



WRITTEN STATEMENT

Diplomatic Conference for the Conclusion and Adoption of a Treaty on Design Law
Riyadh, November 11-22, 2024

We thank the co-coordinator of GRULAG, the State of Chile, for mentioning Indigenous Peoples and local communities in its opening address at the Conference. Likewise, we extend our gratitude to Nigeria for openly supporting the rights of Indigenous Peoples and local communities during the third special session of the Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications in October 2023.

To ensure that the intellectual property rights of Indigenous Peoples and local communities are respected, we fully support the language proposed by the National Congress of American Indians, as stated in document SCT/S3/4 of the third special session of the Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications in October 2023:

"We urge Member States to support inclusion of Article 3(1)(a)(ix) 'Option A' in the Basic Proposal for the Diplomatic Conference to Conclude and Adopt a Design Law Treaty (...) merging the disclosure provision in some fashion into Rule 2.1(x) as suggested by the United States is not an acceptable compromise (...) Indigenous Peoples who are the owners and holders of traditional knowledge and traditional cultural expressions, must have the legal certainty provided by a permanent disclosure requirement option included in the Treaty itself, not subject to change by the Assembly."

Including language that requires the disclosure of the origin or source of traditional cultural expressions, traditional knowledge, or biological/genetic resources used or incorporated into the industrial design is even more critical now, as Indigenous Peoples are not represented in the current diplomatic conference. In other words, it will be up to States to ensure the protection of the intellectual rights of Indigenous Peoples. If we imagine a treaty that does not include a clause to properly protect these rights, it would be striking to see that there were no Indigenous representatives and that this treaty was approved without their consultation.

We therefore urge the members of GRULAG, as well as Germany, Denmark, Spain, Luxembourg, Norway, the Netherlands, Fiji, Nepal and the Central African Republic, all signatories to ILO Convention 169 of 1989 on Indigenous and Tribal Peoples (which calls for these Peoples to be consulted), to ensure that the rights of Indigenous Peoples and local communities to their genetic resources, traditional knowledge and traditional cultural expressions are respected with sufficient care in the final text. This implies disclosure of the origin or source of genetic resources, and not only of traditional cultural expressions and traditional knowledge. WIPO in 2012 divided the knowledge of Indigenous Peoples into three parts (genetic resources, traditional knowledge, traditional cultural expressions), despite the fact that Indigenous Peoples have always expressed that this divisive vision is

western, and does not reflect their holistic vision of knowledge. It is a colonial imposition in language. Therefore, we advise to use a language that demands the disclosure of the origin or source of traditional cultural expressions, traditional knowledge, without forgetting the biological/genetic resources eventually involved in a design.

Thank you very much for your attention.