



FACT SHEET

Presented by the Intellectual Property Issues in Cultural Heritage Project.

APPROPRIATION AND COMMODIFICATION OF CULTURAL HERITAGE: Ethical & IP Issues to Consider



OVERVIEW

This fact sheet introduces the issues raised by the appropriation and commodification of cultural heritage, outlining risks and benefits and how also to avoid the pitfalls of misappropriation. While these issues are faced by all cultural groups, there is a long history of Indigenous cultural heritage being used by non-Indigenous people for commercial and other purposes.

WHAT IS APPROPRIATED?

When people refer to appropriation or misappropriation of cultural heritage, they may be referring to tangible or intangible heritage. Heritage is understood differently in different cultural contexts, but broadly includes elements of a collective past that remain meaningful to a culture today. Tangible forms of cultural heritage are appropriated when an item is removed from the source community or artist. This form of appropriation has for example resulted in the accumulation in museums of objects from all around the world. Intangible heritage includes meaningful creative expressions such as designs, styles, songs, dances, stories, food, rituals, and artistic works. These forms of heritage are appropriated when the design or style is copied by someone from a different culture and/or used for a different purpose than originally intended.

WHAT IS APPROPRIATION?

At its most basic level, appropriation means to take something for one's own. The appropriated object or idea is removed from its originating or source context and applied to another. Appropriation happens all the time as people borrow ideas from each other to create new forms of art and symbolic expressions of culturally meaningful concepts. Where legal "ownership" has been established, there are protections in place to prevent or hinder appropriation. However, in the absence of this, appropriation becomes more complicated.

WHAT IS COMMODIFICATION?

Commodification means transforming something into a product for commercial purposes, an item to be bought and sold in the market. Intangible cultural heritage is frequently employed in the commercial sector, incorporated into company names, branding, logos, and products. Tangible cultural heritage may also be commodified, such as in the case of artworks intended to be sold commercially. There is also a market for ancient artifacts and antiquities, which is governed by national and international regulations aimed at preventing illegal sale of these cultural heritage forms. In some countries, such as Canada, it is even forbidden to append a market value (i.e., to commodify) archaeological heritage.



MISAPPROPRIATION: INAPPROPRIATE OR OFFENSIVE APPROPRIATION

In certain circumstances, appropriation may be deemed inappropriate, contrary to Indigenous customary law, offensive, and even harmful. This is particularly the case when the appropriated form is spiritually significant, or its intended use is contradicted or threatened; it may be exacerbated if it is then also commodified. While misappropriation and/or commodification of cultural heritage by businesses is frequent because it is seen as trendy and potentially lucrative, it is also a risky endeavour as it can result in negative media attention, legal challenges, or even the costs of having to abandon whole product lines. For the Indigenous groups whose heritage is being appropriated, the potential harms of appropriation are not just economic. Harm may be caused through misuse and distortion of heritage, resulting in a feeling of losing heritage and control over culture; harm may also be spiritual and physical through exposure to dangerous spirits or energies.

“BUT I DIDN’T KNOW”

While some openly disregard requests not to appropriate or commodify, many people are unaware that appropriation may be harmful or offensive. In fact, people may claim to be attempting to “show respect” for Indigenous cultures, failing to see how their actions are disrespectful to the very people they mean to be “celebrating.” Such misappropriation of cultural expressions is often inadvertent: someone just thought the image was “cool” or “stylish,” or saw it as a business opportunity like any other. However, this lack of awareness does not make misappropriation any less serious; it only highlights the importance of education about appropriation and commodification.

FRONT IMAGE: Possibly the most iconic form of Northwest Coast Indigenous art, the “totem pole” has been appropriated and commodified for sale in tourist gift shops throughout Canada (photo: S. Roth).

IS IT ALWAYS A “BAD” THING?

There can be many benefits to cultural sharing, such as expanding diversity through the creation of new and innovative art forms and expressions, or blending and juxtaposing cultural ideas in compelling ways. The commodification of cultural heritage can also present interesting economic opportunities when done by, with the consent, and/or under the control of the originating community. It isn't that cultural exchange and product marketing are inherently “bad”; rather, it is about respecting different values and legal traditions. It is always important to ask who is benefiting, and whether this is at someone else's expense, especially when there are clear imbalances of power between those doing the appropriation, and those whose heritage is being appropriated.

HOW TO AVOID MISAPPROPRIATION

Guiding principles to avoid misappropriating include acknowledgement, respect, reciprocity, and free prior and informed consent. Because peoples around the world have different legal institutions, protocols, and culturally-specific senses of what is appropriate and inappropriate, the only way to avoid misappropriation of cultural heritage is to build relationships with and within source communities. Communicating with each other is a necessary first step to ensure that those who are most closely affected have control over how their heritage is used. If the latter's interests are respected and protected, the appropriating group is also less likely to be targeted by allegations of misappropriation.

SOURCES & FURTHER READING

- Authentically Aboriginal Inc. <http://www.authenticallyaboriginal.com/>
- Authentic Indigenous. <http://authenticindigenous.com/>
- First Peoples Worldwide. <http://www.firstpeoples.org/corporate-engagement/fpic>
- Local Contexts. <http://www.localcontexts.org/>
- Nat. Indigenous Arts Advocacy Assoc. Inc. <http://www.culture.com.au/exhibition/niaaa/labelqa.htm>
- Native Appropriations. <http://nativeappropriations.com/>

This Fact Sheet was developed by Marina La Salle and the IPinCH Commodifications of Cultural Heritage Working Group and published in June 2014.