

FLASH REPORT:

Indigenous Intellectual Property (IP) Roundtable

Winnipeg, Manitoba

November 8, 2023



Prepared by: Canadian Council for Aboriginal Business

Background

On November 8, 2023, CCAB hosted the most recent iteration of our intellectual property (IP) roundtable series at the Canadian Museum for Human Rights in Winnipeg, Manitoba. This discussion focuses on Indigenous entrepreneurs, business support organizations, and IP experts from the Winnipeg metropolitan area and the broader Manitoba region. Leveraging funding from the Indigenous Intellectual Property Program (IIPP) of the Department of Innovation, Science, and Economic Development (ISED), CCAB invited members of the local Indigenous economy to discuss their experiences and insights regarding the use of IP in their businesses and the prevention of unauthorized use, especially in relation to cultural heritage. Beginning on the West Coast, CCAB has traversed the country to thoroughly understand the IP landscape for Indigenous businesses. This work builds on the findings from CCAB's 2019 [IP Survey of Indigenous Businesses](#), which includes over 1,100 First Nations, Inuit, and Métis business owners, as well as previous topic-related roundtables that helped inform the direction of our conversations.

Our IP journey consists of the following steps:

- **March 2019:** IP Symposium for Aboriginal Business, funded by ISED – Toronto, ON.
- **June 2021:** “Understanding Intellectual Property Awareness & Use by Indigenous Businesses” Report Launch, funded by ISED – Virtual.
- **October 2022:** Indigenous Innovation and IP Roundtable #1, funded by NRC – Vancouver, BC.
- **August 2023:** Indigenous IP Roundtable #2, funded by ISED/ ElevateIP – Lethbridge, AB.
- **November 2023:** Indigenous IP Roundtable #3, funded by ISED/ IIPP – Winnipeg, MB.

With this latest IP roundtable iteration, we aimed to gain additional clarity and ground-truth the findings from the 2019 national survey, which suggest that:

IP Statistics:

- 21% of Indigenous businesses lack IP protection.
 - Consistent with the rate of all Canadian businesses (18.2%).
- 61% of Indigenous firms use either Traditional Knowledge (TK) or Traditional Cultural Expressions (TCEs).

Challenges:

- The top three reported negative IP impacts:
 - 19% believe IP diverted resources from more crucial activities.
 - 12% cite financial costs of maintaining and monitoring IP as harmful to business.
 - 11% associate IP with delayed market entry for new products.
- Only 3% of Indigenous firms own IP outside of Canada.
- Only 20% of businesses using TK and TCEs have formal protections.

Key Talking Points: The roundtable allowed Indigenous entrepreneurs and IP practitioners to discuss challenges and best practices. Topics ranged from IP hurdles and identifying business features that require protection to effectively implementing IP protections and enforcing them

when a business owner's IP rights have been infringed upon, as well as overcoming the barriers to accessing IP information, resources, and legal safeguards.

Objective: The goal of these discussions is to assist Indigenous entrepreneurs on their IP journey and foster a more inclusive and accessible IP system that caters to their specific requirements regarding safeguarding their products and services.

Motivation: Indigenous business leaders are eager to voice their concerns about the IP system and how it affects their interests, rights, and values. However, they are often underrepresented in official IP forums. These venues are critical for documenting their thoughts, opinions, and expertise that can benefit themselves, their communities, and all of Canada. CCAB ensures that each roundtable conversation provides education opportunities and relationship-building to strengthen IP support and expertise for Indigenous businesses. We also acknowledge the importance of Indigenous entrepreneurs' time and effort in contributing to the research program while balancing their demanding business schedules. As a token of appreciation, participants receive honoraria for their active involvement.

Acknowledgments: We want to thank all the Indigenous entrepreneurs for their valuable contributions and willingness to share their stories and experiences, as well as our partners at CIPO and ISED, who generously provided financial and in-kind assistance for this initiative.

Participants

There were 33 people in attendance (25 in-person and eight virtual attendees), including Indigenous business leaders, IP lawyers, and non-Indigenous organizations offering support. The CCAB membership directory was used to invite over 100 Indigenous business owners. 16 Indigenous business leaders were able to attend.

Agenda

(All times in Central Standard Time)

10:00 AM – Registration

10:30 AM – Event Start and Elder Blessing

10:45 AM – Introductions

11:00 AM – IP Expert Presentation by CIPO

- Presenter: Elizabeth Collinson, IP Advisor for Manitoba Region.
- Goal: To set the stage for informed discussion.
- Topics:
 - Different types of IP.
 - Relevance for Indigenous entrepreneurs.
 - General significance for all businesses.

11:30 AM – IP Expert Presentation by Métis Founder

- Presenter: Bruce Hardy, Myera Group
- Objective: To illuminate the processes involved in creating IP and fostering innovation in the Indigenous business context.
- Topics:
 - Differentiating factors of Indigenous firms, such as incorporating Indigenous Knowledge.
 - Gaps in the IP system addressing Indigenous business needs.
 - How to encourage Indigenous innovation in a culturally safe and secure environment.

12:15 PM – Lunch Break

1:15 PM – IP Expert Presentation by TDS Law

- Presenters: Shoshanna Paul and Kendall Dyck
- Objective: Explore the connection between Traditional Knowledge (TK), Traditional Cultural Expressions (TCEs), and IP.
- Topics:
 - Gain insights into the definitions and applications of these terms.
 - Deepen understanding of how TK and TCEs intersect with the field of IP.
 - Shifting focus from Indigenous IP to Indigenous Knowledge Systems.

2:00 PM – Coffee and Networking Break

2:15 PM – Review of Mini Survey and Open Discussion on Industry-Specific IP Challenges, Solutions, and Realities

3:00 PM – Closing Remarks and Final Thoughts from Participants

3:30 PM – Event End

4:00 PM – Tools and Financing for Aboriginal Business (TFAB) Networking Event

Objectives

The roundtable aimed to accomplish the following four objectives:

1. Build on conversations related to IP had at previous roundtables with a specific focus on better understanding the potential application of IP provisions within Indigenous businesses and methods in which they are already engaging with various forms of IP.
2. Connect Indigenous business participants with support organizations, government agencies, and departments that can help them on their IP journey while providing education surrounding IP and emerging issues.
3. Determine what Indigenous businesses need and obstacles they face regarding IP and use this learning to identify possible policy advocacy angles that CCAB could pursue.
4. Provide a safe space for Indigenous entrepreneurs to connect and share knowledge and insights about their IP-related experiences.

The following were key points discussed at the roundtable:

- Identifying how different forms of IP manifest within Indigenous businesses and what steps can be taken to protect violations.
- Deferring to the authority of Indigenous communities is central to the verification, validation, and monitoring process when businesses engage with TK/ CE.
- Difficulties having Western and Indigenous notions of ownership reflected in IP policy and use.
- A walkthrough of the various support organizations that provide IP-related funding and guidance.

Outcomes

- There is a need to organize follow-up events aimed at increasing Indigenous businesses' engagement with Canada's IP network by developing strategies relevant to them that work towards Indigenizing the current system.
- Government organizations must make a concerted effort to understand, acknowledge, and create policies that adequately support Indigenous IP concepts or frameworks. This shift in emphasis involves collaborating with Indigenous communities, businesses, and representative Indigenous organizations to develop best practices concerning Indigenous IP, perhaps working toward creating an Indigenous IP domain or an Indigenous Knowledge Hub that prioritizes a "by an Indigenous, for Indigenous" approach concerning IP or Indigenous knowledge in the broader sense.
- CCAB gleaned a wide range of insights that will be used to inform ongoing studies and future IP-focused gatherings.
- More support and resources are needed to combat misunderstanding, fear, worry, or unawareness related to Indigenous businesses and the protection of their IP. It is inherently a sensitive topic, especially for Indigenous businesses that incorporate TK/ CE in their company. Increased efforts must be made to ensure that Indigenous firms are knowledgeable and comfortable enough with IP to make informed decisions. There also must be increased support to explore alternatives rooted in Indigenous traditions and protocols.
- Continue to gather IP resources and research this topic so that CCAB can provide more utility concerning IP supports in-house or clearer direction connecting our members with the appropriate channels.

Participant Feedback

Participants expressed not only an interest in keeping this conversation at the forefront of discussions but indicated that having this space to connect and discuss their IP journeys with their peers alleviated a lot of anxiety and stress associated with this topic. Many mentioned that hearing how others have travelled along their IP journey answered questions they may have had and instilled a sense of relief that others had many shared experiences. For this roundtable iteration, CCAB introduced a panel model allowing presentations from an IP advisor, an IP lawyer, and an Indigenous business owner well entrenched in the IP sphere. Participants noted their appreciation for the presenters and how the different focuses of each speaker spurred fruitful conversations amongst the group. Those who participated mentioned that for future events, they would like protection of cultural knowledge, IP's interaction in contracting/ procurement/ trade, and when to start thinking about IP provisions/ what to consider when introducing a new product or service.

Next Steps

CCAB will continue to work with Indigenous entrepreneurs and relevant IP actors to promote ongoing discussions about best strategies for engaging Indigenous businesses operating within established IP channels while advocating for the recognition of alternate or Indigenous models. To better understand how IP affects Indigenous businesses, CCAB will continue to facilitate open dialogue on IP and conduct research that amplifies the perspectives of Indigenous businesses and peoples while informing the creation of a more equitable and accessible IP system in Canada for Indigenous entrepreneurs.

For more information about the roundtable discussion, please contact:

Matthew Foss

mfoss@ccab.com

Vice President, Research & Public Policy
Canadian Council for Aboriginal Business

Angela Mark

amark@ccab.com

Director, Research
Canadian Council for Aboriginal Business