

**[ Joint IPOPHL-NCIP Administrative Order No. 01  
5 2016, October 28, 2016 ]**

**RULES AND REGULATIONS ON INTELLECTUAL PROPERTY  
RIGHTS APPLICATION AND REGISTRATION PROTECTING THE  
INDIGENOUS KNOWLEDGE SYSTEMS AND PRACTICES OF THE  
INDIGENOUS PEOPLES AND INDIGENOUS CULTURAL  
COMMUNITIES**

**WHEREAS**, the 1987 Constitution provides that the State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law;

**WHEREAS**, the 1987 Constitution recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development and that the State shall consider these rights in the formulation of national plans and policies;

**WHEREAS**, an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products;

**WHEREAS**, it is also a State policy to streamline administrative procedures of registering patents, trademarks, and copyright, to liberalize the registration on the transfer of technology, and to enhance the enforcement of intellectual property rights in the Philippines;

**WHEREAS**, the indigenous cultural communities are entitled to the recognition of full ownership and control and protection of their cultural and intellectual rights;

**WHEREAS**, the use of intellectual property bears a social function;

**WHEREAS**, the Indigenous Peoples Rights Act of 1997 gives the indigenous cultural communities the right to special measures to control, develop and protect their sciences, technologies, and cultural manifestations, including indigenous knowledge systems and practices (IKSP);

**WHEREAS**, the Intellectual Property Office ("IPOPHL") is the main government agency that administers and implements the State policies on intellectual property including the rules and regulations governing the registrations of intellectual property rights applications;

**WHEREAS**, the Intellectual Property Code of the Philippines mandates the IPOPHL to coordinate with other government agencies and the private sector efforts to formulate and implement plans and policies to strengthen the protection of

intellectual property rights in the country;

**WHEREAS,** the National Commission on Indigenous Peoples ("NCIP") is the primary government agency responsible for the formulation and implementation of policies, plans, and programs to promote and protect the rights and well-being of the indigenous cultural communities and indigenous peoples;

**NOW THEREFORE,** the following Joint IPOPHL-NCIP Administrative Order seeking to the intellectual property system to protect the IKSP of the indigenous peoples and indigenous cultural communities is hereby promulgated, adopted, and prescribed for the information and guidance of all concerned.

## **Chapter I**

### **Title, Scope, Objective, and Definition of Terms**

**Rule 1. Title.-** This Joint IPOPHL-NCIP Administrative Order shall be referred to as the "Rules and Regulations on Intellectual Property Rights Application and Registration Protecting the Indigenous Knowledge Systems and Practices of the Indigenous Peoples and Indigenous Cultural Communities".

**Rule 2. Scope.-** These Rules and Regulations shall apply to the examination and registration of intellectual property rights application in the IPOPHL that use the IKSP of the indigenous peoples and indigenous cultural communities.

**Rule 3. Objective.-** This Joint IPOPHL-NCIP Administrative Order aims to provide a harmonized rules and regulations of the IPOPHL and the NCIP to protect the intellectual creations including the IKSP of the indigenous peoples and indigenous cultural communities. The rules and regulations seek to provide institutional arrangement between the IPOPHL and the NCIP to prevent the misappropriation of the IKSP of the indigenous peoples and indigenous cultural communities and encourage tradition-based creations and innovations.

**Rule 4.- Definition of Terms.-** For purposes of these Rules and Regulations the following terms are defined as follows:

- a) "Collective Management" is the exercise of the intellectual property rights by organizations or persons acting in the interest and on behalf of the owners of these rights;
- b) "Community Intellectual Rights" refer to the rights of the indigenous peoples and indigenous cultural communities to own, control, develop, and protect: (a) the past, present and future manifestations of their cultures, such as but not limited to, archeological and historical sites, artifacts, designs, ceremonies, technologies, visual and performing arts and literature as well as religious and spiritual properties; (b) science and technology including, but not limited to, human and other genetic resources, seeds, medicine, health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, resource management systems, agricultural technologies, knowledge of the

properties of fauna and flora, oral traditions, designs, scientific discoveries; and, (c) language, script, histories, oral traditions and teaching and learning systems; (*Rule II Section 1(j) NCIP Administrative Order No. 01-98*)

- c) "Customary Laws" refer to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective indigenous peoples and indigenous cultural communities; (*Section 3(f) Rep. Act No. 8371*)
- d) "Free and Prior Informed Consent" refers to the consensus of the members of the indigenous cultural communities to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community; (*Section 3(g) Rep. Act No. 8371*)
- e) "Indigenous Knowledge Systems and Practices" or "IKSP" refer to systems, institutions, mechanisms, and technologies comprising a unique body of knowledge evolved through time that embody patterns of relationships between and among peoples and between peoples, their lands and resource environment, including such spheres of relationships which may include social, political, cultural, economic, religious spheres, and which are the direct outcome of the indigenous peoples' responses to certain needs consisting of adaptive mechanisms which have allowed indigenous peoples to survive and thrive within their given socio-cultural and biophysical conditions (*Rule II Section 1(f) NCIP Administrative Order No. 01-98*).

The reference to IKSP also means traditional cultural expressions or traditional knowledge and covers distinctive signs and symbols associated with the indigenous peoples and indigenous cultural communities and shall not be limited to a specific technical field, and may include agricultural, environmental or medical knowledge, and knowledge associated with genetic resources.

- f) "Indigenous Peoples / Indigenous Cultural Communities" refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. Indigenous Peoples/Indigenous Cultural Communities shall, likewise include peoples who are regarded as indigenous on

account of their descent from the populations which inhabited the country, at the time of conquest or colonization or at the time of inroads of non-indigenous religions and cultures or the establishment of present state boundaries who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains; (*Section 3(h) Rep. Act No. 8371*)

- g) "Intellectual Property" is the term used to describe intangible assets resulting from the creative or intellectual endeavor of an individual or organization. It refers to creations of the mind, such as inventions, literary and artistic works, and symbols, names, images, and designs used in commerce;
- h) "Intellectual Property Rights" refer to those rights recognized and protected in Republic Act No. 8293, otherwise known as the "Intellectual Property Code of the Philippines", as amended;
- i) "IPOP HL" refers to the Intellectual Property Office of the Philippines;
- j) "NCIP" refers to the National Commission on Indigenous Peoples; and
- k) "Rules and Regulations" shall refer to this Joint IPOP HL-NCIP Administrative Order No. 01, 2016.

## **Chapter II**

### **Rights Concerning Indigenous Knowledge Systems and Practices**

**Rule 5.** Right to Indigenous Knowledge Systems and Practices by the Indigenous Peoples

- a) The IKSP of the indigenous peoples and indigenous cultural communities are their collective intellectual rights and are an inherent part of their cultural patrimony.
- b) Individuals or specific families may serve as custodians of these IKSP on behalf of the community in accordance with customary laws.
- c) The indigenous peoples have the right to regulate access of their IKSP for research and documentation.
- d) The indigenous peoples have the right to own, control, develop and protect the past, present and future manifestations of their cultures, such as but not limited to:
  - i) archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts