the Indian T&A industry. The paper argues that the efficacy of higher protection of GIs, given that GIs are essentially a national right, is critically dependent on the simultaneous and concerted use of other IP rights, in particular the Trademark and the Copyright laws, which assist rights holders in brand building and establishing credibility of firms/brands.

## 1. Introduction\*

Removal of the quantitative restrictions on trade of textiles and apparel (T&A) following the expiration of the Multi-Fibre Agreement (MFA) in January 2005 has brought a sea change in the global T&A industry, resulting in significant structural adjustments. While countries continue to focus on strengthening their core competence in order to protect market shares, recent studies have shown that countries that aspire to maintain an export-led strategy in textiles and apparel are making efforts to complement their strength in manufacturing by developing expertise in the higher value-added service segments of the supply chain such as design, sourcing, branding and retail distribution.<sup>1</sup> Thus, brand building and focused marketing, in addition to the development of specialty product lines, have gained significance in the current competitive environment.

It is in this new regime of growing creative content in a volatile and rapidly transforming global industry that the use and efficacy of exclusivity-according tools such as intellectual property rights (IP rights or IPRs) gains new relevance in the context of traditional industrial sectors such as T&A. The germane question is whether use of IPRs helps to ensure better market access and unit-price realisation for niche products and promotes value addition for the rights holders in T&A as experienced in other more technology-intensive sectors of an economy. This paper would look at the Indian traditional textile industry (as opposed to the modern segment of the Indian textile industry) and its experience under the implementation of India's sui generis legislation to protect its geographical indications, the Geographical Indications of Goods (Registrations & Protections) Act of 1999.

Given that traditional textiles continue form the bedrock of the Indian T&A export prospects, since even the niche segments of specialty apparel exports from India largely use and embellish the traditional textile fabrics, this paper will evaluate and analyse the role, limitations as well as opportunities of use of Geographical Indications (or GIs) in maintaining/boosting India's market share in the global T&A trade. An analysis of the impact of GIs in not only protecting traditional textile knowledge and expertise but also transferring commercial gains to the rights holders is important because (1) in many countries/communities protecting indigenous knowledge/techniques is critical to their

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\* The original research for this paper was undertaken under the World Intellectual Property Organisation's (WIPO) research project entitled "Economics of IP in India". This paper highlights a section developed in the context of the WIPO Project.

<sup>1</sup> OECD Observer (2004): pg 3.

economic and cultural survival, the latter often channeled through the trade route, and (2) many communities have recourse to only GIs as a tool of IP protection for their knowledge and cultural uniqueness.

Given that India has been a votary of stronger international protection through GIs even for products other than wines and spirits, and is a fierce practitioner domestically especially in the context of its traditional textiles, it is important to evaluate the net gains that the GI protection may have garnered for the traditional textile industry in India. The paper will analyse the efficacy of GIs as an IPR, given that GIs are essentially a national right, and in the absence of a multilateral system of notification and registration of geographical indications (global GI registry) has limited benefits to accord in cases of international disputes over such IP rights and their misappropriation.

### *1.1 Research Methodology and Plan of Paper*

Given the sparse existing research on the Economics of IP in the Indian T&A sector<sup>2</sup> and scarce availability of relevant data, this paper is based mainly on interviews with and surveys of experts, think-tanks, industry associations, firms (producer-suppliers) and export houses (buyers) in conjunction with available secondary literature on trends in the T&A market and government policies and reform proposals. The size and organisational structure of firms, and the supply chain and value-chain linkages are expected to have specific implications for the use and adaptability of IP strategies in India, and we find that this holds true even in the case of GIs. The interview frame and sample chosen reflects this specificity of the Indian textile industry.

The quantitative data used in this paper is restricted to until mid-2008, in order to eliminate any (potential) impact of the recent economic recession. In the section on the unique features of the Indian textile industry, especially for purposes of comparison with other suppliers in the region, we use the Buyer survey conducted by ICRIER (Tewari, 2008a). Given the largely exploratory nature of the survey and interviews conducted, this paper is more a qualitative analysis of the current state of use of GIs in the Indian T&A sector.

The rest of this paper is organised as follows. The next section traces the evolution of the T&A industry in the context of the phase-out of the multi-fibre agreement (henceforth MFA), in particular detailing the changes observed in India, which has

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<sup>2</sup> This is true for the other countries also. A literature survey indicates the existence of very limited studies on the use of IP in the textiles, clothing and apparel sector. Interesting references include Raustiala and Springman (2006) and Coles *et al* (2003).

experienced a unique trajectory to global integration of niche Indian fabrics and textiles. This section essentially summarises existing literature, drawing on the understanding of the unique characteristics and business structure of the industry in India. Section 3 is a brief overview of the GI legislation, particularly as it exists under the Indian law, outlining in particular its merits and limitations vis-à-vis the T&A industry. The understanding gained from these two sections are critical and help us in evaluating our main research query, namely whether and to what extent is GI as an IP relevant to the Indian T&A industry at its present stage of development. Section 4 outlines our findings from the study; it records in detail the Indian experience in use of GI rights in T&A, with case studies and interviews as the main empirical basis. The final section outlines some lessons and recommendations.

## **2. Evolution of the Textile and Apparel Industry in the post-MFA scenario\*\***

Traditionally, India has had a strong textile-industrial culture, and as the sixth largest exporter of T&A in the world, it continues to be one of the preferred countries for T&A sourcing. The industry is well developed and mature, considering that since the 18<sup>th</sup> century it has been the back-bone of the Indian economy, and of its external trade. In the post-MFA era, the Indian T&A industry has become even more deeply integrated in global markets, accounting for nearly US\$ 20 billion in exports and constituting 17 percent of India's total exports. Some industry analysts expect global sourcing from India to increase annually by 12 percent for the next several years.<sup>3</sup> However, other studies on the Indian textile sector's trade potential indicate that in the post-MFA environment, several additional non-price and institutional factors are likely to be critical for sustaining the competitiveness of T&A products from India, especially in the present troubled times, when competition is extremely fierce and companies are losing (export) market share to regional competitors.

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\*\* The analysis in this section has benefited greatly from the extensive discussions on and understanding derived from previous work undertaken at ICRIER (on behalf of ADB and the Indian Ministry of Textiles), in particular by Dr. Meenu Tewari, Associate Professor, University of North Carolina at Chapel Hill.

<sup>3</sup> CII-E&Y (2007): The expected sourcing market in 2008, which was in the range of US\$ 22-25 billion, was projected to go up to US\$ 35-37 billion by 2011 (pre-crisis projections), or by one and half times approximately. This timeline however is likely to be revised in the aftermath of the global financial sector crisis that impacted all sectors of the economy. The T&A sector however has been particularly hit by the marked slowdown in consumer demand in the developed countries. As per latest data, India's T&A exports to US declined 1.5 percent in January-August 2008, bucking the trend of 10-15 percent annual increase in exports in the earlier three-four years.

A growing focus on full package production and a steady shift in the upper tiers of the garment industry towards relatively complex and higher value activities has been evident in the Indian T&A sector since at least the late 1980s, and this trend has become entrenched in the past few years, after the expiration of the MFA. In the apparel and clothing sector this has resulted in a shift towards more design-intensive activities, and increased use of exclusivity according IP rights. A positive outcome of the above is that along with countries like Turkey, Morocco, Sri Lanka, and parts of Eastern Europe, India is emerging as a destination where global retailers look for not only low prices but also design and creative inputs in the apparel industry.<sup>4</sup> It is in the above context that this paper aims to evaluate the present (state of) use of IP as a strategic tool among the Indian T&A producers, especially in the traditional sub-sectors (fibre and textiles) of the industry. An important motivation of this paper is also to understand how a technology-sensitive tool like IP can benefit (or not) an essentially low-technology and traditional (but creativity- and design-intensive) sector like textiles in a developing countries like India.

### *2.1 Evolution of the T&A Industry in India - Shifting Focus to Designs*

The T&A industry plays a leading role in India's national economy. As a core industrial sector, a leading exporter and major employer, it is vital to India's economy and competitiveness. Textiles and apparel together contribute more than 4 percent to India's GDP, 26 percent to manufacturing output, 14 percent to industrial production, and over 17 percent to gross export earnings with very low import intensity.<sup>5</sup> In 2007-08, India's major textile groups reported the following growth figures: wool, silk and manmade fibre textiles grew at 4.2 percent, cotton textiles 4.1 percent and textile products (which includes garments), at a tepid 3.3 percent. While these compare poorly with the previous years figures, the T&A sector continues to be the backbone of the Indian economy. Employing an estimated 38 million people directly and an additional 53 million in allied activities, the sector dwarfs all other manufacturing sectors in job generation and accounts for over 18 percent of the nation's industrial employment.<sup>6</sup>

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<sup>4</sup> Tokatli (2008)

<sup>5</sup> National Manufacturing Competitiveness Council (NMCC) (2007); UN Comtrade database (2008)

<sup>6</sup> NMCC (2007); Ministry of Textiles (2007): Annual Report 2006-07, [www.texmin.nic.in](http://www.texmin.nic.in)

Of the total output of the sector, (an estimated US\$ 56 billion in 2007 according to the Ministry of Textiles), about 55 percent is exported<sup>7</sup> and the rest is consumed locally in the large and rapidly growing domestic market. The sector's exports have grown briskly since the mid-1980s, when the Indian government first introduced extensive export promotion measures for the sector. India's main export markets are the US and EU which together constitute about 84 percent of India's overseas sales in T&A. Cotton continues to dominate India's fibre and fabrics base, and thereby its exports;<sup>8</sup> India continues to be one of the largest consumers of cotton globally.<sup>9</sup> However, over time, the relative shares of textiles versus apparel in external trade has changed; while textiles used to historically dominate India's exports, apparel exports now comprise over half of the sector's export share. Further, along with the growth of exports, the domestic market has grown too. From the perspective of this paper, however, it is the rapid diversification and upgrading of both the export and domestic market towards ready to wear apparel, branded as well as high-end fashion wear, which represents the most relevant change in the sector.

A special feature of the sector is that India's present trends in T&A export were built on the competencies of textile and fabric that the country has nurtured over the years. This resulted in the following two unique features of Indian exports. One, India's competitive advantage in apparel exports remains strongly focused on a relatively narrow fibre base – viz cotton – which is now proving to be a net limitation; and second, that India's apparel exports were far less reliant on imports than was the case with many of its developing country competitors. The import of the above is that the uniqueness of Indian T&A industry continues to depend on the extensive and creative use of domestic specialty fibres and fabrics, which has made the country a more attractive destination for international buyers. As noted in Tewari (2008b), a sourcing officer of a major U.K. based retail chain in 2005 said that India's importance is "because of the local availability of [appropriate] fabric... since buyers are increasingly *not* interested in moving [large volumes of] fabric around the world, local capacities [of full

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[http://economictimes.indiatimes.com/News/Economy/Policy/Global\\_crisis\\_could\\_badly\\_hit\\_textile\\_industry/rssarticleshow/3674713.cms](http://economictimes.indiatimes.com/News/Economy/Policy/Global_crisis_could_badly_hit_textile_industry/rssarticleshow/3674713.cms)

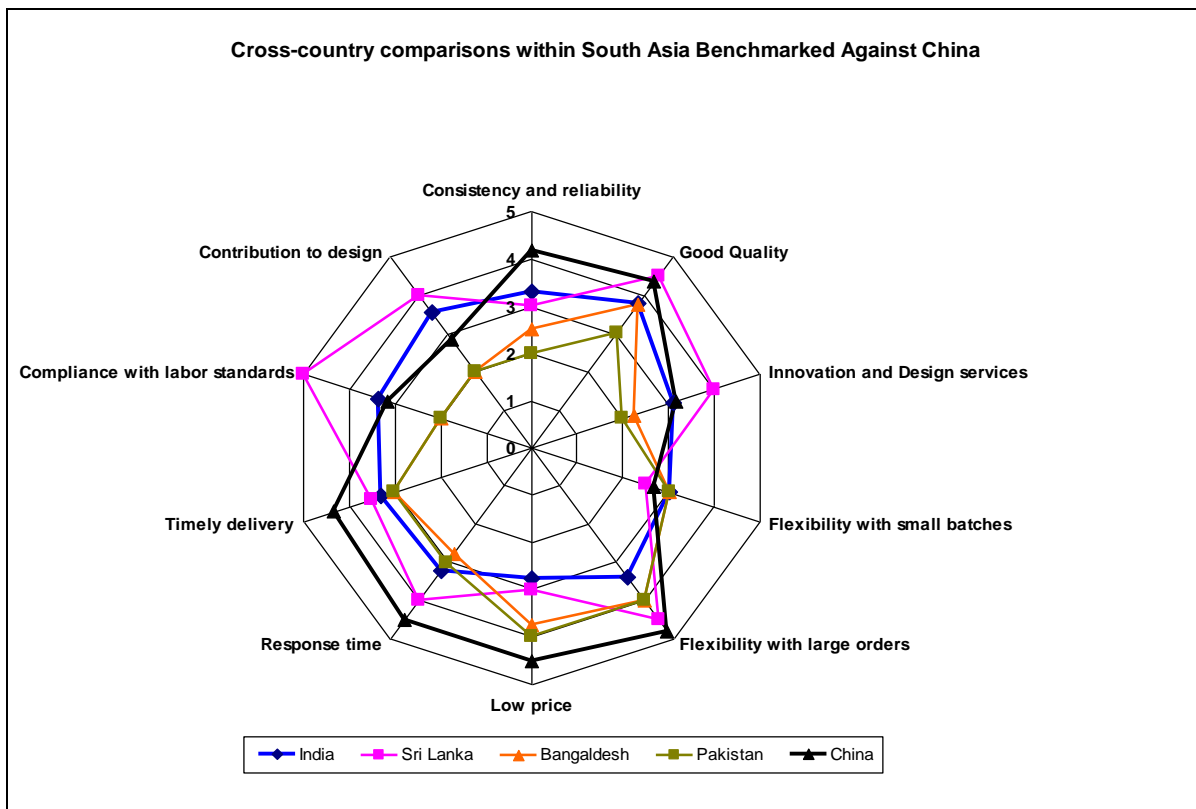
<sup>8</sup> The top 5 export items from India in 2004 and 2005 in both textiles and apparel are cotton based (from HS chapters 61, 62 and 63) and constitutes 44 percent of India's total exports to USA. The same set of products were also identified as those having dynamic comparative advantage by the global buyers' interviewed. Tewari (2008), pp 20-22.

<sup>9</sup> Borneman (2008)

package suppliers who offer a cluster of competencies including product development and design] are very attractive to us.”

Another important feature of the industry is that Indian exporters accessed foreign markets via small and medium (SME) sized buying agents and intermediaries, often as part of the wider diaspora rather than through giant retailers or bulk buyers. This has continued to remain both an advantage as well as a net limitation for the industry as a whole. The advantage being that this niche diaspora market is continuously growing and also attracting cultural curiosity among the non-diasporic fashionistas, thus ensuring a steady premium market for the weavers and employers in the sub-sector; the limitation being that since the global mass-wear does not find natural fabrics such as cotton and silk (similar to limited use of linen in the west) user friendly, the market for these products will necessarily have to remain niche. These features are illustrated in the buyer comparison illustrated in the figure below.

**Figure 1: Buyer Comparisons: India benchmarked against other Asian countries**



Source: Tewari et al, ICRIER Buyer Survey 2007

A comparative study of the trade of the South Asian countries indicate that apparel exports are the engine of growth for Bangladesh and Sri Lanka’s T&A sector, while

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textiles form an important part of the T&A export sector in Pakistan and India. Data indicates that India's unit values have been going up steadily in some of its top export items in the past decade relative to competitors.<sup>10</sup> But more importantly, and especially from the perspective of this paper, the increasing stature of India in "contribution to design" and "innovation and design services" is notable, India's strategy of focusing on small-runs of more intricate, design-intensive and embellished specialty items has pushed it towards higher value items even in the same product category. The country is naturally keen therefore to take actions in order to protect and sustain this uniqueness, which has been attempted among other things through provision of higher protection to the traditional textile and fabric sectors of the industry under the GI Act. This paper aims to evaluate the actual benefits such IP protection has garnered, which is important if one is to advocate an international extension of GI protection to products other than wines and spirits.

### **3. Use of Intellectual Property in the Indian Textile and Apparel sector**

Before embarking on an analysis of GI in the Indian T&A industry, let us first take a step back and discuss the extent of use of IP by the Indian T&A companies. As many have noted, the standard rationale for intellectual property protection worldwide is 'utilitarian' and aimed at discouraging free-riding.<sup>11</sup> From a trade perspective, by granting exclusivity, IPRs can help companies to create/protect niche markets, thereby helping to increase revenue, provide an edge over competitors and position better in target markets.

In the case of Indian T&A industry, IP rights, in particular patents, appear less relevant for a major section of the T&A sector by virtue of the latter's age-old commodification and widespread copying. However, new and innovative technical and organisational developments have revolutionised the industry's three sub-sectors of the textile chain: apparel, home textiles and technical textiles. But in India, since the technical textile and non-woven sector is still nascent, use of stronger IP rights like patents is limited as companies have only recently started to invest in research and development and fibre and fabric development. The IPRs most used by the Indian T&A firms are trademarks and copyrights.

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<sup>10</sup> Tewari (2008), pg 5.

<sup>11</sup> Raustiala and Sprigman (2006)

The reasons for this could be the commodity-nature of the major part of the T&A products in most economies, and especially in India, and the very low cost-to-return ratio of innovation and its protection in most segments of the T&A value chain which discourages a majority of players from actively enforcing their IP. And as noted above, the T&A sector in India seem particularly ambivalent about the efficacy of IP rights, which has resulted in its limited application even by companies that have focused on creative designs and innovation.

On the other hand, as we discuss here, increasingly there are instances in which companies have begun to take a more pro-active approach to IP, including in the traditional textile sector where some attempts have been made to obtain higher protection under geographical indications or industrial designs. In the rest of this section we discuss the salient features of GI protection in India. It needs to be noted that this discussion is *not* aimed at defining or legally analysing the IPRs discussed.

### ***3.1 Geographical Indications***

Geographical indications, as in trademarks, are in the category of distinctive signs, and are most often used in conjunction with products linked to a specific geographical area. Geographical indications are protected in accordance with national laws and under a wide range of concepts, such as laws against unfair competition, consumer protection laws, laws for the protection of certification or collective marks or special laws for the protection of geographical indications or appellations of origin.

In India, The Geographical Indication of Goods (Registration and Protection) Act of 1999, which entered into force in September 2003, accords protection to identify goods in a territory or a region/locality in the territory where a given quality, characteristic or reputation of the good is attributable to its geographical origin. In addition, the Trademarks Act of 1999 provides for registration of collective marks owned by association of persons.<sup>12</sup> Under the GI Act, the registered proprietor and authorised

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<sup>12</sup> Das (2007): Although GIs and trademarks perform somewhat similar functions of building reputation and goodwill, there are important differences between these two intellectual properties. While a trademark provides its owner the exclusive (or monopoly) right to the use of the mark in relation to the goods or services in respect of which the trademark is registered, GIs having been designed to identify goods (not services) originating from particular geographical locations are not limited to any particular enterprise; unlike trademarks, GI is a collective monopoly right. However, the use of a GI may be combined with a trademark, which identifies a specific producer within the demarcated geographical area. Also, the link with the geographical origin is not an essential condition for trademarks; delocalisation of production is possible. Finally, contrary to popular belief, trademarks do not always take precedence over GIs.

users have exclusive rights to use the GI and to obtain relief in case of infringement actions. All producers who make their products in the place designated by the geographical indication and whose products share certain characteristics may use it.

As on 30 June 2008, 83 GIs were registered with the Indian GI Registry, and another 13 are close to being registered.<sup>13</sup> Most GIs registered in India are in the Handicrafts items (31 out of the 83 registered so far), followed by Textiles with 24 items, the latter constituting 28.9 percent of the total number of GI's registered in India. But despite the surge in GI registrations in the country, (commercial) operationalisation of the GIs is yet to begin for most. Further, experience from the working of Darjeeling Tea GI indicates that rigorous inspection and policing is necessary for the gains to flow to the intended beneficiaries. Strong follow-up is needed if the GI registration is to be effective,<sup>14</sup> and that is a challenge the indigenous communities and developing country governments are fighting to meet. The other problem with GI enforcement emanates from the fact that this is still a national right and the international protection of GIs is a complex issue. Negotiations are still on at different multilateral fora for creating an international registry for GIs, but to begin with Members are only discussing the case for wines and spirits.

#### **4. Use of GI in the Textiles and Apparel sector in India**

We now turn to the empirical evaluation of our main research query, viz. to what extent and how effectively are GIs used in the Indian T&S sector, and whether use of this IPR help in protecting niches and market shares. Our empirical research on the importance of GIs seem to indicate that for the industry at this moment, focus on IP protection and its enforcement is secondary to marketing, quality control and bringing in newer product lines. In terms of IP, trademarks are being used for branding and marketing purposes but there are few attempts at obtaining economic value out of a portfolio of IPR or obtaining IP rights over the creative elements of the traditional products. As mentioned earlier, our findings on this particular theme are entirely interview-based qualitative information that provides insight into the perception and extent of usage of the different IP tools by the Indian stakeholders.

The discussions with our interviewees were geared to evince responses on:

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<sup>13</sup> Press Information Bureau (GOI) Release dated 30 August 2008 and related media reports.

<sup>14</sup> Dev S. Gangjee, GI expert and lecturer in Intellectual Property, London School of Economics.

1. Awareness of IP in their sector, and how important IP is for their particular businesses;
2. What IP rights are currently used in their company /sector;
3. In case IP is not a part of their business plans, whether they feel that acquiring these additional rights would benefit their company/sector;
4. Issues/concerns about piracy and their experiences on infringement and other compliance issues;
5. Future role of IP as an integral part of their company's business plans, and whether innovation is key for moving up the product value chain; what kinds of value-addition is expected from better exploitation of IP as a business tool.

#### ***4.1 Main Findings from Survey***

The findings from the interviews relating to use of GIs are presented in the narrative below. One of the first insights that can be distilled from our interviews is that the utilisation of IPRs, to the extent that it is occurring, is part of firms' attempts to explore newer means of improving their unit value realisation and establishing niche markets in response to the pressures of competition and ongoing industry consolidation. Of the firms we evaluated, while most players have registered trademarks, very few other than those with government patronage have registered GIs and almost none have registered industrial designs.

A significant majority of T&A stakeholders in India (almost 90 percent of interviewees) are aware of IPRs and the potential economic benefits to be gained from operationalising IPRs in their sector; what they are not so sure about is how effective (*vis-à-vis* economic viability) these measures are likely to be in terms of increasing sales and revenue. Our sense is that most T&A players in India, despite increasing focus on creative design, are still entrenched in the commodity-spectrum of the value-chain, which make IPRs peripheral to their organisational imperatives. In the apparel segment, the presence of good quality fabric manufacturing capabilities in the country, coupled with the growing shift toward increased design content has been critical to the development of higher value products and flexibility, but this has generally not resulted in a significant increase in the use of IP. The higher unit value is realised through use of specialty textiles, embellishment, embroidery and other creative handicraft, which makes GIs a more relevant IPR than others.

The apparel segment is also characterised by the ever-shortening product life-span, which makes protection of design unviable from the perspectives of both, cost and time. As a result, innovative T&A firms in India have focused exclusively on developing their brand, marketing and sustaining buyer-seller relationships. Even in cases of domestic retail-exporting apparel companies (specialising in contemporary adaptations of ethnic Indian wear) like *Fabindia* and *Anokhi*, the focus is on brand creation for the company as a supplier of “ethnic Indian, handloom woven, vegetable dye using and environment friendly” apparel, for which trademarks are perceived to be important, but not necessarily the other IP rights. The management of the companies mentioned above source from individual weaver/cooperative suppliers in accordance with the above criteria. The branding of the company is more important than the inherent IP of the merchandise on sale. But for the weavers/cooperatives, increased value realisation from the fabric/textiles which lend the niche status to the exported products are not easy to obtain, notwithstanding the existing GI registrations for many of these traditional textiles in India.

#### *4.1.1 The Case of Small Traditional Firms*

As discussed earlier, the extent to which each sub-segment of the textile industry actually benefits from the use and exploitation of IP depends on their specific organisational characteristics (e.g., firm size, the segment of operation and business model) and target markets. Larger textile supplier firms have better financial wherewithal to invest in acquiring and enforcing their IPRs, than do companies (big or small) in the fashion and textile design segments. On the other hand, smaller subsistence weavers in the traditional or even modern textile segments (handloom or powerloom) may be innovative even within their ethnic traditional knowledge based production system, but often need external support and professional assistance in reaching new markets, to identify and ‘brand’ their innovation/creativity and acquire the appropriate IP protection.

The case of Geographical Indications (GI) discussed in the preceding section illustrates this dilemma well. Our interviews revealed that knowledge about the use of GIs is not only widespread among artisans and firm owners, but is rather extensively used in the traditional textile segments in India. The cost of getting GI-based protection is not deemed a deterrent, since the government (both at the centre and at the state levels) is supportive in registering this collective right on behalf of textile weavers, as evidenced by the large number of GI registrations in the past year and half. But having had over 24 GIs registered in the Indian textile market, the stakeholders have realised that GI registration by itself is not sufficient for the economic gains to flow to them. As with

other IP rights, a GI is a negative right, insofar as it prevents others from unlawfully leveraging a regions' reputation for quality for economic gains.

But for a GI to be truly beneficial for the individual rights owners, brand building is necessary. This, in turn, requires firms to create, register, market and build on their individual trademarks. However, this process is resource and time intensive and often beyond the purview of small firms, most weavers associations, or the cooperatives they supply to. Stakeholders in the traditional textiles communities are therefore sceptical about the efficacy of GIs as a marketing and business tool. What may be needed is for the government to also support the development of brands for the individual GIs, including help with marketing and promotion activities. Furthermore, as observed in Section 3.1, follow-up on enforcement of the GIs and rigorous monitoring for infringement is needed; this also has a cost that is beyond the ability of the small and tiny traditional textile workers in the country. Government initiative and support in proper monitoring, implementation and benefit sharing among the GI communities, as is being done in the case of Darjeeling Tea, may be required, if GI protection is to be beneficial to the T&A firms concerned.

Given their limited understanding and sophistication, traditional and small players in the Indian T&A industry need external guidance and handholding to benefit from their own creativity/innovation and traditional knowledge. In fact, there are instances of positive spillovers from initiatives taken by state governments and NGOs that have helped traditional textile weavers to benefit from acquiring other IP rights, such as industrial design protection, for an identified unique textile weave, and distributing the proceeds of economic value unlocked thereby.<sup>15</sup>

India's rich tradition in specialty weaves was effectively combined by a group of weavers at Tanjore who created the "Tanjore Jamdani" sari. This was essentially a combination of the Jamdani technique (more popularly associated with centers in Bengal and Awadh) and the dye painting technique unique to Karuppur cloths in Tanjore. Additionally, the arrangement of motifs was completely unique and not known before, which accorded to the new design a "strikingly different appearance" necessary for design protection.<sup>16</sup> But other than benefiting the weavers, this initiative

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<sup>15</sup> <http://www.izhai.tn.gov.in/karuppur3.html>

<sup>16</sup> The weavers of the Tanjore area were once particularly well known for using the Jamdani technique in combination with dye-painting technique typical of the region. It is likely, however, that they also used the technique independently in other types of textiles. The black field of Tanjore Jamdani is brocaded with an extremely unusual pattern: a barely-perceptible lattice of serrated leaves and eight-pointed, star-

by the Tamil Nadu government (a state in Southern India) in getting the Tanjor Jamdani registered as a Design has created awareness of the economic potential of different IPRs, although given the organisational structure of the Indian handloom textile industry it is unlikely that stakeholders by themselves would be able to exploit the IP regime without the external support. In the absence of awareness, often such innovation goes unregistered and economic gains exploited by non-originators.

#### 4.1.2 *The Indian Apparel Segment*

The apparel segment has two basic streams, *prêt* and *couture*. In the former we find evidence of significant penetration by the Indian apparel industry, with its high design capability, ability to produce limited edition design print runs in short time, and use of embellishments to generate small batches of distinct design-intensive apparel. In this segment, India has developed its comparative advantage in the “cotton knit and woven women's tops, blouses and skirts, embellished and hand-embroidered, fine-yarn”, with 44 percent of the global market share.<sup>17</sup> The success in this case is contingent, among other factors, on the long standing availability of traditionally skilled craftsmen and women who have long specialised in the production of hand-crafted, embellished products, i.e. productivity in traditional crafts. But since these products of fast fashion have short life-spans and often lack the uniqueness necessary to get formal IP protection, the commercial value is retained and optimised through trade secrets.

The fashion design segment however tells a different story. Mostly seen on the Indian ramp are a mix of Indo-western wear and a vibrant fusion of new-age ethnic wear. From fabric to accessories, styling and line, inspiration is usually drawn from ethnic Indian tradition and styles; the fabrics used are also largely traditional Indian textile weaves and knits. Intricate detailing on the cuffs, lapels and pockets, and over-the-top Indian-wear in its vivid hues and flowing layers, shine and shimmer on western style woollen garments and pleated culottes incorporating more modern touches like the glossy transfer prints, give an impression of quirky cuts and unusual textures setting the collections apart, but have little that really make different collections stand apart from an international *couture* perspective.

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shaped flowers enclosing an indecipherable form, perhaps that of a profiled lotus leaf and appendage. The choice and arrangement of motifs is wholly idiosyncratic and is not known in any other traditional Indian textile.

<sup>17</sup> Tiwari *et al* (2007): Based on Interviews with 16 global buyers as a part of ICRIER Buyer Survey and calculated from PC-TAS UN Comtrade database.

India therefore continues to face a steep learning curve in terms of design and brand maturity. Despite the rise of a number of new designers and of brands, it is mostly an implementer of co-produced designs, a 'junior' partner of the global fashion fraternity, capitalising on the cost arbitration motivations of their partners. Furthermore, even the upcoming designers are "too ethnic", at least at the moment, including those in the non-trousseau segment. Most of the Indian fashion labels are made with India as the context, and used to merchandise "Indianness".<sup>18</sup> However, this seems a fair strategy to begin with (and does work for the diasporic and middle-eastern markets), helping the fledgling design industry cash-in on and benefit from picking the low-lying fruit.

"The inspiration is often Mughal, Kamasutra, Monsoon, Holi or Paisley. Or something more original, but hard-core Indian. While it's chic to go Indian, it unfortunately limits appreciation to just India. South of France certainly isn't blogging it. Sure Angelina Jolie and Serena Williams wore a saree, Britney Spears dallied with henna, and Madonna hid in Rajasthan. But that was it. A blip... The more Indian we keep it, the more we restrict our audiences to the Indian sensibility. And our clothes aren't exactly comfortable corporate wear. Global fashion is more than a new way to wear a sari, short kurtis with ostrich feathers and ecru bandgallas with Swaroski crystal. Even the most diehard global Indian (fan) will only wear these to fat Indian weddings or fatter Diwali parties."<sup>19</sup>

India has a long way to go when it comes to competing with the West in the *couture* segment. Things are changing and a lot of Indian talent is being recognised, but it is not growing at the rate it could. One reason for this is the focus on Indo-western apparel designs, which being eclectic has a niche but very small market globally.

To summarise the survey findings discussed in this section, it appears that improving unit value realisations in the absence of innovative products or registered designs, calls for concerted brand building and developing credibility of labels in addition to having a registered GI right. Copyrights and trademarks therefore would continue as the most exploited formal IP tools in the Indian T&A industry, in addition to the GIs in the short to medium term scenario.

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<sup>18</sup> Banhi Jha, NIFT, New Delhi, 2007

<sup>19</sup> Prathap Suthan, National Creative Director, Cheil Communications.

## 5. Conclusions

Our study findings demonstrate that in a traditional sector like T&A, even in a developing country like India, understanding and recognition of the benefits from IP protection is widespread and growing. However, the problem begins here. Stakeholders are unsure about the effective protection accorded by various IPRs, and cost-benefit analyses by SME units often push them to focus their limited financial might exclusively into building brands. Thus, trademarks remain the most exploited formal IP tool.

We also note that the Indian design and innovation today is focused largely on the creative use of embellishments and embroidery. Possibilities of niche markets exist primarily for national, ethnic and folklore design and traditional textile weaves, which could be better exploited by effective use of GI and designs, but in this case the financial weakness and lack of understanding and sophistication among the Indian stakeholders make them an unlikely candidate to push for aggressive IPR use and exploitation, unless external support is provided to help them bridge their knowledge- and capability-gap.

India has a lot to offer to the world in terms of its design capability in both the traditional and modern textiles and apparel, and IP should be used as a tool for carving out niches and optimising economic gains in this dynamic sector. Educating the diverse stakeholders in advance would help the industry prepare for the time in the near future when Indian designs become trend-setters for the world and would benefit from stronger IP protection.

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