



IP ITeasers 045:

Warning worries wanderers

The impact of Traditional Knowledge and Traditional Cultural Expressions grows. The exercise of these rights, which are first cousins to geographical indications such as Champagne and Stilton cheese, are becoming increasingly prevalent. For example, the control over Mt Warning in New South Wales, Australia has been ceded to the Wollumbin Consultative Group. This mountain was a popular hiking destination, because its summit is the first place in mainland Australia that is touched by the rays of the rising sun. However, the trail is now closed due to its cultural significance to the Bundjalung People, who are the Traditional Owners of the area. Further, there is a move to prevent any image of the mountain being recorded, for example photographically or even by a paper-and-pencil sketch. That latter is predicated upon a desire to prevent any commercialisation of the mountain. More controversially though, is a proposal to prevent any female to enter the site, as such a presence would purportedly ruin its cultural significance. Such a prohibition harks back to a famous case on confidential information, *Foster v Mountford* [1978] FSR 582, in which an ex parte injunction was sought from a court sitting in Alice Springs to prevent the publication of a book that might have had the potential effect of disclosing certain tribal secrets of the Pitjantjara people to “women and the uninitiated” (note this construction, as women were, and presumably remain, inherently uninitiateable). TK and TCE, and the related Genetic Resources, are becoming more important in the worldwide understanding and exploitation of IPRs and the penumbra of associated rights.