



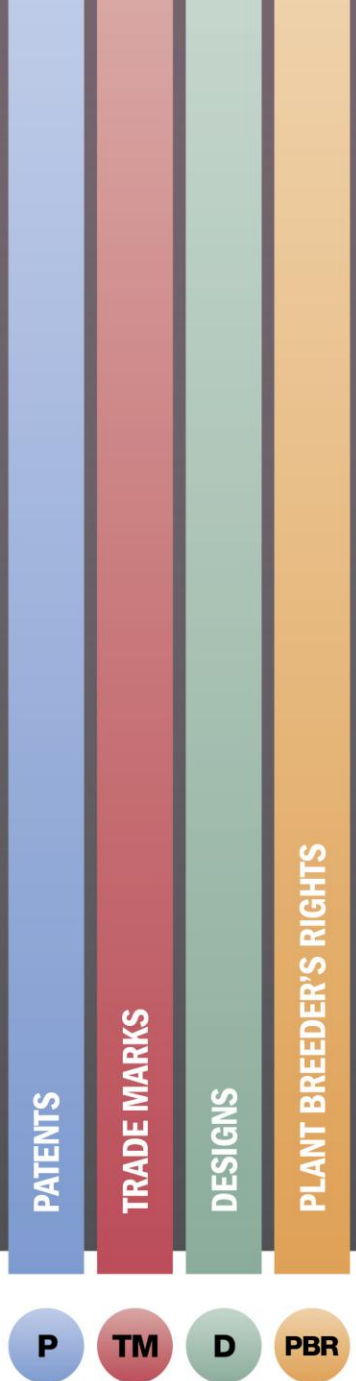
Australian Government
IP Australia

Indigenous Knowledge, Biodiversity and Intellectual Property

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IP Australia



Robust intellectual property rights delivered efficiently



Introduction

- What IP Australia does
 - Administers legislation on patents, TMs, designs and PBR
 - Outreach and Public Education
 - Advice to Gov't



Inventorship and TK

- Acknowledgement
- Only an inventor can apply
- Wrong attribution of inventorship leaves a patent prone to revocation.
 - IP Reform will facilitate amendments to register to correct this.



Inventorship and TK

- Australian law, as at *UWA v Gray*
- Identify inventive concept by reference to terms of relevant specification
- Identify timing
- Identify those who made an inventive contribution
- Distinguish this from ‘reduction to practice’.
 - 221 ... the subsequent process of reduction to practice some elements of which may have found their way into the claims in the application
 - 311. ... “Reduction to practice may or may not be part of the inventive concept. It is not the case that all and any work described in a specification will necessarily expose or be part of the inventive concept underlying the invention.”



Inventorship and TK

- If TK is part of prior art, then TK cannot be an inventive contribution.
- If isolation of a medicinal compound is the inventive concept, is medicinal knowledge an inventive contribution?



Nanga Mai Arung - Dreamshield

- Providing information to Indigenous businesses on using the IP system
- A familiar case study on medicinal knowledge and patenting



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Finding the Way

- More consultation required for
 - Domestic policy development
 - International discussions
- Call for strong policy direction



Finding the Way – Norms

- Dedicated body (advisory/authority)
- Changes to existing laws
- New laws
- Protocols
- International Instrument



Finding the Way – Capacity Building

- Review Indigenous Economic Strategy to include IK
- Negotiation Training
- Public Awareness
 - IP Laws
 - Non IP Laws (misleading conduct, contracts)



Finding the Way – Substance of new laws

- Benefit Sharing
- Prior Informed Consent
- Acknowledgement
- Compatible with customary law



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Australia-India FTA

- No IP!



WIPO Intergovernmental Committee on TK, GR and TCEs

- WIPO is a UN Body
- Mandate to negotiate
- Issues for TK and TCEs
 - What is TK and TCEs?
 - What is protected?
 - Who benefits?



Conclusion

- Many facets to IP Australia work, domestic international, policy and practice.
- Please get in touch!



Australian Government
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Thank you

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IP Australia has achieved certification for its quality and environmental management systems.



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P TM D PBR