THE INTELLECTUAL PROPERTY REGIME AND THE PROTECTION OF THE GENETIC RESOURCES AND TRADITIONAL KNOWLEDGE IN MALAYSIA

By

Zara Aina binti Mohd Zawawi (2005600709)

Roza Felina binti Zamzuri

(2005600915)

Sharifah Zulia Balqish S. Agil (2005600716)

Submitted in Partial Fulfillment of the Requirements for the Bachelor in Legal Studies (Hons)

> Universiti Teknologi MARA Faculty of Law

> > October 2007

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

TABLE OF CONTENTS

	of Contents owledgement act	iii iv
СНА	PTER ONE: INTRODUCTION	
1.0 1.1 1.2 1.3 1.4 1.5 1.6 1.7	Introduction Problem Statement Objective of Study Literature Review Methodology Limitation Significance of the Study Outline of the Structure of the Paper Conclusion	1 3 3 4 6 6 7 7 8
CHA	PTER TWO: DEFINITON, LAW AND CASES	
2.0 2.1	Definition Protection of the Traditional Knowledge and Genetic Resources in Malaysia 2.1.1 Patent Act 1983(Act 291) & Regulations 2.1.2 Plant Varieties Act 2004 2.1.3 The Convention on Biological Diversity 2.1.4 Traditional Knowledge Documentation and Programme 2.1.5 Biodiversity Garden Programme Patent Cases Involving Traditional Knowledge and Genetic Resources 2.2.1 The Turmeric Case 2.2.2 The Basmati Case 2.2.3 The Neem Case 2.2.4 The Case of Amazon Rainforest Plant Patent (Ayahcause Case) 2.2.5 The Hoodia Cactus Case	9 10 11 17 17 18 19 19 21 23 24 26
CHAI	PTER THREE: COMPARATIVE STUDY	
3.0 3.1 3.2	Brazil Peru New Zealand 3.2.1 Article Two of the Treaty	29 31 32 33

	3.2.2 Waitangi Tribunal	33
СНАР	PTER FOUR: FINDINGS AND RECOMMENDATIONS	
4.0	Findings	34
	4.0.1 Sui Generis Protection of Traditional Knowledge	34
4.1	The Position in Malaysia	36
4.2	Recommendations	38
	4.2.1 Disclosing the Geographical Origin of Genetic Resources in	
	Patent Applications	38
	4.2.2 Digital Libraries of Traditional Knowledge	39
4.3	Use of Intellectual Property Regime as Means to Protect Traditional	
	Knowledge	40
	4.3.1 Legal Aspect	41
4.4	Interview	44
	4.4.1 Interview with Professor Madya Rohazar Wati Zuallcobley,	
	Deputy Director General (Industrial Property)	44
СНАР	TER FIVE : CONCLUSION	
5.1	Conclusion	47
5.2	The Rationale In Opting Brazil As Model Law	48
Refere	nces	50
A		
Appen	aix	52
	Appendix 1: Interview Questions	

ACKNOWLEDGEMENT

We would like to take this opportunity to thank those who have contributed to the preparation of this project paper. For the constant guidance, assistance, patience and understanding, we offer our most sincere thanks and appreciation to our supervisor for this project paper, Puan Farizah Mohd Isa. Her guidance has kept us on track, her assistant has lessened our burden, her patience has kept us going and her understanding has kept us sane.

Thank you to Puan Norha Abu Hanifah for teaching us the basics of legal research and assisting us in preparing the proposal for this project paper. We are grateful for all that you have taught us.

We also would like to express our immense gratitude to staffs of World Intellectual Property Organization (WIPO) for providing us materials to complete our research.

To our family and close friends, special thanks for the continuous encouragement, wise words of advice, financial and emotional support and understanding throughout the process of preparing this project paper. Thank you.

ABSTRACT

This research project was carried out by a group of three persons, namely: Zara Aina binti Mohd Zawawi, Roza Felina binti Zamzuri and Sharifah Zulia Balqish S.Agil.

Zara Aina and Roza Felina's contribution to the project paper has been among others, to gather information, to borrow books from the library, and to search for the relevant law and materials on this topic.

Sharifah Zulia Balqish's contribution to the project paper has been among others, to prepare the outline of this project paper.

All other works and preparation process for this project paper has been done equally by authors.