

**TOWARDS A CLEARER DEFINITION AND UNDERSTANDING OF "INDIGENOUS
COMMUNITY" FOR PURPOSES OF THE INTELLECTUAL PROPERTY LAWS
AMENDMENT BILL, 2010: AN EXPLORATION OF THE CONCEPTS "INDIGENOUS"
AND "TRADITIONAL"***

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Summary

Although "indigenous" and "traditional" are key concepts in the *Intellectual Property Laws Amendment Bill* of 2010, they are not defined therein. The Bill does, however, provide a definition of "indigenous community" that is very clear as to *where* one should look for indigenous communities for the purposes of this Bill, and that there is likely to be a *plurality* of such communities, but is very vague as to which groups exactly will qualify as being indigenous. It is uncertain whether or not the current vague wording of the definition would be strong enough to widen the much narrower understanding of indigenesness prevailing in other South African legislation, the legislation of selected other jurisdictions, and the United Nations. Recommendations are made as to how the definition of an "indigenous community" may be rephrased to address these uncertainties more clearly.

Keywords:

Indigenous community; intellectual property; indigenous; traditional.

* This article is based on a paper delivered at the Conference on Traditional Knowledge in Legal Context held at the Potchefstroom Campus of North-West University, South Africa, on 17 and 18 March 2009.

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