

Indigenous SMEs and Intellectual Property



For all companies small, medium or large, there is no such thing as a one-size-fits-all approach to intellectual property. Small and Medium-Sized Enterprises (SMEs) run by indigenous peoples and local communities can, however, face additional challenges and concerns as they begin to navigate the intellectual property system.

Intellectual property plays a key role in helping SMEs build stronger, more competitive businesses. Find out how intellectual property can protect and promote tradition-based innovations and creations and support indigenous and local community entrepreneurs and their communities.



1. Protect your contemporary traditional cultural expressions with copyright

Copyright can protect contemporary tradition-based creations, such as music, paintings and sculptures against certain unauthorized uses such as reproduction, adaptation, distribution, broadcasting and other forms of communication to the public. Copyright also confers the right to claim authorship of a work and to oppose changes to a work that could harm the creator's reputation. While copyright protection arises automatically, it is recommended to file an application for copyright registration where possible.

More on copyright *here*.

2. Use industrial design rights to protect the way your products look and feel

Industrial designs (known as design patents in some jurisdictions) protect the aesthetic or ornamental aspects of a product rather than its functional aspects – that is, how it looks and feels rather than how it works or what it does. Industrial design rights can be relevant to a wide variety of products, ranging from handicrafts, such as jewelry, to textile and fabric designs.

More on industrial design rights *here*.

3. Register distinctive Indigenous words, names and symbols as trademarks

The registration of distinctive Indigenous words, names and symbols as trademarks, combined with an appropriate marketing strategy, can increase consumer recognition of authentic and quality goods. Once registered, display your trademark and trademark notice (®, TM or the equivalent) on your products. Strategic use of trademarks as part of a larger branding strategy can help increase commercial benefits for indigenous SMEs.

More on trademarks *here*.

4. Distinguish your goods and services with certification and collective marks

Certification and collective marks can be used by a community to guarantee that goods and services meet specific qualities or characteristics, such as a particular geographical origin or method of manufacture. These marks can help enable brand recognition and provide consumers with certainty as to the authenticity of the goods or services bearing the mark.

5. Link your goods and services to a place with a geographical indication

Geographical indications are a collective right. They can provide the holders of traditional knowledge or traditional cultural expressions with the means to differentiate their product from a competitor by highlighting its link with the geographical area from which it originates. Geographical indications can also command a premium price.

More on geographical indications *here*.

6. Protect your innovations based on traditional knowledge

New and innovative inventions based on traditional knowledge can be protected with patents. With patents, inventors can get a return on their commercially successful inventions for a time-limited period. A patent is an exclusive right granted for an invention (a product or a process that provides a new way of doing something, or offers a new technical solution to a problem). To get a patent, technical information about the invention must be disclosed to the public in a patent application, which is published so that others may learn from it.

More on patents *here*.

7. Keep your traditional knowledge confidential with trade secrets

Trade secrets allow indigenous and local community SMEs to protect culturally sensitive, secret, sacred and commercially valuable information, such as traditional manufacturing processes and recipes, preventing that information from being disclosed, acquired or used by others without consent. For example, instead of sharing information on how your products are created, focus on the uniqueness of your goods and services and their link to your traditional knowledge and your community.

More on trade secrets *here*.

8. Use unfair competition laws as a defense mechanism

Indigenous and local community SMEs and entrepreneurs with an established reputation, distinctiveness and goodwill in the production of traditional products can use unfair competition laws to object to false connection claims where fake products are presented as genuine in the marketplace. It is your responsibility to monitor for unauthorized uses of your intellectual property assets.

9. Take advantage of available resources for indigenous and local community SMEs and entrepreneurs

Registering and enforcing intellectual property rights can be costly. While WIPO's Traditional Knowledge Division cannot provide legal advice and assistance as such, it may be able to refer indigenous and local community SMEs and entrepreneurs to pro bono or subsidized legal services that may be available. The Traditional Knowledge Division can be contacted at grtkf@wipo.int.

For more information on how the intellectual property system can support indigenous and local community SMEs and entrepreneurs, check out the publications below:

Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities

Intellectual Property and Folk, Arts and Cultural Festivals: Practical Guide

Background Brief 5: Intellectual Property and Traditional Handicrafts

Making a Mark: An Introduction to Trademarks for Small and Medium-Sized Enterprises

Looking Good: An Introduction to Industrial Designs for Small and Medium-sized Enterprises

Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises

Inventing the Future: An Introduction to Patents for Small and Medium-sized Enterprises





World Intellectual Property Organization
34, chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

Tel: +41 22 338 91 11
Fax: +41 22 733 54 28

To contact WIPO's External Offices
visit www.wipo.int/about-wipo/en/offices

© WIPO, 2022



Attribution 4.0 International (CC BY 4.0)

The CC license does not apply to non-
WIPO content in this publication.

Cover: Getty Images / © Narcis Grigore,
© Frans Lemmens; unsplash.com /
© Helen Shi, © Rohit Arora