

INDIGENOUS RIGHTS

Moderator: BARBARA BERDOU

Speakers:

DEBBIE DAVID

MILA FEDERIS

AARON THNG

Indigenous Rights Committee

- Part of INTA's Advocacy Group
- Self standing committee birthed out of the Emerging Issues Committee
- 2007: UNDRIP (UN Declaration on the Rights of Indigenous People) includes the right to their intellectual property

IRC MISSION STATEMENT

1. examines and analyses the relationship between brands and indigenous rights particularly traditional cultural expressions (“TCEs”).
2. charged with producing recommendations for INTA policy relating to indigenous rights, and develops and implements strategies for the advancement and advocacy of such policies.
3. maintains a watch on national and international developments on the protection of indigenous rights, and identifies trademark issues associated with those developments.
4. develops resources for INTA members to respond to the impact of indigenous rights on their brands on both an international and national level.
5. develops indigenous rights awareness programs for INTA members and indigenous communities regarding the extent of protection already available to protect indigenous rights/traditional cultural expressions through existing trademark regimes and protections in development such as treaties and sui generis systems.

IP IDENTIFIED AS TK AND TCE

Traditional knowledge (TK) is knowledge, know-how, skills and practices that are passed down from generation to generation within a community, and often forms part of its cultural or spiritual identity.

- *Could “technology” and “tradition” exist in the same IP space?*
- *How will the recognition and protection of TK evolve in the face of rapid advancement in technology?*

TRADITIONAL CULTURAL EXPRESSIONS

- **What are TCEs?**
- **How are TCEs relevant to IP?**
- **International landscape**
- **INTA's position**

What are TCEs?

Creative form (“expression”) in which traditional culture and knowledge is embodied or expressed

“Traditional” does not mean old or antique, but vital, dynamic part of communities

TCE AND RELEVANCE TO IP

- Textiles depicting a legend in stylized designs
- Words and names
- Carpet and jewellery designs
- Handcrafts and art
- May be sacred when includes religious or spiritual elements

INTERNATIONALLY

- IGC discussions at WIPO
- National policy and legislation changes

INTA's POSITION

Favour use of existing IP framework and changes to existing laws rather than adoption of *sui generis* legislation



International
Trademark
Association