

Eurasian Patent Office

1. Traditional knowledge – is knowledge that is passed between generations, typical to a certain nation (community) and/or relating to the territory of habitation and is constantly developing along with environmental changes. A list of subjects relating to traditional knowledge (TK) needs to be specified.
2. The term "holders of traditional knowledge" is related to anyone who creates, develops and uses TK in traditional conditions (in a traditional way of life or traditional housekeeping) as well as passes it over. Holders of TK are the ones who should benefit from commercialization of TK.
3. Introduction of TK legal protection aimed at prevention of TK misappropriation and use, will promote preservation of TK and equitable benefit sharing of TK between holders. It should promote fair benefit sharing arising from the use of TK. Realization of rights of TK holders includes right of TK disclosure and use, the right to make profits, the right to claim authorship and to be named, right to prevent distortion, abusive or erroneous use. The means of TK protection shall depend on the way the subject matter for protection shall be determined.
4. Unacceptable forms of behavior aimed at misappropriation of TK may be theft, bribery, misrepresentation, espionage, coercion, fraud, breach or inducement of breach of contract, acquisition without prior consent and so on. Unfair competition, any forms of products and services discredit relating to TK are not allowed.
5. There may be introduced limitations which are not considered as violation of rights similar to patent rights and/or copyright, such as personal use of TK (for household purposes), use in government hospitals and so on.
6. Period of TK protection should correspond to the continued period of creation, development and use. Introduction of a definite period is difficult to determine.
7. Some TK subjects may be protected under the existing system of intellectual property protection. For instance, some goods may be identified by trademark registration or patent system protection within certain limits. Some kinds of genetic resources may be protected by patents, plant and animal varieties may be protected by special laws. It is necessary to maintain a reasonable balance between the special system of TK protection and system of IP protection. An important role is played by documenting of traditional knowledge owned by the representatives of nations and communities in the whole world (creation of databases).
8. Prohibition of further use and compensation of damages (penalties) may be envisaged as means of protection from misappropriation of TK. Damages arising from misappropriation include lost profits and unjust enrichment. An important measure may be introduction of legislative norms that would

cease monopolistic or exclusive rights in cases of their unjustified granting to patent owners as well as to holders of traditional knowledge.

9. The main principles and legal norms should be defined on the international level. On the basis of norms of the International Law it may be necessary to create supranational bodies (committees) and special groups (commissions) to work with indigenous peoples and communities.
10. Foreign physical and legal persons should enjoy benefits of protection to the same level as traditional knowledge holders who are nationals of the country by virtue of international agreements and reciprocity principle. And, accordingly, all limitations and possible sanctions should apply to foreign physical and legal persons as well.