

# INTELLECTUAL PROPERTY AND FOLKLORE

## Abstract

This thesis focuses on folklore within intellectual property law and examines current and suggested means of its protection. Although the notion of *traditional cultural expressions* is relatively new for jurisprudence, it quickly becomes significant, partly due to its political connotations.

The first part introduces four essential terms: *intellectual property*, *folklore*, *indigenous peoples* and *public domain*. Furthermore, it describes notions of *indigenous customary law* and *domaine public payant*.

The second part focuses on the relation between intellectual property and folklore. It discusses its nature and various interests that are linked to it. The same part looks at folklore as a cultural heritage of humankind. It also outlines main problematic uses of folkloric works and illustrates them with numerous examples. In the end it mentions so called *WIPO Fact-Finding Missions*.

The third part looks at folklore in the framework of standard intellectual property law. It is divided into three chapters, namely *Copyright*, *Industrial Property Rights* and *Other means of protection*.

The fourth part is dedicated to *sui generis* law. It provides an overview of attempts to amend conventional system of intellectual property law in order to better suit the needs of folklore. It presents the work of the *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore* established at the *World Intellectual Property Organization* in 2000. It concludes with several proposals for this forum.

The fifth part, the last one, concentrates on the legal system of the Czech Republic, in particular on options that exist in Czech intellectual property law for folklore.

The overall aim of this thesis is to introduce the topic of folklore in the context of intellectual property law. This text is not meant to come up with the optimum solution for their intersection, since it creates complex issues. This thesis is up to date to 01 September 2018.

**Key Words:** intellectual property / folklore / traditional cultural expressions