



Commercial and Non – Commercial Uses of Traditional Knowledge and Traditional Cultural Expressions.

Panama's Experience

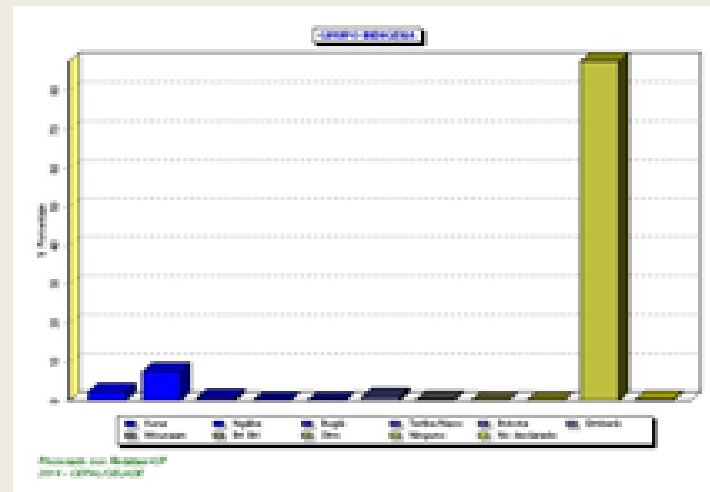
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Mission of Panama to WTO

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Indigenous Population of Panama

- Guna
- Ngobe
- Bugle
- Emberá
- Wounaan
- Teribe/Naso
- Bokota
- Bri Bri



Legal Framework



- **Law No. 20 of June 26, 2000**

Defines a special intellectual property regime on collective rights of indigenous peoples for the protection of their cultural identity and traditional knowledge

- **Decree No. 12 of March 20, 2001**
Regulates Law No. 20.

Overview

- **Scope**

Recognition of collective rights of musical instruments, music, dances, oral and written expressions contained in their traditions; traditional arts and techniques, etc.



Eligible Objects for protection

- 77 identified objects



Rights granted by Law 20

- Once granted, collective rights have no expiration. However, the legislation on collective trademarks applies
- The collective rights request may be filed without a lawyer
- No fees
- An opposition must be notified personally to the indigenous representative
- Rights granted before 2000 are respected.



Registered Collective Rights

Name	Date	Articles protected
Mola	11/22/2002	Dresses, hats, bags and any article using a mola design
Nahua	11/25/2003	Baby and dolls clothing, hats, shirts, hair accesories
Chacara or Kra	11/23/2003	Bags, book bags, cellphone holders
Chaquira or Krade	11/25/2003	Necklaces, earrings
Sobro	11/25/2003	Hats
Bakuro Neo	12/19/2005	Spoons, necklace, canes
Hosig Di, Zokoka	12/9/2005	Bags, necklaces, belts, bracelets and other
Tagua	12/9/2005	Any article using tagua
Gammugandi	3/09/2009	Musical instruments
Hamaca Kuna	3/09/2009	Hamacas

Commercial Use

- Commercial use agreements signed by the indigenous authorities, owners of the collective right and the user, are registered in the Ministry of Trade and Industries.



Coffee Products



Exceptions

- Use is permitted without license under the following circumstances:
 - A product by the non-indigenous artisans from an specific area of Panama (Tolé, Remedios, San Félix and San Lorenzo), but they will need to identify in each product the place of origin
 - A product by non-indigenous artisans from other areas of Panama when the highest authorities of the owners of the collective rights have approved it.
 - If the copyright, design or trademark was granted before june 2000.
 - If it is used for education purposes.



Misuse of Collective Rights Cases



- There have been 5 cases filed with the Special Prosecutor for Intellectual Property against different companies by the Gunas from Guna Yala, one group owners of the Mola collective right.
- All cases were settled in the investigation phase, with economic compensation and recognition of the origin of the art work.

Other projects

GaluDugbis Trademark

- With WIPO and the Government's assistance the trademark GaluDugbis has been developed to assure that the mola bearing the mark has been made by Guna craftswomen
- It is a strategic tool for the community, that adds market value to their most valuable product.



Lessons Learned

- Indigenous groups in Panama benefit from the value and recognition of their TK /TCE's
- Need for more active participation of the indigenous groups.
- Need to promote greater use of the law

Open Questions

- Not yet tested in court
- Rights of individual artisans or inventors
- Differentiation between TK and TCE in the law

THANKS!!!

