



# IMPLEMENTATION OF THE INTELLECTUAL PROPERTY LAWS AMENDMENT ACT NO 28 OF 2013

## Brief to Portfolio Committee on Trade and Industry

19 February 2020



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



# PURPOSE

The purpose of the presentation is to brief the Portfolio Committee on Trade and Industry about the Intellectual Property Laws Amendment Act.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



# SA APPROACH TO IK PROTECTION

- South Africa has provided for the protection of Indigenous Knowledge through the existing IPR's system. This led to the Intellectual Property Laws Amendment Act No 28 of 2013 (IPLAA), which amends South Africa's four existing IP statutes to incorporate indigenous intellectual knowledge as a form of IP.
- In terms of the IPLAA, the SA Copyright Act 1978, the Performers' Protection Act 1967, the Trade Mark Act 1993 and the Design Act 1993 have been amended to include certain forms of TK protection.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## Context of IPLAA

- The IPLAA is an Act of Parliament but not yet implemented. There are no regulations that have been promulgated in terms of the Act. It was passed into law in 2013 and it has been 6 years since.
- The Department as the custodian of intellectual property has taken a stance to implement IPLAA.
- Indigenous Knowledge Systems deals with research, development, promotion, education and strengthening of the regime of Indigenous Knowledge.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## Context of IPLAA

- Indigenous knowledge is critical in the economic development and development of the cultural industry of South Africa.
- IPLAA aims to recognise and protect certain manifestations of indigenous knowledge. South Africa has a rich heritage that has an impact on the communities and society.



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## Alignment between the dti, CIPC and DST

- The Department of Science and Innovation's Protection, Promotion, Development and Management of Indigenous Knowledge Act was passed into law in 2019.
- **the dti** and the Department of Science and Innovation works closely together in the mandate.
- In 2017 both Departments presented to the Portfolio Committee on Science and Technology to outline the alignment of the IPLAA and the DSI law. **the dti** was represented by the Companies and Intellectual Property Commission (CIPC).
- The Committee recommended that a technical team ought to work in collaboration with **the dti** and DSI and they should deal with the following issues: Trade secrets, management systems between IKS and IPLAA with a specific focus on the entities such as the national council and the other committee found in the IKS Act.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



# INSTITUTIONAL ARRANGEMENTS

The Companies and Intellectual Property Commission (CIPC) is an agency of the Department of Trade and Industry with a legislative mandate to register:

- Companies and Cooperatives
- Copyright in Films
- Designs
- Trademarks
- Patents

**Under the following domestic legal framework:**

- Copyright Act, 1978 and Performers' Protection Act, 1967
- Patent Act, 1978
- Cinematograph Films Act, 1977
- Trademarks Act, 1993
- Designs Act, 1993
- Counterfeit Goods Act, 1997



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## ALIGNMENT BETWEEN the dti, CIPC and DSI

- The Companies and Intellectual Property Commission will implement IPLAA with a focus on IP registration.
- The Department of Science and Innovation will record traditional knowledge from communities and CIPC will participate only in registration once a traditional knowledge requires protection.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## IMPLEMENTATION APPROACH

- **the dti** will be in the process to develop the regulations to implement IPLAA. This process is anticipated in the 2020/21 financial year.
- CIPC and **the dti** will continue to work closely with the DSI to ensure continued alignment and to implement the registration required.
- It is not envisaged that there will be many applications for patents, designs and trademarks. In copyright, there is no registration except in cinematograph films.
- Copyright protection is claimed automatically once the work is original and reduced to material form.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



# IMPLEMENTATION APPROACH

- CIPC has existing systems of IP registrations. There is no need to amend laws to cater for the implementation approach.
- There will not be requirements for new systems and resources except slightly to cater for copyright depository system in the future as copyright has no registration except for films in terms of Cinematograph Films Act, 1977.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## WAY FORWARD

- The process of the development of the Regulations will be underway.
- Collaboration with DSI has been established and will be monitored and effectively maintained.



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



**THANK YOU**



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

