

Abstracts

The protection of traditional medicine has attracted most developing countries' and a few developed countries' attention. Because of TRIPS, intellectual property become a rule must be stood by in the international trade. A serious of bilateral conventions dominant by developed countries made the items of intellectual property in TRIPS less flexible. Developing countries must pay for the disadvantages in the international trade brought by the over-promotion of intellectual property.

There are two camps focus on the attitude to intellectual property (IP) institution, and the main divarications are: strong protection or week protection, whether protect the traditional knowledge (TK) or not. The mainstream opinion of developed countries is strengthen the protection of IP and not protect the TK because they think TK is in public area, but developing countries demand to execute IP institutions conditionally and take TK into protection.

Convention of Biodiversity (CBD) provides the law base to TK protection law making. Many states parties make special laws, amend IP laws according to the spirits of CBD, and some countries such as Thailand establishes a special system to protect the traditional medicine knowledge. Although China is one of the first group taking part in the CBD, but we have fallen behind in law-making of traditional medicine knowledge because of the lack of studying CBD.

There are seven Chinese traditional medicine protection modes in China. One of them is IPRs (Intellectual Property Rights), but whether IPRs is fit for the protection of Chinese traditional medicine or not is worth discussing. Besides, Decree Governing the Protected Traditional Chinese Medicinal

Products is a special law protecting Chinese traditional medicine made before CBD, but it is made according to the situation of our country. People has commented on the advantages and shortcoming of the law.

This article emphasizes on introducing the case study and laws of the traditional medicine knowledge, for providing academicians and staffs focus on or researching the problem some new ideas.

Key words: traditional medicine knowledge; patent; Convention of Biodiversity; protection