



Intellectual Property of Indigenous Peoples (IP of IP): Challenges in Protecting Traditional Knowledge in the Philippines

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Abstract: Traditional knowledge in the form of traditional expressions, practices and beliefs is an important community right of indigenous communities which must be respected and protected. In the Philippines, there are several laws which grant recognition and protection to traditional knowledge. However, the present legal framework has certain gaps in the legal protection afforded to the works resulting from traditional knowledge on one hand and conventional forms of intellectual property like patents, trademarks and copyright on the other. Given this context, the following questions may be asked: (1) Should traditional knowledge be treated in the same way as conventional intellectual property?; (2) If so, how can traditional knowledge be categorized and classified using the conventional categories of intellectual property?; (3) If not, can traditional knowledge have a sui generis protection under the law? (4) Does the current Philippine legal framework able to address the need to protect traditional knowledge in the Philippines?

The aim of this paper is to fill in this gap by analyzing the legal framework of the Philippines in the protection of traditional knowledge and whether there are sufficient laws that protect them using the conventional system of protection or a sui generis kind of protection, or both. In the end, the paper will present the challenges in protecting traditional knowledge and make recommendations on how to better protect traditional knowledge through harmonizing existing intellectual property protection to traditional knowledge, if this is possible, and having a sui generis kind of protection.

Arts and Culture: Heritage, Practices and Futures

Presented at the 10th DLSU Arts Congress
De La Salle University, Manila, Philippines
February 16, 2017

