

Editorial:

This edition is wholly composed of selected and peer-reviewed contributions made in a specialist scholarly conference on *Traditional Knowledge in Legal Context* held at Potchefstroom on 17-18 March 2009 at Potchefstroom.

Oratio

Andre van der Merwe a Senior Director of DM Kisch Incorporated and practising Intellectual and Patent attorney, delivered the key-note address (here published as an *oratio*), posing the question whether traditional knowledge, for which there is no unambiguous definition, can effectively be protected under a single umbrella." After considering the matter from *inter alia* historical, philosophical and legal perspectives, he suggests a solution based on a multi-disciplinary approach.

Articles

In his paper John T Cross of the University of Louisville in the USA argues for a property model for traditional knowledge by refuting the classic argument that property rights are justified only as a way to spur innovation and other creative activity. He goes on to demonstrate the usefulness of a system of property rights for the dissemination of traditional knowledge and to promote the assurance of the accuracy of knowledge.

The protection of folklore is the focus of Enyinna Nwauche of the Rivers State University of Science and Technology, Port Harcourt, Nigeria. With reference to constitutional and international rights protection, he demonstrates how deficient national protection of expressions of folklore may be overcome in Africa by means of a human rights regime.

Next, Adam Andrzejewski of the Justus-Liebig-University in Gießen, Germany confronts the difficulty that ownership of the potentially useful pharmaceutical substances available in the natural resources used by indigenous communities continues to be controversial. He compares European, American and international patent law norms in search of clarification of the issues surrounding patent protection.

Sunelle Geyer of UNISA in Pretoria addresses the vexing question of the definition of the terms "indigenous" and "traditional" in view of the inadequate provisions of the South African intellectual property legislation in this regard. She makes recommendations with reference to other South African and foreign statutes and United Nations documents.

Tracy Gutuza of the University of Cape Town analyses the potential income tax implications of the proposed incorporation of traditional intellectual property in the intellectual property legislation of South Africa.

Finally Lee-Ann Tong of the University of Cape Town investigates the possibility of protecting traditional knowledge by making use of secrecy and the concerns arising in this regard where reliance is placed on unfair competition and contract.

Francois Venter

Edition Editor
Prof A van der Merwe

