

100519pc trade

Intellectual Property Laws Amendment Bill on Indigenous Knowledge

**Presentation by Department of Trade and
Industry to:**

**Portfolio Committee on Trade and Industry
Date: 19 May 2010**

[PART II]



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FORMS OF IP continued

- **Trade Marks (lifespan 10yrs renewable) – e.g. coke, MTN**
 - Trade marks distinguish goods and services from one another in order to, amongst other things, avoid misleading the public
 - It is a brand name, a slogan or a log. Trade marks (collective or certification marks) can be used to protect culturally recognised symbols used or not used in trade and commerce. Example is “Rooibos” owned by Khoisan and Dutch descendants
 - Geographical Indications (GI) – i.e. product peculiar to a particular area due to skills, climate, soil type e.g. Rooibos, honey bush



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FORMS OF IP continued

- GIs can therefore be the same as trade marks (collective/certification marks) because they are jointly owned by a particular association or community
- However, in certain instances they are stand-alone and Government can declare unilaterally what constitutes a GI and then convince trading partners to recognise them, e.g. "Champagne" for sparkling wines "owned" by France. South Africa can also declare unilaterally what constitutes GI.



FORMS OF IP continued

- Copyright (Lifespan of creator plus 50 years after the death of creator)
 - Examples: Books, CDs, computer software
 - Copyright regime can protect IK as it has been said earlier as follows:
 - The elements and principles of the copyright system are relevant to the protection of folklore because many folklore are literary and artistic productions and therefore already or potentially the subject matter of copyright protection.
 - E.g. music and storytelling emanating from communities
 - Many countries protect folklore under copyright regime, in particular the rights of performers.
 - Protection afforded to a derivative works vests in the new material or aspects of the derivative work.



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FORMS OF IP continued

- **Designs (lifespan 15 yrs and 10 yrs)** – functional designs exist only in SA
 - Intended to introduce a lower threshold for innovation e.g. reduce and/or minimise requirements/criteria for innovation, then improve on them
 - Encourages creativity between lower and higher thresholds / standards required
 - Industrial Designs may be used to protect, for instance, textile design that is richly indigenous
 - Something that mimics the function of the original design e.g. product of a lower standard that performs the same function as wheelbarrow



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THANKS!!



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