

INTELLECTUAL PROPERTY RIGHTS (IPR)

Traditional Culture & Intellectual Property Rights

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Culture is the characteristics and knowledge of a particular group of people, defined by everything from language, religion, cuisine, social habits, music and arts. (Source: <http://www.livescience.com>).

In the process of growth of a country, culture plays a vital role from an identity to the development. If we look at the cultural diversity globally we find Western Culture, Eastern Culture, Latin Culture, Middle Eastern Culture, African Culture, etc. Among all, traditional culture and its expressions holds own identity, value and recognition worldwide from underdeveloped country to even developed countries.

Traditional culture and Traditional culture expression also known as ‘expression of folklore’ is the outcome of one’s forefather creativity which includes music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts and narration, or many other artistic or cultural expressions. This creativity of traditional or indigenous community is passes from generation to generation. When we look at the definition of Intellectual Property Rights, it refers to the creativity of human being and person can enjoy monopoly over their creativity through different laws (IPR law). Monopoly mostly covers protection and commercialization.

In the field of IPR, different legislations are come into enforcement as per the need and situation of a nation but still the field of traditional culture and its IPR aspects are topic of concern everywhere. The World Intellectual Property Organisation (WIPO) has taken the initiative through Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. IGC is negotiating international legal protection of Traditional cultural Expressions (TCEs). India is also a member country of WIPO. India joined WIPO on 1975, as per the existing laws to some extent traditional culture could be protected but not entire. Therefore, in order to preserve, promote and pass on our cultural heritage to upcoming younger generation without losing the entire TCEs and utilization of knowledge for mutual benefit sharing with third parties, there should be two important components. One is proper documentation and digitization using new technologies but this could also lead to expose of cultural heritage towards unwanted exploitation beyond traditional circle. So, Managing an IPR issue will be second aspect to look into which corresponds with community value and development goals.

Sikkim too is blessed with treasure of traditional culture and expression of folklore which could be losing in future due to lack of new technological documentation or digitization along with strong impact of modernisation to the younger generation. Another side to be concern is, traditional culture could be victim of piracy by third party. In many areas like music industry,

fashion industry, industrialization, is believed to be somehow inspired by traditional culture. It is also believed that some of the western musicians are influenced by the music perform by our shamans during rituals. Some of the traditional knowledge experts even observe some of the foreign researchers visit places like Sikkim for study cultural heritage and traditional knowledge for commercial exploitation and other elite benefit though it is not recorded under any bylaws except some smuggling of moth by Chez Republic scientist few years back.

WIPO, Geneva is supporting in the management of IPR issues with TCEs and also sanctioned few pilot projects also known as WIPO's creative heritage project, the organisation is supporting new technologies to preserve tradition and IPR management for mutual commercial encashment. A Maasai community person of Kenya is trained for advanced documentation on TCEs from American Folklife Centre (AFC) and Centre for Documentary Studies in the United States of America and WIPO officials are supporting for Intellectual Property (IP) management, which would enable them to record, archive and manage access to their own cultural heritage. Sikkim too needs harmony between proper documentation and digitization of cultural heritage and elite IP tools and policies for future sustenance and proper management under Indian IPR legislation in near future.

**For more information please visit Patent Information Centre (PIC), Sikkim State Council of Science & Technology (SSCS&T), Department of Science and Technology & Climate Change (DST&CC), Vigyan Bhawan, Deorali, Gangtok, Govt. of Sikkim
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