



Australian Government

IP Australia

# INDIGENOUS KNOWLEDGE, PROTECTION AND IP

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Patents



Trade Marks



Designs



Plant Breeder's  
Rights



# WHAT IS INDIGENOUS KNOWLEDGE?

**Traditional knowledge** includes techniques, know-how, practices and scientific, medicinal and environmental knowledge.

**Traditional cultural expressions** include language, art, dance, stories, songs and crafts.



# IK AND THE CURRENT IP SYSTEM

- No dedicated legal framework
- IK protections are incidental and insufficient
- Risk of misappropriation
- No requirements for:
  - Informed consent from traditional owners
  - Access benefit sharing schemes



# TRADE MARKS AND DESIGNS

A trade mark or design containing IK can cause cultural harm and great offence

Current legislation has a narrow scope and does not capture all concerns



## PATENT LAWS

No disclosure requirement for genetic resources or traditional knowledge

A patent may only be granted to inventions that are novel and inventive

Lack of requirement on informed consent and benefit sharing agreements



# DISCONNECT BETWEEN IP LAWS AND IK

IP rights system was designed for individual ownership, commercial exploitation and time-limited protections

Aboriginal and Torres Strait Islander peoples told us they want:

- Control
- Protection
- Recognition
- Respect



# HOW TO BETTER PROTECT IK

## IP Australia's IK Work Plan 2022-23

- Proposals for enhancements for Trade Marks and Designs
- Proposals for disclosure of source for Patents and PBRs
- Indigenous Knowledge Panel at IP Australia
- Guidance for customers about IK and IP and seeking consent
- Supporting access to the IP system for IK custodians
- Scoping study into stand-alone legislation for IK



# TRADE MARKS AND DESIGNS

- Policy proposals for possible legislative reform
- Expert examiners





## PATENTS AND PBR

A disclosure of source requirement could:

- Increase transparency
- Increase attribution and recognition for traditional knowledge
- Encourage informed consent and access and benefit sharing arrangements

# INDIGENOUS KNOWLEDGE PANEL

## AT IP AUSTRALIA

### Functions

- ✓ Advice on strategy and policy
- ✓ Advice on IP applications that include IK
- ✓ Engage with First Nations Australians in the IP system

### Benefits

- ✓ Community connection
- ✓ Mix of skills and experience
- ✓ Regional representation





## STAND-ALONE LEGISLATION

The Government is committed to strengthening the protection of First Nations intellectual property and economic opportunities for First Nations peoples

IP Australia is investigating models of new stand-alone legislation for the protection of Indigenous Knowledge.



# EDUCATION AND AWARENESS

## YARNLINE

[www.ipaustralia.gov.au/indigenous-knowledge-ip-hub/yarnline](http://www.ipaustralia.gov.au/indigenous-knowledge-ip-hub/yarnline)

## INDIGENOUS KNOWLEDGE IP HUB

[www.ipaustralia.gov.au/indigenous-knowledge-ip-hub](http://www.ipaustralia.gov.au/indigenous-knowledge-ip-hub)

Subscribe for updates on the IK project

[www.ipaustralia.gov.au/about-us/news-and-community/stay-informed](http://www.ipaustralia.gov.au/about-us/news-and-community/stay-informed)





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