INDIGENOUS ENTREPRENEURSHIP IN THE DIGITAL ECONOMY

GABRIELE GAGLIANI
BOCCONI UNIVERSITY (MILAN, ITALY) & CASE WESTERN RESERVE UNIVERSITY (CLEVELAND, OH, USA)
PLAN OF THE INTERVENTION

• THE ADVANTAGES OF IP FOR INDIGENOUS ENTREPRENEURSHIP
• IP RIGHTS: MANY TYPES & MANY ADVANTAGES
• IP RIGHTS AND E-COMMERCE
• EXERCISE
• DOs AND DON’Ts
TRADITIONAL KNOWLEDGE: PROTECTION AND PROMOTION

TRADITIONAL KNOWLEDGE & EXPRESSIONS
MAY BE PROTECTED THROUGH

INTELLECTUAL PROPERTY
MAY BE USED TO PROMOTE

TRADITIONAL KNOWLEDGE & EXPRESSIONS
TRADITIONAL KNOWLEDGE: PROTECTION AND PROMOTION

INTELLECTUAL PROPERTY ENSURES:

-PROTECTION & SAFEGUARD OF YOUR TRADITIONS AND, SHOULD YOU WISH IT, PROMOTION OF YOUR CULTURE

-IP MAY HELP YOU PROMOTE YOUR TRADITIONAL KNOWLEDGE EXPRESSIONS AS THE ORIGINAL ONES!

-ECONOMIC GAINS & UNIQUENESS ON THE MARKET
TRADITIONAL KNOWLEDGE: PROTECTION

Depending on the traditional knowledge expression and its “elements”, e.g.:

- Innovative formulas or recipes based on traditional knowledge ➔ Patents/Copyright/Trade Secrets

- Textiles (working technique; material; decoration; motifs and colors) ➔ Patents/Trademarks/Industrial Designs/Copyright/Trade Secrets

- Objects (working technique; material; shape; decoration; motifs and colors) ➔ Patents/Trademarks/Industrial Designs/Copyright/Trade Secrets
TRADITIONAL KNOWLEDGE: PROTECTION

DEPENDING ON THE TRADITIONAL KNOWLEDGE EXPRESSION AND ITS “ELEMENTS”:

**PATENTS:** NEW, INDUSTRIAL APPLICATION, INVENTIVE STEP, DISCLOSURE!

**TRADEMARKS:** DISTINCTIVE + NEW!

**INDUSTRIAL DESIGNS:** NEW, INDUSTRIAL APPLICATION, NOT CONCEIVED ONLY FOR ITS FUNCTION OR...

**COPYRIGHT:** EXPRESSION OF AN IDEA + ORIGINAL!
TRADITIONAL KNOWLEDGE: PROTECTION

**PATENTS:** REGISTRATION!

**TRADEMARKS:** IN PRINCIPLE REGISTRATION (IN SOME COUNTRIES, PROTECTION WITH USE)!

**INDUSTRIAL DESIGNS:** IN PRINCIPLE REGISTRATION (IN SOME COUNTRIES, DESIGNS ARE PROTECTED WITH USE AND/OR THROUGH COPYRIGHT)!

**COPYRIGHT:** AUTOMATIC!
TRADITIONAL KNOWLEDGE: PROTECTION AND PROMOTION

LEGAL IP PROTECTION SHOULD ALWAYS GO HAND IN HAND WITH AN IP MANAGEMENT STRATEGY!

= USING IP RIGHTS!
TRADITIONAL KNOWLEDGE: CASE STUDY

- THE MILPAIZ COLLECTIVE MARK:

"NUESTRO LOGOTIPO CUENTA LA HISTORIA DEL MAÍZ"

RED: A TYPICAL COLOR OF NATIVE VARIETIES OF CORN

100% NATIVE VARIETIES

CORNCOB AT THE CENTER

HANDS INDICATING PROTECTION AND PRESERVATION

© HTTP://PROMAIZNATIVO.ORG.MX/?PAGE_ID=79
TRADITIONAL KNOWLEDGE: CASE STUDY

-THE HOOKAH SHISHA:

-A NEW DESIGN BY HICHAM LAHLOU FOR A 500-YEAR OLD PRODUCT

-TRADITIONAL USE COMBINED WITH NEW SHAPES AND COLORS
COLLECTIVE MARKS, CERTIFICATION MARKS AND GIS!

EXPLAIN THE CONNECTION BETWEEN YOUR TRADITIONAL KNOWLEDGE AND THE TRADITIONAL KNOWLEDGE EXPRESSION YOUR BUSINESS REVOLVES AROUND!

SPECIFIC VIDEOS, PICTURES, INFORMATION!
E-COMMERCE: ALLOWS YOU TO EXPAND YOUR BUSINESS AND MARKET OF REFERENCE BEYOND YOUR NORMAL MARKET BORDERS...

...BUT ALSO EXPOSES YOU TO THE THREAT OF BEING COPIED AND SUBJECT TO WIDER COMPETITION (THIS THREAT EXISTS EVEN IF YOU DON’T ENGAGE IN E-COMMERCE...!)

INTELLECTUAL PROPERTY AS A TOOL FOR PROTECTING YOUR TRADITIONAL KNOWLEDGE EXPRESSIONS AND PROMOTE YOUR CULTURE IN A “SAFE” WAY!
CREATING A WEBSITE:
- BUY A DOMAIN NAME RECALLING YOUR COMMUNITY, TRADITIONAL KNOWLEDGE EXPRESSION AND/OR YOUR PRODUCTS
- CREATE A WEBSITE ALONE OR TOGETHER WITH THE MEMBERS OF YOUR COMMUNITY

EXAMPLE:
HTTPS://WWW.ARTESANIAHUICHOL.COM/
HTTPS://ARTESANIASDECHILE.CL/ADC/NOSOTROS/
CREATING A WEBSITE:

EXAMPLE:
HTTPS://WWW.ARTEINBOTTEGAVOLTERRA.IT/L-ASSOCIAZIONE.HTM
CREATING A WEBSITE – IP RIGHTS APPLY ALSO TO THE WEBSITE:

- SOFTWARE: PATENTS AND/OR COPYRIGHT
- WEBSITE DESIGN: COPYRIGHT
- CREATIVE WEBSITE CONTENT: COPYRIGHT
- LOGOS AND OTHER SIGNS: TRADEMARKS
- HIDDEN ASPECTS OF THE WEBSITE: TRADE SECRET
CREATING A WEBSITE:

MAKE SURE TO ALWAYS CLARIFY THE TERMS OF YOUR RELATIONSHIP WITH YOUR FELLOWS AND WITH THE WEBSITE PROGRAMMER:

- WHO OWNS THE CONTENT?
- MAINTENANCE AND UPDATE SERVICES
- LIABILITY FOR PICTURES, LOGOS AND LINKS
ENFORCING/DEFENDING YOUR RIGHTS:

-COPYRIGHT NOTICE IN THE FIRST PAGE OF THE WEBSITE AND © TO SIGNAL COPYRIGHT PROTECTION

EXAMPLE:

HTTPS://WWW.ALABARTE.COM/
ENFORCING/DEFENDING YOUR RIGHTS:

- POST ONLY PICTURES WITH A WATERMARK OR ADJUST RESOLUTION (FROM SMALL TO BIG PICTURES)

- DISABLE RIGHT-CLICK AND HOTLINKING AND DISPLAY COPYRIGHT NOTICE WHEN AN IMAGE IS RIGHT-CLICKED
ENFORCING/DEFENDING YOUR RIGHTS:

- Don’t show all the procedure to create your product

- You are your own policeman: Monitor the Internet!
  - HTTP://IMAGES.GOOGLE.COM
  - Take pictures and screenshots of infringing websites
  - Take action against infringing websites: document & proofs; cease and desist letter; send notice of infringement
EXERCISE

YOU MAKE POTTERY PRODUCTS BASED ON THE TRADITIONAL TECHNIQUE OF YOUR COMMUNITY. YOUR POTTERY PRODUCTS USE THE COMMUNITY TRADITIONAL TECHNIQUE BUT THE DECORATIVE PATTERNS AND MOTIVES CHANGE/ARE NOT THE SAME OF OTHER PRODUCERS OF YOUR COMMUNITY.
YOU WANT TO CREATE A WEBSITE TO EXPAND YOUR BUSINESS.

1. WHAT IP RIGHT(S) COULD BE APPLIED TO PROTECT YOUR PRODUCTS?

2. WHAT IP RIGHT COULD BE USED TO COMMERCIALIZ/PROMOTE YOUR PRODUCTS?

3. WHAT BASIC THINGS SHOULD YOU SHOULD DO TO MAKE YOUR WEBSITE ALLURING AND EFFECTIVE IN ATTRACTING CONSUMERS?

4. WHEN YOU POST A PICTURE ONLINE, WHAT THINGS SHOULD YOU DO TO POST IT SAFELY?
DOs & DON’Ts

DOs
- Domain name that recalls community & traditional products.
- Clear rights & obligations concerning a website.
- Explain the connection between your traditions and your products.
- Signal existence of IP rights.
- Use watermarks and other means.
- Check the Internet.

DON’Ts
- Think that as you are not on the Internet you are safe and protected.
- Create a website that has no connection with your community, traditions and/or products.
- Leave IP rights unused and unexploited.
- Take other people’s pictures, texts, material, etc. online.
THANK YOU FOR YOUR ATTENTION!

GABRIELE.GAGLIANI@UNIBOCCONI.IT