

Intellectual Property Landscape in Uganda: Application to Traditional and Alternative Medicine Research- A Regulatory Perspective

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Traditional Medicine (TM)

The WHO defines Traditional Medicine as:

- **"The sum total of the knowledge, skill and practices based on the theories, beliefs and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness."**

Complementary and Alternative Medicine (CAM)

The WHO Global Report on Traditional and Complementary Medicine states that these terms refer to:

- **"A broad set of health care practices that are not part of that country's own traditional or conventional medicine and are not fully integrated into the dominant health care system."**

In general usage, the distinction is:

- **Complementary Medicine:** Practices used **together with** conventional medicine.
- **Alternative Medicine:** Practices used **instead of** conventional medicine.

TAM: CONTEXT



- The global market for Complementary and Alternative Medicine (CAM), which includes Traditional Medicine, was estimated at **USD 179.17 billion in 2024** and is projected to reach **USD 1430.70 billion by 2033**, reflecting a huge commercial and research opportunity. Source: *Grand View Research, 2024 Market Analysis*
- TAM forms the backbone of healthcare for the majority of the world's population. The **World Health Organization (WHO)** estimates that **over 80% of the African population relies on traditional medicine** for their basic healthcare needs.
- The **(WHO)** actively promotes the integration of safe and effective Traditional, Complementary, and Integrative Medicine (TCIM) into national health systems, recognizing its contribution to universal health coverage. Source: *WHO Traditional Medicine Strategy 2025–2034*

GLOBAL BRANDS IN TAM



Intellectual Property

Intellectual Property (IP) refers to the creations of the mind.

- Can be visualized as an *"invisible fence"* that protects the fruits of your intellectual labor from being used, distributed, or sold without your permission.

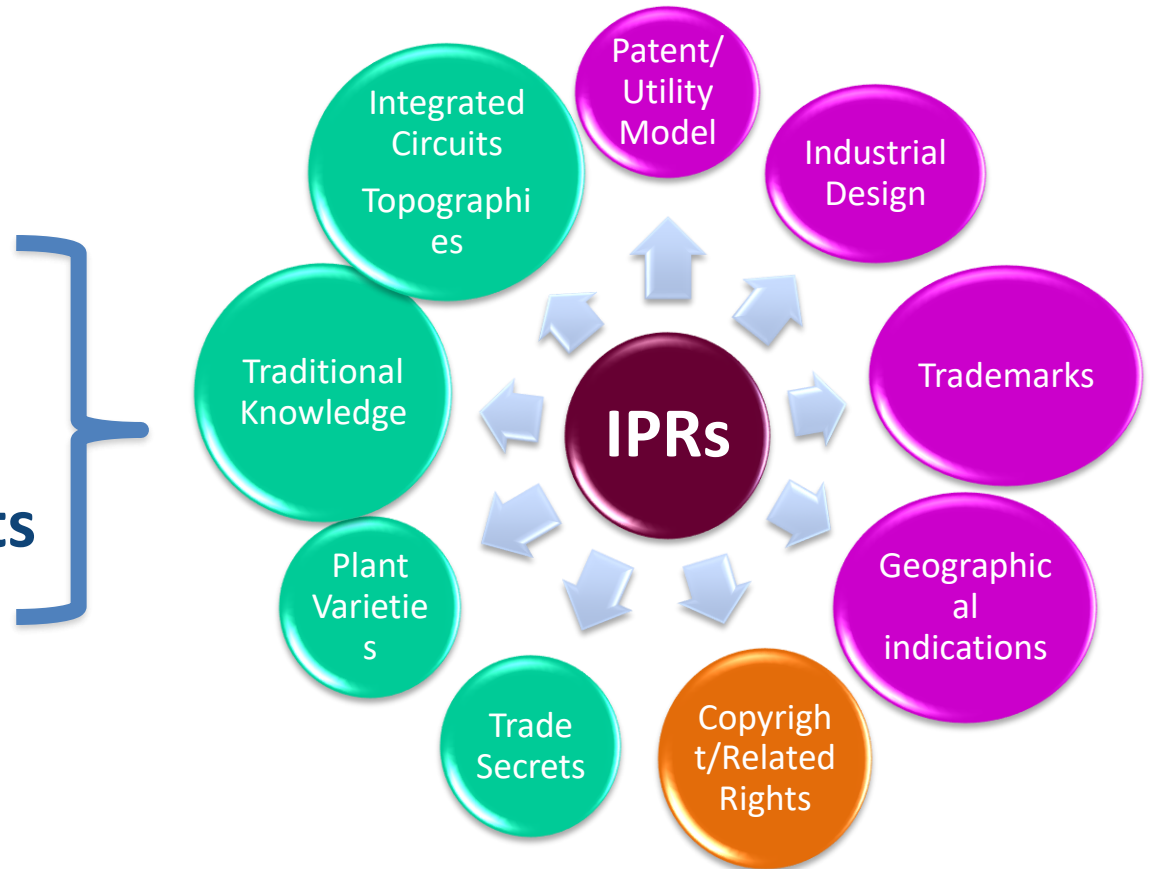


Fundamental Principles and Concepts IP

- **Nature of IP:** Unlike tangible property, IP pertains to non-material goods, i.e., knowledge, expressions, ideas, and designs. It expresses the output of intellectual processes or products of human intelligence and creativity.
- **Exclusivity of Rights:** This rights allow creators and inventors to prevent others from using, reproducing, or disseminating the intellectual output without authorization. This exclusivity is typically time-bound, ensuring a balance between the rights of creators and the public interest.
- **Legal Instruments:** IP rights are formalized and protected through specific legal instruments (IP Rights). Each instrument governs a distinct type of intellectual creation and sets out the rights and obligations of the IP holder. (**First to File Principle**)
- **Territorial:** Protection is enjoyed only within the jurisdiction it is granted in.

Intellectual Property Rights

Types of
Intellectual
Property Rights





**INTELLECTUAL PROPERTY RIGHTS ARE
STRATEGIC COMPETITION TOOLS USED IN
TRADE AND BUSINESS**

Uganda's IP System & TAM

IP REGULATORY INSTITUTIONS

Global



- World Trade Organization (WTO)
- CBD

Regional



- East African Community (EAC)
- COMESA
- AfCFTA

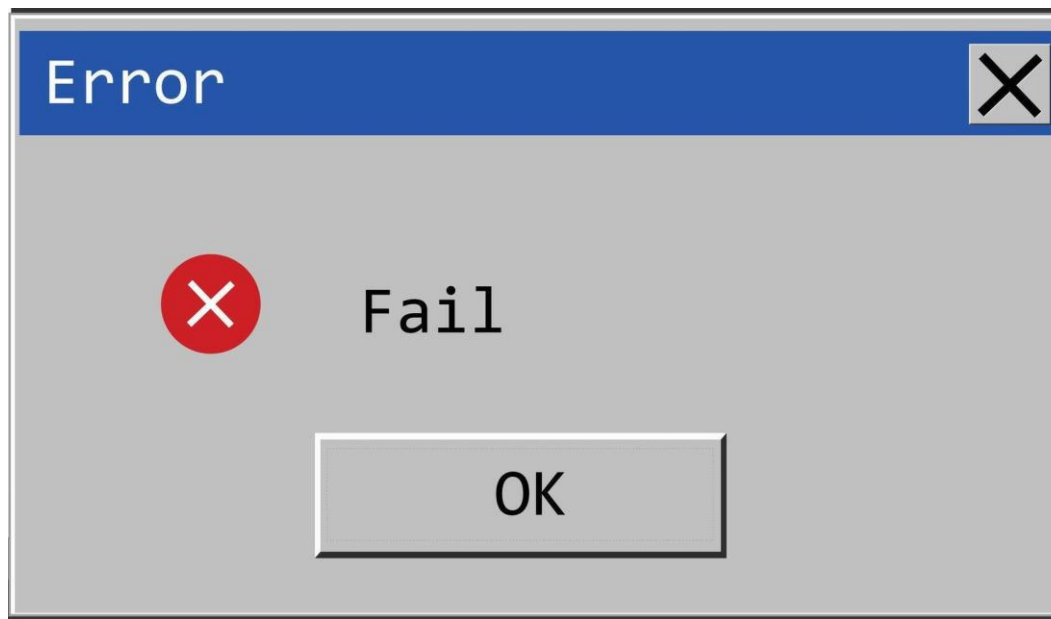
National



- UNCST
- NDA
- STI-OP
- MoH

Patents

- **What it protects:** Novel, non-obvious inventions with industrial application (e.g. new extraction process isolating anti-malarial compounds from a herb).
- **Mode of protection:** Exclusive rights to make, use, sell, or license for 20 years from filing.
- **National Law:** Industrial Property Act 2014 (Parts II & III).
- **Regional/International Treaties:** ARIPO Harare Protocol (member); Paris Convention (1996); TRIPS (WTO member).



Article 66.1

ISSUE

- **Extract from the Industrial Property Act 2014**

Part III – Patentability

3. The following shall not be regarded as inventions and shall be excluded from patent protection;

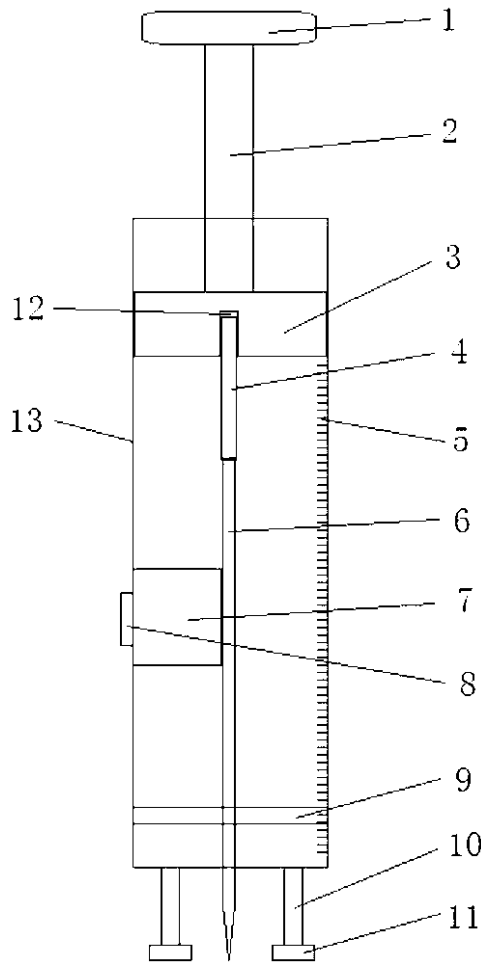
f. pharmaceutical products and test data until 1st January, 2016 or such other period as may be granted to Uganda or least developed countries by the council responsible for administering the Agreement on Trade Related Aspects of Intellectual Property under the World Trade Organisation;

Renewed to 1st January 2033

Industrial Designs

- **What it protects:** Aesthetic features of products (e.g. diagnostic equipment).
 - **Mode of protection:** Exclusive right for 5 years (renewable twice).
 - **National Law:** Industrial Property Act 2014.
 - **Regional/International Treaties:** ARIPO Design System (Harare Protocol); Paris Convention; TRIPS Art. 25–26.
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CN213284355 - NOVEL ACUPUNCTURE AND MOXIBUSTION DEVICE



- **Office: China**
- **Application No: 202021676181.7**
- **Application Date: 12.08.2020**
- **Publication Number: 213284355**
- **Publication Date: 28.05.2021**

Trademarks

- **What it protects:** Distinctive signs identifying goods/services (e.g. Kazire, Rwenzori Herbal Tea™).
- **Mode of protection:** Exclusive use, license, prevent confusion; 7 years renewable every 10 years.
- **National Law:** Trademarks Act 2010.
- **Regional/International Treaties:** ARIPO Banjul Protocol (member); Paris Convention; TRIPS Art. 15–21; Madrid System (joined 2021).

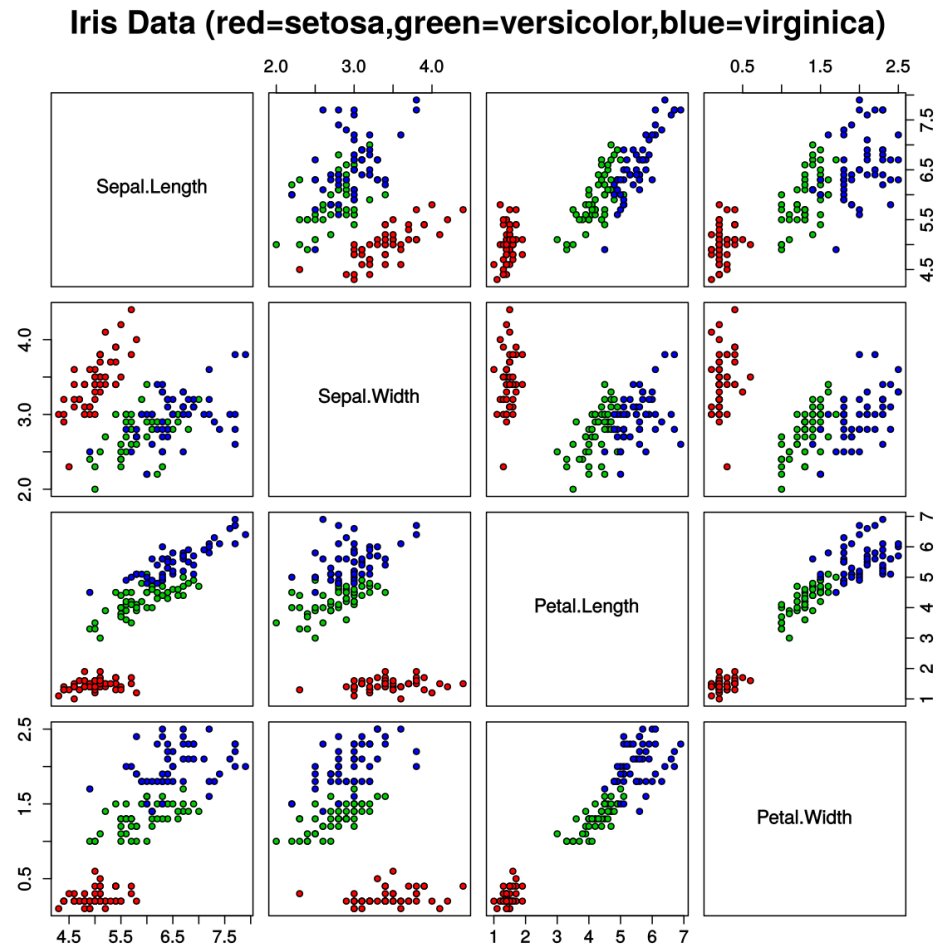


Copyright & Related Rights

- **What it protects:** Original literary, artistic, and scientific works (e.g. Datasets, Manuals, books or documentaries etc).
- **Mode of protection:** Automatic upon fixation; moral & economic rights; duration life + 50 years.
- **National Law:** Copyright & Neighbouring Rights Act 2006.
- **Regional/International Treaties:** Berne Convention; WIPO Copyright Treaty (WCT); WPPT; TRIPS Sec. 1., ARIPO Kampala Protocol

Copyright Value in TAM

- Datasets
- Algorithms
- AI Models
- Manuals
- Reports



Geographical Indications (GIs)



- **What it protects:** Names showing product origin & quality linked to geography (e.g. Fort Portal Herbal Infusions).
- **Mode of protection:** Collective right preventing misuse; indefinite while link to area exists.
- **National Law:** Geographical Indications Act 2013.
- **Regional/International Treaties:** ARIPO Banjul Protocol; TRIPS Art. 22–24; Lisbon Agreement (not party).



Fushun Liaoning Schisandra (*Schisandra chinensis*) GI proteted in China

- The Fushun Liaoning Schisandra berries' active components are primarily **lignans** (like Schisandrin and Gomisins), **triterpenoids**, and **polysaccharides**.
- These compounds confer key benefits:
- **Adaptogenic:** Increase resistance to stress and fatigue.
- **Hepatoprotective:** Protect the liver from damage and support detoxification.
- **Antioxidant/Anti-inflammatory:** Combat cellular aging and inflammation.
- **Neuroprotective:** Enhance concentration and support brain health



Liquorice Root (*Glycyrrhiza glabra*)



- The root is known for its intense sweetness and is used as both a medicinal and flavoring agent.
- **Medicinal Properties and Traditional Uses:**
- The traditional and modern therapeutic applications of Liquorice Root primarily revolve around its **anti-inflammatory, soothing, and anti-viral** effects, driven largely by its main active compound, **Glycyrrhizin**.

Luoping Yellow Ginger (*Zingiber officinale*)



Trade Secrets & Confidential Info

- **What it protects:** Valuable undisclosed information (e.g. healer's secret extraction ratio for herbal oils).
- **Mode of protection:** Protection via secrecy measures; lasts as long as secret maintained.
- **National Law:** Trade Secrets Protection Act, 2009.
- **Regional/International Treaties:** TRIPS Art. 39; ARIPO Guidelines

Chartreuse Liqueur

- Concocted in 1737, by monks in the French Alps
- The original formula, the **Élixir Végétal de la Grande-Chartreuse**, is still sold today as a **highly concentrated herbal tonic/cordial** and is traditionally consumed:
- **As a Tonic:** A few drops on a sugar cube, diluted in sweetened water, or added to herbal tea (grog) in cases of fatigue or indisposition.
- **As a Digestive Aid:** Both the Élixir Végétal and the Green/Yellow liqueurs are widely appreciated after meals to aid digestion, leveraging the traditional medicinal properties of the 130 botanicals.
- The Élixir Végétal is so tied to its medicinal origins that in France and the United States, it is sometimes technically classified and sold as a **dietary supplement** or a **medical tonic**.



Traditional Knowledge (TK) Interfaces

- **What it protects:** Sui generis systems, Indigenous medicinal knowledge & biodiversity-linked innovations.
- **Mode of protection:** Via ABS permits, PIC agreements, MTAs, and existing IP tools.
- **National Framework:** Industrial Property Act 2014 s.20; Traditional & Complementary Medicine Act 2019; ABS Regulations 2005.
- **Regional/International Treaties:** ARIPO Swakopmund Protocol (signatory 2010); CBD/Nagoya Protocol (ratified 2014);
- **WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge 2024 (Signed and Ratified)**



TRIPS Vs CBD

Trips Agreement

Trade Related Intellectual Property Rights



**Convention on
Biological Diversity**

Feature	TRIPS Agreement (WTO)	CBD / Nagoya Protocol
Primary Objective	Trade and Commercialization: Protection of private, individual intellectual property rights (IPRs) to incentivize innovation and global commerce.	Conservation and Equity: Conservation of biodiversity, sustainable use of components, and the fair and equitable sharing of benefits (ABS).
Core Principle on Rights	Private Rights: Focuses on the rights of the inventor/applicant to exclude others from using the patented invention for a fixed term (monopoly).	Sovereign & Collective Rights: Affirms the sovereign rights of States over their genetic resources and recognizes the collective rights of Indigenous and Local Communities (ILCs) over their TAK (Article 8(j)).
Status of TAK/TK	Largely Ignored / Public Domain: TAK itself is generally considered pre-existing knowledge that does not meet patent criteria (novelty, non-obviousness) and is treated as being in the public domain, making it freely available for research and patenting.	Recognized & Protected: Explicitly mandates parties to respect, preserve, and maintain the knowledge, innovations, and practices of ILCs.

Access Requirement

No Mandate: Does not require the patent applicant to disclose the source/country of origin of the genetic resource or associated TAK. (Facilitates "biopiracy").

Mandatory: Requires Prior Informed Consent (PIC) from the providing country/ILCs for access to the resource and associated knowledge.

Benefit-Sharing

Voluntary/Contractual: Benefit-sharing is only required if it is part of a separate, voluntary contract (Material Transfer Agreement) outside the patent system.

Mandatory (ABS): Requires Mutually Agreed Terms (MAT) to ensure the fair and equitable sharing of benefits (monetary and non-monetary) arising from the utilization of the resource/knowledge.

Subject of Protection

Inventions/Processes: Protects new inventions (products or processes) that meet novelty, inventive step, and industrial application criteria. Patents must be available for microorganisms and most non-biological processes.

Genetic Resources/Associated Knowledge: Focuses on the physical genetic resource itself and the traditional knowledge associated with it, regardless of patentability.

ENFORCEMENT MECHANISM

Trade Sanctions (WTO):

Enforcement is through the WTO's dispute settlement mechanism, backed by the threat of trade sanctions.

National Law & Checkpoints

(Nagoya): Enforcement is primarily at the national level (provider country) but the Nagoya Protocol mandates "checkpoints" in user countries to monitor compliance.



TRIPS Member



CBD Member



The Hoodia Cactus





- The Hoodia cactus is a plant found in the Kalahari desert regions in southern Africa (SA, Namibia & Botswana).
- The indigenous San people of Southern Africa have historically used the plant as an appetite suppressant.
- In the 1990s, the South African Council for Scientific and Industrial Research (CSIR) patented the active compound, P57, and licensed it to pharmaceutical companies without the San's consent or knowledge.
- Following an international outcry, the CSIR and the San successfully negotiated a benefit-sharing agreement in 2003, granting the San a percentage of milestone payments and royalties from the commercialized product.
- This agreement set a precedent for compensating indigenous communities for their traditional knowledge.

LESSONS

- Conventional IP regimes protect codified, commercial, and expressive aspects of TAM.
- Community ownership is not adequately catered for within the conventional IP regime.
- Community involvement is critical is safeguarding TAM research outputs and benefits
- Sui generis systems should be adopted to offer an additional layer of cover and protection for TAM research ecosystem

RECOMMENDATIONS

- 1** Establish a Dedicated *Sui Generis* Legal Framework for TAK
Enact a **Sui Generis law** for collective rights over TAK and genetic resources, mandating PIC to legally prevent unauthorized patenting (biopiracy).
- 2** Institutionalize a Centralized Digital Inventory & Registry
Create a **National Digital Registry** of TAM to establish prior art, helping the Patent Office reject claims based on existing community knowledge.
- 3** Strengthen Research-to-Commercialization Value Chains
Mandate **collaborative R&D** and IPR training; establish a **Benefit-Sharing Fund** via royalties on commercial TAM products to source communities.
- 4** Ensure Full Compliance with the Nagoya Protocol
Complete the **legal gap analysis** for full Nagoya Protocol compliance to gain international leverage in enforcing ABS obligations on foreign users.

**THANK
YOU**