

WIPO Tries to Judge India's Traditional Knowledge Digital Library Success

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New Delhi (ABC Live): The Representatives from 35 countries met in New Delhi for three days from 22 March to 24th March to explore how the success of India's **Traditional Knowledge Digital Library (TKDL)** - a landmark project which protects India's centuries-old traditional knowledge (TK) from misappropriation - could be emulated by interested countries.

In a statement to the three-day International Conference on the Utilization of the **Traditional Knowledge Digital Library** as a Model for Protection of Traditional Knowledge, co-organized by WIPO and India's **Council of Scientific and Industrial Research (CSIR)**,

which was opened on March 22, 2011, WIPO Director General Francis Gurry welcomed international cooperation in the fight against the misappropriation of TK.

India's Minister of Science and Technology, Earth Sciences, and Parliamentary Affairs Pawan Kumar Bansal informed the conference that international agreements with major patent offices around the world on the **TKDL** has been successful in challenging bids to misappropriate Indian TK, saying **TKDL** has been "an immensely effective tool for the protection of TK...a powerful weapon to fight biopiracy."

The Minister said India is prepared to work with WIPO and interested countries in sharing its expertise on **TKDL**. Mr. Bansal welcomed WIPO's initiative to organize an international conference on TKDL, and the Organization's commitment to offer technical expertise in this area. As Minister responsible for **CSIR**, Mr. Bansal assured participants "all cooperation will be extended to all of you, in particular, to WIPO, so that countries rich in traditional knowledge and biodiversity, desirous of adopting **TKDL** as a model of traditional knowledge protection, are able to do so."

Mr. Gurry praised India's leadership in taking domestic and international action to combat misappropriation of the wealth of knowledge contained in its traditional medicine systems, such as Ayurveda, Unani, Siddha and Yoga.

He described the **TKDL** approach as complementary to the work currently underway in WIPO's Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, where WIPO's 184 member states are negotiating an international legal instrument to ensure the effective protection of TK and traditional cultural expressions, and to regulate the interface between IP and genetic resources.

"The IGC's negotiations are about developing the international legal architecture. In parallel, however, there is an important supplementary role for practical initiatives, which can change the international landscape often faster than legislative or normative approaches," said Mr. Gurry, noting "The **TKDL** is an excellent example of a technical platform which can work alongside legislative frameworks and support them. The **TKDL** is distinct from - but complementary to - the negotiations taking place in the IGC."

The Indian **TKDL** project, developed over a ten year period, documented knowledge about traditional medical treatments and the curative properties of plants, which was contained in ancient texts and languages, and classified the information in a searchable database.

The **TKDL** now contains 34 million pages in five international languages. By making this information available, via Access and Non-Disclosure Agreements, to six major international patent offices, the **TKDL**, coupled with India's global bio-piracy watch system, has, according to the **CSIR**, achieved dramatic success in preventing the grant of erroneous patents, at minimal direct cost and in a matter of a few weeks.

Mr. Gurry said that India's **TKDL** could be a good model for others and that WIPO was ready to facilitate international collaboration for countries which, inspired by the Indian example, were interested in establishing their own **TKDLs**.

He cautioned however that there is no one-size-fits-all solution and that the Indian model might need to be adapted to the specific situation of individual countries, in particular where a community's TK is held orally.

The Director General observed that "The Indian Government holds the experience, expertise and technology in establishing **TKDLs** and has expressed a willingness to make this know-how available to other interested countries, for them to use and adapt as they see fit. WIPO, with its international contacts and expertise in identifying and managing the IP implications of documenting TK, as well as in ensuring coherence between such practical initiatives and the normative negotiations in the IGC, is ready to support these initiatives if countries so wish and catalyze collaborative partnerships if so requested."

The Director General said WIPO is in consultations with the Government to "internationalize" the **TKDL** - to help make available the Indian Government's **TKDL** experience and know-how to other countries which plan to create their own **TKDLs**.

He said "WIPO is prepared to assist beneficiary countries, should they so wish, to conclude access and non-disclosure agreements with international patent offices. Beneficiary countries would own and control access to their own **TKDLs**."

CSIR Director General Samir K. Brahmachari and **Director of the TKDL V.K Gupta** reiterated India's willingness to work with countries interested in similar models to protect their TK. Mr. Brahmachari said the challenge for the New Delhi meeting and beyond is to ensure that the great treasures represented in a nation's TK is to ensure this knowledge serves future generations.

Know More about International Conference on the Utilization of the **Traditional Knowledge Digital Library** as a Model for Protection of Traditional Knowledge

- The International Conference on the Utilization of the **Traditional Knowledge Digital Library** as a Model for Protection of Traditional Knowledge, is organized by the World Intellectual Property Organization (WIPO), in cooperation with the **Council of Scientific and Industrial Research (CSIR)**, in New Delhi, India, from March 22 to 24, 2011.
- The objectives of the Conference are to:
 - share experiences and information on the role of a **TKDL** in the documentation of traditional knowledge (TK);
 - identify the intellectual property (IP) issues in and technical implications of the establishment of a **TKDL**; and
 - Explore the role and functioning of the **TKDL** within the international IP protection system.
- Representatives from some 35 countries are taking part in the meeting. All WIPO member states and in particular patent offices that have **TKDL** Access and Non-disclosure Agreements with the **CSIR** have been invited.

Local speakers tried to explain the origins, establishment and functioning of the **TKDL**. There will also be presentations on the international patent system and the **TKDL**, IP and the **TKDL** as a model for protection and on the negotiations currently underway in WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Discussions on the policy and practical considerations for the establishment of **TKDLs** in other countries are also expected to take place.

- A number of WIPO member states have expressed interest in learning from the experience, expertise and technology related to the TKDL. This will be discussed at the conference as it might not be possible to replicate India's experience in other countries.
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- In countries where indigenous peoples and local communities are recognized as holders of TK, wide consultations and adherence to the principle of free, prior and informed consent might be essential. In countries where TK is mainly oral, additional steps might have to be added to collect and record TK.
- There are also, in some quarters, political concerns associated with TK documentation projects, which are perceived by some as "facilitating biopiracy", since documentation projects may facilitate access to TK that was not publicly available before or TK that had been disclosed without the free, prior and informed consent of affected indigenous and local communities.

About the TKDL

- After fighting successfully for the revocation of turmeric and basmati patents granted by United States Patent and Trademark Office (USPTO) and neem patent granted by European Patent Office (EPO), India initiated its project for the creation of a Traditional Knowledge Digital Library (TKDL) in 2001.
- The TKDL is a collaborative project between the Council of Scientific and Industrial Research (CSIR), Ministry of Science and Technology, and the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH), Ministry of Health and Family Welfare, of India, and is being implemented at CSIR. An inter-disciplinary team of Traditional Medicine (Ayurveda, Unani, Siddha and Yoga) experts, patent examiners, IT experts, scientists and technical officers were involved in the creation of the TKDL for Indian Systems of Medicine.
- The TKDL project involves documentation of the TK publicly available in the form of existing literature related to Ayurveda, Unani, Siddha and Yoga, in digitized format in five international languages which are English, German, French, Japanese and Spanish. It now contains over 34 million pages.
- The TKDL provides information on traditional knowledge existing in the country, in languages and format understandable by patent examiners at International Patent Offices (IPOs), so as to prevent the granting of erroneous patents.
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- The TKDL seeks to prevent the granting of patents over products developed utilizing TK where there has been little, if any, inventive step. The TKDL is intended to act as a bridge between information recorded in ancient Sanskrit and a patent examiner, since the database provides information in a language and format understandable to patent examiners. By facilitating access to information not easily available to patent examiners, the TKDL minimizes the possibility of patenting "inventions" for minor/insignificant modifications.
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- TKDL contains information for patent examiners on prior art which would otherwise be available only in Sanskrit and other local languages in Indian libraries and it will precisely list the time, place and medium of publication for prior art search of patent examiners.
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- Access to the TKDL database was granted to EPO in February 2009, the India Patent Office (CGPDTM) in July 2009, to the German Patent Office (DPMA) in October 2009, to USPTO in November 2009, to the United Kingdom Patent and Trademark Office in February 2010, to the Canadian Intellectual Property Office in September 2010 and to IP Australia in January 2011. These patent offices are allowed to utilize the TKDL for prior art searches and patent examinations. However, patent offices cannot reveal the contents of the TKDL to any third party, to protect India's interest against any possible misuse.
- Since the grant of access in February 2009, the EPO has identified 36 patents making use of Indian TK. In some cases, the EPO set aside its intention to grant the patent, while in others applicants withdrew their application and similar results are expected by the CSIR for the rest of these cases. This could prevent engagement in legally complex and extremely expensive opposition processes, according to the CSIR.