The Legal Protection Of Traditional Knowledge In The Pharmaceutical Field An Intercultural Problem On The International

Legal Protection for Traditional Knowledge-Anindya Bhukta 2020-06-18
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Intellectual Property Rights and the Protection of Traditional Knowledge-Dewani, Nisha Dhann 2019-12-27
Traditional knowledge is largely oral collective of knowledge, beliefs, and practices of indigenous people on sustainable use and management of resources. The survival of this knowledge is at risk due to various difficulties faced by the holders of this knowledge, the threat to the cultural survival of many communities, and the international lack of respect and appreciation of traditional knowledge. However, the greatest threat is that of appropriation by commercial entities in derogation of the rights of the original holders. Though this practice is morally questionable, in the absence of specific legal provisions, it cannot be regarded as a crime. Intellectual Property Rights and the Protection of Traditional Knowledge is a collection of innovative research on methods for protecting indigenous knowledge including studies on intellectual property rights and sovereignty rights. It also analyzes the contrasting interests of developing and developed countries in the protection of traditional knowledge as an asset. While highlighting topics including biopiracy, dispute resolution, and patent law, this book is ideally designed for legal experts, students, industry professionals, and practitioners seeking current research on the development and enforcement of intellectual property rights in relation to traditional knowledge.

“‘The’ Legal Protection of Traditional Knowledge in the Pharmaceutical Field”-Tobias Kiene 2009

The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore-World Intellectual Property Organization 2016-04-01
This Brief provides background information on the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions/Expressions of Folklore-World Intellectual Property Organization 2004
This publication is part of a series of background papers prepared by the World Intellectual Property Organization (WIPO) dealing with intellectual property issues in relation to genetic resources, traditional knowledge and traditional cultural expressions/folklore. It is intended to provide a comprehensive analysis of the policy issues that arise in the debate over improved intellectual property protection of TCEs/folklore, as an information resource for policy makers, negotiators, legislators, indigenous and traditional communities, users of traditional cultural expressions/folklore, researchers and others interested in exploring these issues in detail.

Protecting Traditional Knowledge-Daniel F. Robinson 2017-07-14
This is the first comprehensive review of the Intergovernmental Committee (IGC) of the World Intellectual Property Organization (WIPO) established in 2000. It provides an in-depth consideration of the key thematic areas within WIPO discussions – genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs) through the perspectives of a broad range of experts and stakeholders, including indigenous peoples and local communities. It also looks at how these areas have been treated in a number of forums and settings (including national systems and experiences, and also in trade agreements) and the interface with WIPO discussions. Furthermore, the book analyses the process and the negotiation dynamics since the IGC received a mandate from WIPO members, in 2009, to undertake formal text-based negotiations towards legal instruments for the protection of GR, TK and TCEs. While there has been some progress in these negotiations, important disagreements persist. If these are to be resolved, the adoption of these legal instruments would be a significant development towards resolving key gaps in the modern intellectual property system. In this regard, the book considers the future of the IGC and suggests options which could contribute towards achieving a consensus outcome.

Intellectual Property and Traditional Cultural Expressions in a Digital Environment-Christoph Beat Graber 2008-01-01
This book is a very significant contribution to the question of protecting traditional cultural expressions. . . It is filled with fascinating ideas and perspectives that challenge the reader to rethink the law once again. Jamil Ammar, European Intellectual Property Review Legal protection for traditional cultural expressions is an area of contemporary policy making characterized by widespread concern and considerable controversy. Intellectual property scholars have a dire need for informed perspectives on the history of this subject area and the lucid commentary on its social and political implications that the authors of these cogent interdisciplinary essays provide. This impressive volume promises to be quickly acknowledged as an indispensable guide to the issues in this field. Rosemary J. Coombe, York University, Canada The first wave of scholarship on cultural appropriation was often better at denunciation than at grappling with the complexities of cultural heritage and its protection. Intellectual Property and Traditional Cultural Expressions in a Digital Environment launches a second wave, nuanced, interdisciplinary, looking past accusation toward flexible solutions. For all that, it is no less committed to social justice. By bringing together leading-edge scholarship from law, the arts, communications, anthropology, history, and philosophy, the editors have taken research on heritage protection to the next level of sophistication. Michael F. Brown, Williams College, US and author of Who Owns Native Culture? In the face of increasing globalisation, and a collision between global communication systems and local traditions, this book offers innovative trans-disciplinary analyses of the value of traditional cultural expressions (TCE) and suggests appropriate protection mechanisms for them. It combines approaches from history, philosophy, anthropology, sociology and law, and charts previously untravelled paths for developing new policy tools and legal designs that go beyond conventional copyright models. Its authors extend their reflections to a consideration of the specific features of the digital environment, which, despite enhancing the risks of misappropriation of traditional knowledge.
Luo Li 2014-04-22 The work reviews issues concerning the protection of Intellectual Property Protection of Traditional Cultural Expressions. It will also be valuable reading for those working on broader governance and human rights issues.

The Oxford Handbook of the New Private Law—Andrew S. Gold 2020-11-06 “This book discusses developments in scholarship dedicated to reinvigorating the study of the broad domain of private law. This field, which embraces the traditional common law subjects-property, contracts, and torts—as well as adjacent, more statutory areas, such as intellectual property and commercial law, also includes important subjects that have been neglected in the United States but are beginning to make a comeback. The book particularly focuses on the New Private Law, an approach that aims to bring a new outlook to the study of private law by moving beyond reductively instrumentalist policy evaluation and narrow, rule-by-rule, doctrine-by-doctrine analysis, so as to consider and capture how private law’s various features fit and work together, as well as the normative underpinnings of these larger structures. This movement is resuscitating the notion of private law itself in United States and has brought an interdisciplinary perspective to the more traditional, doctrinal approach prevalent in Commonwealth countries. The book embraces a broad range of perspectives to private law—including philosophical, economic, historical, and psychological—yet it offers a unifying theme of seriousness about the structure and content of private law.”

Biodiversity, Biotechnology and the Legal Protection of Traditional Knowledge—2005

Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions/expressions of Folklore—2002

The Protection of Biodiversity and Traditional Knowledge in International Law of Intellectual Property—Jonathan Currè 2010 Analyses the methods of protection of biodiversity and related traditional knowledge in the international and comparative national intellectual property systems.

Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries and Archives—World Intellectual Property Organization 2010 This publication, prepared under the aegis of the WIPO Creative Heritage Project by two external consultants—Ms. Molly Torsen and Dr. Jane Anderson, offers legal information and compiles practical experiences on the management of intellectual property for cultural institutions whose collections comprise traditional cultural expressions. It seeks to respond directly to the needs of cultural institutions and indigenous and traditional communities dealing with the preservation, safeguarding and protection of cultural heritage.

The Protection of Non-Traditional Trademarks—Irene Calboli 2019-01-11 This volume offers a detailed analysis of the issues related to the protection of non-traditional marks. In recent years, the domain of trademark law and the scope of trademark protection has grown exponentially. Today, a wide variety of non-traditional marks, including colour, sound, smell, and shape marks, can be registered in many jurisdictions. However, this expansion of trademark protection has led to heated discussions and controversies about the impact of the protection of non-traditional marks on freedom of competition and, more generally, on socially valuable use of these or similar signs in unrelated non-commercial contexts. These tensions have also led to increasing litigation in this area across several jurisdictions. This book provides an overview of the debate and state of the law surrounding non-traditional marks at the international, regional, and national level. In particular, this book addresses relevant international treaties administered by the World Intellectual Property Organization (WIPO) and the Madrid Agreement, as well as a number of regional and national legislations and leading judicial decisions in order to examine current law and practice culminating in critical reflections and suggestions on the topic. This is an open access title available under the terms of a CC BY-NC-ND 3.0 licence. It is free to read at Oxford Scholarship Online and offered as a free PDF download from OUP and selected open access locations.

Intellectual Property Protection of Traditional Cultural Expressions—Luo Li 2014-04-22 The work reviews issues concerning the protection of folklore through the intellectual property legal system, then explores two main issues in the protection of Chinese folklore. The first issue is the influence of Chinese traditional culture on the Chinese intellectual property legal system and Chinese society. The second concern the deficiencies of the Chinese intellectual property system with regard to folklore. Both issues are examined through a survey on the weak public recognition of intellectual property law and folklore in Chinese society. The book also reveals the practical issues that have arisen in Southwest China through case studies. After analyzing these issues, the work designs a model law specifically for folklore and also provides suggestions for how the current intellectual property legal system could establish a comprehensive legal protection system for folklore. Furthermore, the work shows that its proposed model law is effective in practice by resolving the issues in the case studies presented.

The Protection of Traditional Cultural Expressions in Africa—Enyinna Nwache 2017-05-26 This book evaluates the protection of traditional cultural expressions in Africa using South Africa, Kenya, Nigeria and Ghana as case study examples in the light of regional and international approaches in this respect. Such protection is considered in the context of a combination of positive protection models such as the protection offered by intellectual property rights and negative protection such as tangible heritage protection and authorisations by national competent authorities. These models are in turn assessed taking into consideration human and peoples’ rights frameworks, which recognise and affirm group entitlement to, among others, traditional cultural expressions. These frameworks ensure that such traditional cultural expressions are available for further innovation and creativity.

The Legal Protection of Traditional Knowledge in the Pharmaceutical Field—Tobias Kiene 2011

New Directions in Copyright Law: Protection of traditional knowledge and culture. The legal protection of traditional cultural expressions: is copyright the answer?—Fiona Macmillan 2005

Patents and Technological Progress in a Globalized World—Wolrad Finz zu Waldebeck and Pyrmont 2008-11-20 In the last two decades, accelerating technological progress, increasing globalization and the proliferation of international agreements have created new challenges for intellectual property law. In this collection of articles in honor of Professor Joseph Straus, more than 60 scholars and practitioners from the Americas, Asia and Europe provide legal, economic and policy perspectives on these challenges, with a particular focus on the challenges facing the modern patent system, which recognises and affirms group entitlement to, among others, traditional cultural expressions. These frameworks ensure that such traditional cultural expressions are available for further innovation and creativity.

Indigenous Intellectual Property—Matthew Rimmer 2015-12-18 Taking an interdisciplinary approach unmatched by any other book on this topic, this thoughtful Handbook considers the international struggle to provide for proper and just protection of Indigenous intellectual property (IP). In light of the United Nations Declaration on the Rights of Indigenous Peoples 2007, expert contributors assess the legal and policy controversies over Indigenous knowledge in the fields of international law, copyright law, trademark law, patent law, trade secrets law, and cultural heritage. The overarching discussion examines national developments in Indigenous IP in the United States, Canada, South Africa, the European Union, Australia, New Zealand, and Indonesia. The Handbook provides a comprehensive overview of the historical origins of conflict over Indigenous knowledge, and examines new challenges to Indigenous IP from emerging developments in information technology, biotechnology, and climate change. Practitioners and scholars in the field of IP will learn a great deal from this Handbook about the issues and challenges that surround just protection of a variety of forms of IP for Indigenous communities.

Customary Law and Traditional Knowledge—World Intellectual Property Organization 2016-04-01 This Brief explores the issues concerning customary law, traditional knowledge and intellectual property.

Tunis Model Law on Copyright for Developing Countries—Unesco. Secretariat 1976 This commentary has been drafted by the Secretariat of Unesco and the International Bureau of WIPO.
Protection of Traditional Cultural Expressions in Latin America—Anna Frederike Busch 2015-05-19 This book analyzes the topic of protecting cultural traditional expressions (CTEs) in Latin America. It questions classic legal approaches and involves the interface of anthropology and law. The study analyses regional, national and local particularities of law on paper and in law in reality. It includes personal fieldwork research in selected countries and puts light on the political, socio-economic and environmental dimension of the topic. Based upon these insights, the study gives recommendations for a more enhanced, interdisciplinary understanding and protection of CTEs. Latin America is (still) rich of cultural traditions and bi-and sociodiversity. This region is the cradle of the international discussion on protecting CTEs. The national situations are diverse and allow conclusive comparisons. Some countries have established or continued as an inadequate framework to address the fundamental object of protection for the communities themselves - the management of traditional use, as well as the biological and cultural sustainability of this use. The work sets out an international framework based on the concept of ‘community resources’, recognizing the unique claims embodied in traditional knowledge, incorporating customary law, and facilitating community management of resources. International in perspective and scope, the book will be a valuable resource for academics and researchers in law, international relations and cultural studies.

The Protection of Traditional Knowledge on Genetic Resources—Frantzeska Papadopoulou 2018-04-27 Traditional knowledge protection methods are becoming increasingly out-dated in the face of modern challenges. Focusing on the protection of traditional knowledge and related genetic resources, this book is the first of its kind to amalgamate a novel theoretical framework with the practical applications of the combined theories of Rawls and Coase.

Community Resources—Johanna Gibson 2005 Protection of traditional knowledge and resources is of critical concern not only to the groups involved but also to the international trading community for which these resources are of increasing economic importance. This work examines the concept of ‘community’, intellectual property models and additional sources for protection at international law (including environmental and human rights frameworks). Intellectual property law is critiqued as an inadequate framework to address the fundamental object of protection for the communities themselves - the management of traditional use, as well as the biological and cultural sustainability of this use. The work sets out an international framework based on the concept of ‘community resources’, recognizing the unique claims embodied in traditional knowledge, incorporating customary law, and facilitating community management of resources. International in perspective and scope, the book will be a valuable resource for academics and researchers in law, international relations and cultural studies.

Traditional Knowledge, Genetic Resources, Customary Law and Intellectual Property—Paul Kuruk 2020-03-28 The book examines the national, regional and international frameworks of protection of traditional knowledge in all regions of the world. It also discusses options to enhance the existing legal regimes including the use of customary laws and protocols, the adoption of mutual recognition agreements premised on the principle of reciprocity, and the disclosure of source or country of origin of other traditional knowledge in intellectual property applications.

UNESCO-WIPO World Forum on the Protection of Folklore, Phuket April 8 to 10, 1997—World Intellectual Property Organization 1996 The present volume contains the texts of the speeches and papers presented at the World Forum as well as of the “Plan of Action”. The Forum was organized by UNESCO and WIPO in cooperation with Ministry of Commerce, Thailand.

Documenting Traditional Knowledge - A Toolkit—World Intellectual Property Organization 2017-12-08 There is growing interest in documenting the wealth of traditional knowledge (TK) that has been developed by indigenous peoples and local communities around the world. But documenting TK can raise important issues, especially as regards intellectual property. This Toolkit presents a range of easy-to-use checklists and other resources to help ensure that anyone considering a documentation project can address those issues effectively.

Adat and Indigeneity in Indonesia—Hauser-Schäublin, Brigitta 2013-11-11 A number of UN conventions and declarations (on the Rights of Indigenous Peoples, the Protection and Promotion of the Diversity of Cultural Expressions and the World Heritage Conventions) can be understood as instruments of international governance to promote democracy and social justice worldwide. In Indonesia (as in many other countries), these international agreements have encouraged the self-assertion of communities that had been oppressed and deprived of their land, especially during the New Order regime (1966-1998). More than 2,000 communities in Indonesia who define themselves as masyarakat adat or "indigenous peoples" had already joined the Indigenous Peoples’ Alliance of the Archipelago (AMAN) by 2013. In their efforts to gain recognition and self-determination, these communities are supported by international donors and international as well as national NGOs by means of development programmes. In the definition of masyarakat adat, “culture or adat plays an important role in the communities’ self-definition. Based on particular characteristics of their adat, the asset of their culture, they try to distinguish themselves from others in order to substantiate their claims for the restitution of their traditional rights and property (namely land and other natural resources) from the state. The authors of this volume investigate how differently structured communities - socially, politically and religiously - and associations reposition themselves vis-à-vis others, especially the state, not only by drawing on adat for achieving particular goals, but also dignity and a better future.

Intellectual Property and Traditional Knowledge—World Intellectual Property Organization 2005 “Indigenous and local communities cherish traditional knowledge (TK) as a part of their cultural identities. The work of the WIPO Intergovernmental committee on intellectual property and genetic resources, traditional knowledge and folklore (“IOPC”) ranges from the international dimension of TK and cooperation with other international agencies, to capacity building and the pooling of practical experience in this complex area. This booklet gives an overview of this work, discusses some key concepts and describes various national approaches to protecting TK against misuse or misappropriation.”

Intellectual Property, Traditional Knowledge and Cultural Expressions/Folklore: A Guide for Countries in Transition—World Intellectual Property Organization 2016-11-11 ..This Guide intends to provide information for policy-makers, heads of intellectual property (IP) offices, and other decision-makers in countries in transition, on issues they need to consider before putting a legal framework in place. It aims to raise awareness of existing methods for the legal protection of traditional knowledge and traditional cultural expressions, as well as to improve understanding of the interrelations, at international, regional and national levels, between the IP system, on the one hand, and traditional knowledge/traditional cultural expressions and their implications for economic, social, cultural and technical development, on the other hand.

The Digital Dilemma—National Research Council 2000-02-24 Imagine sending a magazine article to 10 friends—making photocopies, putting them in envelopes, adding postage, and mailing them. Now consider how much easier it is to send that article to those 10 friends as an attachment to e-mail. Or to post the article on your own site on the World Wide Web. The ease of modifying or copying digitized material and the proliferation of computer networking have raised fundamental questions about copyright and patent—intellectual property protections rooted in the U.S. Constitution. Hailed for quick and convenient access to a world of material, the Internet also poses serious economic issues for those who create and market that material. If people can so easily send music on the Internet for free, for example, who will pay for music? This book presents the multiple facets of digitized intellectual property, defining terms, identifying key issues, and exploring alternatives. It follows the complex threads of law, business, incentives to creators, the American tradition of access to information, the international context, and the nature of human behavior. Technology is explored for its ability to transfer content and its potential to protect intellectual property rights. The book proposes research and policy recommendations as well as principles for policymaking.

Protection of Intellectual, Biological and Cultural Property in Papua New Guinea—Kathy Whimp 2013-03-01 Intellectual, biological and cultural property rights are a powerful and debatable topic. They offer the possibility for protection of rights to intangible resources, including the products of knowledge and creativity. The forces of globalisation have made this subject of immediate, international concern. Struggles for ownership of intellectual property occur between and within local and global arenas. This book examines important questions which Papua New Guinea must ask in the development of intellectual property legislation. The chapters are written by specialists in the fields of medicine, law, the environment, music, genetics and traditional cultural knowledge. The wise and creative protection of intellectual, biological and cultural property is important if Papua New Guinea is to successfully define and realise its future.
For indigenous cultures, property is an alien concept. Yet the market-driven industries of the developed world do not hesitate to exploit indigenous raw materials, from melodies to plants, using intellectual property law to justify their behaviour. Existing intellectual property law, for the most part, allows industries to use indigenous knowledge and resources without asking for consent and without sharing the benefits of such exploitation with the indigenous people themselves. It should surprise nobody that indigenous people object. Recognizing that the commercial exploitation of indigenous knowledge and resources takes place in the midst of a genuine and significant clash of cultures, the eight contributors to this important book explore ways in which intellectual property law can expand to accommodate the interests of indigenous people to their traditional knowledge, genetic resources, indigenous names and designations, and folklore. In so doing they touch upon such fundamental issues and concepts as the following: collective rights to the living heritage; relevant human rights norms; benefit-sharing in biological resources; farmers rights; the practical needs of documentation, assistance, and advice; the role of customary law; bioprospecting and biopiracy; and public domain. As a starting point toward mutual understanding and a common basis for communication between Western-style industries and indigenous communities, Indigenous Heritage and Intellectual Property is of immeasurable value. It offers not only an in-depth evaluation of the current legal situation under national, regional and international law including analyses of the Convention on Biological Diversity and other international instruments, as well as initiatives of the World Intellectual Property Organization (WIPO), the UN Food and Agriculture Organization (FAO), and other international bodies but also probes numerous further possibilities. While no one concerned with indigenous culture or environmental issues can afford to ignore it, this book is also of special significance to practitioners and policymakers in intellectual property law in relation to indigenous heritage. This book, here in its second edition, presents the most recent state of knowledge in the field.

This knowledge usually has been passed on within the indigenous community from generation to generation and is therefore regarded as traditional knowledge. This traditional knowledge is of great value for the pharmaceutical industry. Accordingly, it has been explored, used as the basis for subsequently patented inventions, and sometimes misappropriated by pharmaceutical companies from the "developed" world. This essay seeks to provide an overview of the problems and issues that arise where traditional knowledge meets the "Western" intellectual property regime. The questions that are sought to be answered are: Why should traditional knowledge be protected as intellectual property and how could this be done? Many approaches have been made, both on an international and a national level. Several of these solutions will be presented and discussed in this essay. It will be seen that already existing intellectual property rights are not suitable for the protection of traditional knowledge. Compared with this, the implementation of safeguards within patent application proceedings seems to be more appropriate and effective. However, this approach turns out to be not comprehensive enough. Therefore, this essay recommends the protection of traditional knowledge by an intellectual property right sui generis, specially designed for that purpose. This solution is favourable because it is the most complete one, is able to address all issues in an appropriate way, and can strike a balance between the involved conflicting interests.

While no one concerned with indigenous culture or environmental issues can afford to ignore it, this book is also of special significance to practitioners and policymakers in intellectual property law in relation to indigenous heritage. This book, here in its second edition, presents the most recent state of knowledge in the field.

Understanding Copyrights and Related Rights

This booklet provides an introduction for newcomers to the subject of copyright and related rights. It explains the fundamentals underpinning copyright law and practice, and describes the different types of rights which copyright and related rights law protects, as well as the limitations on those rights. It also briefly covers transfer of copyright and provisions for enforcement.

Legal Protection of Ecuadorian Biodiversity and Traditional Knowledge

This essay advocates for the legal protection of Ecuadorian biodiversity and traditional knowledge. It argues that existing intellectual property laws are not sufficient to protect this knowledge, and proposes a sui generis intellectual property right.