

SAFEGUARDING TRADITIONAL AND INDIGENOUS PRODUCTS THROUGH INTELLECTUAL PROPERTY RIGHTS (IPR)

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Abstract

The cultural heritage, knowledge and creativity of a community is represented by traditional and indigenous products and passed down between generations. Regrettably, such unique resources are vulnerable to grave risks of misuse, biopiracy and commercialization without acknowledgement and/or sharing of benefits. Intellectual Property Rights (IPR) have the potential to offer the appropriate instruments to this defense, and geographical indications (GI) and trademarks, copyright, and patents offer legal and economic protection. The review paper examines the literature available to establish the impact that IPRs can make in securing the traditional knowledge (TK) and indigenous products. This paper finds examples of indigenous product protection that have been effective like Darjeeling Tea and Pochampally Ikat and also examines the harsh realities that prevent successful implementation; e.g. barriers to enforcement, expense and the mismatch between the collective character of the TK community and the concept of individual ownership embodied in IP law. The study finds that to make protection of

indigenous products effective, it is necessary that such protection take a holistic approach that would include law, capacity building and cultural tools in an effort to facilitate sustainable protection and social-economic justice.

Keywords: Intellectual Property Rights, Traditional Knowledge, Patents, Trademark, World Intellectual Property Organization.

1. Introduction

The indigenous communities rely on Traditional Knowledge (TK) that covers medicinal knowledge, Agricultural knowledge and cultural practices that have existed since ancient times. However, with the increasing commercialization of TK by firms or industries, serious issues of misappropriation, bio piracy and negative legal custodianship have emerged (Jaglan & Jaglan, 2025). Intellectual Property Rights (IPR) gives owner legal mechanisms to stop the illegitimate use of such products. IPR recognizes the uniqueness of indigenous knowledge, epistemic practices and products through geographical indications (GI), trademarks, patents and copyright. For example, GI

tags have been important in protecting the uniqueness and therefore the market price of Darjeeling Tea, Madhubani Paintings, Pochampally Ikat, and many other products (Chahal & Jha, 2025). Such protections not only prevent exploitation but also create economic opportunities by allowing communities to benefit from their cultural and traditional assets. The background of protecting traditional and indigenous products through IPR lies in global debates about cultural appropriation, biopiracy, and fair benefit sharing. Many communities have historically been deprived of recognition when outsiders commercialized their knowledge or products (Gaitenidis, 2025).

An increasing number of links between IP systems and TK have emerged in the 21st century, particularly in the area of genetic resources. Historically, developed countries have undervalued indigenous knowledge; however, in recent years, multinational corporations have increasingly exploited this knowledge from traditional communities, often through misleading methods, resulting in biopiracy (Johnson & Law, 2025). The nature of Traditional Knowledge is dynamic and reflects the experiences of the community. It is often articulated through stories, folklore, rituals, and other cultural expressions. For example, specific plants like turmeric in India have long been used for their healing properties, while the Hoodia cactus has been utilized by the Bushmen of Africa to suppress hunger (Bhandari et al., 2025). Indonesia is one of the many member nations that

rely on the World Intellectual Property Organization (WIPO) for assistance with IP protection, particularly that of geographical indications (GI). WIPO's global mission is to promote and protect intellectual property worldwide through cooperation with countries and other international organizations (Sabrina & Gati, 2025).

In this context, creation of the Traditional Knowledge Digital Library (TKDL) by Government of India marks a significant step in bringing traditional medicinal wisdom, especially Ayurveda, into the international intellectual property landscape. The TKDL systematically records, translates, and organizes thousands of formulations from classical Ayurvedic texts like Charaka Samhita, Sushruta Samhita, Ashtanga Hridaya, and Bhavaprakasha. By transforming these ancient manuscripts from Sanskrit and regional languages into globally accessible digital formats, TKDL offers robust prior art that patent offices can use when assessing applications. TKDL entries are now officially recognized as credible prior art by major patent offices, including the EPO, USPTO, and JPO, bridging the gap between ancient, documented knowledge and modern legal standards. This plays a critical role in preventing the misappropriation of traditional remedies through unwarranted patent grants, thus shielding Ayurveda from biopiracy. TKDL's evidence base has facilitated the successful contesting of multiple unauthorized patent claims, solidifying India's dedication to the ethical

protection and sustainable commercialization of its rich medicinal heritage.

The issue with intellectual property rights is that when it comes to protecting different innovations, ideas, and expertise, they frequently only help those who have sizable financial resources and who already can avail the knowledge and information needed to further develop their product. For instance, only organizations or individuals with substantial financial and technological resources can aspire to acquire intellectual property rights like patents, copyrights, designs, etc. (Mehra, 2022). In the legal and policy domain of IP across these regimes, the protection of TK has brought several issues, two of which will be the focus of special attention in this article: first, issues related to the different ways in which the IP system has been used to misappropriate TK. The article demonstrates this by highlighting the incompatibility between the conventional IP system and the interests of ILCs in respect to TK (Dagne, 2014).

In India, safeguarding traditional and indigenous products through IPR has become increasingly significant due to the country's rich cultural diversity and heritage. Government initiatives promoting geographical indications and traditional knowledge digital libraries aim to prevent misappropriation and promote fair use. Protecting such products not only preserves cultural legacy but also strengthens rural economies, promotes tourism, and ensures community pride (Ulakfli et al., 2025). Thus, IPR serves as a bridge between tradition and

modern commerce, empowering indigenous groups while maintaining cultural authenticity in a globalized world. The category of native culture encompasses a wide range of intellectual creations and achievements, including heritage books, artistic and academic performances, discoveries, scientific advancements, styles, products, titles, indicators, undetermined data, and other innovations and ritual creations that originate from cognitive processes in the domains of business, scientific knowledge, articles, or arts (Putra, 2024).

2. Review of Literature

Gaitenidis, (2025) evaluated the traditional knowledge intellectual property, human rights, and Indigenous cultural patrimony interacted intricately under the framework of international law. It highlighted the ethical and legal difficulties that Indigenous groups faced in a world where exploitation and misappropriation continued, and historical injustices remained the standards. Indigenous heritage protection encountered challenges, particularly in the areas of commercialization, tourism, and development projects. Analysis of global and international legal frameworks, case law, and policies revealed that Indigenous heritage protection had been fragmented and Indigenous place-based rights had not been accommodated at decisional stages in laws and policies designed to protect Indigenous rights.

Bhandari et al., (2025) proposed study about the multifaceted correlation between indigenous plants

conservation and intellectual property rights (IPR), where relevance of such links in context of transfer and perception of traditional knowledge was observed. Native American herbs were important culturally and had an extensive history, becoming popular therapeutically, environmentally and as a market commodity. The study put in place crucial preconditions to ensure protection and preservation of the original herbs and these were that a database of traditional information was established and geographical indicators were formulated. There was emphasis that providing the authority to tribes to control access to their knowledge and seeing to the provision of all commercialization or use without permission or with reasonable payment was very important.

Sabrina & Gati, (2025) suggested study on the progress of new traditional knowledge that indigenous and local communities used to address their IP rights. The World Intellectual Property Organization (WIPO) and its partners supported this regional program to help local communities and indigenous peoples better record, digitize, and oversee their cultural assets in a manner suitable for them. The new licensing and labelling frameworks creatively addressed the specific patterns of entry and management of indigenous, local, and traditional communities, establishing new consistent processes and conventional heritage models. From a cultural studies perspective, the results of the study drew attention to batik as a cultural representation of Indonesia, highlighting its ancestral past and

distinctive features as a culture different from others.

Refaat & Hassan, (2025) investigated study role of Intellectual Property (IP) in protecting and elevating hand weaving in Akhmim, potentially moving it from the List of Intangible Cultural Heritage in Need of Urgent Safeguarding to the representative list. The study compared Akhmim city in Egypt with Pochampally village in India, noting that both shared elements of cultural heritage but had different experiences using IP tools to preserve their hand weaving. Intellectual property instruments safeguarded the act of weaving. Intellectual Property (IP) tools were efficiently employed in Pochampally to protect their traditional hand weaving; however, in Akhmim, the application of such methods was insufficient. The study utilised a qualitative research methodology, conducted four informal conversations with four Egyptian specialists across public, private, and non-governmental organizations, all centered on the sustainable development of Egyptian handicraft groups.

Badgaiyan & Shrivastava, (2025) described study delved into an intrinsic relationship between Geographical Indications (GI) tags and the cultural identity of a community, stressed the significance of GI tags in safeguarding, nurturing, and promoting the traditional wealth of India through the enshrined legal system known as Intellectual Property Rights (IPR). The study analyzed gaps in GI recognition and examined the GI recognition provided swank to

local artisans, farmers, and indigenous communities through exclusive rights over their culturally significant products. The study examined existing legal frameworks (including the Geographical Indications of Goods (Registration and Protection) Act, 1999) through doctrinal research, case studies, and other analytical methods to identify areas of strength and weakness in the current legal regime.

Oyiwona & Lashom, (2025) presented study aimed to showcase the importance and contribution of traditional knowledge in society and why practitioners deserved recognition under intellectual property laws. The study employed a conceptual technique, analyzing existing intellectual property regulations alongside relevant literature to determine the extent of recognition afforded to conventional learning under current Nigerian intellectual property legislation. The Nigerian intellectual property law was found to inadequately provide for the protection of traditional knowledge, despite the contributions of traditional knowledge practitioners. Consequently, it was proposed that a regulatory structure be established to safeguard traditional knowledge and its practitioners in Nigeria within the context of intellectual property rules. The absence of a regulatory structure to safeguard conventional wisdom providers rendered their work vulnerable to exploitation by unauthorized individuals.

Al, (2024) investigated study the defensive safeguarding of traditional knowledge within the framework of international patent law. The chosen

study technique was summative and utilised secondary data sources. The study primarily focused on primary and secondary legal materials. The data analysis procedure employed subjective analytical approaches. Those results indicated that traditional knowledge possessed unique characteristics closely associated with communal traditions and encompassed various aspects of human life. The protection of traditional knowledge proved essential for maintaining fairness, preserving our natural and cultural significance, avoiding misuse, and promoting environmentally friendly utilization. International patent law exhibited a significant disparity between conventional knowledge and patent systems that emphasized human inventiveness and originality.

Tripathi, (2024) proposed study revealed the dangers of inadequate protection, while belonging adjectives demonstrated the cultural and economic importance of GIs and trademarks such as those associated with various Bordeaux wines or Darjeeling teas. The General Problem addressed the lack of enforcement in the GIs and trademarks' ability to preserve cultural heritage and to maintain the economy, along with ignorance and abuse in general. The study examined the areas of foundation and regional approaches such as the Geographical Indications of Goods Act, 1999 (India), GI options for countries in the EU, and TRIPS for countries when dealing in global markets. The conclusion of the study emphasized the possibilities of GIs and trademarks functioning as means to preserve

cultural identity and develop local economies, as well as guaranteed authenticity in the development and delivery of products.

Khan, (2023) suggested study revealed the dangers of under-protection, and that the adoption of adjectives was part of making clear the cultural and economic importance of GIs and trademarks such as those covering various Bordeaux wines or Darjeeling teas. The General Problem related to the inefficiency of the GIS and trademarks capacity to save cultural heritage and to maintain the economy, as well as ignorance and abuse in general. It analyzed the spheres of foundation and geographical strategies, such as Geographical Indications of Goods Act, 1999 (India), GI options of countries in the EU and TRIPS options of countries in the world markets. It found the inefficiencies of the conventional intellectual property and suggested the means of integration to establish the enhanced safety and security. The conclusion of the study pointed to the potential of the GIS and trademarks in the form of cultural expression, a means of enabling a local economy and giving authenticity to the creation and delivery of the products.

Hossain & Ballardini, (2021) evaluated study analyzed the legal complexity regarding the protection of traditional knowledge (TK) of Indigenous Peoples. The importance of TK was not underestimated, particularly in the context of sustainable environmental conservation, biodiversity control, bio-resources, and ecosystem

management regarding the established lands that Indigenous peoples inhabited. However, the continued existence of a robust legal framework did not provide a complete protection regime that was polite of core ethical moralities of utmost importance to Indigenous Peoples - equity. Indigenous peoples had the right to self-determination and the right to their culture (IPRSD). We demonstrated that each of these different regimes had its own set of problems and that none of them provided a perfect answer.

Abdullin & Gazizova, (2019) suggested study focused on analyzing possible options that ensured the protection of traditional knowledge through existing laws and legal systems in the field of intellectual property. The study addressed the prevalent challenges encountered by indigenous groups and community members in safeguarding their ancient traditions through intellectual property law mechanisms. The potential utilization of copyright, patents, designs for industry, trademarks, geographical indications, trade secret regulations, and laws against unfair competition was examined comprehensively. Traditional intellectual property systems were deemed insufficient for safeguarding traditional knowledge, as contractual intellectual property rights were predicated on the notion of private ownership.

3. Research Question

- How effective are existing Intellectual Property Rights (IPR) frameworks in protecting traditional

and indigenous products from misappropriation and commercialization without community consent?

- What are the challenges and opportunities in implementing IPR mechanisms for safeguarding traditional and indigenous products at national and global levels?

4. Discussion

The protection of Traditional and Indigenous Products through Intellectual Property Rights (IPR) was both a legal and socio-cultural obligation. The notion of Traditional Knowledge (TK) referred to collective knowledge, cultural practices, and community-based innovations that were usually passed down orally from generation to generation. However, as Dagne (2014) and Hossain & Ballardini (2021) described, traditional IPR meant individual ownership, originality, and novelty, which were against the collective and inter-generational scope of TK, and such had often led to misappropriation, resulting in communities with neither recognition nor fair benefits.

Geographical Indications (GI) served as one of the most effective tools for protection, as they linked particular products to geographic locations and protected their authenticity. Several studies (e.g., Badgaiyan & Shrivastava (2025); Tripathi (2024)) suggested that GI recognition served to protect cultural heritage, while simultaneously creating economic robustness by granting producers exclusive rights to produce a product linked to their region. For example, Darjeeling Tea, Kanjeevaram

Sarees, and Channapatna Toys represented GIs - both economic value and cultural stories. Enforcement remained an issue, given that counterfeit products in international markets diluted authenticity and jeopardized livelihoods for local craftspeople, which remained problematic.

Another important issue was the asymmetry of resources and knowledge. Mehra (2022) contended that IPR mechanisms such as patents and copyrights benefited corporations and individuals who had access to legal and technological resources much less than indigenous populations that did not have means to maintain legal rights over their cultural productions before signing the agreement to keep knowledge confidential. The patenting of turmeric and neem in foreign jurisdictions served as an example that demonstrated the fundamental issue of biopiracy, where businesses intentionally and illegally used community knowledge without paying for it or granting the community ownership over its cultural knowledge. It was obvious there was desperation for law to change; it had to have fairness, equity, and prior informed consent within the international IPR community.

Consultations on such issues were done in international organizations like WIPO and conventions like Convention on biological Diversity (CBD). Sabrina and Gati (2025) stated that empowering Indigenous communities could have been through the documenting, digitizing and enabling communities to manage their own traditional knowledge. Bhandari et al. (2025)

referred to the fact that TK carriers had databases and previous consent processes to guide access and commercialization. Those were great steps but the solution to those issues was in the success of those processes in connection with the localization, the entrenching, and inculcation of those in local practices and within the customary legislation.

The Indian setting offered useful details with regard to how TK was sustained using institutional resources. Other efforts, like the Traditional Knowledge Digital Library (TKDL), have been effective in fighting biopiracy because the traditional medicine practice was documented and publishable in a manner that would enable it to be accessed by patent agents around the globe. Moreover, the increased GI registrations empowered the economy of the rural areas and created the path to cultural pride (Ulakfli et al., 2025). However, these concerns existed that could have been addressed to ensure that the local communities were not passive and automatic beneficiaries but rather direct actors in the process of implementation and enforcement of these rights. Community-based organizations, awareness programs and legal literacy programs bridged this gap.

5. Conclusion

One of the primary strategies in the balance between preserving culture and the economic opportunity of the modern world has been revealed to be Intellectual Property Rights (IPR) protection

of the traditional and indigenous products. Traditional Knowledge (TK) embodies the wisdom and innovativeness of communities over years, but its formal features of community and intergenerationality are likely to conflict with the traditional IPR models. As it has been argued and criticized, existing systems such as patents, copyrights and designs are not effective in regard to ensuring the originality in TK, and the use of Geographical Indications (GI) and Traditional Knowledge Digital Libraries (TKDL) have been far more successful in the preservation of authentic, and the prevention of misuse. Despite these developments, the world has experienced total issues in the fields of enforcement, imbalance of resources and inequity. Majority of indigenous populations lack the financial and institutional means to claim and defend their rights and are at the mercies of biopiracy and exploitation by multinational corporations. Indian experience demonstrates the progress front and the retreats behind in this sphere. Its heterogeneous cultural nature, proliferation of GI registrations and the establishment of TKDL have provided invaluable protection besides rural development and cultural pride. Lastly, protection of traditional and indigenous products through a holistic approach, community empowerment, legal framework enforcement and formidable recognition and benefit-sharing must be combined. Only now can IPR be a cultural sustainability and socio-economic justice instrument.

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