

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**



# **U.S. Experience with Information Systems and Due Diligence Mechanisms Relating to Genetic Resources and Associated Traditional Knowledge**

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# Overview

## I. U.S. experience with information systems

### 1. PCT minimum documentation

### 2. Relevant databases outside of PCT minimum documentation

- Related issue: Which databases are most relevant to searching inventions based on genetic resources (GRs) and associated traditional knowledge (TKA)

## II. U.S. experience with due diligence mechanisms in Yellowstone National Park

### 1. Background

### 2. Permits and access and benefit sharing (ABS) agreements

- Related challenge: Model IP provisions in ABS agreements

## III. Conclusion



# Information Systems

## USPTO's Experience with Information Systems Related to GRs and TKA



# Information Systems

PCT minimum documentation periodicals relevant to GRs and TKA include:

- **Planta Medica**
- **Medicinal and Aromatic Plants Abstracts**
- **Korean Journal of Traditional Knowledge**
- **Journal of Ethnopharmacology**



# Information Systems

USPTO Patent Examiners also search databases including:

- Northern Ontario Plant Database
- Traditional Medicines Database (South Africa)
- University of Melbourne Multilingual Multiscript Plant Name Database
- USDA Plants Database
- Dialogue
- Indian Traditional Knowledge Digital Library



# Information Systems

## USPTO TKDL Access in 2009



# Information Systems

Use of the TKDL resulted in:

- A reduction in “weak” or erroneously granted patents
- Claims to inventions that are more distinct from the prior art
- Source: Choudhury, Khanna, 2015. Ex-ante Information Provision and Innovation: Natural Experiment of Herbal Patent Prior Art Adoption at the USPTO and EPO. Working Paper 14-070.





# Information Systems

- **More work is required to determine which databases are relevant to all offices for searching inventions based on GRs and TKA**



# Due Diligence Mechanisms

## Yellowstone National Park Case study

(See WIPO/GRTKF/IC/4/13)



# Due Diligence Mechanisms

## Permits and ABS agreements

# Conclusions

- **Databases are useful tools to prevent the erroneous patenting of inventions based on GRs and TKA**
  - Further work is needed to identify the most relevant GRs/TKA databases for all WIPO Member patent offices

# Conclusions (continued)

- **Permits and contracts are useful tools for determining access to GR and TKA**
  - Further work is required to establish model IP clauses in ABS agreements

