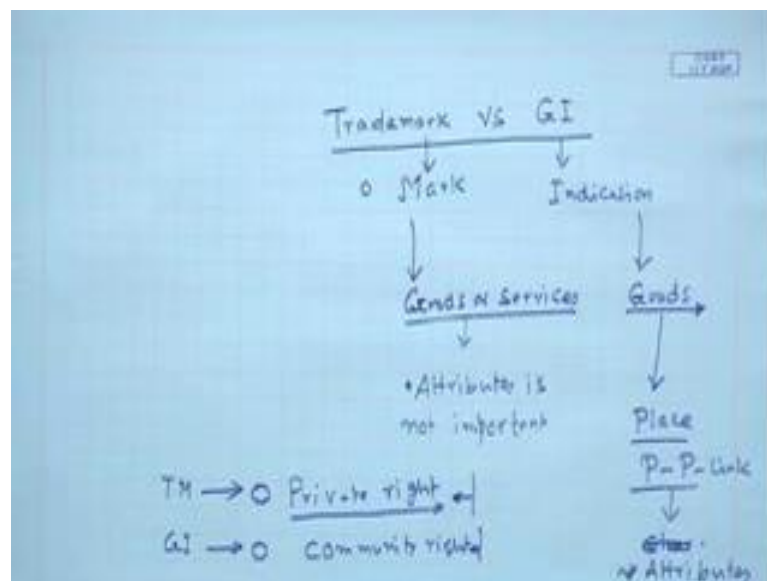


**Introduction on Intellectual Property to Engineers and Technologists**  
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**Lecture - 30**  
**Trademark Vs G.I Trademark Management**

So, now, next half an hour, we will discuss about interrelationship or intermingling or conflict, whatever you may be the right word with reference to the trademark and GI. And also I will discuss about little bit with reference to trademark management. Although, you will not get it in any books this will be impromptu. So, let say a trademark verses geographical indications.

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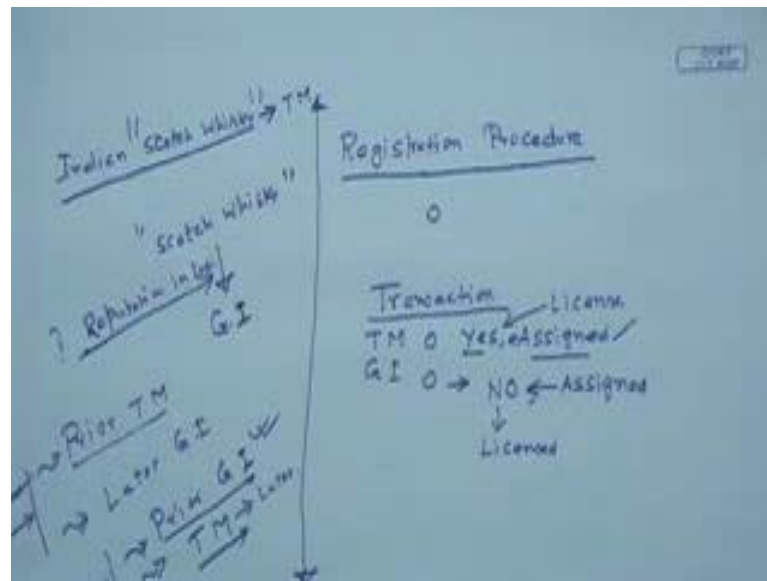
So, trademarks means trademarks, geographical indication. So, mark with reference to what? Goods or services, indication with reference to only goods again I will refer here. That India geographical indication is restricted to goods. In other countries also, but few country they also extended geographical indication with reference to the services. Sometimes it is referred in literatures that japan a particular geyser surfaces means a particular community of Japanese women. They have a skill to treat the guests and they

have created a geyser services. And they may go for they have gone for GI with that particular services, marks or good or services indication for goods. What difference? Indication of goods with reference to some characteristics or quality and by means of place, I again repeating product, place, link p, based on some characteristics. Correct?

Based on some attributes of those goods, goods and services here, attribute is not important. Initially, later on by virtue of used maybe people are aware of those goods also, but this is not a prime importance. Attribute is not a prime importance with respect to trademark, but this here the prime importance attributes characteristics quality or other attributes of the goods characteristics quality reputational other attributes of the goods. So, characteristics quality reputation of these goods important parameters, now both cases is reference to the goods, in these cases the goods having some characteristics quality reputation or other attributes with reference to the particular place. Now and GI act if you consider the, we can use a place name as indications for trademark 6 and 9 suggested. The place name say why inherently distinctive characteristics cannot be consider as a trademark, but by virtue of secondary meaning, by virtue of aqua distinctiveness it can qualify as a trademark. So, that way the required distinctiveness is the criteria or a place name to be a trademark. And here place name or geographical name or non-geographical name, both can be an indication with reference to the product.

So, this is the characteristic difference we are getting. Then further difference one is private right. What do you mean by private rights? Means it is reliance, but GI. So, reliance is the owner of the particular trademark reliance. Private rights, private company has rights to reference to the use of that reliance logo, reliance trademark. Or let say Google or Microsoft, let say Britannia. So, private rights and this is not private right or this is for TM trademark and this is for GI. This is let say community rights sometime we call community, community right what do you mean by that? Not an individual rights, but beyond individual the GI right or we can call them as a community right. So, this is the characteristic difference with reference to the GI and trademark. Now, subsequent the things, the difference we are this, will be a just like a recapitulation of the reference to trademark and GI, registration procedure.

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Registration procedure, there is a difference. Because they are here to provide a uniqueness of your product, then a map then that from that of inspection bodies, all sorts of things you have to provide, but geographical indication for registration of trademark you do not required to provide all those sorts of all those things. So, registration procedure, there is a difference. Then let say the transaction. What is the difference with reference to transaction of GI and with reference to transaction of trademark? Let us trademark TM and GI. If I ask now whether a trademark can be licensed? You will say use yes, in respect of India and other countries also, based on India based on permitted users concept, and it whether it can be assigned yes it can be assigned also. So, license assigned. So, just like say it is also yes. So, license yes assignment yes. So, GI right trademark right can be transferred using licensing as a tool or using assignment as a tool complete transfer or permitted use.

Now, come to geographical indication, also you are telling here p art A and p art B registrations. Now with reference to the ownership, let say what happens. It is whether licensed, no, this cannot be licensed. It cannot be also assigned, why? This is linked with reference to the particular product and place. So, and also major characteristics and characteristic or reputation is associated with that place. So, that by virtue of that is GI right is not transferable. GI right is not transferable. And except with reference to the

death of authorized user, his right transmitted to his legal heir or sons. So, that is the first difference again with reference to transaction or transfer of right with reference to GI and trademark. So, trademark rights can be transferable using licensing and assignment. GI right is not transferable except on the death of authorized user the rights with reference to that is transmitted to his legal heirs or son daughter, whatever you may consider using the law of inheritance, whatever you may law of inheritance may be applicable in that kind of situation.

So, the transfer then registration procedure, just a part A part B registration and the registration formalities also difference the in characteristics also difference. Now, let say what is intermingle you got it. And what is the conflict will come up. Conflict even also reflected in that it is agreement. And also that lead to the north south divisions and also that lead to that trade in some guidelines by in the international trademark associations. So, what the debate? Let us consider a situation or Indian Scotch Whiskey. A particular community a particular company they are trying to use let say trademark all Indian Scotch Whiskey. Now you know the Scotch Whiskey, see a Scotch Whiskey is a GI and this is they are using as a trademark.

Now, based on the right of our GI, whether they can prevent somebody to use same indication as or same indication or similar indication as trademark, definitely that, their issues are coming up they prior trademark, let say trademark, they are using prior and later they are the GI thing has come, up or vice versa let say prior GI, then subsequently peoples are trying to use that as a TM. Got that thing? So, this 2 lead to the debate or conflict with reference to the trademark and GI, what is that again referring let say Scotch Whiskey it is not using as a GI prior to Indian Scotch Whiskey, as a trademark. Whether later on they want to register and use Scotch Whiskey as a GI, then whether they will prevent Indian Scotch Whiskey to be used as it is trademark, that says whether prior trademark later GI this is the situation.

Or now situation reverse. Let say Scotch whisky is an important GI. They are not considering that as a trademark specifically, although the indication is also they are putting over their goods, but they are using that on the in the sense of GI. And later on Indian Scotch Whiskey try to register that Indian Scotch Whiskey as a trademark. So,

that is later trademark prior GI, later trademark later. So, based on GI right whether he can enforce his right with reference to somebody's trademark, that lead to conflict between the trademark and GI see, in this case Scotch Whiskey case if you find out they will able to enforce their right in respect of Indian Scotch Whiskey as a trademark. Why? Because Scotch Whiskey was prior GI, and they have also tried to ultimately enforce their right considering that Scotch Whiskey has some reputation in India.

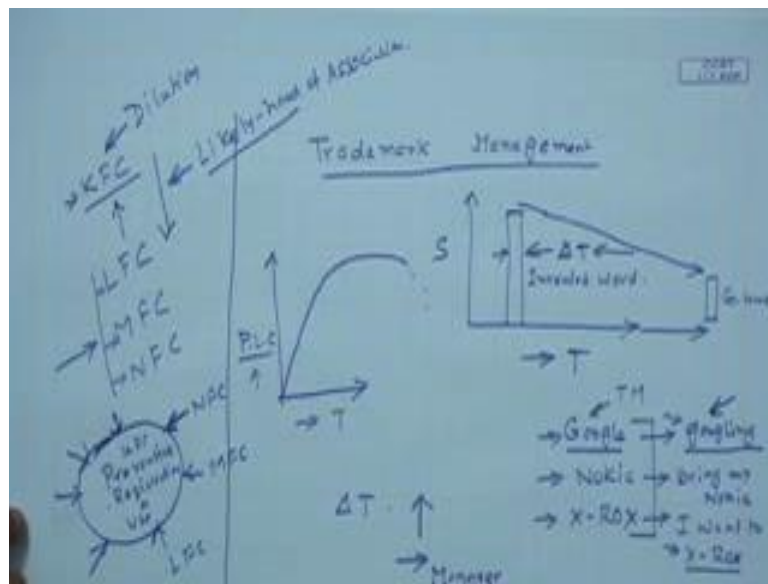
If case they do not able to establish a reputation in India, then it will be again difficult to enforce the rights over the Indian Scotch Whiskey in India. So, that based on the Scotch Whiskey as a global brand and important GI having reputation, even reputation in their territory although GI for other territory reputation in this territory they able to enforce their rights considering that their intention is to climb over the reputation of Scotch Whiskey, that particular or private organization has intention is to climb over the goodwill of Scotch Whiskey. So, that travels to enforce their rights and prevented the use of the word Indian Scotch Whiskey.

So, understood let say some trademark peoples are using and later on some GI with reference to the same thing has come up. Whether GI right holder can prevent the trademark owner to use that trademark or both will be used. If both will be used, then again the problem lies asymmetry of information. So, that way that legislators or statute has taken care of that part partly just now, then that partly part you know that there is a difference with reference to the GI and it is extension beyond a agriculture and food product and conflict within the trademark and GI just like a tips article 22, 23, 24, if you read will get an idea regarding this sorts of things. So, now, what I want to mention that act has taken care of the conflict between the trademark and GI because it has some sorts of similarities intermingle with reference to nature scope of protection.

So, act has suggested that trademark, suggestedly get trademark GI cannot be a trademark, but if GI right holders, GI owner with reference to product specific product, they want to use that in the form of a trademark there is no problem, because this is the one owner with reference to trademark and GI, there will be no per se asymmetry there will be no per se quality deterioration. So, there is no problem with reference to that, but if somebody else want to register that as a trademark it should not be allowed, but they

have not taken care of the prior concept. Let us take I told you trademark is also used beside how the prior user of a trademark the will be prevented with reference to the GI later use. So, that is the conflict with reference to the trademark and geographical indication. So, you have learned about a difference between the trademark and GI. Now I will devote next 15, 13, 10, 5 minutes with reference to the trademark management.

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So I told you that with reference to the strength of the trademark, we have generally given invented word higher strength in a day one, invented word then then coined world then arbitrary world like you know genetic word in the difference to the word based trademark. So, how to manage just like sometimes they refer let say strength and this time a time frame. So, you know the product cycle also like this somehow you refer that way the product life cycle time frame product life cycle. So, somehow the product valuation increases then, again a like this way, this is the product life cycle that from one product to another further input product will come up like this way, that generally sector will obtain product life cycle. So, considering that people suggested that, invented word also down the line try to become a genetic word.

Example let say Google, may be Nokia, and may be Xerox. So, why these are genetic? Instead of shows identification function, they are somehow try to used just like say I will

say that use as a bar just like peoples are telling that I am googling bring my Nokia. So, instead of product name or services name, the trademark now become the services attributes. Googling, Google is a trademark, but people are using google the word for search. Nokia, that Nokia is a mobile companys trademark, but now Nokia become the product name. That led to the genetic site or genetic nature genetic site of a trademark. Similarly, Xerox, you know that people nobody is telling that photocopy buy I want to do Xerox. I want to do Xerox. So, now, Xerox per se is the trademark, but in the dictionary also now reflected Xerox as a photocopy.

So, the photocopying part, but the photocopying things are now the product thing becomes the trademark. Trade mark now becomes the product name. Trademark now become the product name products. So, some cases I am using as a word for some cases, I am using as a let say Xerox instead of Xerox trademark I am telling that I am doing Xeroxing, bring my Nokia that lead to the genetic site.

So, the management or say economic suggested mostly in that life cycle part that, by virtue of use invented word may be also a genetic word by virtue of let say delta T time. So, delta T with reference to Xerox, if you understood how many years that delta T; I do not know we have to do a market survey related to that Xerox initially it was use as a trademark. Now Xerox now becomes a particular a product. Instead of that trademark, Nokia similarly Google a particular activities, now, how to say extend the delta T times. So, delta T times how can you increased. So, how can you prevent your trademark to be genetic site this is the job of managers whether you will go for some advertising strategies, some product strategies. Just like say google everyday how they are hanging their logo based on the based on the particular day things see that. So, this that strategy they have adopted. So, that they their logo, time to time, they are linking with reference to the specific days, days somebody's birthday women's day like this way they are linking their logos, they that strategy they have adopted.

So, delta T times how can you enlarged that is the job with reference to the trademark management one part. Second part sometime you have created invented word, let say kc a KFC; let us KFC, no problem KFC. Now that invented word, definitely I am considering that have enough strength. So, now, how can that invented word have a have

a strength which be diluted. Will be diluted let say instead of KFC somebody used now word LFC, MFC, or 1 or LFCK, MFC, NFC. Like this way some similarity with reference to LFC MFC. NFC and KFC were getting. So, what will be that? There will be a likelihood of association, because of similarity with reference to the mark KFC along with LFC MFC NFC. Because with reference to what are the similarity this well, are well, conceptual similarity lead to the likelihood of association between, the between or among those marks.

So, then that lead people will thought about that KFC and LFC. NFC has some association likely then or likelihood of some association and they will be confused. So, that confusion lead to the dilution, yesterday also I told you dilutions of the brand value of the trademark. Because the trademark valuations are also I told you that may be based on income based method. So, what how much market share if that particular brand has a considering that I am considering the valuation of that particular trademark. So, that again likelihood of association lead to the dilutions, now, what strategy will adopt? Not allow your trademark to be diluted. So, what will do that? You may go for preventive use or preventive registration, preventive registration or use or use.

So, you will, what will do, you will try to register or use trademark in putting KFC all permutation combination like LFC MFC. NFC along with your KFC mark, all those mark you are trying to using permutation combination of the all the word and try to registers by that, you are trying to create a fire wall type of protections. That fire wall type of protection because you are registering those as a defensive trademark. Defensive trademark, although you may consider this a see lead to the unfair combination, but somehow you have to put it your brand. Just like say we in India although we do not have a specific law to protect prevent dilutions, US, they have anti dilutions laws. Dilutions happen by barring and garnishment.

So, how can you prevent your mark to be diluted? So, you may go for a defensive registration or a defensive use of the trademark, using your trademark words permutations and combinations. Then by virtue of that you are creating fire wall types of situation and protecting your trademarks. So, that I want to mention the things here just like say defensive registrations as a strategy to protect or maintain your good will or



brand valuations. So, 2 part how can you prevent genetic site, how can you prevent dilutions of your trademark, there lies the role of trademark managers or trademark management. So, trademark management.

Then another part I, you have there is a part some time you call house mark product. Mark just like pharmaceutical sectors they use Ranbaxy is a house mark, then product mark. Now the issue is that house mark product mark they will used simultaneously in a goods or not, that house mark product mark ideology and say some product mark may be an important brand with reference to the particular trademark or house mark. So, that how can you create a house mark and product mark simultaneously or to create a unique identification of your product in the markets. So, this is also a part similarly trademark related to markets or mark trade and trade related to market.

So, advertisement and promotions of your trademark that is also an important parameter with reference to the trademark managements, I will later on discuss about the valuations modulus of the trademark that trademark valuations or brand valuation p art Although that will also one of the parameters in respect of trademark management, but I will down later on that part. So, in these modules we have discussed about trademark and internet. We have discussed about geographical indications. We have discussed about economics of the GI and also the relationship or conflict between the trademarks and GI, along with that GI management by means of supply chain integrity. And now we have we discussed about trademark management, how to prevent genetic sites, how to prevent dilutions product mark, house mark all those sorts of things. So, let us close here.