

## **Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore**

**Fortieth Session  
Geneva, June 17 to 21, 2019**

### **TRADITIONAL CULTURAL EXPRESSIONS: A DISCUSSION PAPER**

*Document submitted by the Delegation of the United States of America*

1. On May 23, 2019, the International Bureau of the World Intellectual Property Organization (WIPO) received a request from the Permanent Mission of the United States of America to the World Trade Organization (WTO) to re-submit the document entitled “Traditional Cultural Expressions: A Discussion Paper”, as contained in document WIPO/GRTKF/IC/34/12, for discussion by the Fortieth Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). On June 5, 2019, a revision was submitted.

2. Pursuant to the request above, the Annex to this document contains the revised resubmission referred to, as received.

3. *The Committee is invited to take note of this document and the Annex to it.*

[Annex follows]

## Traditional Cultural Expressions: A Discussion Paper

### I. INTRODUCTION

Under the mandate for the WIPO IGC for the 2016/2017 biennium, a primary focus of the work of the IGC is to reach a common understanding on core issues, including whether certain TCEs are protected. TCEs could be entitled to protection at an international level and certain TCEs would not be. In advancing its work, the Committee is expected to use an “evidence-based approach, including studies and examples of national experiences, including domestic legislation and examples of protectable subject matter and subject matter that is not intended to be protected.”

The goal of the paper is to facilitate an informed discussion in the context of reaching a common understanding regarding the treatment of TCEs. For the sake of convenience, the examples in this paper are organized consistent with the categories identified in the definition of TCEs in the draft articles as follows: (1) TCEs in action, (2) material TCEs, (3) music and sound TCEs, and (4) verbal and written TCEs.<sup>1</sup>

### II. EXAMPLES OF TCEs

#### A. TRADITIONAL CULTURAL EXPRESSIONS IN ACTION

##### Background

The draft articles identify TCEs expressed in action as encompassing dances, plays, ceremonies, rituals, games and traditional sports, as well as other performances. This section discusses rituals, dance, and sports.

##### Examples:

#### 1. Rituals

**Bikram Yoga:** Bikram yoga is a form of yoga developed by Bikram Choudhury utilizing traditional hatha yoga techniques in a series of poses that is performed in 105 degree heat.<sup>2</sup> Choudhury learned hatha yoga from Bishnu Ghosh and then developed his own series of 26 poses to address the most common health problems and to be performed in a specific sequence.<sup>3</sup>

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<sup>1</sup> In the draft articles WIPO/GRTKF/33/4, traditional cultural expressions are broadly defined as “any form of [artistic and literary], [creative and other spiritual] expression, tangible or intangible, or a combination thereof, such as actions, materials, music and sound, verbal and written [and their adaptations], regardless of the form in which it is embodied, expressed or illustrated [which may subsist in written/codified, oral or other forms]” (internal citations omitted).

<sup>2</sup> Farrell, Maureen, Forbes, *Bikram Yoga’s New Twists*, available at <http://www.forbes.com/forbes/2009/0921/entrepreneurs-franchising-bikram-yoga-new-twists.html> (last visited Feb. 5, 2017).

<sup>3</sup> Despres, Loraine, Yoga Journal, *Yoga’s Bad Boy: Bikram Choudhury*, available at <http://www.yogajournal.com/article/lifestyle/yoga-s-bad-boy-bikram-choudhury/> (last visited Feb. 7, 2017).

## 2. Dance

**Jig:** With roots in 16<sup>th</sup> century England, the jig migrated to Ireland and Scotland in the 17<sup>th</sup> century, where it was adapted and incorporated into traditional Irish and Scottish dance.<sup>4</sup> The jig remains closely associated with Ireland and Scotland to this day. Having crossed the Atlantic with immigrant communities, the jig is performed in Canada and the United States.<sup>5</sup> It has become a recognized part of the Ozark culture<sup>6</sup> and contributed to the development of American tap dancing.<sup>7</sup> Today competitive dancers also perform the jig in world championships, evidence of the global popularity of this traditional dance form in the 21<sup>st</sup> century.<sup>8</sup>

**Tango:** Blending influences from African and European culture, the origins of the Tango can be traced to lower-class districts of Buenos Aires, Argentina, and Montevideo, Uruguay.<sup>9</sup> At the beginning of the 20<sup>th</sup> century, dancers and orchestras travelled from Buenos Aires to Europe, triggering a tango craze in major European cities and later in the United States.<sup>10</sup> The tango is also closely tied with another category of TCE, music and sound.<sup>11</sup>

**Polka:** The Polka is a dance and genre of dance music that originated in Bohemia (now part of the Czech Republic) in the mid-19<sup>th</sup> century, and spread to the U.S. with Czech, Polish, and German immigrants.<sup>12</sup> The polka remains popular in European and Latin American countries and in the United States.

**Waltz:** The origins of the Waltz, a ballroom and folk dance, date back to Germany and Austria, likely in the 13<sup>th</sup> century.<sup>13</sup> By the mid-18<sup>th</sup> century, the waltz spread from the countryside to the suburbs of the city, starting in France and quickly spreading throughout Europe.<sup>14</sup> Toward the end of the century, the waltz became extremely popular in Vienna, where it remains a centerpiece of Austrian culture to this day.<sup>15</sup> Spread around the world, distinctive styles of the waltz developed in Scandinavia, Mexico, and the United States, as well as other countries.<sup>16</sup>

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<sup>4</sup> The InfoList.com, *Irish Step Dance*, available at

<http://theinfolist.com/php/HTMLGet.php?FindGo=Irish%20Step%20Dance> (last visited Feb. 5, 2017).

<sup>5</sup> Pearlston, Jr., Carl B., Los Angeles Times, *Counterpunch: Retracing Steps of Tap's History*, available at [http://articles.latimes.com/1995-12-25/entertainment/ca-17790\\_1\\_american-tap-dancing](http://articles.latimes.com/1995-12-25/entertainment/ca-17790_1_american-tap-dancing) (last visited Feb. 2, 2017).

<sup>6</sup> Peek, Dan William, *Live! At the Ozark Opry*, (The History Press, 2011). See also, *Bob Holt Old-Time Jig Dancing Competition featured at Old-Time Music, Ozark Heritage Festival*, available at [http://www.oldtimemusic.org/?page\\_id=1285](http://www.oldtimemusic.org/?page_id=1285) (last visited Feb., 2017).

<sup>7</sup> *Supra* note 5.

<sup>8</sup> Alyssa Yabuno Wins Irish Dance World Championship in Under-14 Division, Redlands Daily Facts, May 2, 2014, available at <http://www.redlandsdailyfacts.com/arts-and-entertainment/20140502/allyssa-yabuno-wins-irish-dance-world-championship-in-under-14-division> (last visited Feb. 1, 2017).

<sup>9</sup> Denniston, Christine, History-of-Tango.com, *Couple Dancing and the Beginning of Tango*, available at <http://www.history-of-tango.com/couple-dancing.html> (last visited Feb. 1, 2017); The Guardian, *Latin Rivals Learn It Takes Two to Tango*, available at <https://www.theguardian.com/world/2009/jan/25/argentina-uruguay-tango> (last visited Feb. 1, 2017).

<sup>10</sup> Nottingham Evening Post, *Tango History and Facts*, February 19, 2007.

<sup>11</sup> Behal, Shyamant, Open, *Tango's First Steps*, April 6, 2013.

<sup>12</sup> Hinkley, David, Daily News, *Eclipsing the Waltz Polite Society Discovers Polka, 1844*, available at <http://www.nydailynews.com/archives/news/eclipsing-waltz-polite-society-discovers-polka-1844-article-1.574559> (last visited Feb. 2, 2017).

<sup>13</sup> Dance Facts, *History of Waltz Dance*, available at <http://www.dancefacts.net/dance-history/waltz-history/> (last visited Feb. 5, 2017).

<sup>14</sup> *Id.*

<sup>15</sup> March, Catherine Dawson, The Globe and Mail, *In Vienna, the Waltz Is a Living Cultural Heritage*, available at <http://www.theglobeandmail.com/life/travel/activities-and-interests/in-vienna-waltzing-is-living-cultural-heritage/article30487196/> (last visited Feb. 2, 2017).

<sup>16</sup> Dance Facts, *History of Waltz Dance*, available at <http://www.dancefacts.net/dance-history/waltz-history/> (last visited Feb. 5, 2017).

**Hula:** The hula is a dance form that originated in the United States state of Hawaii, but the form has now gained worldwide popularity.<sup>17</sup> The hula dramatizes the words of a song or chant.<sup>18</sup>

### 3. Sports and Games

#### Background

Evidence of sports, games, and forms of competitive physical activity, can be found in ancient China (archery and cuju, which is a form of football),<sup>19</sup> Egypt (wrestling, running,<sup>20</sup> and fishing),<sup>21</sup> and Greece (discus, javelin, running, boxing, and wrestling, most notably at the ancient Olympic Games).<sup>22</sup> In the modern world, there are hundreds of sports. They range from casual games among amateur players to organized, professional competitions among highly trained athletes from around the world, such as the modern Olympic Games,<sup>23</sup> which attract thousands of spectators<sup>24</sup> and are viewed by audiences around the world.<sup>25</sup> At the same time, there are strong economic, social, and cultural links between popular national sports, such as cricket, rugby, and baseball, both in the countries where they originated and where they were later adopted. This section focuses on the examples of baseball and lacrosse.

#### Examples:

**Baseball:** Baseball is a bat-and-ball game played between two teams of nine players, who take turns batting and fielding.<sup>26</sup> In the mid-19<sup>th</sup> century, baseball developed in North America, possibly from the older bat-and-ball game of “rounders” popular in Great Britain and Ireland, which was brought to the United States by Canadian immigrants of both British and Irish ancestry.<sup>27</sup> Extremely popular in the New York metropolitan area in the 1850s, local journalists began to call baseball the “national pastime” as early as 1856.<sup>28</sup> The game spread quickly to other cities (especially with large immigrant populations) in the late 19<sup>th</sup> century.<sup>29</sup> As baseball became professionalized in the United States, national leagues were formed.<sup>30</sup> The National League was founded in 1876 and the American League in 1901.<sup>31</sup> The first World Series, pitting the two major league champions, was held in 1903.<sup>32</sup> Throughout the twentieth century, the

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<sup>17</sup> Hale, Constance, *The Atlantic*, *The Hula Movement*, available at <https://www.theatlantic.com/magazine/archive/2002/07/the-hula-movement/302538/> (last visited Feb. 2, 2017).

<sup>18</sup> Tregaskis, Mona, *The New York Times*, *Dance: In Quest of Hawaii's Authentic Hula*, available at <http://www.nytimes.com/1987/07/05/arts/dance-in-quest-of-hawaii-s-authentic-hula.html?pagewanted=all> (last visited Feb. 2, 2017).

<sup>19</sup> Official Website of the Chinese Olympic Committee, *A Brief Introduction to Ancient Sports in China*, available at [http://en.olympic.cn/sports\\_in\\_ancient\\_china/2003-11-16/11313.html](http://en.olympic.cn/sports_in_ancient_china/2003-11-16/11313.html) (last visited Feb. 2, 2017).

<sup>20</sup> History World, *History of Sports and Games*, available at <http://www.historyworld.net/wrldhis/PlainTextHistories.asp?historyid=ac02> (last visited Feb. 2, 2017).

<sup>21</sup> Helleksen, Terry, *Fish Files: The Encyclopedia of the Fly Tier's Art*, (Gibbs Smith, 2005).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Guinness World Records, *Largest Attendance at an Olympic Games*, available at <http://www.guinnessworldrecords.com/world-records/greatest-attendance-at-olympic-games> (last visited Feb. 3, 2017).

<sup>25</sup> Holloway, Daniel, *Variety*, *How Rio Ratings Surprised NBC and Will Impact Future Games*, available at <http://variety.com/2016/tv/news/2016-olympics-ratings-rio-nbc-1201843200/> (last visited Feb. 3, 2017).

<sup>26</sup> WETA, *Baseball for Beginners*, available at <http://www.pbs.org/kenburns/baseball/beginners/> (last visited Feb. 2, 2017).

<sup>27</sup> History, *Who Invented Baseball?*, available at <http://www.history.com/news/ask-history/who-invented-baseball> (last visited Feb. 2, 2017).

<sup>28</sup> The People History, *Baseball Origins, Growth and Changes in the Game*, available at <http://www.thepeoplehistory.com/baseballhistory.html> (last visited Feb. 1, 2017).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

popularity of baseball in America continued to grow. As a measure of that popularity, by the 2016 World Series, 40 million viewers tuned in to watch Game 7 of the series,<sup>33</sup> which pitted the victorious Chicago Cubs (which had not won the series since 1908) against the Cleveland Indians (which last won the series in 1948).<sup>34</sup>

The popularity of baseball, however, is by no means confined to the United States. Introduced to Cuba and Japan in the 1870s,<sup>35</sup> today baseball is one of the most popular sports in both countries.<sup>36</sup> Baseball is also played around the world, including in: Israel, the Philippines, Saudi Arabia, the United Arab Emirates, South Korea, China, Chinese Taipei, Italy, Spain, the Netherlands, the United Kingdom, Canada, the Dominican Republic, Australia, New Zealand, Brazil, Venezuela, Uganda, Ghana, and Jamaica.<sup>37</sup> The World Baseball Softball Confederation was formed by a merger of the International Baseball Federation and the International Softball Federation,<sup>38</sup> and in 2013, was recognized by the International Olympic Committee as the sole authority for baseball.<sup>39</sup>

**Lacrosse:** Lacrosse is also a team sport, but uses a stick with a basket to catch and hold the ball rather than strike the ball.<sup>40</sup> Lacrosse originated with the Native Americans, including the Cherokee, Iroquois, Huron, Choctaw and Mohawk peoples,<sup>41</sup> but its name derived from the French generic name for a game played with a curved stick.<sup>42</sup> Lacrosse is now played widely in the United States and internationally and is one of the world's fastest growing sports.<sup>43</sup>

## B. MATERIAL TRADITIONAL CULTURAL EXPRESSIONS

### Background

The draft articles describe material TCEs, including such items as expressions of art, handicrafts, ceremonial masks or dress, handmade carpets, and architecture. This section focuses on musical instruments, vernacular architecture, art and handicrafts, and food.

### Examples:

#### 1. Musical Instruments

**Violin/Fiddle:** The violin likely derived from the Arabic rabab and was created in Italy sometime in the early 16<sup>th</sup> century.<sup>44</sup> The violin or one of its predecessors is also played in the music of

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<sup>33</sup> Schwindt, Oriana, *Variety*, *TV Ratings: Cubs Win World Series in Front of Massive Audience*, available at <http://variety.com/2016/tv/news/tv-ratings-cubs-win-world-series-record-1201908313/> (last visited Feb. 2, 2017).

<sup>34</sup> Bastian, Jordan, and Muskat, Carrie, *MLB*, *Cubs Are Heavy Weight Champions*, available at <http://m.mlb.com/news/article/207938228/chicago-cubs-win-2016-world-series/> (last visited Feb. 2, 2017).

<sup>35</sup> World Baseball Softball Federation, *History*, available at <http://www.wbsc.org/wbsc-history/> (last visited Feb. 2, 2017).

<sup>36</sup> Brown, Bruce, *The Atlantic Online*, *Cuban Baseball*, available at <http://www.theatlantic.com/past/docs/issues/84jun/8406brown.htm> (last visited Feb. 2, 2017); Japan-Guide.com, *Baseball*, available at <http://www.japan-guide.com/e/e2081.html> (last visited Feb. 2, 2017).

<sup>37</sup> World Baseball Softball Federation, *Members*, available at <http://www.wbsc.org/wbsc-history/> (last visited Feb. 2, 2017).

<sup>38</sup> World Baseball Softball Federation, *History*, available at <http://www.wbsc.org/wbsc-history/> (last visited Feb. 2, 2017).

<sup>39</sup> *Id.*

<sup>40</sup> Venum, Jr., Thomas, *U.S. Lacrosse*, *The History of Lacrosse*, available at <http://www.uslacrosse.org/about-the-sport/history> (last visited Feb. 3, 2017).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *New World Encyclopedia*, *Violin*, available at <http://www.newworldencyclopedia.org/entry/Violin> (last visited Feb. 7, 2017).

many non-Western music cultures, such as India<sup>45</sup> and Iran.<sup>46</sup> Most prominent in the Western classical tradition and associated with classical music and the orchestra,<sup>47</sup> the violin (informally called the “fiddle”) is also used in jazz<sup>48</sup> and folk music, including American country music<sup>49</sup> bluegrass,<sup>50</sup> and Irish traditional music.<sup>51</sup>

**Bagpipes:** With ancient origins, bagpipes have been played for a millennium throughout large parts of Europe, northern Africa, and western Asia, including India and around the Persian Gulf.<sup>52</sup> The Scottish Great Highland bagpipe became well-known worldwide as a result of the expansion of the British Empire, spearheaded by the British military that included the Highland regiments.<sup>53</sup>

**Banjo:** The banjo is a musical instrument with a drum-like body, a fretted neck, and usually four or five strings, which may be plucked or strummed.<sup>54</sup> Early forms of the banjo were fashioned by Africans in America adapted from African instruments of similar design.<sup>55</sup> The banjo played an important role in the development of African-American traditional folk music and plays a central role in American old time music.<sup>56</sup>

## 2. Vernacular Architecture

### Background

Vernacular architecture encompasses building types that are designed based on local needs, use available constructional materials, and reflect local traditions. Traditional building designs are passed down from person to person and from generation to generation.

### Examples:

**Nomadic dwellings:** Several dwellings from nomadic cultures may fall into the category of TCEs. The yurt is a circular tent traditionally used in Mongolia and typically made from bent wood and felt.<sup>57</sup> The igloo is associated with the Inuit culture in Alaska.<sup>58</sup> The tipi (or tepee or teepee) is a structure comprised of poles and hides used by the Native American Plains

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<sup>45</sup> Lal, Vinay, Culture, *Violin*, available at <https://www.sscnet.ucla.edu/southasia/Culture/Music/violin.html> (last visited Feb. 6, 2017).

<sup>46</sup> Stowell, Robin, The Cambridge Companion to the Violin, *The Violin – Instrument of Four Continents*, (Cambridge University Press, 1992).

<sup>47</sup> New World Encyclopedia, *Violin*, available at <http://www.newworldencyclopedia.org/entry/Violin> (last visited Feb. 7, 2017).

<sup>48</sup> Fiddling Around the World, *Jazz Violin*, available at <http://www.fiddlingaround.co.uk/jazz/> (last visited Feb. 6, 2017).

<sup>49</sup> Country Music Hall of Fame, *Instruments in Country Music*, available at <http://countrymusichalloffame.org/ContentPages/instruments-in-country-music#.WJipkfrLmE> (last visited Feb. 6, 2017).

<sup>50</sup> *Id.*

<sup>51</sup> Fiddling Around the World, *Irish Fiddle*, available at <http://fiddlingaround.co.uk/ireland/index.html> (last visited Feb. 6, 2017).

<sup>52</sup> Iowa State University Music, *The Bagpipe*, available at <https://www.music.iastate.edu/antiqua/bagpipe.htm> (last visited Feb. 6, 2017).

<sup>53</sup> Johnson, Ben, Historic UK, *The Piob Mhor, or the Great Highlands Bagpipe*, available at <http://www.historic-uk.com/HistoryUK/HistoryofScotland/The-Piob-Mhor-or-the-Great-Highland-Bagpipes/> (last visited Feb. 6, 2017).

<sup>54</sup> PBS, *The Banjo*, available at [http://www.pbs.org/americanrootsmusic/pbs\\_arm\\_ii\\_banjo.html](http://www.pbs.org/americanrootsmusic/pbs_arm_ii_banjo.html) (last visited Feb. 6, 2017).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> National Geographic Society, *Yurt*, available at <http://www.nationalgeographic.org/encyclopedia/yurt/> (last visited Feb. 6, 2017).

<sup>58</sup> Golgowski, Nina, Daily Mail, *Inside the Life of the Inuit: Extraordinary Photographs Document How Alaska’s Eskimos Survived the Cruellest of Winters*, available at <http://www.dailymail.co.uk/news/article-2253029/Historic-photographs-document-Alaskas-Inuit-Eskimos-survived-worlds-coldest-winters.html> (last visited Feb. 6, 2017).

Tribes.<sup>59</sup> Finally, the nomadic tribes of the Middle East and Northern Africa lived in “Bedouin tents” (or bayt [sing.] or buyuut [plur.]).<sup>60</sup>

**Permanent dwellings:** Certain categories of permanent dwellings may be considered by some groups to be TCEs. Log cabins are traditional structures in Scandinavia, Northern and Eastern Europe, Russia, Ukraine, and the United States.<sup>61</sup> Nepal features traditional clay and stone houses.<sup>62</sup> The houses of the Maasai are constructed from mud, sticks, grass, cow dung, and cow’s urine.<sup>63</sup> Indonesia’s Batak house is another potential example with its wooden piles and roofs thatched with sugar palm.<sup>64</sup> Finally, the síhéyuàn is the traditional courtyard house found in China.<sup>65</sup>

### 3. Art and Handicrafts

#### Background

There is no universally agreed definition of handicrafts. However, there are a number of common characteristics of traditional handicrafts.<sup>66</sup> Handicrafts are produced by artisans and contain representations or expressions that are symbolic of the artisan’s culture. Encompassing a wide variety of goods made of raw materials, handicrafts vary in function and purpose. They may serve utilitarian, aesthetic, religious, and social functions.

#### Examples:

**Amish Quilts:** The Amish people are a group of traditionalist Christian church fellowships in the United States with Swiss German Anabaptist origins. Reflecting the value placed by the Amish on simplicity in dress and lifestyle, Amish quilts, with roots in many cultures, are known for their use of community-sanctioned colors and styles. Made to mark marriages and births, Amish quilts are passed from generation to generation as heirlooms, but the colorful, handmade quilts are also available for purchase by persons outside Amish communities.

**Turquoise Mosaics and Jewelry:** Cherishing turquoise as amulet, the Pueblo, Navajo, Hopi, and Apache tribes used the stone in mosaics, sculptural works, beads, and pendants.<sup>67</sup>

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<sup>59</sup> University of Chicago, *Structures of the Plains Indians*, available at <http://people.ucls.uchicago.edu/~snekros/2007-8%20webquests/Structures%2089/structures89.html> (last visited Feb. 6, 2017).

<sup>60</sup> Encyclopedia.com, *Bedouin*, available at <http://www.encyclopedia.com/social-sciences-and-law/anthropology-and-archaeology/people/bedouin> (last visited Feb. 7, 2017).

<sup>61</sup> National Park Service, *The Log Cabin Tradition*, available at <https://www.nps.gov/nr/twhp/wwwlps/lessons/4logcabins/4facts1.htm> (last visited Feb. 6, 2017).

<sup>62</sup> Adhikary, Nripal, International Journal of Environmental Studies, *Vernacular Architecture in Post-Earthquake Nepal*, available at <http://www.tandfonline.com/doi/abs/10.1080/00207233.2016.1179011?src=recsys&journalCode=genv20> (last visited Feb. 6, 2017).

<sup>63</sup> Maasai Association, *The Maasai People*, available at <http://www.maasai-association.org/maasai.html> (last visited Feb. 6, 2017).

<sup>64</sup> Indonesia Travel, *Tomok and Simanindo: The Traditional Batak Villages in Lake Toba*, available at <http://www.indonesia.travel/en/post/tomok-and-simanindo-the-traditional-batak-villages-in-lake-toba> (last visited Feb. 6, 2017).

<sup>65</sup> Chinasage, *Traditional Chinese Architecture*, available at <http://www.chinasage.info/architecture.htm> (last visited Feb. 6, 2017).

<sup>66</sup> See generally WIPO Background Brief No. 5, Intellectual Property and Traditional Handicrafts, for useful brief discussion of the definition and characteristics of traditional handicrafts.

<sup>67</sup> Museum of Indian Arts & Culture, *Turquoise, Water, Sky: The Stone and Its Meaning*, available at <http://www.indianartsandculture.org/whatsnew/&releaseID=292> (last visited Feb. 6, 2017); see also, Danchevskaya, O.Y. *Turquoise in the Life of American Indians*, available at [http://www.academia.edu/5786419/Turquoise\\_in\\_the\\_Life\\_of\\_American\\_Indians](http://www.academia.edu/5786419/Turquoise_in_the_Life_of_American_Indians) (last visited Feb. 6, 2017).

**Dreamcatcher:** The “dreamcatcher,” a handmade object based on a willow hoop of Native American origins, has evolved into a Pan-Native American symbol.<sup>68</sup>

**Tartan:** Tartan is a pattern utilizing two or more colors of overlapping bands and stripes to form checks.<sup>69</sup> Each tartan pattern is supposed to represent something unique, such as a family surname.<sup>70</sup>

**Panama hat:** The Panama hat (toquilla straw hat) is a traditional brimmed straw hat of Ecuadorian origin.<sup>71</sup>

**Cowboy boot:** The cowboy boot is an iconic part of the history of the American West and the American cowboy.<sup>72</sup> Cowboy boots were developed with function in mind, higher than most boots to protect the lower leg from brush and with a toe and heel designed to easily move in and out of stirrups.<sup>73</sup>

**Shaker furniture:** Shaker furniture is a distinctive style of furniture developed by furniture makers who were members of the United Society of Believers in Christ’s Second Appearing (more commonly known as the Shakers) in the United States.<sup>74</sup> The minimalist and functional design, lacking ornamentation such as inlays, veneers, or metal pulls, gives Shaker furniture a distinctive appearance.<sup>75</sup>

**Jack-o-lanterns:** In the United States, Jack-o-lanterns are pumpkins with ghoulish faces, usually created by carving orifices in the pumpkin’s rind to resemble facial features that are illuminated with candles from within and then placed on doorsteps on Halloween.<sup>76</sup> The practice derives from an Irish tradition using gourds and potatoes instead of pumpkins and is based on the Irish folktale “Stingy Jack.”

#### 4. Food

##### Background

Food is clearly the principal source of human nutrition, but food, along with the techniques used in its preparation and social practices related to its consumption, can also be a powerful expression of the cultures that produce it.<sup>77</sup>

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<sup>68</sup> New World Encyclopedia, *Dreamcatcher*, available at <http://www.newworldencyclopedia.org/p/index.php?title=Dreamcatcher&oldid=973099> (last visited Feb. 6, 2017).

<sup>69</sup> The Scottish Register of Tartans, *FAQ*, available at <https://www.tartanregister.gov.uk/FAQ#general0> (last visited Feb. 6, 2017).

<sup>70</sup> *Id.*

<sup>71</sup> The art of weaving the traditional Ecuadorian toquilla is listed on the UNESCO Intangible Cultural Heritage List.

<sup>72</sup> Madsen, Leah, Buffalo Bill Center of the West, *I Can See by Your Outfit that You Are a Cowboy*, available at <https://centerofthewest.org/2014/06/18/i-can-see-by-your-outfit-that-you-are-a-cowboy/> (last visited Feb. 6, 2017).

<sup>73</sup> *Id.*

<sup>74</sup> The Metropolitan Museum of Art: Heilbrunn Timeline of History, *Shaker Furniture*, available at [http://www.metmuseum.org/toah/hd/shak/hd\\_shak.htm](http://www.metmuseum.org/toah/hd/shak/hd_shak.htm) (last visited Feb. 6, 2017).

<sup>75</sup> *Id.*

<sup>76</sup> History.com, *History of the Jack O’Lantern*, available at <http://www.history.com/topics/halloween/jack-olantern-history> (last visited Feb. 7, 2017).

<sup>77</sup> Reflecting the cultural importance of food, traditional Mexican cuisine, the French gastronomic meal, and the traditional dietary cultures of Japan (Woshoku) are listed on UNESCO’s list of Intangible Cultural Heritage.



Examples:

**Crêpe:** The very thin pancake known as the crêpe, which is served with a variety of fillings (the filled pancake is also known as the crêpe), is closely associated with French culture.<sup>78</sup> The consumption of crêpes, however, is widespread, including in Belgium,<sup>79</sup> Quebec,<sup>80</sup> North Africa,<sup>81</sup> South Africa,<sup>82</sup> Japan,<sup>83</sup> and Uruguay,<sup>84</sup> among other nations. Other cultures have produced foods similar to the crepe, including the Italian crespelle, Hungarian palacsintas, Jewish blintzes, Scandinavian plattars, Russian blini, and Greek kreps.<sup>85</sup>

**Pizza:** Pizza is a flatbread traditionally topped with tomato sauce and cheese and baked in the oven.<sup>86</sup> The modern pizza evolved from similar flatbread dishes in Naples in the 18<sup>th</sup> and early 19<sup>th</sup> century.<sup>87</sup> Pizza was brought to the United States with Italian immigrants.<sup>88</sup>

**Tamale:** Tamales are a traditional Mesoamerican dish made of masa or dough, which is steamed on corn husk or banana leaf.<sup>89</sup> The tamale can be filled with meats, cheeses, fruits, vegetables and chilies.<sup>90</sup> Dating back to the Aztec and Mayan civilizations,<sup>91</sup> the tamale, in a variety of variations, is widely consumed in Mexico, Central America, South America, and the United States.<sup>92</sup> Most cultures have similar food products, such as dumplings, ravioli, pierogi, and empanadas.<sup>93</sup>

**Sushi:** Sushi is the term used to refer to the Japanese preparation and serving of cooked vinegar-flavored rice (either brown or white), which is combined with a variety of ingredients, principally seafood, fish, and vegetables.<sup>94</sup> Sushi is often prepared with raw seafood and served with ginger, wasabi, and soy sauce.<sup>95</sup> The origins of sushi date back to 3<sup>rd</sup>-century China.<sup>96</sup> However, contemporary sushi (prepared quickly, without fermentation, with fresh ingredients and served in small portions) developed in the first half of the 19<sup>th</sup> century in

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<sup>78</sup> Epicurian.com, *Crêpes*, available at <http://www.epicurean.com/articles/crepes.html> (last visited Feb. 6, 2017).

<sup>79</sup> The Washington Post, *Belgian-Style Crepes*, available at [https://www.washingtonpost.com/recipes/belgian-style-crepes/12617/?utm\\_term=.783fb221f269](https://www.washingtonpost.com/recipes/belgian-style-crepes/12617/?utm_term=.783fb221f269) (last visited Feb. 6, 2017).

<sup>80</sup> Keller, Dawn, USA Today, *Crepe Restaurants in Quebec*, available at <http://traveltips.usatoday.com/crepe-restaurants-quebec-62238.html> (last visited Feb. 6, 2017).

<sup>81</sup> 196flavors.com, *Morocco: Baghrir (Thousand-Hole Crepe)*, available at <http://www.196flavors.com/2016/11/23/morocco-baghrir-thousand-hole-crepe/> (last visited Feb. 6, 2017).

<sup>82</sup> Tri-National Kitchen: Cooking without Borders, *Pannekoek: South African Crepes*, available at <http://trinationalkitchen.com/2015/12/29/pannekoek-south-african-crepes/> (last visited Feb. 6, 2017).

<sup>83</sup> Japan Guide, *Japanese Crepes*, available at <http://www.essential-japan-guide.com/japanese-crepes/> (last visited Feb. 6, 2017).

<sup>84</sup> Kijac, Maria Baez, *The South American Table: The Flavor and Soul of Authentic Home Cooking from Patagonia to Rio de Janeiro* (Harvard Common Press, 2003).

<sup>85</sup> Epicurian.com, *Crêpes*, available at <http://www.epicurean.com/articles/crepes.html> (last visited Feb. 6, 2017).

<sup>86</sup> Turim, Gayle, History.com, *A Slice of History: Pizza through the Ages*, available at <http://www.history.com/news/hungry-history/a-slice-of-history-pizza-through-the-ages> (last visited Feb. 6, 2017).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Warner, Kate, The Austin Times, *The History Behind Tamales*, available at <http://www.theaustintimes.com/2010/01/the-history-behind-tamales/> (last visited Feb. 6, 2017).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> Santos, Fernanda, The New York Times, *Wrapped in Tradition*, available at <http://www.nytimes.com/2012/12/19/dining/where-christmas-means-tamales.html> (last visited Feb. 6, 2017).

<sup>93</sup> Butler, Stephanie, History.com, *Delightful, Delicious Dumplings*, available at <http://www.history.com/news/hungry-history/delightful-delicious-dumplings> (last visited Feb. 6, 2017).

<sup>94</sup> Wei, Clarissa, Business Insider, *An Illustrated Guide to the Complete History of Sushi*, available at <http://www.businessinsider.com/the-complete-history-of-sushi-2015-2> (last visited Feb. 6, 2017).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

Japan.<sup>97</sup> Probably the best-known staple of contemporary Japanese cuisine, sushi also is popular around the world.<sup>98</sup>

**Hamburger Sandwich:** The hamburger is a sandwich consisting of one or more cooked patties of ground meat (usually beef) inside a roll or bun.<sup>99</sup> The term hamburger derives from Hamburg, Germany's second largest city.<sup>100</sup> The sandwich probably was brought to America by immigrants departing from that port in the mid to late 19th century.<sup>101</sup> Many claimed to have invented the modern hamburger sandwich in the United States in the 19th century, but the precise origin remains unclear. In the 20th century, the demand of working class people for mass-produced, affordable food that could be consumed outside the home resulted in the explosion in popularity of the hamburger sandwich in the United States.<sup>102</sup> To satisfy the growing demand, vendors such as White Castle, In-N-Out, Burger King, Wendy's and most prominently McDonald's opened restaurants, which later expanded into national and international and fast-food chains.<sup>103</sup>

**Barbecue:** Barbecue is a process of slow cooking seasoned meat over a fire that is popular in the United States.<sup>104</sup> The four main styles of barbecue are Memphis (pulled pork in a tomato-based sauce), North Carolina (pork in a vinegar-based sauce), Kansas City (ribs in a dry rub), and Texas (mesquite-grilled beef).<sup>105</sup> Other countries, such as Korea and Argentina, have their own styles of barbecue.<sup>106</sup>

## 5. Hair Styles and Body Adornments

**Dreadlocks:** Dreadlocks (or locs) are ropelike strands of hair formed by matting or braiding hair.<sup>107</sup> The earliest depictions of dreadlocks date back to 2500 B.C. in Hinduism's oldest scriptures.<sup>108</sup> The hair style also is documented in ancient African, Egyptian, Greek, and Indian civilizations.<sup>109</sup> Dreadlocks have been worn in various cultures to express religious, spiritual, and political convictions.<sup>110</sup> Perhaps the most prominent is the association between dreadlocks and the Rastafarian religious movement.<sup>111</sup> With the growth of popularity of reggae music in the 1970s, Bob Marley reinforced this association and helped to make the wearing of dreadlocks a popular fashion statement.<sup>112</sup>

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Barksdale, History.com, *Hamburger Helpers: The History of America's Favorite Sandwich*, available at <http://www.history.com/news/hungry-history/hamburger-helpers-the-history-of-americas-favorite-sandwich> (last visited Feb. 6, 2017).

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> Suddath, Claire, Time, *A Brief History of Barbecue*, available at <http://time.com/3957444/barbecue/> (last visited Feb. 6, 2017).

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> Pearson, Hugh, The Baltimore Sun, *The Amusement and Frustration of Dreadlocks*, available at [http://articles.baltimoresun.com/1991-02-10/news/1991041063\\_1\\_wear-dreadlocks-wear-their-hair-black-people-hair](http://articles.baltimoresun.com/1991-02-10/news/1991041063_1_wear-dreadlocks-wear-their-hair-black-people-hair) (last visited Feb. 6, 2017).

<sup>108</sup> *Id.*

<sup>109</sup> Chibelushi, Wedaeli, Independent, *I Wasn't Surprised by the US Dreadlocks Row*, available at <http://www.independent.co.uk/voices/i-wasnt-surprised-by-the-us-dreadlocks-row-white-people-never-think-they-are-guilty-of-cultural-a6964906.html> (last visited Feb. 6, 2017).

<sup>110</sup> *Id.*

<sup>111</sup> *Supra* note 114.

<sup>112</sup> Gabbara, Princess, Ebony, *The History of Dreadlocks*, available at <http://www.ebony.com/style/history-dreadlocks#axzz4XxmwBTHN> (last visited Feb. 6, 2017).

**Tattoos:** A tattoo is the marking of the skin by using indelible or temporary ink.<sup>113</sup> The first evidence of tattoos is around 5,200 years old.<sup>114</sup> The word tattoo, which is of Polynesian origin, was brought to Europe by the explorer James Cook, when he returned in 1769 from his first voyage to Tahiti and New Zealand.<sup>115</sup> Tattoos serve a variety of functions, including identification, aesthetics, social and cultural affiliations, and even punishment.<sup>116</sup> Among the Maori people, facial tattoos, or Moko tattoos, are used to indicate lineage, social position, and status within the tribe.<sup>117</sup> Native Americans also used tattoos to represent their tribes.<sup>118</sup> Modern tattoos may be used to indicate an association with a particular group, such as branches or units in the military, a common practice in the U.S. and British military services.<sup>119</sup>

## C. MUSIC AND SOUND TRADITIONAL CULTURAL EXPRESSIONS

### Background

Before the 20<sup>th</sup> century, folk songs and other genres that fall within what the draft articles identify as musical and sound TCEs were transmitted orally. Today they are also embodied in recordings.

### Examples:

**Scotch Ballads:** Traditional Scottish ballads, which are equally popular in Scotland, England, and Ireland, traveled to America both orally and in print.<sup>120</sup> Perhaps the most famous example is the “Barbara Allen” ballad, which has given rise to countless versions throughout the English-speaking world.<sup>121</sup>

**Yodeling:** Yodeling is a long-time rural tradition of singing in Europe, including Switzerland, Austria, and Scandinavia.<sup>122</sup> Yodeling became a popular form of entertainment in European theatres and music halls in the 1830s, migrating to other countries, including the United States and Canada.<sup>123</sup> Musical vocalizations similar to the Swiss and Austrian yodel can be found in Asian<sup>124</sup> and African musical traditions.<sup>125</sup>

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<sup>113</sup> Lineberry, Cate, Smithsonian.com, *Tattoos: The Ancient and Mysterious History*, available at <http://www.smithsonianmag.com/history/tattoos-144038580/> (last visited Feb. 7, 2017).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> Indians.org, *Native American Tattoos*, available at <http://www.indians.org/articles/native-american-tattoos.html> (last visited Feb. 7, 2017).

<sup>119</sup> Van Geete, Staff Sgt. Stephanie, U.S. Army, *Tattoos and the Army: A Long and Colorful Tradition*, available at [https://www.army.mil/article/27582/Tattoos\\_and\\_the\\_Army\\_a\\_long\\_and\\_colorful\\_tradition](https://www.army.mil/article/27582/Tattoos_and_the_Army_a_long_and_colorful_tradition) (last visited Feb. 7, 2017); Mullin, Gemma, The Daily Mail, *Body Art of War: Army Lifts Ban on Hand and Neck Tattoos after Struggling to Attract New Recruits*, available at <http://www.dailymail.co.uk/news/article-2777588/Body-art-war-Army-lifts-ban-hand-neck-tattoos-struggling-attract-new-recruits.html> (last visited Feb. 7, 2017).

<sup>120</sup> Andersen, Flemming G., Otto Holapfel, and Thomas Pettit, *The Ballad as Narrative: Studies in the Ballad Traditions of England, Scotland, Germany and Denmark*, (Odense University Press, 1982).

<sup>121</sup> Sharp, Verity, BBC, *Never Heard of Barbara Allen? The World’s Most Collected Ballad Has Been Around for 450 Years*, available at <http://www.bbc.co.uk/programmes/articles/5jBI5r50P0zKJm5nLTpwpq/never-heard-of-barbara-allen-the-worlds-most-collected-ballad-has-been-around-for-450-years> (last visited Feb. 7, 2017).

<sup>122</sup> Platenga, Bart, The Guardian, *High on a Hill . . .*, available at <https://www.theguardian.com/music/2006/sep/22/worldmusic> (last visited Feb. 7, 2017).

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> New World Encyclopedia, *Yodeling*, available at <http://www.newworldencyclopedia.org/entry/Yodeling> (last visited Feb. 7, 2017).

**Azonto:** Azonto is a music genre and dance whose local popularity was launched by Ghanaian rapper Sarkodie's hit "U Go Kill Me" in 2011<sup>126</sup> and whose international popularity was further fueled by London-based Fuse ODG's "Azonto."<sup>127</sup> Fuse ODG's goal in creating his song was to give Ghanaians in the diaspora a connection to the Ghana community.<sup>128</sup> The genre has been associated with Ghana continuously since then.<sup>129</sup> Artists in other countries began to make songs in the genre as well.<sup>130</sup> Azonto has been connected to the Apaa jig of the Ga people,<sup>131</sup> and also with the Kpanlogo dance along Ghana's coast.<sup>132</sup> Whether Azonto is a version of Apaa or something new pulling from similar cultural influences is debated, including by artists in Ghana.<sup>133</sup> By 2015, media was reporting on concerns of the death of Azonto, and in 2019, reports circulated that "Ghanaians have dropped azonto."<sup>134</sup>

**Calypso:** Originating in Trinidad and Tobago in the early to mid-20<sup>th</sup> century, this Afro-Caribbean musical style spread to the rest of the Caribbean Antilles and Venezuela and influenced the development of other Caribbean musical genres.<sup>135</sup>

**Ska:** Combining elements of calypso and other Caribbean musical genres with American jazz and rhythm and blues, Ska music emerged as a music genre in Jamaica in the late 1950s and 1960s.<sup>136</sup> Ska gained popularity in the United Kingdom and the United States,<sup>137</sup> as well as other European countries, Australia, Japan, and South America from the 1970s to the 1990s.<sup>138</sup> Ska music influenced the development of reggae music in Jamaica and Hip Hop culture in the United States.<sup>139</sup>

**Hip Hop Music/Culture:** With roots in Jamaica, Hip Hop music developed in New York City in the 1970s, as part of American Hip Hop culture, which includes four main elements: visual art

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<sup>126</sup> Jesse Weaver Shipley, *Transnational Circulation and Digital Fatigue in Ghana's Azonto Dance Craze*, 40 *American Ethnologist* 362, 362 (2013).

<sup>127</sup> *Id.* at 369 (recounting interview with Reggie Rockstone).

<sup>128</sup> *Id.*

<sup>129</sup> *Commencement 2012 – 'Ghana needs you,' says Guest Speaker, Kwaku Sintim-Misa*, ASHEI UNIVERSITY COLLEGE, (2012) available at [http://archives.ashesi.edu.gh/V5\\_2014/past-ceremonies/1474-qghana-needs-youq-kwaku-sintim-misa-speaks-at-commencement-2012.html](http://archives.ashesi.edu.gh/V5_2014/past-ceremonies/1474-qghana-needs-youq-kwaku-sintim-misa-speaks-at-commencement-2012.html) (last visited June 5, 2019) ("In my time cocoa was Ghana's biggest export...In your time it is 'azonto'."); *'Azonto' Tops All the Dances In Africa. Check Out the List*, NEWS GHANA (Feb. 17, 2012) available at <https://www.newsghana.com.gh/azonto-tops-all-the-dances-in-africa-check-out-the-list> (last visited June 5, 2019).

<sup>130</sup> Mark, Monica, *The Guardian*, *Ghana's Azonto Craze Takes Over Dancefloors Across the World* (Sep. 3, 2012) available at <https://www.theguardian.com/world/2012/sep/03/ghana-azonto-dance-craze-world> (last visited June 5, 2019).

<sup>131</sup> Monica *supra* note 5.

<sup>132</sup> *Where is Ghana's Ones [sic] Popular Dance Azonto?*, NEWS GHANA (Jul. 22, 2015) available at <https://www.newsghana.com.gh/where-is-ghanas-ones-popular-dance-azonto/> (last visited June 5, 2019); Weaver Shipley *supra* note 1 at 372 (Kpanlogo itself is also connected to apaa.).

<sup>133</sup> Weaver Shipley *supra* note 1 at 372–74.

<sup>134</sup> NEWS GHANA *supra* note 7; K. Oteng, *Azonto Music the Way for Us to Hit the International Market – Gasmilla*, GHLINKS (April 2019) available at <https://www.ghlinks.com.gh/azonto-music-was-the-way-for-us-to-hit-the-international-market-gasmilla/> (last visited June 5, 2019).

<sup>135</sup> *New World Encyclopedia*, *Calypso Music*, available at [http://www.newworldencyclopedia.org/entry/Calypso\\_music](http://www.newworldencyclopedia.org/entry/Calypso_music) (last visited Feb. 7, 2017).

<sup>136</sup> Selvin, Joel, SFGate, *A Brief History of Ska*, available at <http://www.sfgate.com/entertainment/article/A-brief-history-of-ska-3221107.php> (last visited Feb. 7, 2017).

<sup>137</sup> *Id.*

<sup>138</sup> Cook, John, Bowling Green State University Libraries, *Ska*, available at <http://libguides.bgsu.edu/c.php?g=227204&p=1505986> (last visited Feb. 7, 2017).

<sup>139</sup> Edmondson, Ph.D., Jacqueline, ed., *Music in American Life: Encyclopedia of Songs, Styles, Stars, and Stories that Shaped our Culture* (ABC-CLIO 2013).

(graffiti), DJing, MCing, and breakdancing.<sup>140</sup> Hip hop has gone on to influence fashion, language, and other aspects of broader popular culture.<sup>141</sup>

**Zydeco:** Zydeco music grew out of the French Creole culture of Louisiana,<sup>142</sup> and possibly West African musical influence.<sup>143</sup> The music typically features the frottoir (washboard), spoons, fiddle, ti-fers (triangles), and an accordion.<sup>144</sup>

## D. VERBAL AND WRITTEN TRADITIONAL CULTURAL EXPRESSIONS

According to the draft articles, verbal and written TCEs may take the form of epics, legends, poetry, riddles and other narratives. This section sets forth different examples of fables, fairy tales, and legends that some people may identify as verbal and written TCEs.

### 1. Fairy Tales and Fables

#### Background

Fairy tales are short stories that feature fantasy characters such as fairies, wizards, or goblins and take place in mythical time (“once upon time”) rather than historical time,<sup>145</sup> and fables are narratives that convey a moral lesson or useful truth.<sup>146</sup> Fables date back to ancient Greece,<sup>147</sup> have roots in Indian culture<sup>148</sup> and in the ancient and medieval Middle East,<sup>149</sup> and serve as important teaching tools across African culture.<sup>150</sup> They also have played an important role in the development of African-American culture.<sup>151</sup>

#### Examples:

**Grimm’s Fairy Tales:** Collected by Jacob and Wilhelm Grimm from oral tradition and first published in Germany in the early 19<sup>th</sup> century, *Grimm’s Fairy Tales* has been translated in countries around the world.<sup>152</sup> Some of the most well-known of the tales are “Hansel and Gretel,” “Cinderella,” and “Sleeping Beauty.”<sup>153</sup>

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<sup>140</sup> Laurence, Rebecca, BBC, *40 Years on from the Party Where Hip Hop Was Born*, available at <http://www.bbc.com/culture/story/20130809-the-party-where-hip-hop-was-born> (last visited Feb. 7, 2017).

<sup>141</sup> Shah, Vikas, Thought Economics, *The Role of Hip Hop in Culture*, available at <https://thoughteconomics.com/the-role-of-hip-hop-in-culture/> (last visited Feb. 7, 2017).

<sup>142</sup> Zydeco.org, *History*, available at [http://www.zydeco.org/index.php?option=com\\_content&task=view&id=17](http://www.zydeco.org/index.php?option=com_content&task=view&id=17) (last visited Feb. 7, 2017).

<sup>143</sup> Ancelet, Barry J., Folklife in Louisiana, *Cajun and Zydeco Music Traditions*, available at [http://www.louisianafolklife.org/LT/Articles\\_Essays/cajunzydeco.html](http://www.louisianafolklife.org/LT/Articles_Essays/cajunzydeco.html) (last visited Feb. 7, 2017).

<sup>144</sup> Zydeco.org, *History*, available at [http://www.zydeco.org/index.php?option=com\\_content&task=view&id=17](http://www.zydeco.org/index.php?option=com_content&task=view&id=17) (last visited Feb. 7, 2017).

<sup>145</sup> Merriam-Webster Dictionary (2017).

<sup>146</sup> *Id.*

<sup>147</sup> Classical Literature, *Ancient Greece – Aesop – Fables*, available at [http://www.ancient-literature.com/greece\\_aesop\\_fables.html](http://www.ancient-literature.com/greece_aesop_fables.html) (last visited Feb. 7, 2017).

<sup>148</sup> Olivelle, Patrick, Religions of South Asia, *Talking Animals: Explorations in an Indian Literary Genre*, available at [http://liberalarts.utexas.edu/\\_files/olivelle/2013a\\_Talking\\_Animals.pdf](http://liberalarts.utexas.edu/_files/olivelle/2013a_Talking_Animals.pdf) (last visited Feb. 7, 2017).

<sup>149</sup> Bodleian Libraries, University of Oxford, *Fables from East to West*, available at <http://www.bodleian.ox.ac.uk/whatson/whats-on/online/crossing-borders/fables> (last visited Feb. 3, 2017).

<sup>150</sup> Anike Foundation, *African Folktales*, available at <http://anikefoundation.org/index.php/african-folktales/> (last visited Feb. 7, 2017).

<sup>151</sup> Harris, Trudier, Freedom’s Story: Teaching African American Literature, *The Trickster in African American Literature*, available at <http://nationalhumanitiescenter.org/tserve/freedom/1865-1917/essays/trickster.htm> (last visited Feb. 7, 2017).

<sup>152</sup> Cavendish, Richard, HistoryToday, *Fairy Tales*, available at <http://www.historytoday.com/richard-cavendish/publication-grimm%E2%80%99s-fairy-tales> (last visited Feb. 7, 2017).

<sup>153</sup> *Id.*

**Aesop's Fables:** With origins in ancient Greece, Aesop's Fables have been transmitted and translated to countries around the world.<sup>154</sup> Notable examples are "The Goose that Laid the Golden Egg," "The Town Mouse and the Country Mouse," and "The Boy Who Cried Wolf."<sup>155</sup>

**One Thousand and One Nights (also known as the Arabian Nights):** With roots in ancient and medieval Middle East, these fables have been transmitted, translated, and adapted in countries around the world.<sup>156</sup> Notable examples are "The Seven Voyages of Sinbad the Sailor," "Ali Baba and the Forty Thieves," and "Aladdin."<sup>157</sup>

## 2. Legends

### Background

Unlike fairy tales and fables, legends are traditional narratives that are based on historical figures and actual events. As the legend develops, the legendary figure may be celebrated in tales, ballads and film, which typically embellish the historical facts.

### Examples:

**Santa Claus:** This legendary figure in Western Christian culture traces back to the historical bishop Saint Nicholas who was born in modern-day Turkey around 280 A.D. and became the patron saint of children.<sup>158</sup> The Santa Claus, St. Nicholas, and Father Christmas figures have been influenced by pagan and religious traditions in Europe, including British, Dutch and German folk culture.<sup>159</sup> The Sami people (also known as Lapps), who reside in far Northern Norway, Sweden, and Finland and engage in reindeer husbandry, indirectly contributed to the legend when they helped introduce reindeer herding in Alaska.<sup>160</sup> The herding tradition of the Sami people migrated to Alaska when a missionary introduced Sami herds and herders in an attempt to make up for diminishing resources due to over-fishing of whales.<sup>161</sup> Once the herds were introduced, an enterprising Alaskan business man sought to advertise reindeer meat as an alternative food source. He tied the legend of St. Nicholas to reindeer with the help of Macy's department store through appearances and parades featuring Santa in a reindeer-drawn sleigh.<sup>162</sup> Rudolph was added to the legend years later in a coloring book.<sup>163</sup> Today various Santa Claus figures are represented in countless literary, musical, visual, and cinematographic works.<sup>164</sup> Santa Claus images and costumes are pervasive in many family and community traditions, as well as modern popular and commercial culture around the world.<sup>165</sup>

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<sup>154</sup> Classical Literature, *Ancient Greece – Aesop – Fables*, available at [http://www.ancient-literature.com/greece\\_aesop\\_fables.html](http://www.ancient-literature.com/greece_aesop_fables.html) (last visited Feb. 7, 2017).

<sup>155</sup> *Id.*

<sup>156</sup> New World Encyclopedia, *The Book of One Thousand and One Nights*, available at [http://www.newworldencyclopedia.org/entry/The\\_Book\\_of\\_One\\_Thousand\\_and\\_One\\_Nights](http://www.newworldencyclopedia.org/entry/The_Book_of_One_Thousand_and_One_Nights) (last visited Feb. 7, 2017).

<sup>157</sup> *Id.*

<sup>158</sup> History.com, *The Legend of St. Nicholas*, available at <http://www.history.com/topics/christmas/santa-claus> (last visited Feb. 7, 2017).

<sup>159</sup> *Id.*

<sup>160</sup> Galloway, Laura, CNN.com, *How Santa Got His Reindeer*, available at <http://www.cnn.com/2012/12/22/opinion/galloway-reindeer/> (last visited Feb. 7, 2017).

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> History.com, *The Legend of St. Nicholas*, available at <http://www.history.com/topics/christmas/santa-claus> (last visited Feb. 7, 2017).

<sup>165</sup> *Id.*

**Bigfoot/Sasquatch:** Bigfoot, as he is usually known in the United States, Sasquatch, as he is known in Canada and the United States, or Yeti, as he is known in the Himalayas, is a legendary half-man, half-ape figure that walks on two legs, is significantly larger than men and gorillas, and is covered in hair.<sup>166</sup> Based on reports of encounters with a mysterious figure, the idea of this mythic creature likely derived from the enormous ape *Gigantopithecus blacki* that evidence demonstrates likely went extinct about 300,000 years ago.<sup>167</sup>

**American Legendary Figures:** There are numerous examples of legendary figures in American folk culture. **Daniel Boone** (the American pioneer, explorer, and woodsman, whose exploits on the American frontier in the late 18<sup>th</sup> century and early 19<sup>th</sup> century made him one of the first folk heroes in the United States);<sup>168</sup> **Johnny Appleseed** (the pioneer nurseryman who introduced apple trees in central and mid-western states in the United States in the late 18<sup>th</sup> and early 19<sup>th</sup> centuries),<sup>169</sup> and **Davy Crockett** (the frontiersman, soldier and politician who became known as the “King of the Wild Frontier” in the first part of the 19<sup>th</sup> century), are prominent figures.<sup>170</sup>

### III. CONCLUSION

This paper is intended to advance the work of the IGC by identifying examples found in the United States and in different cultures that may be regarded as TCEs. We invite other members to comment on the examples contained in this paper and to identify other examples for discussion.

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<sup>166</sup> American Museum of Natural History, *Beyond Bigfoot*, available at <http://www.amnh.org/exhibitions/mythic-creatures/land-creatures-of-the-earth/beyond-bigfoot/> (last visited Feb. 7, 2017).

<sup>167</sup> *Id.*

<sup>168</sup> Biography, *Daniel Boone Biography*, available at <http://www.biography.com/people/daniel-boone-9219543#synopsis> (last visited Feb. 7, 2017).

<sup>169</sup> Geiling, Natasha, Smithsonian.com, *The Real Johnny Appleseed Brought Apples—and Booze—to the American Frontier*, available at <http://www.smithsonianmag.com/arts-culture/real-johnny-appleseed-brought-applesand-booze-american-frontier-180953263/> (last visited Feb. 7, 2017).

<sup>170</sup> Biography, *Davy Crockett Biography*, available at <http://www.biography.com/people/daniel-boone-9219543#synopsis> (last visited Feb. 7, 2017).