



Diplomatic Conference to Conclude and Adopt a Design Law Treaty  
Riyadh, November 11-22, 2024

### **Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions**

Part of what is currently being negotiated within WIPO concerns genetic resources, traditional knowledge, and traditional cultural expressions. This matter pertains directly to the interests of Indigenous Peoples. According to ILO Convention No. 169 on Indigenous and Tribal Peoples (ratified by 25 countries), these Peoples must be consulted regarding the adoption of measures that affect them. Similarly, the UN Declaration on the Rights of Indigenous Peoples is part of the normative framework that WIPO must follow as a specialized agency of the UN (1974 Agreement between WIPO and the UN).

This same Declaration calls on its specialized agencies to allocate financial resources to ensure the effective participation of Indigenous Peoples in negotiations that impact their interests (Art. 41). However, Indigenous Peoples are not present in these negotiations regarding their genetic resources, traditional knowledge, and traditional cultural expressions. This situation is irregular. If, in addition, the treaty adopted under these irregular circumstances harms the interests of Indigenous Peoples—by including an insufficient clause for disclosing the origin of genetic resources, traditional knowledge, and traditional cultural expressions (or, in the worst case, omitting it altogether)—this would demonstrate no intent to remedy this irregular situation. On the contrary, it would exacerbate the issue: Indigenous Peoples were not consulted on the adoption of a treaty harmful to their interests.

Therefore, we advise States to include in the treaty a clear clause requiring applicants for industrial design patents to disclose the origin or source of any genetic resources, traditional knowledge, and traditional cultural expressions involved in the designs. During the most recent WIPO diplomatic conference (May 2024), sufficient goodwill was shown to include this clause in the consensus. States can reaffirm this goodwill and attempt to remedy, in this way, the lack of consultation with Indigenous Peoples.

Should a treaty harmful to these Peoples be adopted, we believe that WIPO would face strong criticism that would undermine both the legitimacy of the treaty and that of the institution itself. The diplomatic conference would no longer serve as an example of the relevance of the multilateral system but rather as evidence of its irregular use to the detriment of international law, in the name of improving the efficiency of the patent registration system.