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The use of TK-related databases at the EPO: A brief overview



Specialized TK-related databases available to the EPO examiners

- TKDL (Traditional Knowledge Digital Library)
- XPTK (Indian Journal of Traditional Knowledge, Medicinal and Aromatic Plants Abstracts database)
- TCM (Traditional Chinese Medicine)
- KJTK (Korean Traditional Knowledge)
- EVL (EPO Virtual Library) (Books, eBooks...)

TK coverage in standard commercial databases

TITLE	Abstract searchable in				Fulltext searchable 1)
	Biosis	CA	Embase	Medline	
Acta Pharmaceutica	Y	Y	Y	Y	N
Chemical and Pharmaceutical Bulletin *	Y	Y	Y	Y	From 2003 onwards
Chinese Journal of Integrated Traditional and Western Medicine *	N	N	N	Y	N
Economic Botany	Y		N	N	N
Fitoterapia	Y	N	Y	Y	N
Journal of Agricultural and Food Chemistry *	Y	Y	N	N	Y
Journal of Chinese Medicine	N	N	Y	N	Y
Journal of Ethnopharmacology	Y	Y	Y	Y	Y
Journal of Natural Products	Y	Y	Y	Y	Y
Journal of Nutrition	Y	Y	Y	Y	Y
Pharmaceutical Biology	Y	Y	Y	N	N
Phytochemistry	Y	Y	Y	Y	Y
Phytotherapy Research	N	Y	Y	Y	N
Planta Medica	Y	Y	Y	Y	N

1) at site of editor, from 2000 or earlier

Examples of other TK-databases the examiner may want to consult

<https://www.medicinescomplete.com/mc/herbals/current/>

<http://www.rain-tree.com/plants.htm#.VYa-OKNBtYc>

- The first one has detailed factsheets on most common plants used in therapy and provides a good starting point when looking for the known properties and uses of a specific plant.
- The second one is specialized in plants from the amazonian forest, most of these being absent from the Asian/Indian TK databases because they are endemic to South America

TK DBs available via EPO's internal search engine: Documents viewed

Databases	TCM	XPTK
Years		
2010	10305	6836
2011 <i>Viewed Docs :</i>	11850	19813
2012	12456	2788
2013	19177	8832
2014	27022	12751
2015 (5 months)	14225	3989

TK Databases help clear the hurdles by...

- providing prior art documentation as complete as possible (date of public availability!)
- enabling examiners to find the most relevant prior art and thus
 1. reducing the number of time-consuming and expensive oppositions and post-grant actions
 2. limiting as much as possible the number of wrongly granted patents (i.e. on inventions which are not new/not inventive in view of prior art not retrieved during the search)

...but can raise concerns

Not always welcome by TK holders: could facilitate misappropriation, rules of use not clear. Here a clear example:

“Some tribes already have individual databases. But indigenous groups are reluctant to make their databases available. The groups fear that secret traditions associated with plants or substances will be stolen.

A custodian of traditional knowledge for the Nicola Tribal Association in Merritt, British Columbia, adds that her tribe guards its secrets so closely that even she doesn't know the password to its database — only the tribal elders have it.”

There is therefore the need for a balance between

- appropriate ways of disclosing and allowing access to the information and
- prevention of any possible misappropriation.

What do EPO case law and procedure tell us?

- Lack of Disclosure of Origin / PIC and/or ABS as such are not a basis for the revocation before the EPO
- Prior use is often difficult to prove in a legally valid way: a document with a clear date of first public availability is much safer!
- **Any party** can file an opposition within 9 months from date of patent specification publication
- Can anything be done if a party believes it has evidence (**any kind of it, written, oral, from any part of the world**) showing that an **application** does not meet the patentability requirements of the European Patent Convention? Yes!



Third-party observations

Enter either the application number or the publication number of the patent / patent application concerned

Application number **Tooltip**

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evidence**



Novelty



**Inventive
step**



**Others
(e.g.
clarity)**

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You do not have to provide your personal details. However, if you do not provide them, it will not be possible for us to send you an invitation to correct formal deficiencies.

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Present and future steps

- Following as closely as possible all relevant international fora and events (e.g. WIPO IGC on TK/GR/TCE)
- Acquisition and Integration of more TK databases
- Support in the creation and sharing of databases on TK
- Extend public awareness on problems related to IP and TK (e.g. e-learning)
- Monitoring TK-related files for which third parties observations have been filed and creating a pool of experts (examiners and directors) that coordinate and provide support on TK-issues.

Thanks for your attention.

Any questions?

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