

Presented by the Intellectual Property Issues in Cultural Heritage Project

### SYMPOSIUM WELCOME & CLOSING REMARKS



#### VICTOR GUERIN

Artist and Cultural Representative, Musqueam Indian Band, Canada

Video URLs: http://bit.ly/1nYfsYS http://bit.ly/1IJWogd

#### **SUMMARY**

Victor welcomes symposium guests to the Musqueaum ancestral territory and offers a prayer and song. As a closing, Victor tells a story and shares a song that emphasizes the importance of respect within and between communities, and for the earth itself.

#### **KEY CONCEPTS**

Sacred property/ways, ancestral territory, brethren, respect, transformation.

- 1. In Victor's opening remarks, he states that the symposium is being held on "ancestral territory." What does he mean by this, and why is this important?
- 2. How does Victor describe things that are "sacred"?
- 3. In Victor's closing remarks, he tells the story of the young woman who transformed into a wolf. What are the lessons that you draw from this story? How do these relate to the themes of the conference?
- 4. What does Victor mean by the term "brethren"? How does this relate to the conference themes?



www.sfu.ca/ipinch

#### A. Indigenous Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where Indigenous cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Victor's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Victor to craft an additional statement addressing these concerns.

#### **RESOURCES**

Bell, Catherine, and Robert K. Paterson, eds. (2008). Protection of First Nations Cultural Heritage: Law, Policy and Reform. University of British Columbia Press, Vancouver, BC.

Berkes, Fikret (1999). Sacred Ecology: Traditional Ecological Knowledge and Resource Management. Taylor & Francis: Philadelphia, PA.

Battiste, Marie and James (Sakej) Youngblood Henderson (2000). Protecting Indigenous Knowledge and Heritage: A Global Challenge. Purich Publishing: Saskatoon, SK.

First Nations Peoples of British Columbia Map. http://www.bced.gov.bc.ca/abed/map.htm

First Peoples' Cultural Council Website. http://www.fpcc.ca

Musqueam Indian Band Website. http://www.musqueam.bc.ca

Project for the Protection and Repatriation of First Nation Cultural Heritage in Canada Website. http://bit.ly/1u2XZPL

Verschuuren, Bas, Robert Wild, Jeffrey A. McNeely and Gonzalo Oviedo, eds. (2010). Sacred Natural Sites: Conserving Nature & Culture. Earthscan: London, UK.









Presented by the Intellectual Property Issues in Cultural Heritage Project

### **OPENING REMARKS:**

### **Cultural Commodification, Indigenous Peoples & Self-Determination Public Symposium**



#### **GEORGE NICHOLAS**

Professor of Archaeology and IPinCH Project Director, Simon Fraser University, Canada

Video URL: http://bit.ly/1gbwlJW

#### **SUMMARY**

This presentation provides an introduction to the issues associated with intellectual property and cultural heritage, as well as contextual information related to the complex processes known as "commodification".

#### **KEY CONCEPTS**

Intangible, appropriation, commodification, heritage, authenticity.

- 1. In his presentation, George states that "material objects have no value without their intangible quality." What does he mean by this?
- 2. How would you define "commodification" when it comes to cultural heritage? What are some examples?
- 3. What do you think the benefits and drawbacks of commodification might be?
- 4. How would you define "fair and equitable use" of cultural heritage?
- 5. George suggests that possession of objects, images, and aspects of cultural heritage is a way that we celebrate cultural difference and relate to the past. What does he mean by this? Do you agree or disagree with this suggestion?
- 6. Can cultural heritage be "owned"? If so, by whom an individual, a community, another culture?



www.sfu.ca/ipinch

#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in George's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by George to craft an additional statement addressing these concerns.

#### RESOURCES

Authentic Aboriginal Website. http://www.authenticaboriginal.com

Brown, Michael (2004). Who Owns Native Culture? Harvard University Press: Cambridge.

Harrison, Rodney (2013). Heritage: Critical Approaches. Routledge: New York, NY.

Local Contexts Website. http://www.localcontexts.org/

Nicholas, George P. (2012). Appropriation (?) of the Month: No Doubt and "Looking Hot." *IPinCH* Blog. http://bit.ly/1pVFTPh

Nicholas, George P., and Kelly Bannister (2004). Copyrighting the Past? Emerging Intellectual Property Rights Issues in Archaeology. Current Anthropology 45(3).

Nicholas, George P. and Alison Wylie (2013). "Do not do unto others...": Cultural Misrecognition and the Harms of Appropriation in an Open-Source World. In Appropriating the Past: Philosophical Perspectives on the Practice of Archaeology, edited by G. Scarre and R. Coningham, pp.195-221. Cambridge University Press: New York, NY.

Keene, Adrienne. Native Appropriations. http://nativeappropriations.com









Presented by the Intellectual Property Issues in Cultural Heritage Project

### OOKPIK: THE OGLING OWL AT 50



#### SUSAN ROWLEY

Curator of Public Archaeology, Museum of Anthropology, and Associate Professor of Anthropology, University of British Columbia, Canada

Video URL: http://bit.ly/1nYeM5D

#### **SUMMARY**

Fifty years ago the Canadian Government selected Ookpik to represent the country at the 1964 trade fair in Philadelphia. An overnight sensation, the Canadian Government moved quickly to trademark Ookpik for the Fort Chimo Eskimo Co-operative. While unsustainable in the long-run, the intentional commodification and heavy marketing of Ookpik represents an early attempt to create an income stream for and with Inuit.

#### **KEY CONCEPTS**

Authentic, heritage, national symbol, industrial property, commodification, co-operation.

- 1. Where did the idea for Ookpik come from?
- 2. How was Ookpik marketed? What efforts were made to protect the design and image from appropriation?
- 3. Why do you think Ookpik was so popular? What caused it to become unpopular?
- 4. Several times Sue notes how people sought only the "authentic" or "real" Ookpik. What is meant by the term "authentic"? What counts as "inauthentic" in this context?
- 5. Ookpik, an Inuit creation, came to symbolize Canadian national identity. What are the benefits of using Indigenous heritage in nationalism? What problems might arise?
- 6. Susan describes this as one of the first examples of Indigenous-government cooperation in commodification and marketing. What were the motivations of and benefits for each group?



www.sfu.ca/ipinch

#### A. Ookpik and the 1967 Expo

- 1. Provide a short summary of how Ookpik came to be used for Expo.
- 2. Outline the perspectives of at least three different groups on this use of Ookpik.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation regarding the use of Ookpik? Was any conflict resolved?
- 5. Drawing on the points raised in Sue's presentation, what is your opinion on the use of the Ookpik by Expo? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Sue to craft an additional statement addressing these concerns.

#### **RESOURCES**

Carman, John (2005). Against Cultural Property: Archaeology, Heritage and Ownership. Duckworth: London, UK.

CBC (1964). The Art of Craft: Eyes on Ookpik. CBC Digital Archives. http://bit.ly/UrGPkz

Kenneally, Rhona Richman, and Johanne Sloan, eds. (2010). *Expo 67: Not Just a Souvenir.* University of Toronto Press: Toronto, ON.

Northern Alberta Institute of Technology (n.d.). How to Make an Ookpik Digital Video. http://www.nait.ca/88981.htm

Ookpik Wikipedia website. http://en.wikipedia.org/wiki/Ookpik

Root, Deborah (1996). Cannibal Culture: Art, Appropriation, and the Commodification of Difference. Basic Books: New York, NY.

Rutherdale, Myra, and Jim Miller (2006). "It's Our Country": First Nations' Participation in the Indian Pavilion at Expo 67. Journal of the Canadian Historical Association 17(2):148-173.

United Nations Educational, Scientific and Cultural Organization (1993). The Nara Document on Authenticity. http://bit.ly/1ps9cMe







Presented by the Intellectual Property Issues in Cultural Heritage Project

# THE LIMITS OF CULTURAL COMMODIFICATION



#### **ALEXIS BUNTEN**

Postdoctoral Fellow and IPinCH Project Ethnographer, Simon Fraser University, Canada

Video URL: http://bit.ly/1vgFScD

#### **SUMMARY**

The scale, scope, and kinds of things that can be commoditized are expanding in the global framework of late capitalism. This presentation explores the limits of cultural commodification, drawing its arguments from the logic of comparative moral economies.

#### **KEY CONCEPTS**

Commodification, copyright, trademark, intangible, heritage, moral economy, alienation.

- 1. How does Alexis define "commodification"? Does this differ from how you had conceived of this term? What kinds of intangible things are commodified?
- 2. What is a "moral economy"?
- 3. Karl Marx defined commodification as "the process by which objects, events and activities come to be evaluated primarily in terms of their exchange value in the context of trade, in addition to any use value that such commodities might have." In this sense, do you agree with Alexis that commodification is a form of alienation? Why or why not?
- 4. What kinds of protections exist for commodified heritage? What are the strengths and weaknesses of these legal avenues? What other forms of protection should exist, and why?
- 5. Alexis discusses how Indigenous communities at the Sealaska Heritage Insittute are tackling the commodification of their heritage by writing letters to companies, explaining the meaning of the images that are being sold, on T-shirts, for example. What are the strengths of this approach to resolving conflict? What might prevent it from being effective?
- 6. Alexis describes how Aboriginal peoples in Australia have created a cultural park hosting cultural activities that have been designed for public consumption. What are the benefits and the drawbacks of this approach to controlling cultural commodification?
- 7. Alexis ends her presentation by noting that Indigenous peoples worldwide are wary of anthropologists and archaeologists. What are the concerns of these communities? How might these concerns be alleviated or addressed?



#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Alexis's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Alexis to craft an additional statement addressing these concerns.

#### RESOURCES

Aboriginal Tourism BC Website. http://www.aboriginalbc.com

Aboriginal Tourism. Tourism Australia Website. http://bit.ly/SwO3Sj

Bell, Catherine and Val Napoleon, eds. (2008). First Nations' Cultural Heritage and the Law: Case Studies, Voices and Perspectives. University of British Columbia Press: Vancouver,

Comaroff, John L. and Jean Comaroff (2009). Ethnicity, Inc. University of Chicago Press: Chicaco, IL.

Commodification. Landscapes of Global Capital Website. http://bit.ly/1oKLcSC

Native American and Indigenous Studies Association Website. http://naisa.org

Stanley, Nick (1998). Being Ourselves for You: The Global Display of Cultures. Middlesex University Press: London, UK.

Sealaska Website. http://www.sealaska.com

Tjapukai Aboriginal Cultural Park Website. http://www.tjapukai.com.au

United Nations Educational, Scientific and Cultural Organization (2009). Measuring Cultural Participation. 2009 UNESCO Framework for Cultural Statistics Handbook No.2. http://http://bit.ly/1hN2ezd







Presented by the Intellectual Property Issues in Cultural Heritage Project

### STRADDLING THE PAST **AND THE FUTURE:**

### **Traditional Art, Contemporary Artists And Pan-African Cultural Policy**



#### **NICOLE AYLWIN**

PhD Candidate in Communication and Culture and Academic Coordinator for the York Centre for Public Policy and Law, York University, Canada

Video URL: http://bit.ly/1vgzWA8

#### **SUMMARY**

This presentation is an initial exploration into the question of how pan-African cultural policies, which have adopted international discourses of heritage protection and cultural diversity, have been implemented in ways that have led to the commodification of "traditional" African art forms.

#### **KEY CONCEPTS**

Reciprocity, authenticity, misappropriation, trademarking, commodification, heritage.

#### **DISCUSSION QUESTIONS**

- 1. Nicole's talk focuses on the notion of pan-African policy concerning cultural commodification. What is the benefit of having a pan-African policy, and what are the drawbacks to this?
- 2. What are some of the features of a "heritage" economy such as Nicole describes for Africa? Which aspects of heritage are highlighted, and which are downplayed?
- 3. What are the key features of the "creative economy?" What is commodified in this economy?
- 4. What has been the role of what Nicole calls "civil society groups" in implementing this pan-African policy?
- 5. Nicole discusses the concept of "fetishizing the past." What does she mean by this?
- 6. In Nicole's presentation, the two approaches to cultural commodification are frequently described in terms of "the past" and "the future." Explain some of the ways that these two concepts are used to promote African culture.



www.sfu.ca/ipinch

#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where African cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Nicole's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Nicole to craft an additional statement addressing these concerns.

#### RESOURCES

AfriHeritage Website. www.afriheritage.org

African Heritage Foundation Website. www.africaheritagefoundation.org/blog

Charter for African Cultural Renaissance (2006). http://bit.ly/1tFMvBD

Journal of Pan African Studies Website. http://bit.ly/1o60vTE

PanAfrican Archaeological Association Website. http://bit.ly/1o6Oy1V

Pan African Cultural Heritage Institute Website. www.panafricanchi.org

United Nations Educational Scientific and Cultural Organization (2006). Cultural heritage & local development: A guide for African local governments. http://whc.unesco.org/document/6856









Presented by the Intellectual Property Issues in Cultural Heritage Project

### **LOCAL CONTEXTS: BECAUSE THE 'S' MATTERS** TRADITIONAL KNOWLEDGE AND INDIGENOUS CULTURAL HERITAGE



#### KIM CHRISTEN WITHEY

Associate Professor of English, Associate Director of the Digital Technology and Culture Program, and Director of Digital Projects at the Plateau Center, Native American Projects Office, Washington State University, U.S.A

Video URL: http://bit.ly/1j448JH

#### **SUMMARY**

This presentation introduces Local Contexts, an educational website that includes an introduction to a set of innovative traditional knowledge (TK) license and labels being developed in a response to Indigenous communities' needs.

#### **KEY CONCEPTS**

Traditional knowledge, cultural protocols, digital heritage, commodification.

#### **DISCUSSION QUESTIONS**

- 1. What is Mukurtu? What needs inspired the development of this software? What were its goals?
- 2. What particular challenges arise in controlling the use of digital content relating to cultural heritage?
- 3. Kim outlines two ways that localcontexts.org seeks to enable Indigenous communities to have some control over their digitized heritage through traditional knowledge (TK) licenses and labels. What does each do and what are the differences between them?
- 4. In her presentation, Kim suggests that "legal frameworks often divide people." When it comes to protecting cultural heritage, in what ways do you think this might be true? Are there other ways that the opposite might be true?
- 5. Kim concludes her presentation by suggesting that the TK licenses and labels are "part of a social movement." What does she mean by this? Do you agree or disagree?



www.sfu.ca/ipinch

#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Kim's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Kim to craft an additional statement addressing these concerns.

#### RESOURCES

Authentically Aboriginal Inc. (2013). http://www.authenticallyaboriginal.com

Bell, Joshua, Kimberly Christen, and Mark Turin (2013). Introduction: After the Return. Museum Anthropology Review 7(1-2):1-21.

Anderson, Jane, and Kim Christen (2013). 'Chuck a Copyright on it': Dilemmas of Digital Return and the Possibilities for Traditional Knowledge Licenses and Labels. Museum Anthropology Review 7(1-2):106-126.

Creative Commons Website. http://creativecommons.org

Hansen, Stephen, and Justin van Fleet (2003). Traditional Knowledge and Intellectual Property: A Handbook on Issues and Options for Traditional Knowledge Holders in Protecting their Intellectual Property and Maintaining Biological Diversity. American Association for the Advancement of Science: Washington, DC. http://bit.ly/1im5M69

Local Contexts Website. http://www.localcontexts.org

Muller, Manuel Ruis (2013). Protecting Shared and Widely Distributed Traditional Knowledge: Issues, challenges and options. Report prepared for the International Center for Trade and Sustainable Development (ICTSD). http://bit.ly/1gy1ZV8

Museum Anthropology Review 7(1-2) Special Issue — After the Return: Digital Repatriation and the Circulation of Indigenous Knowledge, edited by Kimberly Christen, Joshua Bell, and Mark Turin. 2013. http://bit.ly/1s3ZHVi

Murkutu Website. http://www.mukurtu.org/

World Intellectual Property Organization. Traditional Cultural Expressions - Existing Codes, Guidelines and Practices. http://bit.ly/1n4tPcr

World Intellectual Property Organization (2013). Customary Law, Traditional Knowledge and Intellectual Property: An outline of the issues. http://bit.ly/1160eRH







Presented by the Intellectual Property Issues in Cultural Heritage Project

### TRADITIONAL IDENTITY:

## The Commodification of New Zealand Maori Imagery



#### **DEIDRE BROWN**

Senior Lecturer, School of Architecture and Planning, University of Auckland, New Zealand

Video URL: http://bit.ly/1gbwxy8

#### **SUMMARY**

This presentation explores the story of appropriation, the often-fervent debates it has engendered, and the ensuing negotiations that attempt a responsible and respectful use of imagery by artists, designers and manufacturers.

#### **KEY CONCEPTS**

Appropriation, commodification, offensive vs. inappropriate, misappropriation, trademarks.

- 1. Deidre opens her presentation with the following statement: "Appropriation is a fundamental part of contemporary art and design practice." What does she mean by this? Do you agree or disagree with this statement, and why?
- 2. What does Deidre mean when she uses the term "appropriation"? How is this different from "commodification"?
- 3. In what circumstances might a cultural appropriation be okay? In what circumstances do you think commodification of cultural heritage might be okay?
- 4. Deidre discusses how the Maori Trade Marks Advisory Committee must discern whether proposed uses of cultural heritage may be considered offensive, making the distinction between "offensive" versus "inappropriate." What do you think the differences are?
- 5. Can you think of an offensive appropriation you may have encountered lately, versus one you consider may be inappropriate?



www.sfu.ca/ipinch

#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Deidre's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Deidre to craft an additional statement addressing these concerns.

#### RESOURCES

Battiste, Marie and James (Sakej) Youngblood Henderson (2000). Protecting Indigenous Knowledge and Heritage: A Global Challenge. Purich Publishing: Saskatoon, SK.

Brown, Deidre, and George Nicholas (2012). Protecting Indigenous Cultural Property in the Age of Digital Democracy: Institutional and Communal Responses to Canadian First Nations and Maori Heritage Concerns. Journal of Material Culture 17(3): 307-324.

Maori Trade Marks Advisory Committee Website. http://bit.ly/1tMN3Wc

The Story of the Chiefs 2014 Investec Super Rugby Jersey (2013). http://bit.ly/1hhuFEA

Henare, Amiria (2004). Wai 262: A Maori "Cultural Property" Claim. Paper for the Exhibition Catalogue Making Things Public: Politics After Politics, edited by B. Latour and P. Weibel. http://bit.ly/1tMN3pg

Riley, Mary (2004). Indigenous Intellectual Property Rights: Legal Obstacles and Innovative Solutions. AltaMira Press: Walnut Creek, CA.

Smith, Graham Hingangaroa (2000). Protecting and Respecting Indigenous Knowledge. In Reclaiming Indigenous Voice and Vision, edited by M. Battiste, pp.209-224. UBC Press: Vancouver, BC.

Waitangi Tribunal Website. http://bit.ly/1oybfuc







Presented by the Intellectual Property Issues in Cultural Heritage Project

### COMMODIFICATION OF INUIT **SYMBOLS AND POTENTIAL** PROTECTION MECHANISMS



#### VIOLET FORD

Barrister and Solicitor, Ford Law Office, and Ph.D. Candidate, University of Lapland, Finland

Video URL: http://bit.ly/RJ0sCK

#### **SUMMARY**

The commodification of Inuit cultural symbols has been increasing. This presentation examines emerging legal norms that may limit the misuse of such cultural symbols and protect community interests in the future.

#### **KEY CONCEPTS**

Marx's definition of commodification, social value vs. commercial value, free and prior informed consent, colonialism, self-determination, customary law.

- 1. What is the difference between an inuksuk and an inunguaq?
- 2. How does Violet define "commodification"? In her view, how does commodification change relationships?
- 3. Violet describes how the *inuksuk* was used for promotion of the Vancouver 2010 Olympics "without the free and prior informed consent of Inuit communities." What does she mean by this? How did the Inuit community respond?
- 4. As a result of the Olympics, Violet suggested there was an "inuksuk boom" and the symbol was used widely in marketing various products. What problems arose as a result? Were there also benefits to this?
- 5. Violet notes that the *inuksuk* became a symbol for Canadian national identity. Do you see this as a benefit or a problem, and why?
- 6. Violet states that "commodification of cultural symbols is a new form of colonialism or the last frontier to be discovered." What does she mean by this? Do you agree or disagree, and why?



www.sfu.ca/ipinch

#### A. The Inuksuk and the 2010 Vancouver Olympics

- 1. Provide a short summary of how the *inuksuk* came to be used for the Olympics.
- 2. Outline the perspectives of at least three different groups on this use of the *inuksuk*.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation regarding the use of the *inuksuk*? Was any conflict resolved?
- 5. Drawing on the points raised in Violet's presentation, what is your opinion on the use of the inuksuk by the Vancouver Organizing Committee? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to: a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Violet to craft an additional statement addressing these concerns.

#### RESOURCES

Canada Games Vancouver Website (2010). http://bit.ly/1pbueft

Inuit Tapiriit Kanatami Website. http://bit.ly/1mgC57p

Inuksuk WikiPedia Website. http://en.wikipedia.org/wiki/Inuksuk

Keene, Adrienne. Native Appropriations Website. http://nativeappropriations.com

National Indigenous Arts Advocacy Association Inc. Website 2013. http://bit. ly/1j4xq7u

Olympic.org. (2005). Olympic Vancouver 2010 Winter Games Emblem. http://bit.ly/1tMltaC

UHaul Nunavut SuperGraphic Website. http://bit.ly/Ug2n3B

United Nations Permanent Forum on Indigenous Peoples (2007). Declaration on the Rights of Indigenous Peoples. http://bit.ly/1iggUsJ

Young, James O. (2010). Cultural Appropriation and the Arts. Wiley-Blackwell: Malden, MA.







Presented by the Intellectual Property Issues in Cultural Heritage Project

# MANAGING CULTURAL COMMODIFICATION

## From an Indigenous Perspective for the Benefit of Indigenous Communities



#### MAUI SOLOMON

Barrister and Indigenous Rights Advocate, Kawatea Chambers, New Zealand

Video URL: http://bit.ly/1lJQo7a

#### **SUMMARY**

This presentation draws on examples from New Zealand and the Pacific to describe an Indigenous framework for protecting traditional users and their traditional knowledge.

#### **KEY CONCEPTS**

Reciprocity, authenticity, misappropriation, trademarking, commodification, heritage.

#### **DISCUSSION QUESTIONS**

- 1. Maui discusses two central concepts in relation to the appropriation and commodification of cultural heritage: respect and reciprocity. How does he explain these ideas?
- 2. What limitations does Maui identify to using legal avenues such as trademarking to protect cultural symbols and images?
- 3. Can cultural heritage be "owned"? By whom, and in what circumstances?
- 4. How does Maui explain the relationship between "rights" and "responsibilities" when it comes to cultural heritage?
- 5. What constitutes "authentic" heritage? What about "inauthentic"? Is there a tipping point where one becomes the other? Who has the authority to make this judgment?



www.sfu.ca/ipinch

#### A. Cultural Heritage Appropriation/Commodification Case Study

- 1. Identify an example of where Indigenous cultural heritage has been appropriated or commodified, and provide a short summary.
- 2. Outline the perspectives of at least three different groups on this example.
- 3. Identify any relevant professional heritage association Codes of Ethics concerning this issue. How could these be used to resolve conflicts?
- 4. What is the current situation of the case study? Was any conflict resolved?
- 5. Drawing on the points raised in Maui's presentation, what is your opinion on the use of cultural heritage in this example? Would you have done anything differently? Why or why not?

#### B. Indigenous Cultural Heritage and Professional Codes of Ethics

- 1. Identify five heritage/archaeological/anthropological organizations with Codes of Ethics (local, national and international).
- 2. Provide a summary of how each code addresses the responsibilities of professionals to a) heritage sites and objects, b) intangible heritage, c) Indigenous communities, and d) the public.
- 3. Do these codes address the issue of cultural commodification? If so, how?
- 4. How would you improve these codes to accommodate issues of appropriation and commodification? Use the issues and examples discussed by Maui to craft an additional statement addressing these concerns.

#### **RESOURCES**

Australian Museum (2012). The Meaning of Ta Moko - Maori Tattooing. http://bit.ly/1pFj8iv

Comaroff, John L. and Jean Comaroff (2009). Ethnicity, Inc. University of Chicago Press: Chicaco, IL.

Egan, Brian (2013). Appropriation (?) of the Month: Fiji Masi for Air Pacific or for Éveryone? IPinCH Blog. http://bit.ly/1hH9maD

Fiji Airways (2012). Air Pacific Reveals New Brandmark for 'Fiji Airways'. http://bit.ly/1tvm41h

Fiji's Coral Coast. Air Pacific Reveals New Brandmark For 'Fiji Airways.' http://bit.ly/1pFj4iy

Koya Vaka'uta, Cresantia Frances (2013).

Anthropological evidence of the 15 intended iTaukei Tapa Cloth (Masi) Motifs pre-dating the creation of the Air Pacific/Fiji Airways logo. http://bit.ly/1nMpNla

Solomon, Maui, and Susan Thorpe (2013). On Partnerships & the Perpetuation of Culture: an Interview with the Hokotehi Moriori Trust. IPinCH Blog. http://bit.ly/1nBBsfn

Solomon, Maui, and Susan Thorpe (2012). Taonga Moriori: Recording and Revival. Journal of Material Culture 17(3): 245-263.

Toi Maori Aotearoa / Maori Arts New Zealand Website. www.maoriart.org.nz





