

IP Survey Report

I . Background

The State Intellectual Property Office of the Kyrgyz Republic (KYRGYZPATENT) is the authorized body in the intellectual property sphere. This office also distributes information on IP issues among population and provides a legal framework to safeguard industrial property objects, such as inventions, industrial prototypes and models, breeding achievements, trademarks, brand names, names of a commodity's place of origin, rationalisation suggestions, and traditional knowledge. In addition to industrial property objects, KYRGYZPATENT also seeks to protect advanced studies, works of literature, art objects, computer programs, performances, execution, phonograms, ethereal transmissions, and cable broadcasting.

Thus, objects of folklore are not considered IP objects, and in compliance with the legislation of Kyrgyz Republic, they are not subject to patenting and cannot be legally safeguarded.

According to Article 105 of the Civil Code of Kyrgyz Republic and Article 8 of the Law on a Copyright and Allied Rights of the Kyrgyz Republic, copyrights are not applicable to works of traditional art (folklore).

By the Law on Guarding Traditional Knowledge of Kyrgyz Republic, which was passed in 2007, a legal safeguard applies to technologies that are transmitted from generation to generation. According to Article 1 of the Law, it does not cover objects of folklore and traditional art. The primary purpose of the Law is to prevent the illegal patenting of inventions that are based on traditional knowledge.

According to Ms Dinara Omorbekova, Expert on Breeding Achievements and Traditional Knowledge of KYRGYZPATENT, as of 1 October 2011, her office received forty applications for registering industrial property objects that were based on traditional knowledge, including thirty inventions, seven industrial prototypes, and three useful models. In addition to these, KYRGYZPATENT also accepted over a hundred applications that were related to the use of genetic resources.

As of now, KYRGYZPATENT has certified the following three ICH objects.

- Kyrgyz traditional intellectual game ‘Toguz Korgo-ol’ (2009);
- Kyrgyz traditional technology on making soap ‘Shakar’ (2011);
- Kyrgyz traditional food receipt ‘Tash-Kordo’ (2011).

Other than KYRGYZPATENT, there are several organisations that are officially responsible for ICH safeguarding and intellectual property issues in Kyrgyzstan: the Ministry of Culture of the Kyrgyz Republic, the National Commission of UNESCO in Kyrgyzstan, the State Museum of History, the National Museum of Fine Arts, and the National Academy of Science Assembly of the People of Kyrgyzstan. In addition, many kinds of NGOs working in sphere of art/culture development are also more or less involved with ICH safeguarding and IP rights protection.

ICH subjects, such as individual artisans, designers, photographers, film makers, are also more or less involved in the process of recognising or solving IP issues.

The most active NGOs working on ICH and IP issues in Kyrgyzstan are the Central Asian Craft Support Association’s Resource Center in Kyrgyzstan (CACSARC-kg), the Central Asian Art Management (CAAM), the Central Asian Art and Culture Network (CAACN), and the Public Foundation ‘Kyrgyz El’.