



传统纺织工艺的保护与知识产权

——以黎锦为例

Li Textile : The Practice of Safeguarding Traditional Techniques and Intellectual Property Rights

邓尧 Deng Yao

LIFANG & PARTNERS

INTELLECTUAL PROPERTY AND COMMERCIAL LAWYERS

www.lifanglaw.com

Email: info@lifanglaw.com



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一、人类非物质文化遗产——黎锦技艺

USL: Li Textile Techniques

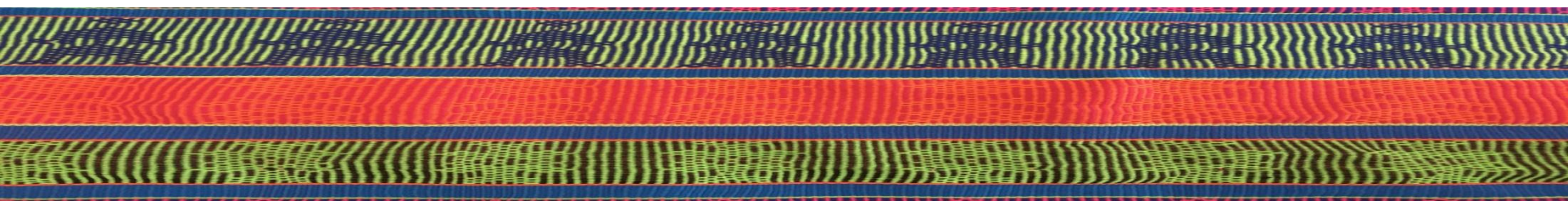


黎锦技艺，是中国海南岛黎族一种传统织锦技艺，正式名称叫海南传统
纺染织绣技艺。

它是指黎族妇女利用棉、麻等天然纤维制作衣物和其他生活用品所使用的
传统手工技艺，包括用手捻纺锤、单锭脚踏纺车纺纱，用植物染料等天然
材料对纱线或者面料染色和整理加工，用腰机织造面料，用色线在面料上刺
绣装饰图案等重要技艺类型和环节。

Li Textile is local traditional brocade in Hainan island, Officially named Traditional
Li Textile Techniques: spinning, dyeing, weaving and embroidering.

Traditional Li textile techniques are the handicrafts employed by women of Li ethnic
group in making cotton, hemp and other fibers into clothing and other daily
necessities. The techniques includes how to spin yarns with spindle of treadle
spinning wheel, how to dye yarns with natural dyestuffs, how to weave with back-
strap looms and how to embellish the fabrics with needlework.



一、人类非物质文化遗产——黎锦技艺

USL: Li Textile Techniques



2005年，被列入海南省省级非物质文化遗产代表作名录

2006年，被列为国家级非物质文化遗产代表作名录

2009年，被列为联合国教科文急需保护的非物质文化遗产名录

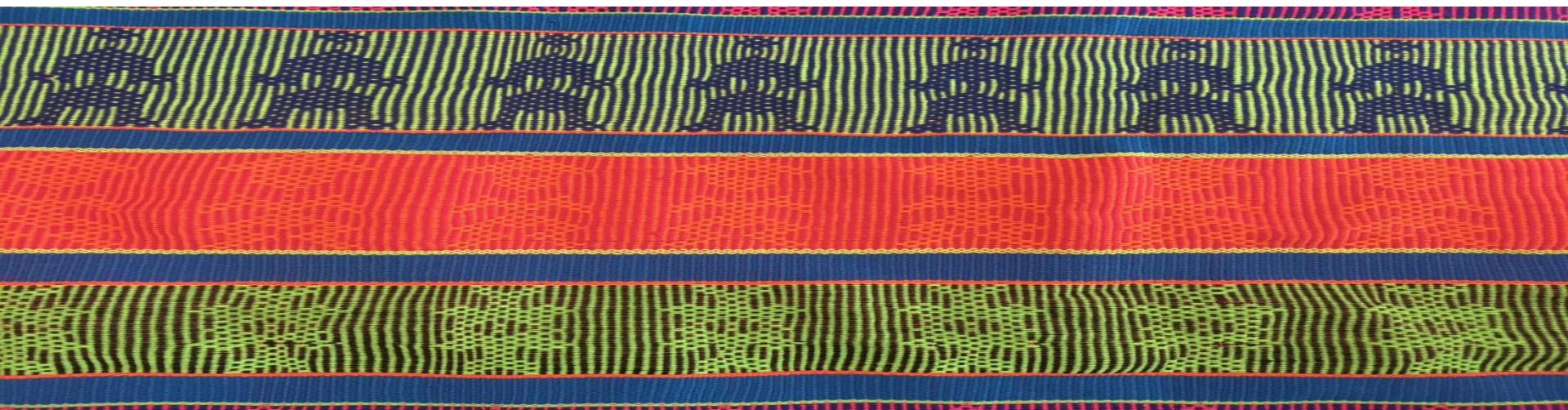
2018年，被列入中国传统工艺振兴计划首批项目

Provincial Intangible Cultural Heritage List in 2005

National Intangible Cultural Heritage List in 2006

USL (Urgent Safeguarding List) of UNESCO in 2009

Revitalization plan of Chinese Traditional Crafts in 2018



二、黎锦技艺的显著要素

Significant Components of Li Textile Techniques

Four Sections

Spinning



Dyeing



Weaving



Embroidering



四大技艺环节

二、黎锦技艺的显著要素

Significant Components of Li Textile Techniques



黎锦技艺的显著要素与知识产权保护可能性

Significant Components and Intellectual Property

Components	Description	IP Protection
Reputation	Style Origin Quality Maker Natural	IG Trademarks
Know-how	Tool Skills Knowledge	Patent Trade secrets
Appearance	Product design	Design patent Copyright
Patterns	Traditional Patterns New patterns	Copyright ?

三 传统工艺保护的重要手段——地理标志

Geographical indications as a means to preserve Traditional Handicrafts



非物质文化遗产与地理标志的契合性

- 手工品handicrafts
- 地域性localism
- 群体性community
- 人文价值humanity

ICH



- 用于商品 goods
- 特殊声誉reputation
- 自然因素geographical
- 人文因素humanity

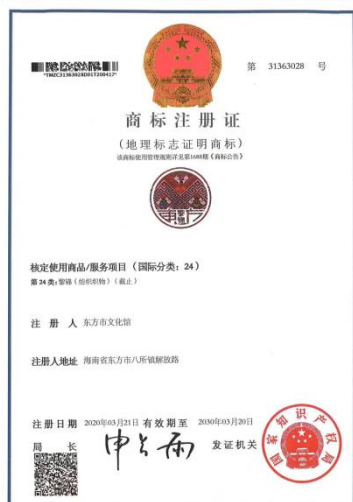
GI



三 传统工艺保护的重要手段——地理标志

Geographical indications as a means to preserve Traditional Handicrafts

模式选择：地理标志证明商标和集体商标



The Best way to Protect a GI: Certification Marks/ Collective Marks

三 传统工艺保护的重要手段——地理标志

Geographical indications as a means to preserve Traditional Handicrafts

地理标志商标保护非物质文化遗产的优势

Advantages of GI trademark for ICH

权利主体	解决了非遗主体不确定性	With a clear subject of rights
保护期限	克服了非遗保护期限的障碍	Solved the obstacle of ICH protection period
工艺品质	非遗传承与利用的平衡	Balance between inheritance and utilization
公平使用	符合条件均可申请使用	All members have the opportunity to apply
监督管控	根据项目特性，确定保护策略	More appropriate management and control based on characteristics of each ICH
易于宣传	打造城市文化名片及区域品牌	cultural symbols and regional brands for cities
申请程序	程序明确	clear application procedure
政策鼓励	国家鼓励地理标志产品	The State encourages geographical indication products

三 传统工艺保护的重要手段——地理标志

Geographical indications as a means to preserve Traditional Handicrafts

成功案例：泰国靛蓝染织工艺

Case study: Indigo City of Sakon Nakhon

ICH & GI



四 黎锦传统图案的特别保护

Special Protection for Traditional Patterns of Li Textiles



黎族没有文字，因此，黎锦传统图案是黎族历史的载体，也是民族文化和民族身份的显著符号。若被作为公共领域资源任意使用会造成重要损害。

Li Ethnic Group has no written language. The traditional patterns of Li brocade are carriers of Li culture and the foundation of ethnical identification. If it is used arbitrarily as public resources, it will cause significant damage.



四 黎锦传统图案的特别保护

Special Protection for Traditional Patterns of Li Textiles



- 不当使用的形式：Improper Use
 - 将黎锦传统图案注册商标
Registration as a Trademark
 - 将黎锦传统图案登记版权
Registration as Copyright
 - 对传统图案进行部不适当修改
Improper Modification
 - 将黎锦传统图案使用不合适的地方
Used in Inappropriate Situations

四 黎锦传统图案的特别保护

Special Protection for Traditional Patterns of Li Textiles



行政法保护——完善《非物质文化遗产法》

第五条 使用非物质文化遗产，应当尊重其形式和内涵。

禁止以歪曲、贬损等方式使用非物质文化遗产。

Administrative Law Protection: Intangible Cultural Heritage Law of the People's Republic of China

Article 5, The use of intangible cultural heritage should respect its form and connotation.

The use of intangible cultural heritage by means of distortion or derogation is prohibited.

——This clause should be improved.

四 黎锦传统图案的特别保护

Special Protection for Traditional Patterns of Li Textiles



知识产权法保护

1、最高人民法院司法审判指导意见

2、司法审判案例：

——“乌苏里船歌”著作权案

使用民间文学艺术应注明来源

——商标行政诉讼案

出于商业目的注册商标，“会对中华民族和文化产生消极的、负面的影响”

IP Law Protection

1, Judicial trial guidance from the Supreme court

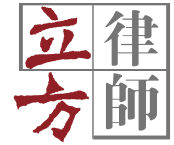
2, Judicial cases

——Copyright case: indication of source

——Trademarks case

四 黎锦传统图案的特别保护

Special Protection for Traditional Patterns of Li Textiles



特别立法保护

——民间文学艺术保护条例

——特别知识产权保护法

例如：巴拿马《保护和捍卫原住民文化身份及传统知识的原住民集体知识产权特别制度法》

台湾《原住民族传统智慧创作保护条例》

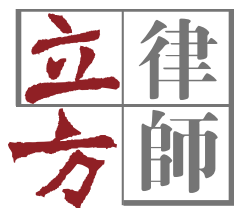
Legislation

——Regulations on the protection of folk literature and art

——Special IP Law

Panama : On Special System for the Collective Intellectual Property Rights of Indigenous Peoples for Protection and Defense of their Cultural Identity and their Traditional Knowledge

Taiwan: Regulations on Indigenous Peoples Traditional Wisdom Creation Protection



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www.lifanglaw.com

Email: info@lifanglaw.com

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