



Introduction to Intellectual Property, Traditional Knowledge (TK) and Traditional Cultural Expressions

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Traditional Knowledge (TK)

- Includes know-how, practices, skills, and innovations
- resulting from intellectual activity
- in a traditional context
- passed from generation to generation
- that forms part of the traditional lifestyle of indigenous and local communities

Traditional Cultural Expressions (TCEs)

- Forms in which traditional culture is expressed
- Form part of the identity and heritage of an indigenous or local community
- Are passed down from generation to generation

Can the current IP system protect TK?

- Yes!
- No!
- Maybe!
- It depends!

Conventional intellectual property tools to protect TK and TCEs

- Patents?
- Trademarks?
Collective marks?
- Geographical indications?
- Trade secrets?



http://parquedelapapa.org/esp/02somos_01.html

TK and TCEs: What is the intellectual property issue?

- Innovations developed using TK can be protected using patents
- Creations inspired on TCEs can be protected using copyright
- But the ‘underlying’ TK or TCE is often unprotected, despite the fact that it is valuable and important
- **Should underlying TK or TCEs be “protected” in the intellectual property sense?
... and, if so, what does “protected” mean?**

What is Protection?

- Treating TK or TCEs as intellectual property: Holders have a say over **access and use** of TK or TCEs by third parties
- Using intellectual property principles and values to prevent unauthorized or inappropriate uses of TK and TCEs by third parties (misuse and misappropriation): Building a fence
- *Sui generis* protection: Intellectual property adapted to respond to the particular features of TK and TCEs

Protect? How?

- Legal measures?
- Practical measures?

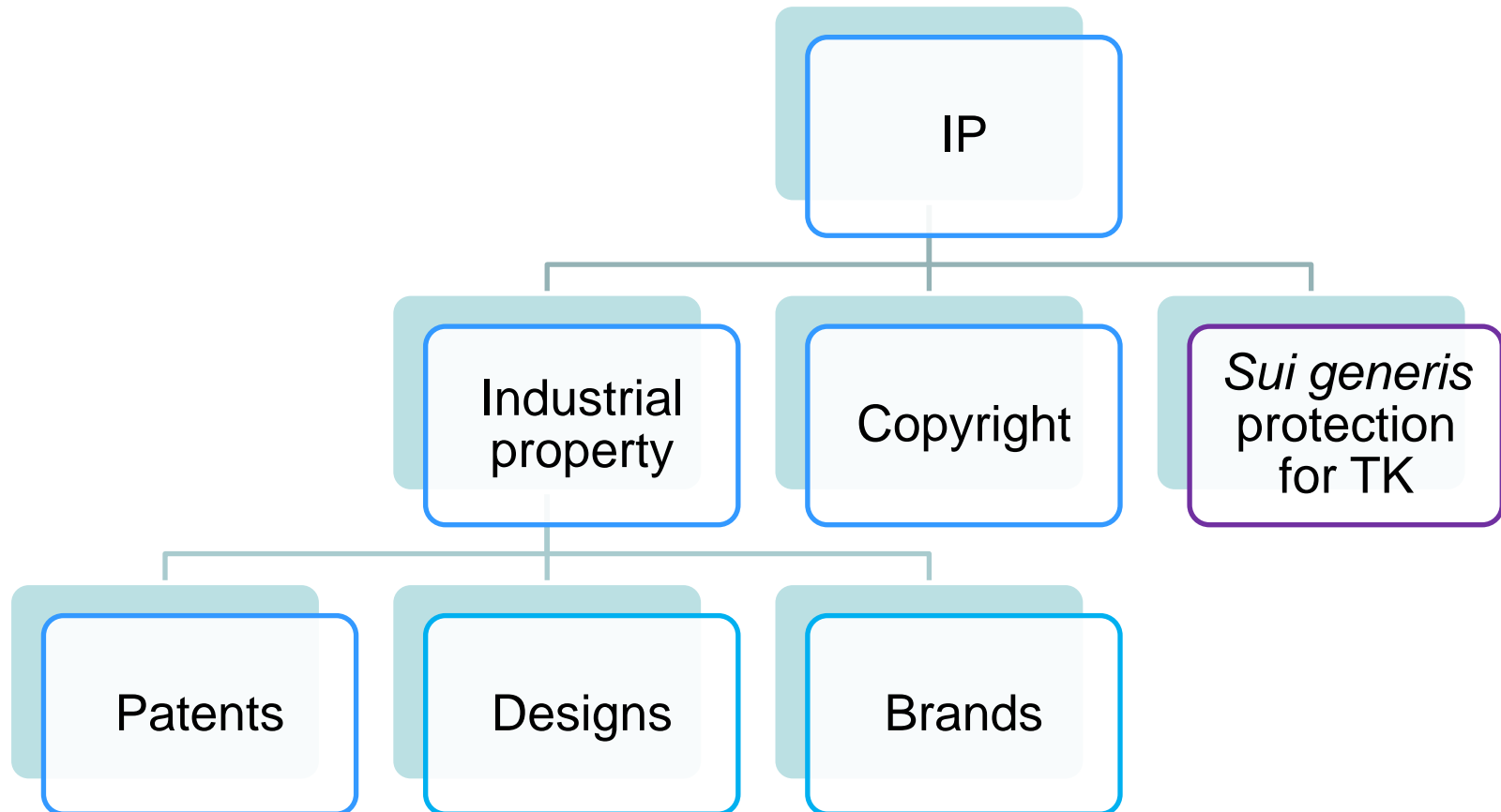
- At a national level?
- At a regional level?
- At an international level?

Positive protection: Peru - Law No. 27811 of 24 July 2002

Protection regime for the collective knowledge of indigenous peoples derived from biological resources

- Collective knowledge connected with biological resources
- Prior informed consent
- License contracts for the use of collective knowledge
- Benefit-sharing / Fund for the Development of Indigenous Peoples
- Public register / Confidential register / Local registers
- Role of the State
- References to customary laws
- Different rules for collective knowledge in the public domain

The intellectual property family tree in Peru



Traditional Knowledge & Traditional Cultural Expressions Laws

Find laws, treaties and regulations on the protection of traditional knowledge (TK) and traditional cultural expressions (TCEs).

Subject Matter

**** Any ****
Traditional Knowledge
Traditional Cultural Expressions
Genetic Resources

Issue(s)

**** Any ****
Subject Matter of Protection
Beneficiaries or Rightholders
Scope of Protection
Exceptions and Limitations

Country / Organization *

**** Any ****
Afghanistan
Albania
Algeria
Andean Community
Angola
Antigua and Barbuda
ARIPO
Armenia
Azerbaijan

Search

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Related links

[Legal texts relevant to genetic resources](#)

[Treaties on TK and TCEs](#)

[IP laws & treaties \(WIPO Lex\)](#)

<http://www.wipo.int/tk/en/databases/tklaws/>

Defensive protection: National Commission against Biopiracy of Peru

- Task: Developing actions to identify, prevent and avoid acts of biopiracy with the aim of protecting the interests of the Peruvian State.
- Main functions:
 - provide protection against acts of biopiracy;
 - identify and follow up patent applications made or patents granted abroad that relate to Peruvian biological resources or collective knowledge of the indigenous peoples of Peru;
 - make technical evaluations of the above-mentioned applications and patent grants;
 - issue reports on the cases studied;
 - lodge objections or institute actions for annulment concerning the above-mentioned patent applications or patent grants;



Plant	PATENT OR PATENT APPLICATION	IP OFFICE	STATUS
Maca	A preparation for fertility treatment (WO2008012628)	EPO	Rejected
Yacón	“Method for recovering and ameliorating diabetes” (2011-079806)	Japan	Abandoned
Maca	“Agent for preventing on treating osteoporosis” (2010-235533)	Japan	Abandoned
Maca	Compositions and methods for their preparation from <i>Lepidium</i> (WO 0051548)	EPO	Rejected
Maca	Functional Food Product Containing Maca (Publicación N° 2004-000171)	Japan	Rejected
Maca	Ameliorant for sleep disturbance (JP2007031371)	Japan	Rejected
Maca	The manufacturing method and composition of a maca extract (Kr20070073663)		Rejected
Maca	Testosterona increasing composition (jp2005306754)	Japan	Rejected
Sacha inchi	An extract of a plant belonging to the genus <i>Plukenetia volubilis</i> and its cosmetic use. (WO/2006/048158)	PCT	Withdrawn
Sacha inchi	Utilisation d’huile et de protéines extraites de graines de <i>Plukenetia volubilis</i> linneo dans des préparations cosmétiques, dermatologiques et nutraceutiques. (FR 2880278)	France	Rejected
Camu camu	Preserves of fruit of <i>Myrciaria dubia</i> (Publicación N° 09 – 215475)	Japan	Abandoned
Pasuchaca	Inhibidor de α -glycosidase (P2005-200389A)	Japan	Abandoned

- Should underlying TK be “protected” in the intellectual property sense?
- At the national level: Is there a need to establish legal measures or use practical mechanisms to protect TK?
- What is needed at an international level?

Access all resources at:

www.wipo.int/tk/en

Email: grtkf@wipo.int

The screenshot shows the WIPO Traditional Knowledge (TK) portal homepage. At the top, there is a navigation menu with links for IP Services, Policy, Cooperation, Reference, About IP, and Inside WIPO. A search bar is located on the right. The main heading is "Traditional Knowledge". Below this, there is a section titled "On this page" with links to Traditional knowledge, Traditional cultural expressions, Genetic resources, Technical assistance & capacity building, Resources, and News. The main content area starts with a definition of traditional knowledge: "The term 'traditional knowledge' is used here as shorthand for the entire field of traditional knowledge (TK), genetic resources (GRs) and traditional cultural expressions (TCEs)." It then mentions ongoing negotiations in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. There are links for "Frequently asked questions" and "Glossary of key terms", and a button for "Access the Indigenous Portal". A featured article titled "Intergovernmental Committee (IGC)" is shown with a photo of a meeting. Below this is a "News" section with a link to "Roundup: Practical IP & TK toolbox for Indigenous Peoples (16-18, 2014)". The main content is organized into three columns: "Traditional knowledge" (described as a living body of knowledge passed down), "Traditional cultural expressions" (forms of traditional culture passed down), and "Genetic resources" (genetic material of plant, animal, or other origin). Below these are sections for "Technical assistance and capacity building" (including Training and Practical guides) and "Resources" (including Databases, Publications and documents, and Traditional knowledge updates). A large orange arrow points to the "Traditional knowledge updates" section, which includes a "Subscribe" button.