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

Panama’s Experience

Zoraida Rodríguez Montenegro
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

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