

# REGIONAL DEVELOPMENT AND IP

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# INDIA & IP LAWS

## INDIAN LEGAL FRAMEWORK ON INTELLECTUAL PROPERTY

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- Trade Marks Act & Rules
- Patents Act & Rules
- Designs Act & Rules
- Copyright Act & Rules
- Geographical Indication Act & Rules
- Protection of Plant Varieties & Farmers' Rights Act & Rules
- Semiconductor Integrated Circuits Layout-Design Act & Rules
- Biological Diversity Act & Rules

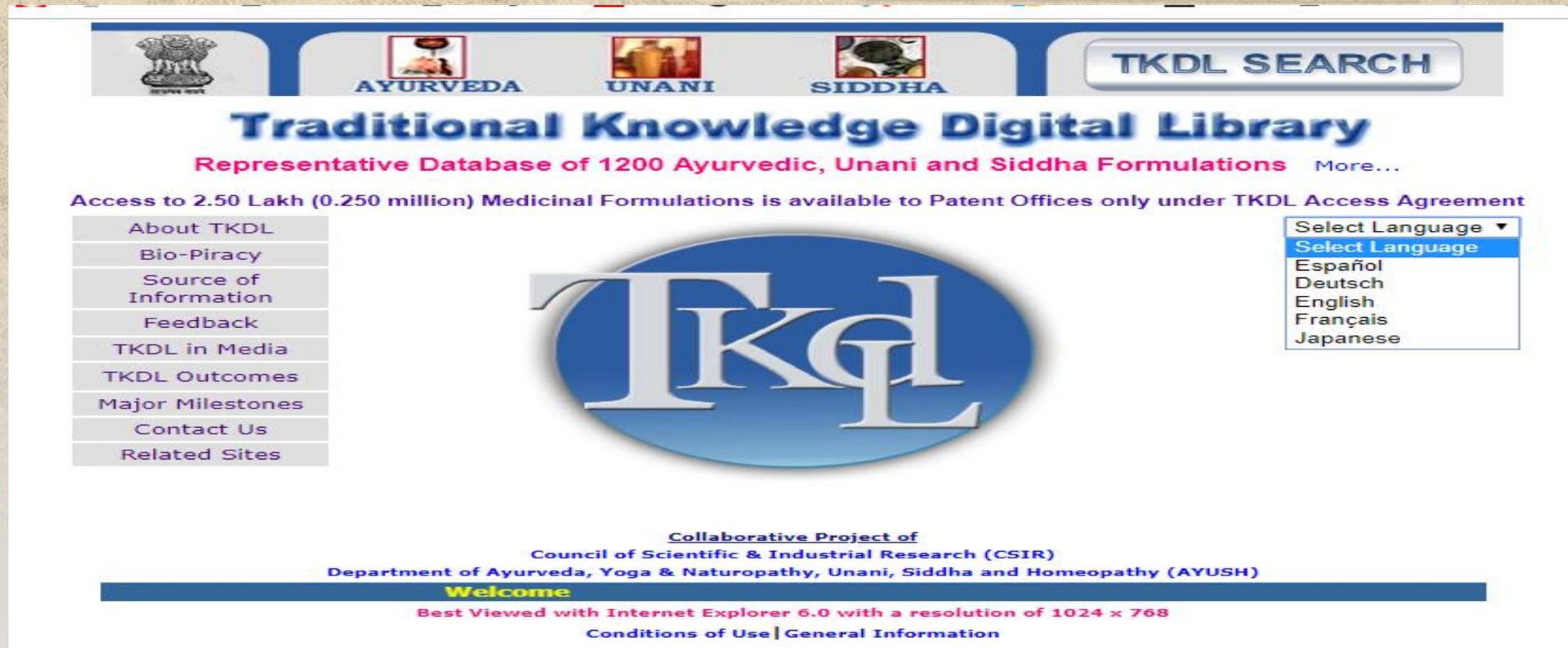
# INDIA & TRADITIONAL KNOWLEDGE (TK) – I

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- Traditional knowledge (**TK**) is knowledge, know-how, skills and practices that are developed, used and passed on from generation to generation within a community or region, as a part of its cultural or spiritual identity
- **TKDL of INDIA – TRADITIONAL KNOWLEDGE DIGITAL LIBRARY**
  - One of first and unique in the world
  - Biggest database collection of Indian Traditional Knowledge on Ayurveda, Yoga, medicine, food, culture
  - Established in year 2001
- TKDL is created to protect India's rich & historical traditional knowledge & information
- Foreign Patent offices are receiving claim of Patents based on India's traditional knowledge
- Languages: TK in India available in multiple ancient languages like Sanskrit, Urdu, Arabic, Persian
- Translation: TKDL is translated into English, Japanese, French, German & French
- TKDL's translation into foreign languages easy & direct weapon to protect TK of India in foreign Patent offices

# INDIA & TRADITIONAL KNOWLEDGE (TK) – 2

## TKDL of INDIA – Website with search



The screenshot shows the homepage of the Traditional Knowledge Digital Library (TKDL). At the top, there is a navigation bar with the Indian national emblem on the left, followed by icons and labels for 'AYURVEDA', 'UNANI', and 'SIDHA'. To the right of these is a 'TKDL SEARCH' button. Below the navigation bar, the main heading reads 'Traditional Knowledge Digital Library' in a large, bold, blue font. Underneath this, a subtitle states 'Representative Database of 1200 Ayurvedic, Unani and Siddha Formulations' with a 'More...' link. A line of text below the subtitle indicates that 'Access to 2.50 Lakh (0.250 million) Medicinal Formulations is available to Patent Offices only under TKDL Access Agreement'. On the left side, there is a vertical menu with buttons for 'About TKDL', 'Bio-Piracy', 'Source of Information', 'Feedback', 'TKDL in Media', 'TKDL Outcomes', 'Major Milestones', 'Contact Us', and 'Related Sites'. In the center, there is a large, stylized 'TKDL' logo in white letters on a blue oval background. On the right side, there is a language selection dropdown menu with the text 'Select Language' and a list of languages: 'Español', 'Deutsch', 'English', 'Français', and 'Japanese'. At the bottom of the page, there is a blue horizontal bar containing the text 'Welcome' in yellow. Below this bar, there is a line of text: 'Best Viewed with Internet Explorer 6.0 with a resolution of 1024 x 768'. At the very bottom, there are two links: 'Conditions of Use' and 'General Information'.

# INDIA & TRADITIONAL KNOWLEDGE (TK) – 3

## TKDL of INDIA

- TKDL is a database containing codified literature from Indian Systems of Medicine.
- Database of more than **297183** traditional medicine system of India gathered from 135 books of Ayurveda, Unani and Siddha and 15 books of Yoga and still updating.....
- Database of 30 million pages
- Classification as per International Patent Classification (IPC) for easy examination of Patents
- 27000 sub-groups of Ayurveda, Unani and Siddha and Yoga like IPC easy for identification in Patent Examination

## Access Agreement with Patent Offices (year-wise)

- **2009 – EPO, USPTO & Germany**
- **2010 – UK & Canada**
- **2011 – Japan & Australia**
- **2014 – Chile**
- **2015 – Malaysia**
- **2017- Russia & Peru**

# INDIA & TRADITIONAL KNOWLEDGE (TK) – 4

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## **Benefits of Traditional Knowledge Database**

- Ease of Patent Examination
- Erroneous or Frivolous claims in Patent can be rejected
- Protection of Traditional Knowledge
- Freely available to every person to use such knowledge and information

## **Effect of Traditional Knowledge Database**

- TKDL expert group information: Every year at least 2000 Patents are filed on basis of TK
- Patent based on the wound healing properties of turmeric is revoked in USPTO
- Patent based on the antifungal properties of neem is revoked in EPO
- More than 200 Patents are identified in EPO

# INDIA & TRADITIONAL KNOWLEDGE (TK) – 5

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- **Traditional Knowledge under Patent Act in India**
  - Sec. 3 (p) of Patents Act statutory prohibit and recognised that any invention based on TK is not an invention
  - Sec. 3 (p) of Act: **an invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components.**
  - Guidelines are issued to examine the patents filed before Indian Patent office and such Patents are separately examine with strict evidences
  - Separate publication of patents based upon TK before Indian Patent office
- **Bio Diversity Act 2002** and **Protection of Plant Varieties and Farmers' Rights Act 2001** are also in force to protect traditional knowledge and to restrict Bio-piracy
- Bio-piracy is a term used when a naturally occurring substance or traditional knowledge is used and patented by corporations or others

# INDIA & GEOGRAPHICAL INDICATION (GI) – I

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- Geographical Indication is one of facet of Traditional Knowledge which got the legal recognition.
- India one of largest countries in the world respectively in area and populations
- India has special law for Registration and Protection of Geographical Indication
- **Year 2003**, The **Geographical Indications** of Goods (Registration and Protection) **Act**, 1999 came into force
- In India, Government has established a separate authority and registry for GI registration
- More than **300** Geographical Indications are accepted & registered with GI Registry

# INDIA & GEOGRAPHICAL INDICATION (GI) – 2

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## Object of the Act

- By specific law governing the geographical indication of goods in the country which could adequately protect the interest of producers of such goods,
- To exclude unauthorized persons from misusing geographical indications and to protect consumers from deception and,
- To promote goods bearing Indian Geographical Indication in the export market.

## Definition of G.I. under India's Act:

- Sec. 2 (e): G.I. means
- an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

# INDIA & GEOGRAPHICAL INDICATION (GI) – 3

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- **G.I.** means

- an indication of goods
- which identifies such goods as agricultural goods, natural goods or manufactured goods
- which is from specific territory or area of a country
- which is having special characteristic because of its geographical origin
- such goods are manufactured or produced in such territory
- such goods should have special quality and reputation with that territory

# BENEFITS OF GEOGRAPHICAL INDICATION

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**Source identity  
for consumers**

**Legal protection  
to Genuine  
Products**

**Give economical  
benefits and  
prosperity to the  
people specific  
territory which  
makes GI famous**

**Increase sales  
and reputation of  
GI**

**Recognition to  
original  
producers or  
manufacturer**

**Prevent  
unauthorised use  
of GI tag or area  
name by others**

**Increase the  
export of product  
having genuine  
GI tag/produce  
rather than  
exporting the  
product with fake  
GI tag.**

# G.I. STATUS IN INDIA - I

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- **644** Geographical Indication applications are filed till Jan'2019 as IP office records
- **330** are registered as Geographical Indication
- Application of G.I. in India are consist of Agriculture produce, Handicraft, Textile and Food products
- GI office in India also granted registration to G.I. of foreign countries like USA, United Kingdom, France, Italy & Portugal
- Foreign G.I. includes Scotch whiskey, Champagne, Cognac, Napa Valley, Porto, Prosecco

# G.I. STATUS IN INDIA - 2

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Indian GI has granted registration as GI to some of world famous produced of India

- Basmati Rice
- Darjeeling Tea
- Alphonso Mango
- Mysore Silk
- Mysore Sandal Soap
- Pashmina wool
- Tirupati Laddu
- Banana of different states
- Wooden Furnitures
- Shantiniketan Leather Products
- Thanjavur Doll

# G.I. OF INDIA



\*Image is taken for reference & academic purpose only. Source: internet search

# RECENT G.I. DISPUTES OF INDIA



## Rasogulla Case

The Battle between West Bengal and Odisha for the Geographical Indication origin of Rasgulla was in dispute as both West Bengal and Odisha was claiming that it was originated in their state and hence Geographical Indication should be given to them. In year 2017 the court decided that the Geographical Indication should be given to West Bengal.



## The Tirupati Laddu

The Tirumala Tirupati Devasthanam trust submitted an application for registration of Tirupati Laddu as GI. It got registration in September 2009, but the registration were criticised as GIs are meant to benefit a community of local producers and act as an appellation or indicator of the geographical original of the product. This would mean that everyone from Tirupati should have the right to use GI on “**Tirupati Laddu**”, as long as their laddu geographically originates in Tirupati and has the same delicacy and features attributable to the laddu that is prepared by the temple trust.



## Basmati Rice

Madhya Pradesh lost its claim over GI “Basmati” before APEDA in 2018. MP was denied the use of word “Basmati” for their aromatic rice crops. However, farmers of M.P are allowed to grow it but not allowed to use the GI which was given to only Seven States in the Indo-Gangetic plains on the foothills of Himalayas: Punjab, Haryana, Himachal Pradesh, Delhi, Uttarakhand, Uttar Pradesh (west) and two districts of Jammu & Kashmir (Jammu and Kathua).

# Thank you JIPII and IP Collegium



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