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Indigenous Heritage and Self-determination

Intellectual Property, Cultural Property and Intangible Cultural Heritage examines various notions of property in relation to intangible cultural heritage and discusses how these ideas are employed in rights discourses by governments and indigenous and local communities around the world. There is a strong historical dimension to the book's exploration of the interconnection between intellectual and cultural property, intangible cultural heritage and indigenous rights discourses. UNESCO conventions, discussions in the World Intellectual Property Organization (WIPO), the Convention on Biological Diversity and the recent emphasis on intangible cultural heritage have provided various discourses and models. The volume explores these developments, as well as recent cases of conflicts and cross-border disputes about heritage, using case studies from Asia, Europe and Australia to scrutinize the key issues. Intellectual Property, Cultural Property and Intangible Cultural Heritage will be essential reading for scholars and students engaged in the study of heritage, law, history,

anthropology and cultural studies.

Negotiating Culture

This text sets the standard for researchers working on the difficult issues raised by trade and commerce in indigenous cultural heritage.

The San of Southern Africa

This book examines the social impact of intellectual property laws. It addresses issues and trends relating to health, food security, education, new technologies, preservation of bio-cultural heritage and contemporary challenges in promoting the arts. It explores how intellectual property frameworks could be better calibrated to meet socio-economic needs in countries at different stages of development, with local contexts and culture in mind. A resource for policy-makers, stakeholders, non-profits and students, this volume furthermore highlights alternative modes of innovation that are emerging to address such diverse challenges as neglected or resurgent diseases in developing countries and the harnessing of creative possibilities on the Internet. The collected essays emphasize not only fair access by individuals and communities to intellectual property – protected material, whether a cure, a crop variety, clean technology, a textbook or a tune – but also the enhancement of their own capabilities in cultural participation and innovation.

The Copyright Thing Doesn't Work Here

This book explores the interface between intellectual property and human rights law and policy. The relationship between these two fields has captured the attention of governments, policymakers, and activist communities in a diverse array of international and domestic political and judicial venues. These actors often raise human rights arguments as counterweights to the expansion of intellectual property in areas including freedom of expression, public health, education, privacy, agriculture, and the rights of indigenous peoples. At the same time, creators and owners of intellectual property are asserting a human rights justification for the expansion of legal protections. This book explores the legal, institutional, and political implications of these competing claims: by offering a framework for exploring the connections and divergences between these subjects; by identifying the pathways along which jurisprudence, policy, and political discourse are likely to evolve; and by serving as an educational resource for scholars, activists, and students.

The Oxford Handbook of the Archaeology and Anthropology of Rock Art

The Routledge Companion to Cultural Property

Vandana Shiva shows how the protection of intellectual property is being transformed into corporate plunder, looking at how Western-inspired laws do not stimulate human creativity or knowledge. This compelling book looks at what ideas, technologies, and inventions can be exploited for profit by giant corporations in “knowledge economy.” This book highlights why popular resistance around the world is rising to the WTO that polices this new intellectual world order, and the pharmaceutical, biotech, and other corporations which dominate it—and the new technologies they are foisting upon humans.

Intellectual Property, Cultural Property and Intangible Cultural Heritage

The intersection of Western intellectual property law and traditional knowledge in Africa.

Human Rights and Intellectual Property

"Documents the efforts of indigenous peoples to redefine heritage as a protected resource. Michael Brown takes readers into settings where native peoples defend what they consider to be their cultural property. By focusing on the complexity of actual cases, Brown casts light on indigenous grievances in diverse fields. He finds both genuine injustice and, among advocates for native peoples, a troubling tendency to mimic the privatizing logic of major corporations"--Jacket.

Making and Unmaking Intellectual Property

The book aims to critically analyze the possible legal mechanisms and processes, which could be used by indigenous peoples in the protection and management of their cultural and intellectual property. The book studies the historic and legal context in which the debate on the rights of indigenous peoples has developed. It analyses mechanisms such as the Convention on Biological Diversity and the Agreement on Trade Related Aspects of Intellectual Property (TRIPS). The book ends with a discussion on the possible courses of action, which indigenous peoples could take in order to improve the levels of protection and management available to them regarding their cultural and intellectual rights.

Traditional Knowledge, Genetic Resources, Customary Law and Intellectual Property

This publication, prepared under the aegis of the WIPO Creative Heritage Project by two external consultants, Ms. Molly Torsen and Dr. Jane Anderson, offers legal information and compiles practical experiences on the management of

intellectual property for cultural institutions whose collections comprise traditional cultural expressions. It seeks to respond directly to the needs of cultural institutions and indigenous and traditional communities dealing with the preservation, safeguarding and protection of cultural heritage.

Intellectual Property and Indigenous Peoples Symposium

This commentary covers the entire TRIPs agreement. It adopts a comparative perspective in highlighting related and similar provisions and developments in other international and regional instruments.. It is designed to meet the needs both of the WTO and the intellectual property community.

Cultural Heritage in International Investment Law and Arbitration

Indigenous rights to heritage have only recently become the subject of academic scholarship. This collection aims to fill that gap by offering the fruits of a unique conference on this topic organised by the University of Lapland with the help of the Office of the High Commissioner for Human Rights. The conference made clear that important information on Indigenous cultural heritage has remained unexplored or has not been adequately linked with specific actors (such as WIPO) or specific issues (such as free, prior and informed consent). Indigenous leaders explained the impact that disrespect of their cultural heritage has had on their identity, well-being and development. Experts in social sciences explained the intricacies of indigenous cultural heritage. Human rights scholars talked about the inability of current international law to fully address the injustices towards indigenous communities. Representatives of International organisations discussed new positive developments. This wealth of experiences, materials, ideas and knowledge is contained in this important volume.

Beyond Intellectual Property

Traditionally, in order to be protected intellectual property goods have almost always needed to be embodied or materialised (and – to a certain extent – to be used and enjoyed), regardless of whether they were copyrighted works, patented inventions or trademarks. This book examines the relationship between intellectual property and its physical embodiments and materialisations, with a focus on the issue of access and the challenges of new technologies. Expert contributors explore how these problems can re-shape our theoretical notion of the intangible and the tangible and how this can have serious consequences for access to intellectual property goods.

Intellectual Property and Access to Im/material Goods

Indigenous Intellectual Property

In the last two decades, accelerating technological progress, increasing economic globalization and the proliferation of international agreements have created new challenges for intellectual property law. In this collection of articles in honor of Professor Joseph Straus, more than 60 scholars and practitioners from the Americas, Asia and Europe provide legal, economic and policy perspectives on these challenges, with a particular focus on the challenges facing the modern patent system. Among the many topics addressed are the rapid development of specific technical fields such as biotechnology, the relationship of exclusive rights and competition, and the application of territorially limited IP laws in cross-border scenarios.

Protecting Indigenous Knowledge and Heritage

The book examines the national, regional and international frameworks of protection of traditional knowledge in all regions of the world. It also discusses options to enhance the existing legal regimes including the use of customary laws and protocols; the adoption of mutual recognition agreements premised on the principle of reciprocity; and the disclosure of source or country of origin of traditional knowledge in intellectual property applications.

Indigenous Intellectual Property Rights

For indigenous cultures, property is an alien concept. Yet the market-driven industries of the developed world do not hesitate to exploit indigenous raw materials, from melodies to plants, using intellectual property law to justify their behaviour. Existing intellectual property law, for the most part, allows industries to use indigenous knowledge and resources without asking for consent and without sharing the benefits of such exploitation with the indigenous people themselves. It should surprise nobody that indigenous people object. Recognizing that the commercial exploitation of indigenous knowledge and resources takes place in the midst of a genuine and significant clash of cultures, the eight contributors to this important book explore ways in which intellectual property law can expand to accommodate the interests of indigenous people to their traditional knowledge, genetic resources, indigenous names and designations, and folklore. In so doing they touch upon such fundamental issues and concepts as the following: collective rights to the living heritage; relevant human rights norms; benefit-sharing in biological resources; farmers rights; the practical needs of documentation, assistance, and advice; the role of customary law; bioprospecting and biopiracy; and public domain. As a starting point toward mutual understanding and a common basis for communication between Western-style industries and indigenous communities, Indigenous Heritage and Intellectual Property is of immeasurable value. It offers not only an in-depth evaluation of the current legal situation under national, regional and international law including analyses of the Convention on Biological Diversity and other international instruments, as well as initiatives of the World Intellectual

Property Organization (WIPO), the UN Food and Agriculture Organization (FAO), and other international bodies but also probes numerous further possibilities. While no one concerned with indigenous culture or environmental issues can afford to ignore it, this book is also of special significance to practitioners and policymakers in intellectual property law in relation to indigenous heritage. This book, here in its second edition, presents the most recent state of knowledge in the field.

Who Owns Native Culture?

This book is a very significant contribution to the question of protecting traditional cultural expressions. . . It is filled with fascinating ideas and perspectives that challenge the reader to rethink the law once again. Jamil Ammar, European Intellectual Property Review Legal protection for traditional cultural expressions is an area of contemporary policy making characterized by widespread concern and considerable controversy. Intellectual property scholars have a dire need for informed perspectives on the history of this subject area and the lucid commentary on its social and political implications that the authors of these cogent interdisciplinary essays provide. This impressive volume promises to be quickly acknowledged as an indispensable guide to the issues in this field. Rosemary J. Coombe, York University, Canada The first wave of scholarship on cultural appropriation was often better at denunciation than at grappling with the complexities of cultural heritage and its protection. Intellectual Property and Traditional Cultural Expressions in a Digital Environment launches a second wave: nuanced, interdisciplinary, looking past accusation toward flexible solutions. For all that, it is no less committed to social justice. By bringing together leading-edge scholarship from law, the arts, communications, anthropology, history, and philosophy, the editors have taken research on heritage protection to the next level of sophistication. Michael F. Brown, Williams College, US and author of Who Owns Native Culture? In the face of increasing globalisation, and a collision between global communication systems and local traditions, this book offers innovative trans-disciplinary analyses of the value of traditional cultural expressions (TCE) and suggests appropriate protection mechanisms for them. It combines approaches from history, philosophy, anthropology, sociology and law, and charts previously untravelled paths for developing new policy tools and legal designs that go beyond conventional copyright models. Its authors extend their reflections to a consideration of the specific features of the digital environment, which, despite enhancing the risks of misappropriation of traditional knowledge and creativity, may equally offer new opportunities for revitalising indigenous peoples values and provide for the sustainability of TCE. This book will appeal to scholars interested in multidisciplinary analyses of the fragmentation of international law in the field of intellectual property and traditional cultural expressions. It will also be valuable reading for those working on broader governance and human rights issues.

Intellectual Property and Human Development

Cultural property, aboriginal people, ethnobiology, legal status, laws.

Indigenous Heritage and Intellectual Property

What happens when ritual practitioners from a small Pacific nation make an intellectual property claim to bungee jumping? When a German company successfully sues to defend its trademark of a Māori name? Or when UNESCO deems ephemeral sand drawings to be "intangible cultural heritage"? In *Treasured Possessions*, Haidy Geismar examines how global forms of cultural and intellectual property are being redefined by everyday people and policymakers in two markedly different Pacific nations. The New Hebrides, a small archipelago in Melanesia managed jointly by Britain and France until 1980, is now the independent nation-state of Vanuatu, with a population that is more than 95 percent indigenous. New Zealand, by contrast, is a settler state and former British colony that engages with its entangled Polynesian and British heritage through an ethos of "biculturalism" that is meant to involve an indigenous population of just 15 percent. Alternative notions of property, resources, and heritage—informed by distinct national histories—are emerging in both countries. These property claims are advanced in national and international settings, but they emanate from specific communities and cultural landscapes, and they are grounded in an awareness of ancestral power and inheritance. They reveal intellectual and cultural property to be not only legal constructs but also powerful ways of asserting indigenous identities and sovereignties.

Protecting Traditional Knowledge

Traditional knowledge systems are also innovation systems. This book analyses the relationship between intellectual property and indigenous innovation. The contributors come from different disciplinary backgrounds including law, ethnobotany and science. Drawing on examples from Australia, New Zealand and the Pacific Islands, each of the contributors explores the possibilities and limits of intellectual property when it comes to supporting innovation by indigenous people.

Indigenous Cultural Heritage and Intellectual Property Rights

Tangible and intangible forms of indigenous knowledges and cultural expressions are often found in libraries, archives or museums. Often the "legal" copyright is not held by the indigenous people's group from which the knowledge or cultural expression originates. Indigenous peoples regard unauthorized use of their cultural expressions as theft and believe that the true expression of that knowledge can only be sustained, transformed, and remain dynamic in its proper cultural context. Readers will begin to understand how to respect and preserve these ways of knowing while appreciating the cultural memory institutions' attempts to transfer the knowledges to the next generation.

Treasured Possessions

This highly original work demonstrates the fundamental role of customary law for the realization of Indigenous peoples' human rights and for sound national and international legal governance. The book reviews the legal status of customary law and its relationship with positive and natural law from the time of Plato up to the present. It examines its growing recognition in constitutional and international law and its dependence on and at times strained relationship with human rights law. The author analyzes the role of customary law in tribal, national and international governance of Indigenous peoples' lands, resources and cultural heritage. He explores the challenges and opportunities for its recognition by courts and alternative dispute resolution mechanisms, including issues of proof of law and conflicts between customary practices and human rights. He throws light on the richness inherent in legal diversity and key principles of customary law and their influence in legal practice and on emerging notions of intercultural equity and justice. He concludes that Indigenous peoples' rights to their customary legal regimes and states' obligations to respect and recognize customary law, in order to secure their human rights, are principles of international customary law, and as such binding on all states. At a time when the self-determination, land, resources and cultural heritage of Indigenous peoples are increasingly under threat, this accessible book presents the key issues for both legal and non-legal scholars, practitioners, students of human rights and environmental justice, and Indigenous peoples themselves.

Indigenous Peoples' Cultural Heritage

Intellectual Property at the Edge exposes and analyses newly emerging intellectual property rights and limitations from historical and comparative law perspectives.

International Trade in Indigenous Cultural Heritage

This handbook is currently in development, with individual articles publishing online in advance of print publication. At this time, we cannot add information about unpublished articles in this handbook, however the table of contents will continue to grow as additional articles pass through the review process and are added to the site. Please note that the online publication date for this handbook is the date that the first article in the title was published online. For more information, please read the site FAQs.

Food Heritage and Nationalism in Europe

Food Heritage and Nationalism in Europe contends that food is a fundamental element of heritage, and a particularly important one in times of crisis. Arguing that food, taste, cuisine and gastronomy are crucial markers of identity that are inherently connected to constructions of place, tradition and the past, the book demonstrates how they play a role in

intangible, as well as tangible, heritage. Featuring contributions from experts working across Europe and beyond, and adopting a strong historical and transnational perspective, the book examines the various ways in which food can be understood and used as heritage. Including explorations of imperial spaces, migrations and diasporas; the role of commercialisation processes, and institutional practices within political and cultural domains, this volume considers all aspects of this complex issue. Arguing that the various European cuisines are the result of exchanges, hybridities and complex historical processes, Porciani and the chapter authors offer up a new way of deconstructing banal nationalism and of moving away from the idea of static identities. Suggesting a new and different approach to the idea of so-called national cuisines, *Food Heritage and Nationalism in Europe* will be a compelling read for academic audiences in museum and heritage studies, cultural and food studies, anthropology and history.

Patents and Technological Progress in a Globalized World

This provocative collection of essays - a series of case studies in cultural ownership by scholars from a range of fields - explores issues of cultural heritage and intellectual property in a variety of contexts, from contests over tangible artefacts as well as more abstract forms of culture such as language and oral traditions to current studies of DNA and genes that combine nature and culture, and even new, non-proprietary models for the sharing of digital technologies.

Protect Or Plunder?

The expert contributors from around the globe provide unique case studies to guide indigenous communities and their partners in protecting their intellectual property. Addressing the poor fit between western regimes of intellectual property rights and the requirements for safeguarding indigenous cultural resources, the authors describe positive efforts at protecting indigenous knowledge. It is an important resource for advocates for indigenous and human rights and legal scholars.

Valuing Local Knowledge

Examines how contemporary relations between indigenous and Western nations are shaped by the dynamics of power, the politics of property, and the apologetics of law.

WTO

As the global 'data revolution' accelerates, how can the data rights and interests of indigenous peoples be secured?

Premised on the United Nations Declaration on the Rights of Indigenous Peoples, this book argues that indigenous peoples have inherent and inalienable rights relating to the collection, ownership and application of data about them, and about their lifeways and territories. As the first book to focus on indigenous data sovereignty, it asks: what does data sovereignty mean for indigenous peoples, and how is it being used in their pursuit of self-determination? The varied group of mostly indigenous contributors theorise and conceptualise this fast-emerging field and present case studies that illustrate the challenges and opportunities involved. These range from indigenous communities grappling with issues of identity, governance and development, to national governments and NGOs seeking to formulate a response to indigenous demands for data ownership. While the book is focused on the CANZUS states of Canada, Australia, Aotearoa/New Zealand and the United States, much of the content and discussion will be of interest and practical value to a broader global audience. 'A debate-shaping book ... it speaks to a fast-emerging field; it has a lot of important things to say; and the timing is right.' — Stephen Cornell, Professor of Sociology and Faculty Chair of the Native Nations Institute, University of Arizona 'The effort ... in this book to theorise and conceptualise data sovereignty and its links to the realisation of the rights of indigenous peoples is pioneering and laudable.' — Victoria Tauli-Corpuz, UN Special Rapporteur on the Rights of Indigenous Peoples, Baguio City, Philippines

Indigenous Knowledge System and Intellectual Property Rights in the Twenty-First Century. Perspectives from Southern Africa

Whether in Canada, the United States, Australia, India, Peru, or Russia, the approximately 500 million Indigenous Peoples in the world have faced a similar fate at the hands of colonizing powers. Assaults on language and culture, commercialization of art, and use of plant knowledge in the development of medicine have taken place all without consent, acknowledgement, or benefit to these Indigenous groups worldwide. Battiste and Henderson passionately detail the devastation these assaults have wrought on Indigenous peoples, why current legal regimes are inadequate to protect Indigenous knowledge, and put forward ideas for reform. Looking at the issues from an international perspective, this book explores developments in various countries including Canada, the United States, Australia, New Zealand, and also the work of the United Nations and relevant international agreements.

Indigenous Peoples, Customary Law and Human Rights - Why Living Law Matters

The Routledge Companion to Cultural Property contains new contributions from scholars working at the cutting edge of cultural property studies, bringing together diverse academic and professional perspectives to develop a coherent overview of this field of enquiry. The global range of authors use international case studies to encourage a comparative understanding of how cultural property has emerged in different parts of the world and continues to frame vital issues of

national sovereignty, the free market, international law, and cultural heritage. Sections explore how cultural property is scaled to the state and the market; cultural property as law; cultural property and cultural rights; and emerging forms of cultural property, from yoga to the national archive. By bringing together disciplinary perspectives from anthropology, archaeology, law, Indigenous studies, history, folklore studies, and policy, this volume facilitates fresh debate and broadens our understanding of this issue of growing importance. This comprehensive and coherent statement of cultural property issues will be of great interest to cultural sector professionals and policy makers, as well as students and academic researchers engaged with cultural property in a variety of disciplines.

Indigenous Data Sovereignty

Valuing Local Knowledge presents case studies of programs that recognize indigenous rights, and it brings direct experience to bear on the international debate over intellectual property, conservation, and indigenous rights.

Indigenous People's Innovation

Taking an interdisciplinary approach unmatched by any other book on this topic, this thoughtful Handbook considers the international struggle to provide for proper and just protection of Indigenous intellectual property (IP). In light of the United Nations Declaration on the Rights of Indigenous Peoples 2007, expert contributors assess the legal and policy controversies over Indigenous knowledge in the fields of international law, copyright law, trademark law, patent law, trade secrets law, and cultural heritage. The overarching discussion examines national developments in Indigenous IP in the United States, Canada, South Africa, the European Union, Australia, New Zealand, and Indonesia. The Handbook provides a comprehensive overview of the historical origins of conflict over Indigenous knowledge, and examines new challenges to Indigenous IP from emerging developments in information technology, biotechnology, and climate change. Practitioners and scholars in the field of IP will learn a great deal from this Handbook about the issues and challenges that surround just protection of a variety of forms of IP for Indigenous communities.

Intellectual Property at the Edge

Rules regulating access to knowledge are no longer the exclusive province of lawyers and policymakers and instead command the attention of anthropologists, economists, literary theorists, political scientists, artists, historians, and cultural critics. This burgeoning interdisciplinary interest in “intellectual property” has also expanded beyond the conventional categories of patent, copyright, and trademark to encompass a diverse array of topics ranging from traditional knowledge to international trade. Though recognition of the central role played by “knowledge economies” has increased, there is a

special urgency associated with present-day inquiries into where rights to information come from, how they are justified, and the ways in which they are deployed. *Making and Unmaking Intellectual Property*, edited by Mario Biagioli, Peter Jaszi, and Martha Woodmansee, presents a range of diverse—and even conflicting—contemporary perspectives on intellectual property rights and the contested sources of authority associated with them. Examining fundamental concepts and challenging conventional narratives—including those centered around authorship, invention, and the public domain—this book provides a rich introduction to an important intersection of law, culture, and material production.

Intellectual Property and Traditional Cultural Expressions in a Digital Environment

Now more than ever, indigenous peoples' interests in their cultural heritage are in the spotlight. Yet, there is very little literature that comprehensively discusses how existing laws can and cannot be used to address indigenous peoples' interests. This book assesses how intangible aspects of indigenous cultural heritage (and the tangible objects that hold them) can be protected, within the realm of a broad range of existing legal orders, including intellectual property and related rights, consumer protection law, common law and equitable doctrines, and human rights. It does so by focusing on the New Zealand Māori. The book also looks to the future, analysing the long-awaited Wai 262 report, released in New Zealand by the Waitangi Tribunal in response to allegations that the government had failed in its duty to ensure that the Māori retain chieftainship over their tangible and intangible treasures, as required by the Treaty of Waitangi, signed between the Māori and the British Crown in 1840.

Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries and Archives

Eight case-studies undertaken in Australia, entitled "Minding Culture: Case-Studies on Intellectual Property and Traditional Cultural Expressions" were selected, prepared, researched and written by Ms. Terri Janke, an Australian lawyer. The studies have been incorporated together in WIPO/GRTKF/STUDY/2.

Science, Colonialism, and Indigenous Peoples

Papers originally presented at a workshop held Nov. 26-28, 2003 at the University of Botswana and supported by the World Association for Christian Communication.

Minding Culture

Can states adopt protectionist cultural policies? What are the limits, if any, to state intervention in cultural matters? A wide variety of cultural policies may interfere with foreign investments, and a tension therefore exists between the cultural policies of the host state and investment treaty provisions. In some cases, foreign investors have claimed that cultural policies have negatively affected their investments, thereby amounting to a breach of the relevant investment treaty. This study maps the relevant investor-state arbitrations concerning cultural elements and shows that arbitrators have increasingly taken cultural concerns into consideration in deciding cases brought before them, eventually contributing to the coalescence of general principles of law demanding the protection of cultural heritage.

Indigenous Notions of Ownership and Libraries, Archives and Museums

This is the first comprehensive review of the Intergovernmental Committee (IGC) of the World Intellectual Property Organization (WIPO) established in 2000. It provides an in-depth consideration of the key thematic areas within WIPO discussions – genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs) through the perspectives of a broad range of experts and stakeholders, including indigenous peoples and local communities. It also looks at how these areas have been treated in a number of forums and settings (including national systems and experiences, and also in trade agreements) and the interface with WIPO discussions. Furthermore, the book analyses the process and the negotiation dynamics since the IGC received a mandate from WIPO members, in 2009, to undertake formal text-based negotiations towards legal instruments for the protection of GR, TK and TCEs. While there has been some progress in these negotiations, important disagreements persist. If these are to be resolved, the adoption of these legal instruments would be a significant development towards resolving key gaps in the modern intellectual property system. In this regard, the book considers the future of the IGC and suggests options which could contribute towards achieving a consensual outcome.

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