



TRIBAL STRATEGY FOR INTELLECTUAL PROPERTY VALUE CREATION AND ECONOMIC DEVELOPMENT

The Native American Intellectual Property Enterprise Council (NAIPEC)

NAIPEC is a national nonprofit organization dedicated to breathing life into new ideas in Tribal communities. Our mission is to grow invention, innovation, and creativity, and to strengthen economic sovereignty through the strategic use of intellectual property (IP).

NAIPEC works at the intersection of Tribal nations, industry, and academia. By helping Tribal communities bring concepts to market, we support economic development initiatives that foster new knowledge-based enterprises, sustainable businesses, and workforce opportunities in Indian Country.

This paper provides guidance for Tribes and Tribal businesses in assessing, acquiring, and creating value from IP. It explains how IP can be leveraged as both a legal shield and a business asset—fueling innovation, economic development, workforce deployment, and the creation of new enterprises in Indian Country.

Why Intellectual Property Matters

“America stands at a critical juncture in our economic evolution, and intellectual property will play a key role in driving our economic growth and renewal... IP is, in effect, the global currency of innovation.”

–David Kappos

Under Secretary of Commerce for Intellectual Property and Director of the
United States Patent and Trademark Office - 2009 to 2013

Since the first U.S. patent was signed in 1790, IP has served as a legal shield to protect inventors. Over time, patents, trademarks, copyrights, and trade secrets have also become powerful business assets.

Today, intellectual property is more than protection—it is a currency of innovation and a driver of economic development. Businesses, governments, and nations increasingly view IP as the foundation for growth, competitiveness, and global leadership.

Several recent changes have shaped the IP landscape in ways directly relevant to Tribes:

- **America Invents Act (AIA, 2011–2013):** Transitioned the U.S. to a first-to-file system, streamlined patent challenges, and increased competition among inventors. For Tribes, this means speed and strategy are more important than ever in securing rights.
- **Supreme Court Cases:** Decisions such as *Alice Corp. v. CLS Bank* (2014) limited the scope of software patents, while *Oil States v. Greene’s Energy* (2018) upheld the constitutionality

of post-grant patent reviews—key for understanding risk and opportunity in IP investments.

- **Growing Federal and International Attention:** From WIPO discussions on traditional knowledge to U.S. outreach programs for Tribal inventors, there is broader recognition that Native communities need stronger IP frameworks to protect both modern innovations and cultural heritage.

Native Innovation: Past, Present, and Future

Native peoples have a deep legacy of innovation. Pre-colonial civilizations in the Americas developed advanced systems in agriculture, astronomy, medicine, metallurgy, and environmental engineering—knowledge that has influenced the world but is often underrecognized or unprotected.

Today, Native resilience and creativity remain central to economic survival and growth. Tribes are uniquely positioned to lead in areas such as:

- Renewable energy and climate adaptation technologies
- Sustainable agriculture and food systems
- Environmental sciences and conservation practices
- Arts, culture, and digital media
- Health and life sciences innovation

While Native youth continue to face barriers in education and entrepreneurship, the opportunity is clear: IP can bridge history and future by protecting Tribal knowledge, encouraging new business ventures, and creating wealth that stays within communities.

Strategic Framework for Tribes

Tribes hold unique advantages in economic development, including tax exemptions, sovereign status, and eligibility for federal incentives such as accelerated depreciation and New Markets Tax Credits. Historically, Tribes have relied on gaming and federal contracting. While valuable, these sectors face growing competition. IP offers a pathway to diversify Tribal economies and strengthen sovereignty.

Key Strategies

- **Sponsoring Innovation:** Support inventors through partnerships with universities, corporations, and agencies. Initiatives like the Navajo Tech Innovation Center demonstrate how Tribal communities can incubate new enterprises.
- **Acquiring Patents and Portfolios:** Buying IP assets can provide Tribes with new revenue streams, market exclusivity, and leverage in partnerships. Portfolios can be monetized through licensing, enforcement, and joint ventures.
- **Strategic Management:** Carefully select IP aligned with business goals, shielding enterprises from competition and positioning Tribes as unique providers of technologies.

- **Risk Mitigation:** Build balanced portfolios, engage in cross-licensing, and manage compliance to reduce litigation risk.
- **Cost Reduction:** Regularly review portfolios to eliminate low-value patents, optimize filings, and align trademarks and brands with business assets.
- **Value Extraction:** Maximize revenue through licensing, joint ventures, alliances, or creating Tribal-owned businesses anchored in IP.

Policy & Economic Levers

Tribes already benefit from certain legal and economic advantages that can amplify the impact of IP strategies:

- **Sovereign Tax Exemptions:** Federal and state tax protections create unique investment opportunities.
- **Accelerated Depreciation & Incentives:** Federal law allows businesses on reservations to depreciate assets more quickly, reducing tax burdens and encouraging reinvestment.
- **New Markets Tax Credits & Federal Programs:** Incentives remain for businesses investing in Tribal areas. In the 2020s, expanded infrastructure funding and entrepreneurship grants have added momentum.
- **Gaming Diversification:** With increased competition from state-regulated gaming, Tribes have new incentive to diversify revenue streams beyond casinos—IP can play a central role.

Action Pathways

To make IP a pillar of economic sovereignty, Tribes can pursue several complementary strategies:

1. Sponsoring Innovation

Support inventors through Tribal innovation hubs, university partnerships, and mentorship programs. Examples include the Navajo Nation's Tech Innovation Center, which collaborates with NASA to foster enterprise creation.

2. Acquiring IP Assets

Purchase patents or portfolios to establish control over key technologies. This creates opportunities for:

- Licensing revenue
- Joint ventures with Tribal and non-Tribal partners
- Market positioning as a sole-source or premium provider

3. Protecting Traditional Knowledge

Engage with national and international frameworks to safeguard cultural expressions, traditional ecological knowledge, and genetic resources that are often exploited without Tribal consent.

4. Extracting Value

Maximize IP portfolios through:

- Licensing agreements
- Strategic alliances
- Manufacturing and distribution partnerships
- Sale or monetization of underutilized patents
- New business creation anchored in Tribal-owned IP

5. Risk Management

Maintain disciplined IP reviews, prune portfolios, and engage in cross-licensing to reduce litigation risks and costs.

Conclusion: Building Sovereignty Through Innovation

Tribal nations stand at a crossroads where history, culture, and modern opportunity meet. Intellectual property, properly understood and strategically managed, can serve as both shield and engine—protecting Native knowledge while fueling economic self-determination.

By combining traditional resilience with modern IP strategy, Tribes can position themselves as leaders in innovation, environmental stewardship, and economic sovereignty. The path forward is clear: build, protect, and leverage intellectual property not only as a legal asset, but as a foundation for generations of Tribal prosperity.