

Tiered or Differentiated Approach to Traditional Knowledge:

Insights for Understanding the Operations of the Concept and Evidentiary Thresholds

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Intellectual Property
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Outline

- Focus on differentiated or tiered approach to TK in IGC framework
- With reference to evolving experiences on TK and Indigeneity relevant to the tiered approach
- Framing, understanding and overcoming evidentiary challenges to enhance the operations of the tiered approach

TK:

TIERED
APPROACH

SACRED

SECRET

?

Narrowly

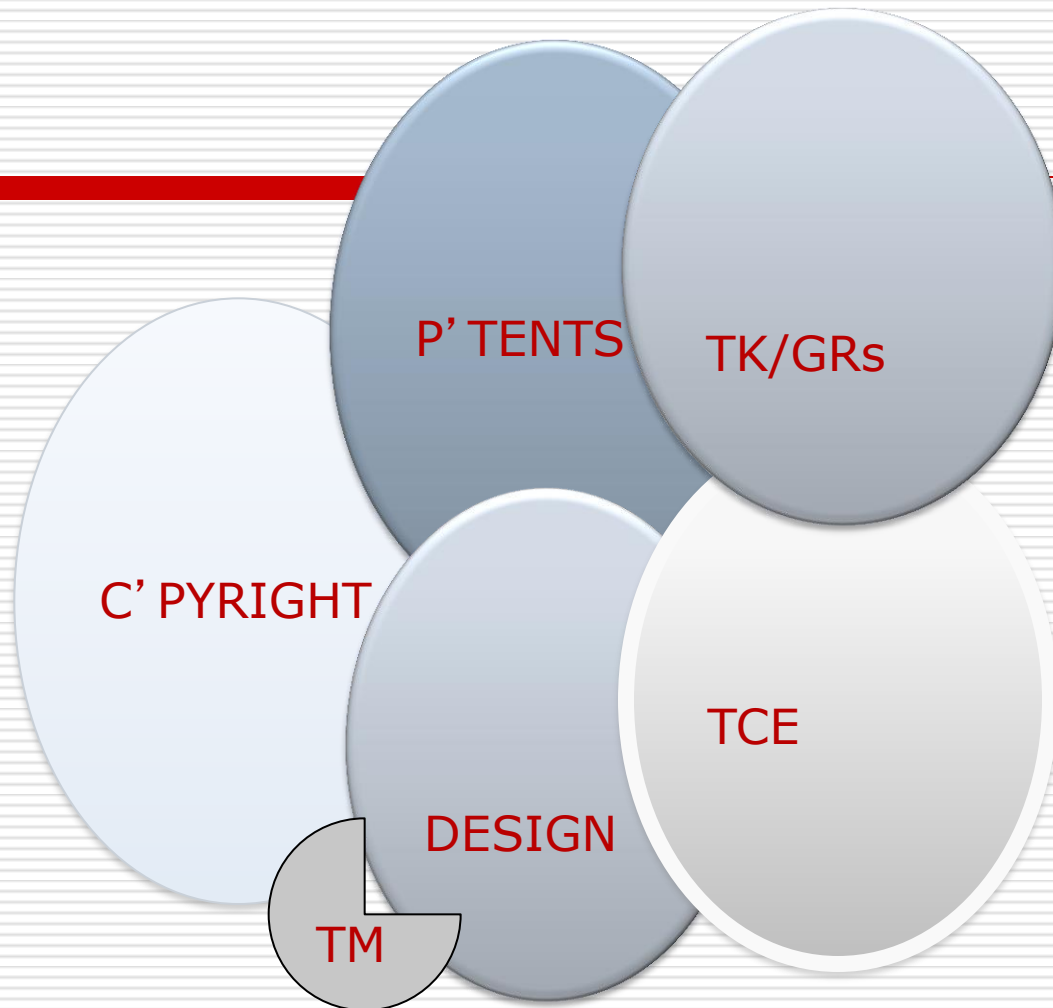
Diffused

Diffused

Widely

Diffusion: A referential concept?

TK and the IP Conundrum: Tiered Approach to the Rescue?



Helping to fix gaps in the use of IP to protect TK?

TK: Cultural heritage, folkloric ornamentations, ritual and performances, fusion of the intangible with the tangible

GHANA



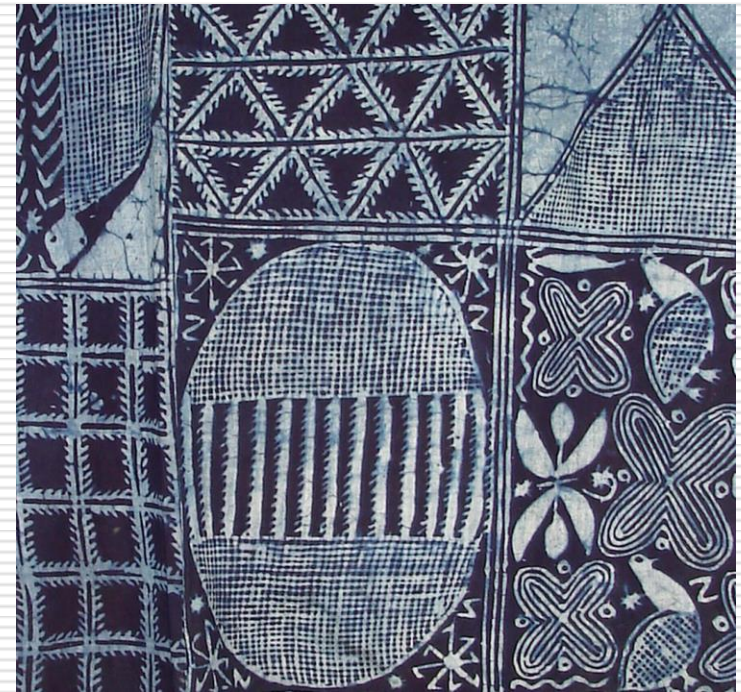
NIGERIA



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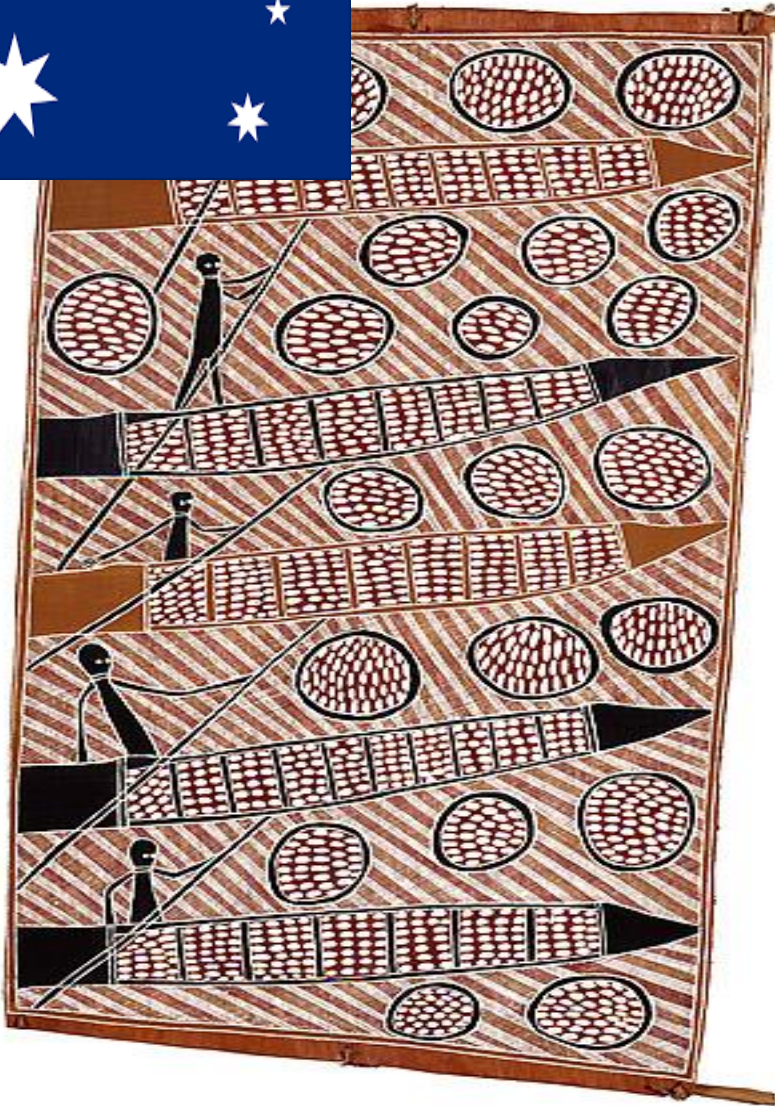
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SAMPLE BARK PAINTINGS



Goose Egg Hunt



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Kangaroo Shield People Dreaming

The “Cowichan Sweater”



“Ancient practice of transforming plant and animal fibres into woven textiles” (Stopp, 2012)



“Warm, weatherproof, sturdy, serviceable, durable for outdoor pursuits ... one of the world’s most distinctive sweater types”

Knowledge & Product/Artefact Interface

- Product/artefact: More than the sum of its parts ... embodying creativity in a revelatory ceremony of transmission of sacralised knowledge and their meanings in which the individuality of the creator and her originality are founded on a communal cultural environment on the basis of heritage, agency, legitimacy, pursuant to “rights and obligations”

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- Examples involve different degrees of cultural and spiritual claims and experiences attaching to products by their custodians
 - Same is true of their level of economic and technological applications, **diffusions**, and evolutions as 20th century modern art forms
 - Significant but varied degree of diffusion as forms of national and international symbols

Diffusion: Evidentiary Thresholds

- Beyond being a matter of how “well-known” as a feature of geographical application and uptake, diffusion is perhaps a referential concept to what actually is known or legitimately disclosed in a specific TK context
- Is it possible to have a widely or partially diffused TK that remains sacred and/or secret?

Concluding Observations

- Indigenous peoples and local communities look up to this forum for creative ways to address the abuses, injustices and inequities over dealings in TK
- The tiered approach is one such response. It is innovative and pragmatic.
- To capture the historic and existing realities of forms of TK and associated experiences, the tiered approach must focus on the specific character and context of a TK, as opposed to a global approach



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