

INTELLECTUAL PROPERTY ISSUES IN CULTURAL HERITAGE: THEORY, PRACTICE, POLICY, ETHICS

Project Director, George Nicholas
Simon Fraser University

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RESEARCH TEAM MEMBERS

Merle Alexander (*Tshimshian*—Boughton Peterson Yang Anderson Law Corp.)
Jane Anderson (University of Edinburgh, UK)
Michael Asch (University of Victoria)
Sonya Atalay (*Ojibway*—Indiana U.)
Kelly Bannister (U. of Victoria)
Catherine Bell (U. of Alberta)
Jody Beaumont (Tr'ondek Hwech'in Heritage Dept.)
Susan Bruning (Southern Methodist U., Texas)
Rosemary Coombe (York U.)
Graham Dutfield (Leeds University, UK)
T. J. Ferguson (U. of Arizona)
Susan Forbes (Te Papa Museum)
Violet Ford (*Inuit*—Inuit Circumpolar Conference)
Daniel Gendron (Avataq Cultural Institute)
Alan Goodman (Hampshire College)
Sheila Greer (U. of Alberta)
Susan Haslip (Algonquin College)
Robert Hershey (Faculty of Law, U. of Arizona)
Julie Hollowell (UBC/Indiana U.)
Terri Janke (Terri Janke Associates, Australia)
Vivien Johnson (U. of New South Wales, Australia)
Eric Kansa (University of California—Berkeley)
Ingrid Kritsch (Gwich'in Social & Cultural Institute)
Lyn Leader-Elliott (Flinders U., Australia)
Ian Lilley (Aboriginal and Torres Strait Islanders Studies Unit, University of Queensland)
Dorothy Lippert (*Choctaw*—Smithsonian Institution)
Stephen Loring (Arctic Studies Center, Smithsonian Institution)
Martin Magne (Parks Canada)
Randall McGuire (SUNY Binghamton)
Lynn Meskell (Stanford U.)
Lena Mortensen (U of Toronto)
George Mukuka (Technikon Witwatersrand, South Africa)
Brian Noble (Dalhousie University)
Sven Ouzman (University of Pretoria, South Africa)
Daryl Pullman (Memorial U.)

Susan Rowley (UBC, Museum of Anthropology)
Claire Smith (Flinders U., Australia)
Maui Solomon (*Mori*—Barrister, Aotearoa New Zealand)
Silke von Lewinski (Max Planck Institute for Intellectual Property)
Joe Watkins (U. of Oklahoma)
John Welch (SFU)
Michael Williams (*Gooreng Gooreng*—Aboriginal and Torres Strait Islanders Studies Unit,
University of Queensland)
Barbara Winter (SFU, Museum of Archaeology and Ethnology)
H. Martin Wobst (U. of Massachusetts-Amherst)
Alison Wylie (U. of Washington)
Eldon Yellowhorn (SFU)
Dongya Yang (SFU)
James Young (U. of Victoria)
Larry Zimmerman (Indiana U./Purdue U., Indianapolis)

PARTNER ORGANIZATIONS

Alexandria Archive Institute (San Francisco, CA)
Anthropological Research, LLC (Tucson, AZ)
Arctic Studies Center, Smithsonian (Washington, DC) with links to the Tshikapisk Foundation (Innu) and
Labrador Inuit Association
Avataq Cultural Institute (Westmount, QC)
Barunga Community (Northern Territory, Australia)
Canadian Archaeological Association (Whitehorse, YT)
Champagne and Aishihik First Nation (Haines Junction, YT)
Gwich'in Social and Cultural Institute (Yellowknife, NT)
International Journal of Cultural Property (West Nyack, NY)
Inuit Heritage Trust (Iqaluit, NU)
Left Coast Press (Walnut Creek, CA)
Mookakin Cultural and Heritage Foundation (Standoff, AB)
Native American Tribal Historic Preservation Officers (Washington, DC)
Parks Canada, Cultural Resource Services (Ottawa, ON)
Prince of Wales Northern Heritage Centre (Yellowknife, NT)
Sealaska Heritage Institute (Juneau, AK)
Social Science Research Council (New York, NY)
Society for Applied Anthropology, Intellectual Property Rights Interest Group
Springer Sciences + Business Media, LLC (New York, NY)
Sto:lo Research and Resource Management Centre (Chilliwack, BC)
Tr'ondek Hwech'in Heritage Department (Yukon, YT)
White Mountain Apache Tribe (Whiteriver, AZ)
World Archaeological Congress
World Intellectual Property Organization (Geneva, Switzerland)
Ziibiwing Cultural Society (Saginaw Chippewa, MI)

1. SUMMARY OF PROPOSED RESEARCH

In recent decades, questions about who “owns” or has the right to benefit from “the past” have emerged as highly contentious issues in archaeology and cultural heritage domains, charged with political, economic, and ethical implications for diverse stakeholders. Scholars, practitioners, Indigenous groups, and policymakers worldwide increasingly face these issues in situations ranging from potential applications of ancient genetic material, to restrictions on researchers’ access to data, to the widespread use of ancient images in marketing. Concerns about access to knowledge, research ethics, and claims of rights based on culture loom ever larger. To date, there has been no systematic attempt to analyze the parameters of these pressing issues or to synthesize what we can learn from them theoretically or pragmatically, though they increasingly shape the public domain, research relationships, First Nations heritage policies, and other spheres that deal with culturally-based knowledge.

The *Intellectual Property Issues in Cultural Heritage* Project brings together multidisciplinary and multi-sectoral scholars and experts with committed partners to collaborate on an unprecedented and timely investigation of intellectual property (IP) issues in cultural heritage that represent emergent local and global interpretations of culture, rights, and knowledge. Our objectives are to document the diversity of principles, interpretations, and actions arising in response to IP issues in cultural heritage; to analyze the many implications of these situations; to generate more robust theoretical understandings as well as norms of best practices; and to make these findings available to stakeholders to develop and refine their own theories, principles, policies and practices. Led by George Nicholas, this international collaboration of archaeologists, lawyers, anthropologists, Indigenous organizations, ethicists, information scientists, and heritage experts requests funds to expedite an integrated research agenda comprised of the creation of a comprehensive Knowledge Base, focused inquiry and analysis by Topical Working Groups, and a program of field-based Case Study Research, which will combine to yield significant theoretical insights, valuable tools for practitioners, and evidence-based policy recommendations.

Our team consists of 50 senior and junior scholars from archaeology, law, ethics, anthropology, Indigenous studies, and public policy from 9 Canadian and 18 other universities from 6 countries, with additional specialists from the fields of heritage management, cultural tourism, information services, IP law, and heritage policy. Together we will compile an accessible knowledge base on IP and cultural heritage, conduct 20 strategically chosen case studies employing a *community-based participatory research methodology*, and explore the implications of this empirical data for theory and policy in our topical working groups and publications. Twenty-five confirmed partners—ranging from First Nations, professional associations, and heritage institutes to national agencies and international NGOs specializing in IP policy—will collaborate on case study research and review and disseminate findings. Our methodology, networking, and dissemination strategies ensure that results will be mobilized and accessible to key stakeholders and the public. Close to one-quarter of our budget supports student research and training, including 42 one-year graduate fellowships and 24 internships, offering unique interdisciplinary training opportunities in cultural heritage scholarship, policy, law, and practice.

MCRI support offers a unique opportunity for our international collaboration that will proactively address critical issues that promise to intensify in the coming decade. *Parks Canada*, the *World Intellectual Property Organization*, and the *UN Permanent Forum for Indigenous Issues* are among those calling for empirically grounded research on IP issues to inform their policies. Members of our research team have long stood at the forefront of these initiatives in Canada and worldwide. We have assembled the expertise and resources required to address complex IP issues that increasingly affect research relationships, scholarship, and Indigenous knowledge systems and to equip diverse stakeholders to better understand and deal with these rapidly emerging concerns. This project also builds upon Canada’s global leadership in developing paradigms for ethical research and the negotiation of culturally based rights. The collaborations developed here will catalyze valuable theoretical insights, policy development, and long-term research relationships among an international cadre of multidisciplinary scholars and stakeholders for years to come.

2. DESCRIPTION OF PROPOSED RESEARCH

CONTEXT AND SIGNIFICANCE

In recent decades, new interpretations of rights to *cultural property* have prompted major shifts in policies and practices of archaeologists, anthropologists, descendant communities, governments, museums, and social science researchers everywhere as they confront the complex politics and ethics of “Who owns the past?”¹ These discussions have focused on issues related to material or tangible property such as repatriation;² curation practices;³ the antiquities trade;⁴ and heritage management.⁵ Now, attention is turning to *intangible* or *intellectual* aspects of cultural heritage and archaeological research.⁶ This is prompted by the broad local and global implications of the Open Access and A2K (access to knowledge) movements, digital information transfers, cultural marketing, new paradigms of research ethics, and emerging interpretations of “property,” intellectual property law, and culture-based rights (Cowan 2006; Strathern 2006; Strathern and Hirsch 2005). Controversies have surfaced in questions about ownership, control, and access to results of research, questions of who benefits, and the claims that descendant communities (including Indigenous peoples) and others make on cultural knowledge and information.

One result has been growing involvement by descendant communities, the corporate sector, host governments, and other public and private stakeholders in all aspects of the research process—from the permitting process to claims exerted over data and research results.⁷ In this context, researchers increasingly encounter *restrictions* on access, use, or publication of scientific and cultural information.⁸ At the same time, Indigenous groups raise well-founded concerns about exploitation of “traditional knowledge” or other forms of “intellectual know-how,”⁹ as well as about who owns or benefits from research and cultural knowledge. The challenges (and opportunities) for reconciling competing claims involve questions of human rights, law, economic justice, and ethics, as the following situations illustrate, each touching on a different aspect of intellectual property (IP)¹⁰ in the realm of cultural heritage:

- *legal challenges to scholarly monopolies on access* to the Dead Sea Scrolls and publication of findings forced the release of research results amidst claims of biased interpretation (Carson 1995);
- a mural created from images from the ancient Pottery Mound ruin commissioned at the University of New Mexico was cancelled in deference to objections raised by people of Acoma Pueblo, *despite their admitting no ancestral association to the site* (Duin 2003);
- a Peigan First Nation representative (Alberta) stated at an IP workshop that someone had “videotaped their Sundance ceremony and copyrighted it,” depriving them of their intellectual property—a charge that reveals the degree of *misunderstanding of IP concepts as applied to cultural expressions*;
- In Florida, the Yukon, and the Italian Alps, studies of preserved human tissue from archaeological contexts¹¹ have led to recovery of patentable ancient genetic material, raising important questions about the role of IP rights in medical treatments, biotechnology applications, or other scenarios of social or economic benefit involving ancient DNA (Nicholas 2005; Nicholas & Bannister 2004b); and
- the Snuneymuxw First Nation (BC) registered ten ancient petroglyphs as “official marks” with the Canadian Intellectual Property Office to prevent them from being copied and reproduced (AP 2000).

A preliminary review of these and other relevant cases underscores the need to understand the broad

¹ See Bray 2001; Brown 2003; Fitz Gibbon 2005; Layton 1989, 1994; McBryde 1985; Tsosie 1997; Zimmerman 1998.

² See Blakey 1999; Fine-Dare 2002, 2005; Loring 2001; Merrill et al. 1993; Miheuah 2000; Mulvaney 1991; Rose et al. 1996; Watkins 2000.

³ See Kaplan 1994; Kreps 2003; MacDonald & Fyfe 1996; Peers and Brown 2004.

⁴ See Brodie et al. 2001; Brodie et al. 2006; Greenfield 1995; Hollowell 2004a, 2006a, b; Murphy et al. 1995; O’Keefe 1997; Tubb 1995.

⁵ See Cleere 1989; King 2003, 2004; Klesert & Downer 1990; Lilley 2000; Ritchie 1993; Smith 2004; Wilkinson 2000.

⁶ See Janke 1997; Janke & Quiggin 2005; Nicholas & Bannister 2004a; Seitel 2001; UNESCO 2003; von Lewinski 2004; Wylie 2002.

⁷ See Abu el Haj 2001; Marshall 2002; Nicholas & Andrews 1997; Peck et al. 2003; Rowan & Baram 2004; Swidler et al. 1997; Watkins 2000.

⁸ Boyle 1997; Brown 2003; Kansa et al. 2006; Lessing 2002; Mitchell 2005; also Goodman et al. 2003, Nicholas & Wylie, forthcoming.

⁹ E.g., Battiste & Henderson 2001; Ellen et al. 2000; Gibson 2005; Greer 1997; Hunn 2000; Mataatua 1993; Thomas 1999; von Lewinski 2004. “Know-how” refers broadly to knowledge, only a fraction of which counts as “intellectual property” under current legal definitions.

¹⁰ Dratler (1994:1-2) defines *intellectual property* as “intangible personal property in creations of the mind.” While Western law narrowly defines IP in terms of commercial rights (patents, copyrights, trademarks), our concern is with IP issues within *and beyond* Western legal frameworks.

¹¹ See Beattie 2000; Doran et al. 1986; Spindler 1994,

implications that IP issues have for research involving past knowledge systems (Nicholas and Bannister 2004a; Nicholas and Hollowell 2004) and how they are entwined with cultural and national identity, moral and economic interests, academic freedom, the public domain and all social sciences.¹²

The impetus for this project came out of archaeology a decade ago, when Project Director Nicholas and several members of the research team began wrestling with impending impacts of confronting IP claims in cultural heritage contexts. These issues now arise with increasing frequency in commerce, law, academia, museums, libraries, and tribal councils.¹³ Museums everywhere are grappling with what is culturally appropriate for data sharing, access to collections, and reciprocal agreements. Thorny IP issues have emerged around the economics of universities marketing research and commercial uses of culturally based knowledge in tourism, patents, or copyrights. How archaeologists and others respond to these diverse issues has the potential to either positively transform research disciplines and relations with stakeholders or constrain future research and relationships.¹⁴

Our attention to Indigenous peoples reflects both archaeology as a discipline whose data comes primarily from Indigenous pasts and the unique position of Indigenous peoples in debates on heritage, cultural rights and IP—issues that increasingly affect the economic and cultural futures of groups historically subjected to exploitation but where legal and social science theory has lagged (see Coombe 1998; Ivison et al. 2000). The scope of this project also extends beyond Indigenous contexts to IP issues that arise between scholars and institutions or among stakeholders and information gatekeepers at the intersection of the public domain, cultural knowledge, and scholarly research. There is clearly much at stake regarding academic/scientific vs. community access and ownership of knowledge, restrictive vs. inclusive modes of resolution, the rights of knowledge holders vs. knowledge users, and legal vs. customary definitions of IP, as well as the legal and ethical challenges of new technologies (e.g., digital repositories) and research initiatives (e.g., IBM/National Geographic's Genographic Project).

Surprisingly, there has yet been no research that looks at these phenomena across disciplines, topics, or cultural contexts to see what normative lessons they contain, nor any systematic attempt to understand their broader implications for theory, practice, policy and ethics relating to cultural knowledge, academic research, and the public domain. As we see it, the theoretical, pragmatic, and analytical concepts now used to address IP issues are often inadequate, prompting calls for social scientists to develop a forum for theoretical debates about rights, culture, and intellectual property that engages with empirical and contextualized studies of how these rights are claimed.¹⁵ Researchers and research communities urgently need practical tools and examples of best practices,¹⁶ and, at the same time, empirically grounded data and field research are needed as a basis for theoretical analysis. Members of our research team are already at the forefront of these efforts internationally,¹⁷ from the development of alternative licensing strategies for iCommons (Kansa) to the establishment of reciprocal research networks by museums

¹² Anderson 2005a, forthcoming a, b; Brush & Stabinsky 1996; Gervais 2003; Greaves 1994; Laird 2002; Lewinski 2004; Mann 1997; McNaughton & Rock 2003; Seitel 2001; UBCIC 2000.

¹³ For example, in Wyoming, prehistoric medicine wheels (rock arrangements) important to Native Americans have been used and even rebuilt by New Age groups (see Brown 2003:162), and in Australia, the United States, Canada, and elsewhere, Indigenous and historic settler groups alike have sought restrictions on the use of artifacts, historic photographs, and ethnographic information (e.g., Merrill et al. 1993). Indigenous groups exercise widely varying degrees of control over archaeological work in their territories, from provisions for ownership of excavated materials and notes to protocols that restrict what researchers may or may not publish without prior permission (e.g., KIB 1998).

¹⁴ The discipline of ethnobotany led the search for equitable solutions to problems of who owns or benefits from products of research and the cultural knowledge of Indigenous groups (Carlson & Maffi 2004; Laird 2002; Posey 1990, 1996, 2002; Posey & Dutfield 1996; UBCIC 2000), and subsequently led the search for equitable solutions through proactive protocols and best practice models, to which several of our team members have contributed (e.g., Bannister 2004; ISE 2006; Posey & Dutfield 1996; Solomon 2004).

¹⁵ See Cowan et al. (2001), Cowan (2006) and von Lewinski (2004).

¹⁶ *Best practices* are those that most effectively and equitably solve a specific problem.

¹⁷ See also Anderson 2005b, 2006; Atalay 2006; Bell 2000; Bell & Paterson 1999; Brunk and Young in press; Coombe 1998; Dutfield 2002, 2003, 2004; Guterman 2006; Hollowell 2004b, 2006; Kansa et al. 2005; Lilley 2001; Loring 2001; Meskell 2002; Meskell & Pels 2005; Mortensen 2006; Nicholas & Bannister 2004a,b; Nicholas, Welch & Yellowhorn 2007; Noble 2007; Ouzman 2005; Posey and Dutfield 1996; Smith and Wobst 2005; Solomon 2004; von Lewinski 2004; Watkins and Ferguson 2005; Wylie 2005; Zimmerman 2001; Zimmerman, Vitelli and Hollowell-Zimmer 2003.

(Rowley) and ethics protocols for international research societies (Bannister, Solomon).

As commodifications of cultural heritage and claims over uses of the past continue to expand, concerns over sharing the benefits of research and unauthorized or commercial exploitation of knowledge, images, stories, and designs will persist and fuel debate, or even legal action.¹⁸ International stakeholders (e.g., *UNESCO, World Intellectual Property Organization, UN Permanent Forum on Indigenous Issues*) are calling for focused case study research on IP issues as a basis for policy. Our work links with their objectives, bridging local concerns and international initiatives while building upon Canada's longstanding advocacy for recognizing IP concerns in Aboriginal research.¹⁹ In sum, the effort needed to advance understanding of these issues for the decades to come will not emerge from individual efforts or small-scale collaborations, but requires the level of sustained interaction, funding, and commitment we will be able to actualize through MCRI support.

OBJECTIVES

The *Intellectual Property Issues in Cultural Heritage Project* is concerned with the theoretical, practical, policy, and ethical implications of flows, restrictions, and appropriations of knowledge about the past, how these affect communities, researchers, and other stakeholders, how they are defined and used, and how fair and appropriate use and access can be achieved to benefit *all* stakeholders. Our goal is to conduct research and provide resources to assist social scientists, practitioners, academic and non-academic institutions, descendant communities, policymakers, and others in analyzing and negotiating intellectual property (IP) issues arising from diverse uses and interpretations of cultural heritage—challenges facing societies worldwide. Our objectives are:

- to document and analyze the diversity of principles, perspectives, and responses that arise from IP issues in cultural heritage and, from this, to generate norms of best practices;
- to seek more robust theoretical understandings of the contingencies and complexities of IP issues in cultural heritage, grounded in empirical inquiry;
- to explore legal and customary interpretations and protections of IP in cultural heritage, and how these might be reconciled with current approaches to research and policy;
- to generate and disseminate evidence-based research results and knowledge that inform discussions of theory, practice, policy and research ethics on these topics at local to global levels;
- to make these lessons and tools available to researchers, practitioners, and policymakers as they develop or refine their own policies and guidelines; and
- to provide opportunities for research involvement and training for students, community researchers, stakeholders, descendant communities and others in better understanding, analyzing and negotiating IP issues related to cultural heritage.

METHODOLOGY AND RESEARCH DESIGN

Theory, Practice, Policy and Ethics

Our conceptual framework is grounded in theoretical insights emerging from anthropology and archaeology in debates on research ethics;²⁰ the knowledge economy;²¹ culture-based rights;²² notions of “property” and “heritage;²³ the public domain, information science, Indigenous knowledge, and law.²⁴ Our research is designed to bridge the gap between theory and practice notably missing from current discussions of IP issues in cultural heritage (Cowan 2006; von Lewinski 2004). Our preliminary

¹⁸ UBCIC 2000; Brown 2003; Healy 2003; Janke 1998; Janke & Quiggin 2005; Laird 2002; Posey & Dutfield 1996.

¹⁹ The Canadian Intellectual Property Office, the Department of Indian Affairs and Northern Development, Parks Canada, Environment Canada, and Heritage Canada have all identified support for Indigenous initiatives to define, protect and manage their intellectual property as a critical priority (see Industry Canada, 2003; Cassidy and Langford 1999; Mann 1997).

²⁰ Laird 2002; Rosenthal 2006; Weijer et al. 1999; see also Hirsch & Strathern 2004, Strathern 2000.

²¹ Drahos & Braithwaite 2002; Lessing 2002; McSherry 2001; Marr 2005.

²² Brown 2005; Cowan 2006; Cowan et al. 2001; Ivison et al. 2000.

²³ Carman 2005; Smith 2004; 2006, 2007; Strathern 2000; Strathern & Hirsch 2004..

²⁴ Bell and Napoleon *in press*; Coombe 1998, 2004, 2005; Gervais 2003; Roy 2005.

research has identified ten crosscutting **themes** in three major realms in which these have emerged—the **public domain**, **cultural knowledge**, and academic or applied **research** (see *Figure 1*).

Our methodology is based in *critical theory*,²⁵ which takes into account the situated context of an issue and how this influences the capacity of people to act and make decisions. It reaches beyond explanation and seeks to understand a specific situation from different perspectives and to locate possibilities for emancipatory social change, reflexively taking steps to democratize or open up the research process. Thus, research questions, designs, and data analyses are open to participation and critical review from varied perspectives. These critiques and reviews are a form of **grounded theory**, a powerful means to refine our theories and hypotheses. We actualize this approach by complementing the inquiries and analyses of topics by our Working Groups with in-depth Case Study Research.

Research Hypotheses. We propose that IP issues in cultural heritage are a response to emergent global and local understandings and interpretations of the nature of culture, property, knowledge, and rights. In general, they represent (a) a failure to recognize the important roles that customary and informal legal systems continue to play in various societies; (b) the vast implications and repercussions of increased flows of ideas and information in our increasingly global and digital knowledge economy²⁶; and (c) the high stakes involved when someone’s “heritage” or “past” is perceived to be at risk. We hypothesize that most IP dilemmas arise over issues of control over specific forms of knowledge—how it is used, who has access, and who benefits—best resolved through negotiated practice, which looks at what is at stake from multiple perspectives, taking the specific context of the situation into account.²⁷ In certain situations, restricting access to knowledge on cultural grounds may well be justifiable (Anderson & Bowrey 2006; Gervais 2003). In other situations, IP claims surrounding cultural heritage issues can engender exclusionary practices, dangerous essentialisms, or unjustifiable restrictions on knowledge flows. We seek to describe the variables that characterize these differing situations and to understand their broader social, cultural, and economic impacts.

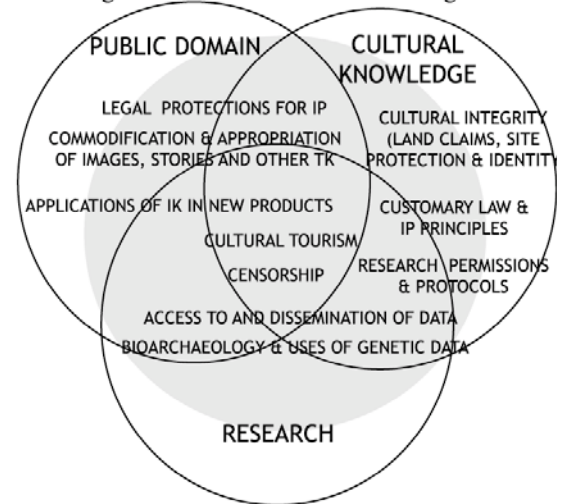
Our primary overarching research question is: *What are the theoretical, practical, policy, and ethical implications of the emergence of IP issues in cultural heritage?* Some of the corollary questions that will inform data collection and help refine our hypotheses include:

- **Theory**—Where and under what conditions do IP issues related to cultural heritage tend to emerge and why? How are various concepts or understandings of IP being employed to lay claim to the past, and what concerns arise? How do notions of IP rights based on culture interface with conceptions of individualist vs. universalist rights? What complex issues arise when groups claim special collective or exclusionary relationships to knowledge derived from past peoples?

- **Policy and Practice**—What are the legal or customary parameters for addressing IP issues related to cultural heritage and what are their ramifications? Under what circumstances do conflicts tend to arise and how might they be avoided? What are the key elements of good practice when it comes to effective, equitable, and sensitive approaches to IP issues? What alternative IP systems would better respect legitimate interests of stakeholders? How do international directives relate to local issues and vice versa?

- **Ethics**—What are the epistemological and moral foundations of arguments that assign rights based on

Figure 1. IP Issues in Cultural Heritage



²⁵ See Bohman 2005; Calhoun 1995; Chambers 1985; Cowan (2006:11); Denzin and Lincoln 2005; Ervin 2000; Maxwell 2005; Silverman 2000.

²⁶ “Flow” here refers to how information moves between different entities, markets: “the growth of digital information but draws from and contributes to globalization” (Cate 1998, cited in Nayyer 2002). See Endres et al. 2007; Nielson 2006).

²⁷ This approach to locating common ground among diverse stakeholders comes out of theory and research in ethics, intercultural relations, and dispute resolution. See Moody-Adams 1997, also Bannister (in press); Bell and Kahane 2004; Lilley 2000; Mortensen 2006.

culture? Under what conditions do collective constructions of IP rights justify restrictions on academic freedom, knowledge flows, markets, or the rights of individuals or states? What legal and ethical principles can be derived from cultural heritage practices relating to IP?

True to a critical theory approach, additional research questions and hypotheses reflecting specific and crosscutting interests of team members, partners, and stakeholders will emerge out of Working Groups and Case Study Research, and through engagement with partners and stakeholders. Our use of empirical data derived from our Case Study Research and Knowledge Base to address questions generated by Working Groups will enhance and strengthen our analysis and outcomes and enable us to engage directly with calls for legal theory, ethics, and social science theory based on grounded research and real situations.

Research Design

Our project has three concurrent components: **(I) Knowledge Base**; **(II) Case Study Research**; and **(III) Working Groups**. Resources and information gathered in the Knowledge Base and from Case Study Research results provide a solid empirical foundation for broad theoretical and comparative analyses and discussions of research questions by Working Groups. Here we discuss each component in terms of how it fits into our research design; in later sections we describe the activities and outputs of each and their integration with our project management structure and the roles of team members.

(I) Knowledge Base. The Knowledge Base will serve as a foundation for literature reviews, background studies, analyses of research questions, topical and comparative case study research, and Working Group discussions. This searchable *MySQL* repository will be an archive for articles, resources, and project-related findings and data, accessible to scholars and the interested public around the world.²⁸ Project Director Nicholas and many members of the team have been gathering these materials for years, and we all recognize the need for a common repository to store, organize, and especially share this wealth of information. The Knowledge Base will contain bibliographies; links to scholarly and popular articles; case studies from around the world; research protocols; legislation; images and examples of appropriation; links to other projects, centers of expertise, and scholars with similar interests; and more. The research data, reports, and any resources generated by the project will add immeasurably to it and SFU is committed to maintaining it permanently.

(II) Case Study Research. Our Case Study Research component will examine IP issues in 20 specific situations, each involving one or more project themes. Our goal is to document and explore the diversity of principles, perspectives, and responses that arise in connection with IP issues so as to (a) generate norms of good practice; (b) assess what approaches do and do not work, and (c) make these results available to our Working Groups as an empirical foundation for discussion, comparison, and theoretical analysis and to partners and stakeholders for refining their policies and approaches.

Twenty in-depth **case studies** selected through *purposive sampling*²⁹ (Yin 2004) are planned. All are situations that various team members have been involved with for several years (see **Table I**). Over half are Canadian-based; others are drawn from Australia, the United States, South Africa, New Zealand, Mexico, Honduras, and elsewhere—all carefully chosen international research sites where lessons learned from ongoing heritage-related IP issues will be helpful to those working in Canadian contexts. An international scope is critical as it places IP issues faced in Canada within a larger context and allows us to compare interpretations and successful approaches cross-culturally.

Our case study research design is **qualitative** since this will best help us identify the influence of contextual features, understand the perspectives of participants, and analyze processes and practices (Maxwell 2005: 24). Our **unit of analysis** in each case is a specific situation in which IP issues related to cultural heritage are perceived to be at stake. Research methods employed will include interviews, focus groups, discussion circles, oral histories, ethnography, and archival research. To strengthen reliability,

²⁸ With the exception of full text articles and other copyrighted material, which will be accessible to team members but, due to copyright restrictions, may be available to the broader public only upon request.

²⁹ In *purposive sampling*, cases are chosen based on topics in which participants already have an interest in the issues and outcomes.

Table 1: Examples of Planned Case Studies (team members and partnering organizations in *bold italics*)

- alternative licensing options for cultural heritage-related content (*Kansa, Alexandria Archive Institute*);
- IP issues arising from the use of Gwitch'in cultural knowledge to identify, protect and manage Yukon sites and heritage resources (*Kritsch, Gwitch'in Social and Cultural Inst.*);
- the rise of customary IP law recognition by WIPO, UNESCO, the UN Permanent Forum, and the Pikani First Nation, with comparisons to New Zealand and Papua New Guinea (*Noble*);
- IP implications of using cultural knowledge to protect and manage rock art sites for tourism (*Atalay, Ziibiwing Center of Anishnabe Culture and Lifeways*);
- an assessment of legal and cultural protections for endangered Indigenous knowledge systems in two South African communities (*Mukuka*);
- a comparison of best practices to guide communities in protecting intellectual property rights and cultural heritage (*Welch, National Association of Tribal Historic Preservation Officers*);
- an examination of the Te Papa Museum of New Zealand's approach to resolving competing Maori claims to archaeological materials and cultural *taonga* (*Solomon, Forbes*);
- community-specific uses of ancient genetic material (*Greer, Champagne and Aishihik FN*);
- IP rights, heritage commodification, and cultural tourism in Honduras (*Mortensen*);
- Indigenous IP rights and heritage management (*Beaumont, Magne, Tr'ondek Hwech'in Heritage Dept., Parks Canada*);

case study teams will use an approved **case study protocol** to guide data collection, customized as necessary. Working Groups and Partners will contribute additional research questions, and participating communities will likely add protocols and questions relevant to their own research objectives. The collaborative development of research designs will ensure that research questions, processes, and outputs address mutual priorities. Although findings from individual case studies cannot be assumed to be broadly generalizable (and we particularly recognize the danger of tendencies to generalize about Indigenous perspectives), our analysis across cases will locate common issues and normative patterns that elucidate broader implications and important lessons. Our **multiple case study approach** enables investigation of parameters and normative frameworks across a diverse range of stakeholders and situations and adds robustness to our findings and theoretical insights.

The majority of case studies will employ a **community-based participatory research (CBPR)** orientation,³⁰ which supports a critical theory approach and has proven effective in addressing knowledge and power inequities and bridging gaps between academic research and policy.³¹ CBPR emphasizes collaborative “needs-led” research, negotiated practice, and equitable distribution of research benefits.³² Our field-based studies build the capacity and expertise of local researchers and share the results and benefits of research with participants and partners. Other **thematic case studies** will be comparative and analytical in orientation, examining a theme or one critical issue in depth and across situations.³³

Our case study methodology builds upon the **successful model of the SSHRC-funded Protection and Repatriation of First Nations Cultural Heritage project**³⁴ directed by Bell (co-applicant and Executive Committee member) and Paterson (Advisory Board member), which explored First Nations' concepts of cultural heritage and customary law through both CBPR and thematic case studies (Bell and Napoleon, *in press*). Project Director Nicholas was a co-investigator on this innovative and noteworthy project; Asch, Noble, Bannister, Coombe, and two of our partners participated on the research team.

Validity and Reliability. Qualitative case study research can raise questions about the validity and reliability of results (cf. Murphy and Dingwall 1998; Yin 2004). We plan to strengthen the *validity* of case study results through thorough documentation of all procedures, data, and sources of evidence; triangulation of results using multiple sources of evidence within and among cases; searching for

³⁰ *Community-based participatory research* is defined as “a collaborative approach to research that equitably involves all partners in the research process and recognizes the unique strengths that each brings. [It] begins with a research topic of importance to the community with the aim of combining knowledge and action for social change” (Green, in Minkler & Wallerstein 2003:4). Also see Brant Castellano 2004; CINE 2003; Green et al. 1997; Hall 1997; Law 1997; Macaulay & Commanda 1999; Marullo & Edwards, 2000; St. Denis 1992.

³¹ Brant Castellano 2004; Springett 2003; Themba and Minkler 2003.

³² Features absent in cases such as the “Kennewick Man” controversy over an ancient human whose fate and ancestry bitterly galvanized U.S. cultural heritage policies See Bruning 2006; Thomas 2000; Watkins 2000.

³³ For example, see Bannister (*in press*) for a comparison of community research protocols [any other examples?].

³⁴ See <www.law.ualberta.ca/research/aboriginalculturalheritage/>.

contrary cases and evidence; and subjecting case study reports to both community review and to peer review by our working groups. We will increase *reliability* through use of case study protocols to standardize reporting and procedures across cases and by seeking **replication logic** (Yin 2004:45)—is what we expected to find seen across cases? If not, what is the explanation? This will also help us isolate contextual factors that influence situations, especially in cross-cultural contexts, and to refine our theoretical propositions.

(III) Topical Working Groups. This third major component of our Research Design will use the collective experience and expertise of Project Director Nicholas and the team to collaboratively explore crosscutting themes and concepts that frame and position our research. Many IP researchers—from legal theorists and policy analysts to anthropologists and ethicists—have noted a lack of grounded and case-based empirical data, needed to inform and evaluate theory, policy, and research. Our project closes this gap by providing this foundation. Drawing from our Knowledge Base and, as the project progresses, from our Case Study Research results, interdisciplinary Working Groups, formed around project themes (*Table 1*), will discuss, debate, and deliberate the theoretical, ethical, and policy implications of IP issues in cultural heritage. These analyses and discussions will address our research questions and explore broad links between IP and cultural rights, legal and customary frameworks, human rights, sovereignty issues, the free market, open access, conflicts among researchers (Carson 1995; McSherry 2001).

Research Design Evaluation. Qualitative research design guided by critical theory is a process in which goals, methods, and theories are continually reassessed and refocused, and we have planned for several forms of evaluation to provide reflexive feedback throughout the project. An ethnographic study of the project itself, conducted by our postdoctoral fellow, will gather firsthand information from project participants to help us adjust and improve methodologies and project design as we proceed. Each case study will also include evaluative assessments from participating research communities and relevant Working Groups. Project Director Nicholas and the Executive Committee will assess overall project processes, outcomes and impacts from the perspectives of partners, students, co-investigator institutions, and key stakeholders. Feedback from our Advisory Board and the SSHRC midterm review will also serve as vital forms of evaluation.

PROJECT ACTIVITIES AND OUTPUTS

Planned activities and outputs are detailed below (see also PLAN OF WORK, p. 30. DISSEMINATION STRATEGIES (p.16) includes additional information on how we will disseminate our outputs, resources, research results, and discussions to scholars, stakeholders, and broader audiences. See PROJECT ORGANIZATION (p. 19) for more information about who will oversee various activities and outputs.

(I) Knowledge Base. We are currently working with an SFU database developer to create initial architecture for our web accessible Knowledge Base. All team members will add to the Knowledge Base throughout the project, making it an invaluable resource for our Working Groups and for other interested researchers and stakeholders. **Outputs** produced in conjunction with the Knowledge Base will include:

a) *A Survey and Review of IP Cases and Issues* in archaeology and cultural heritage, now underway.³⁵ Archived issues and cases will be analyzed for recurring themes, patterns, and answers to our research questions. This background research will aid both Case Study Research design and Working Group activities by providing a summary of the current situation, framing our case study protocol, serving as a validity check on case study results, and informing broader discussions.

b) *Literature Reviews, Background Studies, and Resource Sets* will be generated from the Knowledge Base by team members, research assistants, graduate fellows, postdoctoral fellows, and staff. They will be made available to partners, stakeholders, other researchers, and the general public.

c) *Volume on IP Issues in Cultural Heritage* (Year 2) will be the first of many collaboratively produced volumes to draw upon the Knowledge Base and serve as a university-level text and resource

³⁵ Funded with \$96,000 from the Killam and Wenner-Gren Foundations (through Hollowell)

on the topic (co-edited by Nicholas, Hollowell, and our postdoctoral fellow).

(II) Case Study Research

Seven case studies will be initiated in Year 1; seven in Year 2; and six in Year 3. The phases of case study research are **a) research design**, **b) data collection**, and **c) reporting and analysis**.

a) Research Design. In early 2008, the Executive Committee will request proposals for Case Study Research projects from team members, to be written in collaboration with participating organizations or communities.³⁶ Once a proposal for case study research is accepted by the Executive Committee, a **final research design**, developed collaboratively with participating partners and community members, will require approval from the Executive Committee, relevant Working Group(s), participating partners or communities, and ethics review boards. We have staggered the **start-up of case study research** over the first three years of the project to allow ample time for collaborative development of proposals and research designs. Several partners and team members are ready to begin as soon as funding is available. In each case, leaders of case study teams are individuals who know these communities well—an essential aspect of successful community-based participatory research.

In Year 1, we will compile a **Guide to Community-Based Participatory Case Study Research** with parameters for research design; methods; protocols; guidelines for negotiating collaborative relationships; and other practical and ethical considerations. The *Guide* will be reviewed by team members, research teams, participating communities and partners, and revised for publication.

b) Data Collection will typically occur over a 9–12-month period through interviews, focus groups, archival research, and other ethnographic methods. All raw data will be compiled and stored according to parameters laid out in the collaborative research design and ethics review.

c) Reporting and Analysis. Case study research teams will have 6–9 months to analyze their findings using standard ethnographic methods of content analysis. They will report back through community-wide presentations (for dialogue and sharing of findings), community reports, and case study research reports. These findings will be added to the Knowledge Base and subsequently used by Working Groups in their discussions and publications.

Case Study Team Outputs include:

- 1) **internal progress reports** for project administration;
- 2) postings (updates, activities, and links to data); to the **case study web pages** on our project Website.
- 3) a **Stakeholder Report** that includes transcriptions of interviews and focus groups—a format highly valued by partners in the Bell and Paterson project;
- 4) a **Case Study Research Report** that describes the project methods and findings. Included will be a preliminary synthesis and interpretations of results relative to project **objectives** and **research questions**; an assessment of their practical implications; and identification of specific areas where research results can have an impact (e.g., reforms to regional policies on the licensing of researchers).

Review Process. Each community-based case study research report will undergo a **community review**, the terms of which, along with copyright agreements, will be negotiated at the project design stage,³⁷ and a review by our relevant Working Group(s). Thematic case studies will undergo peer review by the Working Group most closely related to that topic. Final case study research reports will be the subject of interdisciplinary discussions at our **Case Study Research Symposium (Year 4)**.

(III) Working Groups. In Years 1–3, Working Groups will help create the Knowledge Base; refine and discuss research questions; review case study research; and host forums for cross-fertilization of ideas on key topics, policies, concepts, and theories. Years 4–6 focus on analysis and preparation of

³⁶ Proposals will describe the case study, its unit of analysis, the participants, objectives, and composition of the case study research team, and they will include a timeline and budget.

³⁷ Following the community protocol Bell and Paterson developed with their cultural heritage project, once a case study is cleared for web posting, its contents will be available for public use and dissemination. In some cases, portions of interviews that discuss sensitive aspects of IP may not be publicly disseminated, for example, if they contain primary data that are the IP of a community and should remain confidential (see also Mann 1997: 21-22).

collaborative publications (see DISSEMINATION). Several team members have already located sources of funds at their respective universities for symposia that will bring members of a Working Group together for a combined public event and project meeting. Working Groups discussions will be recorded and in some cases transcribed for potential publication as well as for project documentation purposes. In Year 7, we will host a final wrap-up meeting of all Working Groups.

Working Group Outputs include collaboratively developed academic publications as well as **journal articles** and **policy reviews and recommendations**. Each member of the research team has agreed to be an author or co-author for *at least* two **peer-reviewed publications directly resulting from the project**, for an **estimated *minimum* total of 100 academic articles**.³⁸ Many of these will be written collaboratively with other team members. Others will emanate from discussions held in working groups or planned project activities. Manuscripts for several major **academic volumes** will be developed and peer-reviewed in each of the working groups (*Table 2*).

Working Groups will design and implement many of their own plans for publications, and here we will encourage team members to reflect the collaborative nature of the project in their writing and publications.

We have discussed several innovative possibilities for collaboratively produced academic publications with some of our partnering publishers, including:

- multiple-authored monographs on topics of high interest featuring multi-disciplinary perspectives;
- volumes that are essentially a focused and edited conversation among experts on a particular IP theme;
- edited volumes in which selected contributors develop parallel narratives, then read and comment on each other's work and what is shared; and/or
- volumes written collaboratively by a group of 10–15 people who have been working in the same area or topic, with two taking a primary editorial role to create a central narrative.

Another planned output—written and compiled collaboratively by a Working Group and incorporating the results of Case Study Research—will be an ***Intellectual Property and Cultural Heritage Sourcebook***.³⁹ Written for both communities and social science researchers, it will: 1) discuss ways that IP relates to cultural heritage; 2) examine legal and customary mechanisms for protecting IP rights related to cultural heritage; and 3) include case study summaries and examples of best practices and sample protocols for dealing with IP issues in research.

PROJECT ORGANIZATION AND MANAGEMENT

Our organizational structure is diagrammed in Figure 2; descriptions of administrative roles and strategies for team communication follow. The Management Team and Executive Committee share administrative tasks and decision-making, providing assistance and oversight to Project Director Nicholas, promoting communication and collaboration among the team, and generally facilitating project activities.

Management Team

• ***Project Director*** George Nicholas's pathbreaking scholarship on theoretical and practical implications of IP issues as they relate to archaeological research, ethics, and policy has demanded an interdisciplinary and multidimensional approach. Since 2002, he has collaborated and networked on IP issues in

Table 2. Planned Academic Volumes

- *IP in Cultural Heritage: An Overview* (LCP)
- *Case Study Results and Analysis* (2-vol.) (LCP)
- *Bioarchaeology, Genetics, and IP* (RHA)
- *Cultural Tourism* (RHA)
- *Research Ethics and IP* (RHA)
- *IP Issues in Archaeology* (RHA)
- *Open Access, Info Systems & Cultural Heritage* (S)
- *Customary IP, the Law & Culture-based Rights* (S)
- *IP and Commodifications of the Past* (S)

Key to Publisher: LCP—Left Coast Press; RHA—Research Handbooks in Archaeology series (World Arch. Congress and Left Coast Press; S—Springer.

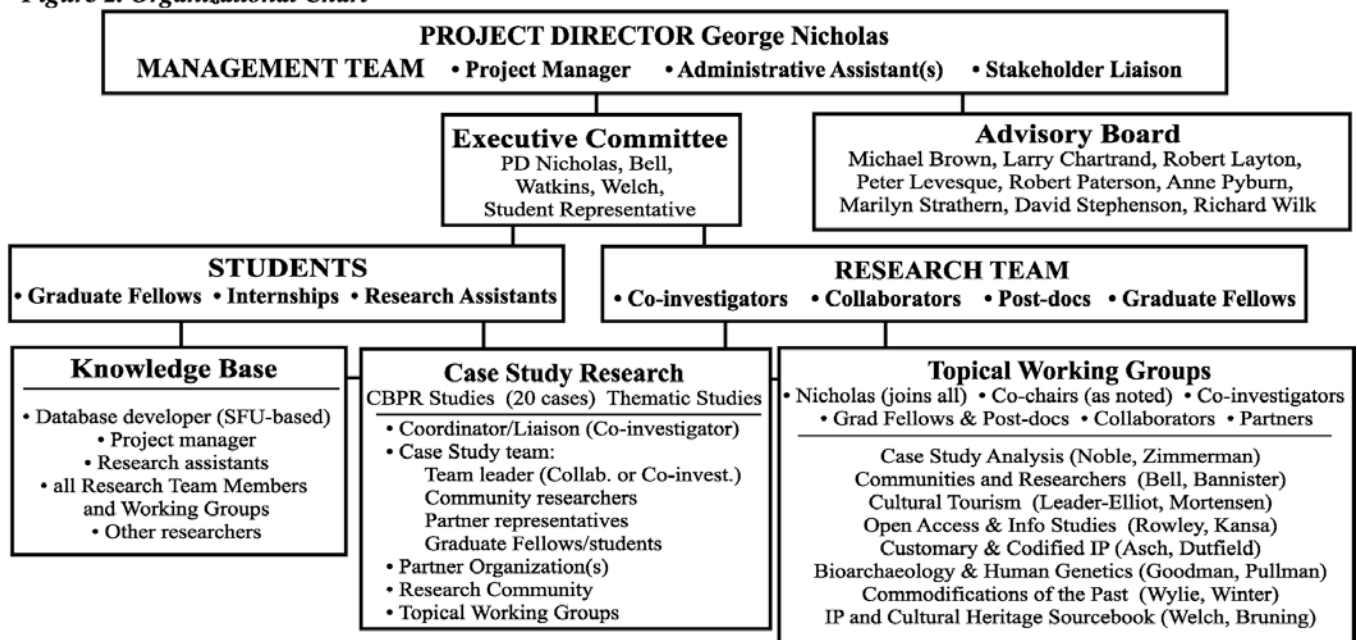
³⁸ An equal number of peer-reviewed publications written by team members and partially supported by the project is anticipated.

³⁹ This is similar in concept to successful sourcebooks on IP in the context of biodiversity. See Posey and Dutfield (1996) and Laird (2002) in particular; also in 2003, the Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) compiled and disseminated a useful IPR Handbook on biodiversity issues (Hansen & VanFleet 2003). The need for such a publication with a cultural heritage focus has been identified: see Battiste & Henderson 2000; Daes 1992, 1993, 1998; Greaves 1994; Seitel 2001.

cultural heritage with leading scholars in ethics, anthropology, law, heritage management, ethnobotany, and information studies across Canada, the United States, and Australia. Well known for his ground-breaking article in *Current Anthropology*, “Copyriting the Past?” (co-authored with K. Bannister, 2005), he writes and lectures widely on IP issues related to archaeology, First Nations, and heritage. From 1991-2005, he directed SFU’s internationally known Indigenous Archaeology Program, training university students from across Canada. Currently he is editor of the *Canadian Journal of Archaeology*, co-editor of the international *Research Handbooks in Archaeology* series, and Professor of Archaeology at SFU, specializing in archaeological theory and its applications. His record of SSHRC-funded collaborative research includes projects with Bell and Paterson, Brunk and Young, and Nancy Turner.

Nicholas will; a) direct decision-making, management, and fiscal aspects of the project; b) work closely with the Management Team to oversee research, communications, publications, and all project activities; c) provide intellectual direction to all Working Groups, d) ensure that the plan of work and its implementation meet project objectives and are accountable to funder and institutional requirements; and e) serve as the main project representative with stakeholders, host universities, and in media relations.

Figure 2. Organizational Chart



- The **Project Manager** (full-time) will: a) coordinate personnel, scheduling, and team communications; b) maintain project records and fiscal accounting; c) liaise with SFU’s Offices of Research Service and Research Accounting; d) assist with organizing project events; e) oversee public relations and website maintenance; f) prepare project reports, grant proposals, and internal publications; and other duties as outlined in a detailed job description.

- The **Administrative Assistant** (.50 time) will support and assist Director Nicholas, the project manager, and the Working Groups.

- The **Stakeholder Liaison** (.50 time), funded by SFU’s Vice President of Research, will a) facilitate communication, networking, and dissemination of research findings with stakeholders; b) assist with public relations; c) develop and maintain links with other projects sharing our interests; d) facilitate translation of research results into policy realms; and e) help organize a national forum in Year 6 for key stakeholders for mobilization and discussion of critical issues arising from research and analysis.

- Two **Student Research Assistants** (.50 time) per year will assist in administrative tasks, information gathering, processing, and dissemination in the SFU office.

Our Executive Committee has a solid history of collaboration, and is composed of Project Director Nicholas, three co-investigators, and, as non-voting members, the Project Manager, Stakeholder Liaison,

Administrative Assistant, and a graduate fellow as a student representative.

Voting members, in addition to Nicholas, include:

- **Catherine Bell** (Faculty of Law, U. Alberta) is internationally known for her commitment to interdisciplinary community-based research to inform legal theory and Canadian cultural heritage policy. She has experience directing large collaborative research grants, notably the SSHRC-funded “Protection and Repatriation of First Nation Cultural Heritage” project.
- **Joe Watkins** (Director, Native American Studies Program, U. Oklahoma), of Choctaw descent, is former chair of the American Anthropological Association’s Committee on Ethics. He has extensive experience in cultural heritage policy analysis and implementation via his work with the (U.S.) Bureau of Indian Affairs, with many publications on ethics and collaborative research relations.
- **John Welch** (Canada Research Chair in Indigenous Heritage Stewardship, SFU) has decades of experience working with Aboriginal communities and government agencies on culturally-appropriate heritage management practices and policies, and is a founder of the National Association of Tribal Historic Preservation Officers. He is developing SFU’s heritage management certificate program.

The Executive Committee will: a) evaluate the direction and progress of management, administration, research design, and plan of work; b) act as immediate advisors to the director; c) establish guidelines for equitable disbursement of fellowships, internships, travel funds, and case study research funds; d) review and approve case study research proposals, protocols and agreements; e) ensure that protocols and guidelines for research ethics and funder/institutional accountability are met; f) approve plans for publications, outputs, and dissemination; and g) approve and evaluate reports of working groups and annual project reports. The committee will communicate regularly by e-mail, hold conference calls monthly, and meet at SFU for 3 days each year (twice in Year 1).

Internal Communication Strategies

Effective team communication is critical to fostering collaboration in a project of this size. Our approaches include:

- 1) **A web-based Project Handbook** with contact information for team members and partners; guidelines for documentation, reporting, data sharing, use of web-based forums; and other information.
- 2) The **project website**, described under Dissemination (p. 28), will include limited-access portals for internal project communications as well as **electronic forums** where Case Study research teams, Working Groups, and Graduate Fellows can post messages, comments, and documents; collaborate; and access a **suite of collaborative work tools** designed specifically for our use.
- 3) **Videoconferencing** will enhance the ability of team members to interact between opportunities to meet face to face. These facilities will be used for Working Group meetings, interim executive committee meetings, and meetings with remote partners, case study research teams, and stakeholders.⁴⁰
- 4) In-person **meetings, symposia, and workshops** are integral to the level of collaboration we desire. We will take advantage of opportunities provided by professional meetings and other events to bring project participants together. Grants from co-applicant institutions will fund additional seminars and Working Group meetings. We will assemble the entire project team for the midterm review.
- 5) **E-mail and global computer-based communications** (e.g., Skype) and **personal webcams** will facilitate cost-effective **teleconferencing** among team members and with case study research teams.

TEAM COMPOSITION AND ROLES

Our interdisciplinary, multisectoral team is composed of individuals whose work is at the forefront of IP and cultural heritage issues in Canada and worldwide. All are deeply committed to the project and the unprecedented opportunity it represents to undertake collaborative research that will inform future theory, practice, policy and ethics in law and social science research. We are all familiar with one another’s work;

⁴⁰ At SFU, we have been invited to be a pilot project for the IRMACS Centre, a state-of-the-art videoconferencing facility outfitted with collaboration technology designed for interdisciplinary and international researchers, seating 50 people with personal web cams and a live feed of up to 8 simultaneous sites, which we will use for communicating with research teams, partners, and working groups.

many of us have worked together in smaller projects previously, and the MCRI will allow us to collaborate on a more cohesive and sustained basis, and with individuals across Canada and beyond, with whom we have long hoped to work, in wrestling with the implications of IP issues in cultural heritage. Archaeologists, for example, require input from lawyers and from colleagues working in regions where these concerns have already been raised to inform their theories, practice, policy decisions, and ethics. And we have learned that lawyers and ethicists desperately need the empirical foundation and field-based experiences of those working in cultural heritage to ground their own theories, policies, and discussions.

The research team consists of 24 *co-investigators* from 8 Canadian and 9 international universities and 26 *collaborators* from 10 universities and 16 organizations. These scholars and experts include: 23 archaeologists from diverse subfields⁴¹, 9 cultural anthropologists, 11 lawyers specializing in IP and/or Indigenous rights, 4 ethicists, and specialists in cultural tourism, museum studies, Open-Access knowledge, applied ethics, ethnobiology, community engagement, and other fields. Eighteen have expertise in policy research, many in Indigenous heritage and policy; 10 are Indigenous persons.⁴²

Geographically, team members come primarily from Canada (25), but also from Australia (6), the United States (14), Great Britain (2), New Zealand (2), South Africa (2), and Germany (1). Links to other regions, especially developing countries, will be fostered via international partners, dissemination strategies, and stakeholder liaisons. This combination of a strong Canadian contingent with broad international representation is vital because it places IP issues faced in Canada within a larger context, and allows us to compare cross-cultural interpretations and approaches to similar problems. Each of our international team members has a background of scholarship and expertise from locations where IP issues in cultural heritage are currently being addressed in a variety of significant ways that inform both theory and practice—places where these discussions are much farther along than they are in many places in Canada. Thus collaborating with these international scholars and experts will give Canadians a broader theoretical and practical grounding in these issues and what is at stake.

Research Team Roles

- ***Co-investigators*** are scholars who: a) contribute to and evaluate the intellectual direction of the project; b) coordinate or assist case study research; c) collaborate in Working Groups; d) provide commentary and analysis of case study research and other issues for group discussion and relate these to broader areas of theory, policy and practice; e) collaborate in publications and peer review; f) mentor/supervise students and interns; g) locate resources and case studies; h) disseminate project-related research in scholarly venues; i) liaise with other research initiatives and groups; and j) host seminars and other project events.
- ***Project Collaborators*** are scholars and practitioners with expertise in law, cultural heritage management and policy who broaden the capacity of the research team and its grounding in policy and applied research. Many are well positioned to facilitate case study research and/or supervise student internships. They participate in some of the same roles as co-investigators, including leading or facilitating case study research and participating in one or more Working Groups and on various publications and outputs.
- ***Postdoctoral Fellow*** (one-year term, renewable for a second year) participates in all project activities and joins 2 or more Working Groups, contributing to publications, background and policy papers as a full member of the research team. The Fellow also serves as project ethnographer, documenting and providing critical reflections on experiences, processes and impacts.
- ***Students*** are involved in all aspects of the project; their vital role is described in a separate section below.

⁴¹ These subfields include heritage management, public archaeology, museums, bioarchaeology, Indigenous archaeology, historical archaeology, ethnohistory, and archaeological theory. Their fieldwork experiences include Mexico, Honduras, Turkey, Egypt, and Russia in addition, to those countries mentioned above.

⁴² Efforts were made during earlier stages of project development to include additional Indigenous experts on the research team. We contacted Marie Battiste, John Borrows, Val Napoleon, Heather Raven, and others. All expressed keen interest, but were over-committed, and asked to be kept informed.

- **Case Study Research Teams (20)** carry out the in-depth research (described in Research Design, p. 15–17), for specific locales or topics. Each team includes a *team leader* who is a member of the main project research team (co-applicant or collaborator); a representative/collaborator from the participating *partner organization* or community; and, where feasible, one or more *community-based researchers* and *graduate student researchers*. These teams will: a) design and implement research with appropriate protocols and approvals; b) maintain a case study database of their research processes and all data collected; c) compile community reports and research reports; d) maintain web pages and other communication with the main project; e) assist in the community review process; and f) be responsible for the conduct of research.
- **Working Groups.** Our eight Topical Working Groups provide a venue for innovative, multisectoral, cross-disciplinary collaborations (*Table 2*). Each group of 6–12 team members is co-chaired by two co-investigators (*Table 3*) who have considerable expertise and experience in that particular Working Group theme. Every co-applicant, Graduate Fellow, and collaborator will join one or more Working Groups (Nicholas is a member of all eight), and partners may opt to be represented. These groups will a) develop and evaluate questions for case studies and other research initiatives; b) convene forums and seminars; c) explore issues with other scholars and audiences; d) produce edited volumes for publication; and e) make recommendations for policy. *Ad hoc* working groups may form to meet other specific objectives. Working groups will meet at least twice yearly by videoconference and face-to-face in each of Years 4–6 for preparation of publications. Regular communication will take place by web-based forum and e-mail.

Table 3. Working Groups and Co-Chairs

Case Study Research & Analysis Working Group

Brian Noble (Dalhousie) is known for his anthropological work that merges theoretical discussions on cultural rights and transcultural knowledge processes with grounded case study research with First Nations communities and international IP policymakers (Noble 2007).

Larry Zimmerman (IUPUI, Public Scholar of Native American Representation) is renowned for his critical analyses of research relations and epistemology in North American archaeology, and for path-breaking collaborative interagency research with tribes, government, and other stakeholders (Zimmerman 1998, 2001, 2005a, 2005b, 2006, *in press*).

IP and Research Ethics Working Group

Catherine Bell (UAlberta) (also p. 21) directed a major SSHRC-funded project that confronted this topic head on and identified a need for further exploration and research. Her interest is in research that informs Canadian heritage policy and research relations. She speaks internationally on these issues.

Kelly Bannister (UVic, POLIS Project Director) has devoted her career to exploring local governance mechanisms that facilitate equitable and collaborative research practices (Bannister 2005, *in press*). She chairs the Ethics Committee of the International Society of Ethnobiology and worked with the CIHR Task Force on Aboriginal Issues to develop research ethics guidelines.

Bioarchaeology, Genetics, and IP Working Group

Daryl Pullman (Memorial U) is an ethicist with broad experience in commercial genetics, pharmaceutical marketing practices, and bioethical decision-making and ethics advisor to the CIHR Genetics Institute. His research interests include cultural implications of the appropriation of genetic materials (Pullman & Arbour, forthcoming).

Alan Goodman (Hampshire) is Associate Director of the New York African Burial Ground Project and current president of the American Anthropological Association. As a biological anthropologist, he is interested in exploring the intersections among political-economic processes, culture, ecology, and human biology (Goodman et al. 2003; Ellison & Goodman 2006).

Cultural Tourism Working Group

Lena Mortensen (UToronto-Scarborough) is a junior scholar and anthropologist who employs ethnography to inform cultural tourism theory, policy, and ethics. Her fieldwork at the World Heritage site of Copan (Honduras) has led to many scholarly publications and collaborations with local, regional, and international organizations on IP issues (Mortensen 2006, 2007).

Lyn Leader-Elliott (Flinders U) has won many awards for innovative approaches to interpretation, training, and the development of a best practice model for cultural tourism across Australia. Her expertise combines theoretical and practical approaches to cultural heritage and tourism that encompass the private sector, local communities, and government (Leader-Elliott 2002).

Commodification of the Past Working Group

Alison Wylie (U Washington) is a philosopher of science with extensive scholarship in the philosophical, ethical, and political implications of archaeological and community-based research, especially in regard to standpoint-specific interests. Her recent work (in collaboration with Nicholas) explores ethical responses to cultural appropriation (Nicholas & Wylie forthcoming).

Barbara Winter (SFU), Director of SFU's Museum of Archaeology and Ethnology, has long worked collaboratively with First Nations, research institutions, and the public (Winter and Henry 1997). She leads a major project funded by CFI to develop virtual museums as a way to increase public access to the past through non-appropriative means (Winter 2005).

Open Access, Information Systems and Cultural Heritage Working Group

Sue Rowley (UBC) is Curator of Public Archaeology at the UBC Museum of Anthropology and the lead for the Reciprocal Research Network, where she oversees the development of technologies that promote culturally appropriate data-sharing and collaborative research among BC First Nations and with researchers and museums around the world.

Eric Kansa (Berkeley School of Information) specializes in digital open access for cultural heritage research data and related intellectual property implications (Kansa et al. 2006). He is founder and former executive director of the Alexandria Archive Institute, a non-profit organization devoted to an open, internet-based knowledge commons of world cultural heritage.

Customary and Codified IP Issues in Cultural Heritage Working Group

Michael Asch (UVic) is a cultural anthropologist whose work has focused on the political, cultural, and legal aspects of relations between First Nations and Canada (Asch 1998). He brings decades of experience working with northern Indigenous communities on topics relating to codified and customary law and governance.

Graham Dutfield (Leeds U) is a world-recognized legal expert on IP, Indigenous people's rights, sustainable resource use, and benefit sharing (Dutfield 2006). He is Academic Director of the UNCTAD-ICTSD Project on Intellectual Property Rights and Development (Geneva) and a Senior Member of the Oxford Intellectual Property Research Centre (Oxford).

IP & Cultural Heritage Sourcebook Working Group

John Welch (SFU) (also p. 21) has over 15 years experience working with American Indian communities in cultural heritage stewardship, where one of his objectives has been to make available a wide range of resources and tools, from local to international in character, that would assist the community and outside researchers in addressing cultural heritage concerns.

Susan Bruning (Southern Methodist U) is a practicing attorney, Faculty of Law, and anthropologist specializing in cultural and intellectual property law and its applications for cultural groups and communities (Bruning 2006).

STUDENT INVOLVEMENT AND TRAINING

Close to one-fourth of our MCRI budget is allocated to students, and we will formally support 50 to 60 graduate students, fellows or interns over the project's 7 years. Funding for student involvement from co-investigators' institutions will add significantly to these figures.

- **MCRI Graduate Fellowships** will support 12 MA (thesis year) and 15 PhD students (1 year, renewable for 2).⁴³ Graduate Fellows will be chosen according to criteria established by the Executive Committee based on an application process. Fellows are full members of the research team, involved in all project activities and components. One Fellow will serve as a student liaison on the Executive Committee.

We will advertise nationally for Graduate Fellows, but several excellent candidates have already been identified. International Fellows may come to one of 9 Canadian universities to work with our co-investigators, and Canadian Fellows may choose to matriculate at co-investigators' universities in Australia, England, Germany, or the United States.⁴⁴ Fellows funded by the project will be expected to have completed coursework in research methods and some combination of archaeology, anthropology, applied ethics, or law with an interest in heritage studies. Each student will have a primary mentor on the research team who monitors her progress and sits on her thesis committee.

Since our Fellows will be geographically dispersed, we will foster a sense of identity with the project. A special portion of the Project website will serve as a portal to student-related resources, news, research and collaboration opportunities, and communications. We will encourage weblogs as a way for students to introduce themselves to one another and to team members, and as a means to document their project experiences. Students will organize conference sessions to showcase their work, and we will sponsor student get-togethers at project events. The Project Manager and Administrative Assistant will liaise with Fellows with regard to communications and (non-academic) organizational needs.

- **Research and Career Development Internships** will provide 24 graduate students with a stipend for travel and living expenses while serving as interns with partnering organizations or stakeholders for a 4-month (1 term) period. These internships will offer valuable opportunities to gain skills and career-related experience. If successful, we will seek additional funding sources to expand the internship program.

⁴³ We will offer MCRI funding to master's students during the second year of the MA, to support theses on specific aspects of project themes and/or issues of interest to partner organizations. New PhDs and thesis year MA students are generally expected to apply for SSHRC graduate student funding, and we expect these applications to result in support for an estimated 15-20 additional students in addition to what we identify here.

⁴⁴ International team members have offered to assist Canadian students with fellowship applications at their respective institutions.

Guidelines for internships will be approved by the Executive Committee and administered by our Stakeholder Liaison with on-site supervisors providing additional evaluation.⁴⁵

SFU's Co-op Education program will help us develop our internship component. UVic's Service-Learning Internship program, the *LE, NONET* Project, which develops research apprenticeships and internships for Aboriginal students, and the Vancouver Island Public Interest Research Group's Research in Action internship program will be valuable resources and excellent models.⁴⁶

- **Student Travel Fund** (\$2500/yr) will provide stipends to supplement departmental and other funding sources to assist students in participating in conference presentations or symposia in association with project research. In addition, close to 10% of our travel and subsistence funds are designated for student participation at project events, Working Group meetings, and the Mid-term review.
- **Student Research Assistants** (2 half-time per year over 7 years; 14 positions total) based at SFU will assist the Project Director and Management Team in administrative tasks, information-gathering, processing, and dissemination. RAs report to the Project Manager. Several co-investigators have contributed funds for additional research assistantships based at their respective institutions.
- **Work-Study Positions and Volunteers.** Work-study positions will assist with administrative tasks, and student volunteers at host universities will help with project events (c. 200 hours per year).
- **Career Training Initiatives.** Students will receive training and experience relevant to careers in law, public policy, anthropology, archaeology, heritage management, museums, teaching, libraries and archives, First Nations or government agencies, and public or private cultural heritage organizations. Students will have a unique opportunity to work among disciplines where cross-fertilization of ideas and theories takes place alongside national and international experts in these fields. Opportunities for local and overseas research and fieldwork through affiliated scholars and institutions and partner organizations offer experience in community engagement, ethnography, qualitative research methods, grant writing, and report preparation.
- **Curriculum Development.** This project promises to have a significant impact on university-level curriculum. Many of our co-investigators are now developing cross-disciplinary IP-focused courses and seminars; others plan to integrate modules on IP and cultural heritage into their teaching.⁴⁷ The time is coming when IP issues will be integral to the training of every student pursuing a degree in a heritage-related discipline as well as in all field-based social sciences.

PARTNERS

Twenty-five confirmed partners (*Table 4*) will make key contributions to the project by providing on-the-ground knowledge of IP issues and concerns. Our Partners include First Nations/Indigenous communities and cultural heritage associations, federal agencies, international organizations specializing in cultural heritage or intellectual property policy, and publishers. The partnerships we have developed target specific groups most affected by IP. Partners were chosen for their connections to one of the 20 in-depth case studies and their abilities to help design, implement, and disseminate research to NGOs, government agencies, and broader audiences. In some cases, our project will contribute to research or policy initiatives that partners already have underway. Our Student Internship Program is another tangible benefit we offer partners, developed partly at their request.

Partners may participate by: (a) providing input into project design, implementation, and evaluation; (b) collaborating in case study research and/or Working Group activities; (c) locating resources and case studies of interest to the project; (d) advising us on how to translate research results into useful applications; (e) assisting with outreach and dissemination to stakeholders; and (h) providing cash and in-kind support for project activities. Committed cash and in-kind contributions from partners amount to approximately \$1.3million (See PART 6 for a summary of what this includes).

⁴⁵ See <http://web.uvic.ca/lenonet/home.html> for LE, NONET and <http://www.vipirg.ca/ria/index.html> for VIPIRG's Research in Action.

⁴⁶ See <http://web.uvic.ca/lenonet/home.html> for LE, NONET and <http://www.vipirg.ca/ria/index.html> for VIPIRG's Research in Action.

⁴⁷ For example, IP issues will be incorporated into all levels of SFU's Applied Archaeology certificate program now under development.

Table 4. Confirmed Partners

International: Alexandria Archive Institute; Arctic Studies Center (Smithsonian); Social Science Research Council; World Archaeological Congress; World Intellectual Property Organization.

National: Canadian Archaeological Assoc.; National Assoc. of Tribal Historic Preservation Officers; Parks Canada; Society for Applied Anthropology's IPR Interest Group.

Regional: Anthropological Research, LLC; Avataq Cultural Institute (Nunavik); Barunga Community (Northern Territories, Australia); Champagne and Aishihik First Nation; Gwich'in Social & Cultural Institute; Inuit Heritage Trust (Nunavut); Mookakin Cultural & Heritage Foundation (Kainai Nation); Prince of Wales Northern Heritage Centre; Sealaska Heritage Institute; Sto:lo Research & Resource Management Centre; Tr'ondek Hwech'in Heritage Dept.; White Mountain Apache Tribe; Ziibiwing Center of Anishnabe Culture & Lifeways.

Publishers: *International Journal of Cultural Property*; Left Coast Press; Springer.

PROJECT ADVISORY BOARD

Our Advisory Board consists of scholars recognized as experts in cultural heritage, law, archaeology, Indigenous issues, IP, and knowledge mobilization across Canada and globally. Members will provide guidance, review and feedback annually and upon request on the direction, objectives, agendas, and outputs of the project; participate in project meetings, Working Groups and other project events when possible; and advise on strategies for linking with stakeholders and dissemination of results.

- **Michael Brown** (Williams College), Director of the Center for Technology in the Arts and Humanities; author of *Who Owns Native Culture?*; specializes in the public domain, cultural heritage, and IP rights.
- **Larry Chartrand** (*Métis*; University of Winnipeg), Director of the Aboriginal Self-Governance Program and past president of the Indigenous Bar Association; specializes in Aboriginal rights.
- **Robert Layton** (U. of Durham, UK), has worked with UNESCO's World Heritage Program and the Australian Institute of Aboriginal and Torres Strait Islander Studies on IP issues and case studies.
- **Peter Levesque** (Children's Hospital of Eastern Ontario), former Deputy Director of SSHRC's Knowledge Products and Mobilization initiative; specialist in multi-sectoral project management.
- **Robert K. Paterson** (UBC, Faculty of Law), Rapporteur of the Cultural Heritage Law Committee of the International Law Association; specializes in cultural heritage, Indigenous peoples, and art law.
- **K. Anne Pyburn** (Indiana U.), co-founder of the Archaeology and Social Context PhD Program and director of the MATRIX Project (Making Archaeology Teaching Relevant in the XXI Century), and a leader in ethics in archaeology who conducts community-based fieldwork in Belize and Kyrgyzstan.
- **(Dame) Marilyn Strathern** (Univ. of Cambridge, UK), known for her innovative approaches to legal anthropology and IP, recently directed a major project exploring local IP innovations in New Guinea.
- **David Stephenson**, anthropologist and lawyer; specializes in Indigenous IP rights and protection of brands, trademarks, copyrights, and trade secrets.
- **Richard Wilk** (Indiana U.), co-founder of the Archaeology and Social Context Program; specializes in economic anthropology and effects of global commodification processes on local culture.

DISSEMINATION STRATEGIES

Strategies to disseminate project findings and resources are listed below by intended audiences. Our goal is to both advance knowledge and understanding of IP issues and their implications, and assist others in proactively addressing these issues in ways that foster positive and equitable resolutions and relations.

Dissemination to Scholarly Communities (see also Recent Activities)

1) **Proposed Academic Volumes.** Two partnering publishers will produce and distribute volumes emanating from our Working Groups (*Table 2*). **Springer**, a highly acclaimed international press with specialties in the social sciences and law, will review manuscripts for three volumes. **Left Coast Press**, which specializes in titles in cultural heritage, archaeology, and museology, will produce (a) an overview of IP in cultural heritage; and (b) a two-volume set focused on case study research results and analysis. Working Groups will also contribute heavily to three major volumes in the *Research Handbooks in*

Archaeology Series (co-edited by Nicholas and Hollowell),⁴⁸ published by Left Coast Press (distributed in Canada by UBC Press). Left Coast Press will provide a copy of each of their publications to 50 research libraries in need around the world as part of the World Archaeological Congress' Global Libraries Project.

2) Peer-reviewed journals. We will target journals in heritage studies, anthropology, ethics, law, archaeology, museum studies, material culture, and other fields for publications (e.g., *Anthropologica*; *Canadian Journal of Law and Society*, *Journal of Social Archaeology*). Several editors have already asked us to submit manuscripts for special issues (see Publications in Preparation, p. 29).

3) Conference sessions. We have already organized several panels and conference sessions (see **Recent Activities**, p. 28) and will continue to host these events (see **PLAN OF WORK**, p. 30). These sessions are designed to tap the *collaborative* potential of the team, both by 1) bringing together perspectives from different disciplines that too often are missing from these discussions, and 2) using formats that promote more interaction and collaboration, such as forums, panels, and discussions. Many of these will be prepared for publication.⁴⁹ In Year 7 we plan to host an interdisciplinary international conference on IP and Cultural Heritage (with funds from other sources).

4) Topical seminars, symposia, and workshops on Working Group themes and hot topics, hosted by co-investigators' institutions and/or partners, will expand collaborative discussion of issues to wider circles of scholars and experts.

5) Outreach to IP centres, cultural heritage institutes, and archaeology/anthropology departments across Canada and internationally (see Stakeholders). We will seek linkages with these academic entities, most of which are based in universities, to disseminate the work of the project for use in teaching, discussion, and further research.

Dissemination to the Policy Domain and Key Stakeholders. (see also Part 8. STAKEHOLDERS)

Our Stakeholder Liaison will assist Project Director Nicholas in disseminating project information and outputs to the policy domain and key stakeholders. York University (through Coombe) and the University of Victoria (through Asch and Bannister) will provide us with staff and resources of their groundbreaking SSHRC- and CIHR-funded **Knowledge Mobilization Units**, designed to mobilize social science research *beyond* academia to key policymakers across Canada.⁵⁰ Our partners have also pledged substantial assistance in this area. For example, our activities will contribute significantly to the World Intellectual Property Organization's widely disseminated database of research protocols and IP guidelines for traditional knowledge. Many of our partners and key stakeholders plan to use our research findings as a basis to further develop their own IP policies.

In addition to handling incoming requests, we will: 1) **conduct strategic outreach** to stakeholders about research activities, results, and resources; 2) **meet and consult with key stakeholders** to translate research findings into relevant, useful outputs, facilitated by our Stakeholder Liaison; 3) disseminate **resource sets and background or position papers**; and 4) organize and facilitate a major **national level Policy Forum** in Year 6 for key Canadian stakeholders.

Dissemination to Participating Case Study Research Communities

Left Coast Press will publish and disseminate the *Field Guide to Community-Based Participatory Research* and the *Sourcebook on IP Issues in Cultural Heritage*, whose audiences are both researchers

⁴⁸ The *Research Handbooks in Archaeology* series is composed of definitive topical volumes by top international scholars, c. 500 pages each. See [http://www.lcoastpress.com/books_series.php?id=6].

⁴⁹ We have had great success with the format established for publication of a panel we organized on "Decoding Implications of the Genographic Project" for the 2006 Chacmool Conference (UCalgary). This project event brought together team members and other experts from a variety of disciplines who represented a wide range of perspectives on this somewhat controversial topic. We audiotaped the event, including the question and answer period, edited the transcripts, and invited additional commentaries from team members and experts who were unable to attend the panel. This will be published as a special issue of the *International Journal of Cultural Property*. This format is both refreshing and informative; it brings different perspectives and different disciplines to bear on a topic, thus opening up new ways of looking at an issue and better understanding the concerns and implications on both theoretical and practical levels.

⁵⁰ See www.cihr-irsc.gc.ca/e/29506.html

and research communities. Other dissemination strategies for communities and organizations who are our collaborators in case study research include: **1) community presentations** of research planning and reports; **2) posting project news and information in newsletters, web sites, and other local media**, including using community “bush” **radio and TV programming** to reach remote communities and other audiences with public service announcements of project-related information; **4) archiving case study data** with local libraries, schools, and cultural centers, according to community requests; **5) distributing publications emanating from case study research** to partners and research communities on the project website and in hard copy, as funding allows (see **Case Study Research Outputs**, p. 18) and **6) translation services** for community-focused research publications into local languages as needed to ensure accessibility. Our case study budgets include \$3,000 for translations, and partners have contributed \$90,000 in in-kind translation costs.

Additional Public Dissemination Strategies include: 1) a **project brochure** for public relations, conferences and mailing; 2) the **Project Web Site**⁵¹ for dissemination of project resources and information to the general public; 3) **translation** into French of basic project information, case study abstracts, summaries of results, and portions of the website; 4) **publications for broader or general audiences** (e.g., *Archaeology* magazine and *Cultural Survival Quarterly* have expressed interest in publishing articles on IP issues in cultural heritage; 5) television, newspapers, and popular magazines increasingly seek coverage on these topics, will use the team as a source of expertise; 6) **distribution of project publications libraries, secondary schools** and other target audiences; and 7) plans for a **documentary film**, based on case studies, will be pursued with funding from additional sources.

PROJECT DEVELOPMENT AND PLAN OF WORK

Our first project meeting took place in June 2003 at the 5th World Archaeological Congress with 30 archaeologists, anthropologists, and Indigenous persons concerned about emerging IP issues. This session led to our initial project design, systematic surveying and collecting of cases and issues, identification of case studies, and contacts with collaborators and partners. In 2004, an unsuccessful Letter of Intent was submitted to the MCRI program. In 2005 and 2006, we were invited to submit full proposals, but did not receive the MCRI. We have used these opportunities to refine our project design, while continuing to move ahead with activities as funding has allowed (see Recent Project Activities, below).

RECENT PROJECT ACTIVITIES (*team members noted in italics*):

The project has organized and been invited to participate in a number of events and activities in the past 2 years of project development, and stakeholders are already contacting us for resources and assistance. • Invited presentations at the Information Ethics Roundtable, U. of Arizona, Tucson (*Nicholas*)⁵² and the Centre for Intellectual Property Law, University of Utrecht, Netherlands (*Coombe, Hollowell*);

- Chaired 3-day World Archaeological Congress meeting on “A Framework for Ethical Practice in Archaeology,” Stanford Archaeology Center, Stanford U. (*Hollowell, Meskell, Lilley, Pyburn*);
- Keynote Speakers for Conference on “Cultural Heritage and Indigenous Cultural and Intellectual Property Rights,” Burra, Australia (*Nicholas, Hollowell, Ouzman; Smith*, organizer);
- Southern Hemisphere team meeting, Burra, Australia (*Nicholas, Forbes, Leader-Elliot, Mukuka, Lilley, Smith, Wobst, Hollowell*, Barunga Community, Inuit Heritage Trust);
- Chacmool Archaeology Conference—invited to organize panel and discussion on “Decoding Impli-

⁵¹ Our website will provide partners and key stakeholders, the academic community, and the broader public information on project activities and research findings, and serve as a portal to our searchable Knowledge Base. The website will: 1) foster collaborative public exchanges of ideas among members of the research team, and with stakeholders, other scholars, and the public; 2) publish and disseminate project findings and products (e.g., annotated bibliographies, case study reports, research reports and working papers, resource sets, and other project materials); 3) disseminate documents, sample protocols, and reports based on research themes; and 4) provide links to our partners, related projects and institutions, relevant global news (such as newly emerging case studies), and other resources. Our preliminary web site is online at <<http://www.sfu.ca/IPinCulturalHeritage>>. SFU is committed to maintaining the website indefinitely.

⁵² Available on ArizonaNativeNet: <http://www.arizonanativenet.com/multimedia/ier/>

cations of the Genographic Project” (*Greer, Pullman, Yang, Nicholas, Hollowell*);

- Society for Applied Anthropology Roundtable on “IP Rights and Archaeology: Defining the Issues” (*Nicholas, Zimmerman, Greer, Welch, Rowley, Hollowell, Bannister* and several partners); and
- World Archaeological Congress, Auckland— session on “Protecting Indigenous Cultural and Intellectual Property” (*Nicholas, Hollowell, Bell, Solomon, Forbes, Mukuka*)—Southern hemisphere team meeting (those above plus *Ouzman, Watkins, Lippert, Smith, Wobst*, and several potential partners).

Collaborative Project Publications in Preparation:⁵³

- “Decoding Implications of the National Geographic Genographic Project,” a special section of the *International Journal of Cultural Property*, based on transcripts of an interactive forum with additional expert commentaries (*Greer, Pullman, Yang, Lippert, Anderson, Nicholas, Hollowell*);
- “Intellectual Property Rights in Archaeology: Defining the Issues,” a special issue of *Practicing Anthropology*, based on a roundtable discussion among team members and partners.

PLAN OF WORK BY YEAR

We will be ready for start-up in January 2008. Primary planned project activities are noted in *Figure 4*.

INSTITUTIONAL SUPPORT

The project’s home base is **Simon Fraser University**, whose confirmed contributions total **\$986,190**. Another **\$1.54 million unconfirmed** comes from grants we intend to apply for, with \$1.5 million from SFU’s Community Trust Initiative Program. Confirmed SFU contributions are listed below in **bold**:

- The Office of Vice-President, Research: full funding for the **staff position of Stakeholder Liaison**, dedicated to outreach and networking with stakeholders and policymakers (**\$175,000**);
- The Dean of Arts: **\$65,000** in matching funds for **13 Research Time Stipends**;
- The Office of Research Services: staff time amounting to 15% of our budget for liaising with university administration grants facilitation and financial accounting (**\$375,000**);
- The Dept of Archaeology: **\$231,780** in in-kind contributions for two dedicated offices, equipment, video conferencing, vehicle use, a computer specialist (**\$3500**), and work study students (**\$39,200**);
- Faculty of Applied Sciences: a computer specialist in web-based **database development (\$6,000)**;
- SFU’s IRMACS Centre: an estimated **\$70,000** (\$10,000/yr) in-kind for state-of-the-art video-conferencing facilities.
- Research Data Library (D-Space): archiving of project-produced and -related textual files for permanent curation and access to these materials following project completion (**\$25,000**).
- Additional in-kind contributions from SFU include meeting rooms, conference venues, web hosting, technical support, access to information databases, additional equipment, supplies, and services.

Additional unlisted cash contributions include work-study positions and portions of faculty travel funds.

See **Attachment 6** (p. 47) for more details on funds from other co-applicant institutions and partners.

Contributions from non-SFU co-applicants total \$964,323. Generous cash and in-kind **contributions from Partners total approximately \$918,757** for case study research, dissemination costs and capabilities, and facilitating project meetings. Estimated cash and in-kind Funds from Other Sources total approximately **\$4,409,270**, indicating the overwhelming level of support for this research initiative.

CONCLUDING STATEMENT

This project is an unprecedented global exploration of IP issues related to cultural heritage founded on collaboration among leading scholars from many disciplines and sectors. It brings the discussion of these complex issues to new levels by providing opportunities for cross-fertilization of legal theory, the social sciences, and empirically grounded research, as well as between academic and community realms. It will produce on-the-ground and lasting contributions to theory, policy, and research practices in Canada and beyond, and train the next generation of Canadian scholars who will confront these issues.

⁵³ In addition to numerous peer-reviewed journal articles and book chapters in press or published over the past 2 years authored by members of the project team (see References Cited, where the names of team members are listed in *bold italics*),

Figure 4. Plan of Work for Key Project Components

	YEAR 1 2008	YEAR 2 2009	YEAR 3 2010	YEAR 4 2011	YEAR 5 2012	YEAR 6 2013	YEAR 7 2014	
EXECUTIVE COMMITTEE	Meets at start-up to approve guidelines for fellowships, internships, case study research designs and protocols, website, & disbursements of funds. Hiring of project mgr. and admin asst. Meets also in November.		Meets bi-monthly via teleconference and annually for 3 days each November at SFU Reports of project components approved semiannually; feedback solicited from Advisory Board					Contents archived and remain accessible
KNOWLEDGE BASE (KB)	Architecture refined; ready contents entered; KB goes on-line as part of project Website: Literature reviews and background research on key themes and topics by team and staff	All team members continue to deposit, share, and access data and articles in the KB for Working Group analysis and interested researchers						
WORKING GROUPS (WG)	Web-based Forums for WGs initiated -- Each WG holds at least 2 videoconferences/year with additional interactions at conferences and via Web-based Forums							
CASE STUDY RESEARCH (CSR)	WG meetings held at SAA (Mar) and WAC (July) to initiate research plans and discussions & plan collaborative outputs	WG meetings in conjunction with symposia; discussion and analysis of case study results and IP issues; discussion, preparation, and peer review of mss.						
	Full proposals requested and reviewed; 7 Case Studies initiated	7 studies initiated	6 studies initiated	Case Study Research Conference				
STUDENTS	Case Study team Web pages initiated	Case Study Reports undergo community review						
	Graduate Fellowships awarded annually (12 at Masters' level (Thesis Year) and 15 for PhD research); one Postdoctoral Fellow awarded annually							
SPECIAL PROJECT EVENTS	Kick-off team meeting & workshop concurrent w/ project session at SAA in Vancouver (March) with CSR teams, WGs, and Partners (focused on research design and implementation) Follow-up meeting at WAC6 in Dublin with internat'l team members (July)	Topical Working Group symposia hosted by co-applicant institutions and/or partners		Mid-term Review at SFU in conjunction w/ WG mtgs & CSR Conference; Partners & Advisory Board in attendance	Project convenes multiple sessions on IP/Heritage at WAC7 and major project meeting	Strategic National Policy Forum with key Stake-holders	Internat'l Conference on IP Issues in Cultural Heritage; Final Team Wrap-up Meeting	
		4 internships awarded annually beginning Year 2						
PUBLICATIONS (see Outputs and Dissemination Strategies for details)	Project brochures disseminated; Internal publications underway: • <i>Project Handbook</i> • <i>Survey and Review of IP Issues</i> • <i>Guide to CBPR</i> (later edited for publication)		Case Study Reports on-line (after review) <i>IP Issues and Cultural Heritage</i> (university text) <i>Sourcebook for Researchers and Committees on IP Issues in Cultural Heritage</i>				Additional edited volumes in preparation and review (see Table 2 for these titles)	
	Journal articles and other manuscripts prepared, reviewed by WGs, and submitted for publication							

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4. BUDGET JUSTIFICATION

1. STUDENT SALARIES AND BENEFITS

Close to ¼ of our SSHRC budget supports students, providing **12 one-year fellowships to MAs** in the thesis year at \$10,000 each and **15 fellowships to PhD students** at \$15,000 per year for project-related research topics. Our support for MA theses reflects greater availability of alternative funding sources for PhD students. Our **internship program** provides a stipend (\$5,000 for 4 months or one term) to **24 graduate students** (MA and PhD) placed with partner and stakeholder organizations as opportunities for career exploration and service learning. Host organizations in many cases supplement these funds. We have positions for **14 student research assistants** (2 per year @ .50FTE x 26 weeks) to assist project administration at SFU with resource gathering, data entry, publications, and other tasks. Co-applicant institutions will fund additional part-time research assistants. Additional funds for student travel are included in 4a(4) and 4b.

2. NON-STUDENT SALARIES AND BENEFITS

Six 1-year postdoctoral fellowships (PDFs) (or three for 2 years) will support a researcher who also serves as project ethnographer and a liaison to one or more working groups. The Project Management Team includes a **full-time Project Manager** (\$60,000/yr) and **half-time Administrative Assistant** (\$22,000/yr). Our **half-time Stakeholder Liaison** is funded in full by SFU's Vice-President of Research (\$25,000/yr). Salaries include basic benefits. These job descriptions are summarized on page 20.

3. RESEARCH TIME STIPENDS

Name	University	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7
Nicholas	SFU	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Noble	Dalhousie				15,000			
Welch	SFU		5,000				5,000	
Bell	U Alberta			7,000				
Coombe	York			5,000	5,000			
Yellowhorn	SFU						5,000	5,000
Yang	SFU					5,000	5,000	

Project Director Nicholas receives one RTS per year. For others, an RTS in years 2 to 4 is directed toward case study research or analysis; in years 5 to 7 it is directed toward collaborative research and writing with other

4. TRAVEL AND SPECIAL EVENTS *(Travel Estimates based on: Airfare estimates within Canada @ \$500-\$600, Inter-American @ \$700, Overseas @ \$1,500; Accommodation/Meals @ \$150/day per person)*

a. Recurring Annual Travel Costs

- (1) **Executive Committee meeting at SFU (\$4000/meeting)**: 5-7 people (3 SFU-based; 2-4 traveling) for 2-3 days each November with one additional start-up meeting early in Year 1.
- (2) **Fund for networking and meeting with partners and stakeholders (\$8000/yr)**. For meetings with partners to design case study research and outputs and for participation in project activities; with stakeholders to present results and plan strategies for transfer and mobilization of research findings.
- (3) **Funds for meeting with research team members (\$2000/year)**. To be used when opportunities for team members to meet arise and for hosting project meetings (for updates, networking, and exchanges) at conferences or other events. To be supplemented by other funds as available.
- (4) **Student/Postdoc Travel Fund (\$2500/yr)**. Provides stipends for students and PDFs to attend working groups and present at conferences on project-related research, as a supplement to departmental and other available funds. (note: additional funds for student participation are built-in to special project events, below)

b. Special Project Events

Year 1: Case Study Coordinators' Meeting (\$4000) and Working Group Brainstorming Sessions (\$4000). Held concurrently with the Society for Am. Anthropology meetings in Vancouver (late March).

Sixth World Archaeological Congress (Dublin, Ireland) (\$3000). Project session, meeting and workshop for those unable to be in Vancouver (early July).

Years 2, 4, and 5: Working Group Meetings (\$10,000 in yr.4; \$30,000 in each of yrs. 2, 5 and 6).

Face-to-face symposia or roundtables for analysis, discussion and collaborative preparation of

manuscripts. Funds cover travel and subsistence for 2.5 days of meetings for working group members. Funds in Year 4 are less since this occurs in conjunction with the already budgeted midterm review.

Year 4: Mid-Term Review (\$40,000). 2.5 days at SFU with funds for attendance by as many research team members, students, and advisors as possible. Ten remote sites joining by videoconference.

Case Study Reporting Conference/Workshops (\$20,000). 2 days at SFU in conjunction with mid-term review. Funds prioritized for participation of representatives from partners or communities involved in case study research. Five to ten sites joining by videoconference.

Year 6: Seventh World Archaeological Congress (\$15,000). We will hold a project meeting and convene several sessions as part of a major conference theme on IP issues. MCRI funds used for travel stipends of up to \$500 for 20 team members and 5 students plus meals and registration.

National Policy Forum (\$20,000). Hosted by the project to share and mobilize research findings.

Cost of attendance and meals of 20 project members for 2-day meeting with stakeholders and policy makers. Additional funding will come from federal ministries, stakeholders and other sources.

Year 7: Project Team Wrap-up Meeting at SFU (\$30,000). Final discussions/reports from Working Groups, Team Members, and partners; celebration of where we have been and where to go from here.

5. OTHER EXPENSES

Professional/Technical Services (\$171,000 over 7 years) for specialized professional or technical services required to archive or prepare project data, resources, and outputs for dissemination or to maintain and support channels of communication. We have sought expert advice and cost quotations and will receive substantial in-kind services from SFU and other institutions. MCRI funds cover: Web site and database architecture and design (\$18,000); Web maintenance (\$3000/yr = \$21,000); Web-sharing database architecture consultant (\$12,000 for yr 1 development + \$1,000/yr servicing thereafter); Language translations for web site and research summaries (\$12,000 [+ \$40,000 in kind from partners]); Informational packets and brochures (\$7000); Tele/video-conferencing set-up for intra-team and working group reporting (\$6500/yr = \$45,500); *IP and Cultural Heritage Sourcebook*, special distribution costs and production of DVD (\$7500); preparation of other project resources or research for dissemination (\$2000/yr = \$14,000); Internal project publications (\$4000/yr).

Equipment: Office/administrative equipment = \$20,000 for computer hardware (2 desktops & 3 laptops) plus \$9000 in yr. 4 for new/replacement laptops; other audiovisual and office equipment = \$9500 (digital camera, DVD recorder, scanner, 2 printers, digital projector); software = \$4500.

Other expenses. 20 in-depth case studies (7 in Year 1; 7 in Year 2; 6 in Year 3) receive a maximum of \$20,000 per case study from MCRI funds (sample budget below). Case study researchers submit budgets with their proposals. Guidelines for disbursement will be established by the Executive Committee, which vets all budgets. Researchers from the involved community are prioritized for researcher funds. Team members conducting topical case studies can apply for funds to cover certain research costs and assistance. The budget also includes translation and/or transcription costs for case study research reports (up to \$3000 per case study), plus \$1500 per case study for special equipment needs. Many partners will provide staff time and other in-kind contributions for case study research, and some case studies will apply for and receive funding from other sources.

Sample Case Study Budget (maximum MCRI funds per case study)

Case study research assistants (\$15-\$25/hr for 650 hrs) archival research (180 hrs.); interviews (200 hrs.); organizational/meetings (60 hrs.); focus groups (50 hrs.); preparation/reporting (160 hours)	12,000
Honoraria to interviewees (20 @ \$100 each)	2,000
Services (phone, mail, fax, copying, internet)	1,000
Subsistence (travel, community meeting, refreshments)	4,500
Supplies (CDs, tapes, paper)	500
Total	20,000

5. Competitive Quotes
(None)

6. FUNDS REQUESTED FROM OTHER SOURCES

Simon Fraser U. will contribute **\$950,834 confirmed** plus **\$1.54 million unconfirmed** (see INSTITUTIONAL SUPPORT, p. 20). Other co-applicant universities' cash & in-kind = **\$964,323**. Totals below note **cash** (for travel, meeting registrations, honoraria) and **staff** (for office or research assistance) **contributions in bold**. In-kind contributions cover: research time, office space, meeting venues, admin assistance, internet, databases, equipment, services, supplies, videoconferencing, and visiting scholars.

UBC \$387,034 (\$170K grants in hand; **\$20K** [unconfirmed] workshop; **\$15K** tech support; **\$16.8K** staff; **\$10,150** travel/conferences); UVic \$132,500; Dalhousie \$91,960 (**\$15K** RTS; **\$12K** staff; **\$6K** travel); IUPUI \$90,334 [unconfirmed] (**\$6126** staff; **\$28,874** travel); York U. \$64,654 (**\$17,304** RTS; **\$45,000** staff); UWash. \$89,047 [unconfirmed] (**\$72,742** workshops; **\$1899** travel); York CRC \$52,801 (**\$45,000** staff; **\$7301** RTS); Indiana U. \$38,291; UAlberta: \$17,700 (**\$7K** RTS; **\$1500** staff; **\$1K** travel).

Partner contributions total c. \$918,757 (only 5K or greater listed; cash in **bold**): Tr'ondek Hwech'in Heritage Dept. \$104.1K (**\$57.5K** staff); Soc. for Applied Anthro. IPR Interest Group \$97K (\$85K in pro bono legal research); Prince of Wales Northern Heritage Ctr \$91K (**\$45K** staff); Smithsonian Arctic Studies Centre \$60K (**\$22K** staff); Avataq Cultural Institute \$173K (**\$70K** staff; **\$44K** meetings & workshops); Gwich'in S/C Inst \$49K (c. **\$35K** staff & honoraria); Parks Canada \$45.9 (**\$36.4** staff); Left Coast Press **\$101K** (production cost outlay); Champagne & Aishihik FN \$35K (c. **\$14K** staff & honoraria); World Arch. Congress \$28K; Anthro. Research LLC \$26.7K (**\$20K** staff); *Int'l Journal of Cultural Property* \$17.5K; Inuit Heritage Trust \$8K; Nat'l Assoc. of Tribal Historic Preservation Officers \$13.3K; Ziibiwing \$10K; Sealaska Heritage Inst \$9,513 (**\$7.4K** staff); Sto:lo Nation \$8,750 (**\$5,250** honoraria); Mookakin Foundation \$7K; Barunga Community \$7K; White Mt. Apache Tribe, **\$6363** staff. Partner non-cash contributions include staff time; translation; database access; communications; meeting/workshop facilities; publication assistance; consultations with elders; networking with stakeholders; office space & supplies; equipment; website development; assistance with dissemination; reviewing case studies; feedback; evaluation; field support.

Once funded, we anticipate additional funds from a) co-applicant universities for conferences, workshops, symposia, research assistants, and graduate students; b) partners for research support, meetings, and matching internship funds; and c) other awards sought and received by team members.

7. LETTERS OF SUPPORT FROM PARTNERS

8. STAKEHOLDERS

The collaborative work, findings, and products of this project are of interest to a wide variety of stakeholders in the private and public sectors. We have already begun developing links with those stakeholders listed below in *italics*, several of whom have already contacted us for resources, expertise, and guidance. In the past year alone, a BC-based archaeology journal requested legal and ethical advice on publication guidelines; the National Science Foundation's Cultural Anthropology Program consulted us for assistance in formulating a policy for reviewing IP aspects of grant proposals; iCommons, the international body of Creative Commons representing 37 countries, invited us to provide consultation on how to integrate Indigenous concerns into the open access movement. We also provided assistance to the Peabody Essex Museum; the Ngarrindjeri Tribal government (South Australia); and the Reciprocal Research Network, of the UBC Museum of Anthropology.

Outreach and networking with stakeholders will include extending access to the project's research findings, resources, and Knowledge Base; the transfer of ideas, theories, models of good practice and other tools to meet their needs; sharing of the expertise and experiences of members of the research team; and, most importantly, working toward better informed policy and decision-making. Our Stakeholder Liaison's primary role is to develop, define, and maintain links between the project and key stakeholder organizations. Several of these organizations will also be potential hosts for our graduate interns. Key stakeholders include:

Research and Policy Institutes in the Fields of Intellectual Property Law, Cultural Heritage, Human Rights, Ethics, and Information Studies who are confronted with emerging intellectual property issues and need a background of research and resources that connect successful alternative approaches and solutions with theory and ethics. These include the *Community-Based Research Initiative (U. Victoria)*; *Centre for Applied Ethics (UBC)*; the *Max Planck Institute for Intellectual Property*; the *Indigenous Peoples Law and Policy Clinic (U. of Arizona)*; the *Australian Art Law Centre*; the McGill Centre for IP Policy; the *Centre for Intellectual Property Law, Molengraaff Institute, University of Utrecht*; the Oxford IP Research Centre; the Centre for Studies in IP and Technology (School of Law, Edinburgh); the IP Program of the Duke Law School; the *Queen Mary IP Research Institute (U. of London)*; the *GE3LS Projects*, which examine with the ethics, economics, social and legal aspects of Genome Canada);

National and International Organizations working on issues related to protection or development of cultural and archaeological heritage, who need to have clear working definitions of intellectual property in a cultural context and guidelines for equitably negotiating intellectual property concerns. These include the *International Development Research Council*; the *International Centre for Rights and Democracy*; the Canadian International Development Agency (particularly its Indigenous Peoples Partnership Program); *UNESCO's Intangible Cultural Heritage Division* and World Heritage Committee; and the Globally Important Agricultural Heritage Systems Programme of the FAO (Food and Agriculture Organization);

Government Agencies facing competing IP interests, who have a mandate to protect and disseminate knowledge of the past and an ethical commitment to refrain from harming descendant communities. These include the *Interagency Panel on Research Ethics (PRE)*; *Canadian Heritage*; the *Canadian Heritage Information Network (CHIN)*; *Environment Canada*; and the U.S. National Park Service;

Open Access Organizations, where issues of Open Access confront cultural concerns for protection of traditional knowledge. These include the *Creative Commons*; *iCommons* (the international body of Creative Commons); Wikipedia; the Budapest Open Access Initiative; the Electronic Frontier Foundation; *Archaeology Data Service*; various Digital Information Groups; and web-based information providers.

University Programs in Archaeology, Anthropology, Law, Applied Ethics, Information and Library Studies, Heritage Management, and related disciplines, whose students will benefit from the curriculum, guidelines, ethical considerations, and career development opportunities we extend and emulate, such as *Stanford Archaeology Center (Stanford U.)*; the *Archaeology and Social Context Program (Indiana U.)*; the Schools of Library and Information Studies at UBC, SFU, U. of Arizona and elsewhere, including the *Roundtable on Information Ethics* at the U. of Arizona and similar programs at

other universities where team members are based;

Museums, Libraries and Archives, who are struggling with intellectual property issues related to data-sharing and access to information, and how best to disseminate, protect, and/or limit artifact, data, photographs, and other materials for which they are responsible. Such organizations include the *Archaeology Data Service (United Kingdom)*; the *Canadian Museum of Civilization*, the International Council on Museums-Canada; the *Te Papa Museum (New Zealand)*; the *Smithsonian Center for Education and Museum Studies*; *National Museum of the American Indian*; the *National Museum of South Africa*; and various tribal and anthropology museums, and local, provincial, and national archives museums;

Indigenous Organizations and Other Descendant Communities (including those of European descent), who are exploring options for protecting cultural knowledge, and who may benefit from knowing what trade-offs exist in doing so, and what elements of their intellectual heritage are or are not protectable by existing copyright, trademark, patent, or other legislation. These include First Nations in Canada and worldwide; the Union of British Columbia Indian Chiefs; the *Native Policy and Research Council (Vancouver)*; the *Inuit Circumpolar Conference*; the Assembly of First Nations; Saskatchewan Indian Cultural Centre; the *United Nations Permanent Forum on Indigenous Issues*; the *Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)*; the *Working Group of Indigenous Minorities of South Africa (WIMSA)*; the Indigenous Network on Economies and Trade; the Centro de Culturas Indios (Peru); the Coordinating Body for the Indigenous Organizations of the Amazon Basin (COICA, Ecuador); and the *Ngarrindjeri and Ngadjuri communities (Australia)*.

Archaeologists, Heritage Managers, Conservationists, and their **Professional Organizations** will benefit from knowing (a) what aspects of the archaeological record constitute intellectual property, (b) what effects these may have on ethics codes and research practices (e.g., who owns the knowledge recovered from the site or study), and (c) how to design research for equitable benefit sharing and consideration of IP rights and responsibilities. We will network with the International Council on Monuments and Sites-Canada; the Canadian Conservation Institute; the *Society for American Archaeology*; the *Center for Archaeology in the Public Interest (Indiana U.)*; the *Center for Heritage Resources (U. of Maryland)*; the Dubrovnik Global Heritage Forum; and the Ename Centre for Public Archaeology and Heritage Presentation (Belgium);

Funding Agencies and Institutional Review Boards who seek an understanding of the broader implications of IP in relation to cultural issues and guidelines for ethical and appropriate uses of Indigenous knowledge. These include the *National Research Foundation of South Africa*; the *National Science Foundation*; the *Australian Research Council*; the *Aboriginal Ethics Working Group of the Canadian Institute for Health Research*; the Research Ethics Boards of UVic, UBC, and other co-applicant institutions; and private foundations with initiatives related to IP and cultural heritage, such as the Getty, Rockefeller, Ford, and MacArthur Foundations.

Cultural Tourism Agencies, Media Producers, and Educators who deal with sometimes subtle and often complex issues that arise from promoting visits to archaeological sites and uses of archaeological data in the public domain. Examples include the *Centre for Tourism Policy and Research (SFU)*; Aboriginal Tourism Canada; the Aboriginal Peoples' Television Network (APTN); Aboriginally-run media; web-based information providers; and other broadcasting corporations;

Businesses, Commerce, and Special Interest Groups that use images from the past to sell products, who could avoid problems and legal action by becoming more aware of IP issues, such as the 2010 Olympic Committee's adoption of Inuit *inuikshuk* imagery; wine companies (including Aboriginally-run) that use rock art images on labels; and other commercial interests who make use of ancient designs or images on clothing and other media. This includes the Canadian IP Office of Industry Canada.

Other SSHRC-funded projects with which we will link and share resources, research findings and expertise, including these projects: *Knowledge Mobilization for the Social Sciences (SSHRC and CIHR)*; *Charting a Course for Aboriginal Self-Governance (MCRI)*; *Ethics of Cultural Appropriation Project (SSHRC)*; and *Time and Space among the Inuit of Nunavik (CURA)*.