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Examples of Misappropriation and Misuse

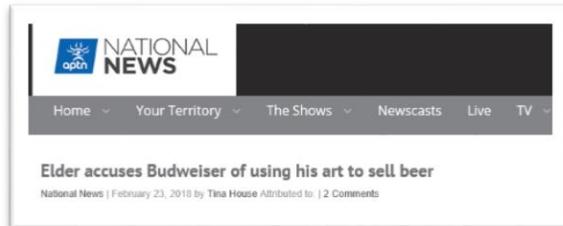
Examples for discussion purposes only

Unauthorized copying and use

Mass production and sale of offensive goods

Production and sale of inauthentic Indigenous arts and crafts

Online marketplace challenges



Policy Context

Current domestic and international policy context is increasingly favourable to the promotion and protection of Indigenous arts and cultural expressions

- Truth and Reconciliation Report
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- *Act Respecting Indigenous Languages* (Bill C-91)
- Parliamentary Review of the *Copyright Act*
- World Intellectual Property Organization (WIPO) committee on GRs (genetic resources), TK (traditional knowledge) and TCE (traditional cultural expressions) (IGC)

Developing a Toolkit and Methodology

Fair and Progressive Contracting Practices

e.g., The Canadian Museum for Human Rights and First Nations artist Carey Newman

Public Awareness and Education

e.g., IP Strategy

Promotion and Investment

e.g., Creating, Knowing and Sharing (Canada Council for the Arts)

Protocols

e.g., On-Screen Protocols and Pathways

Legislation

e.g., Indigenous Languages Act

Guidelines

e.g., Think Before You appropriate Guidelines

Licensing and Labeling Tools

e.g., Local Contexts

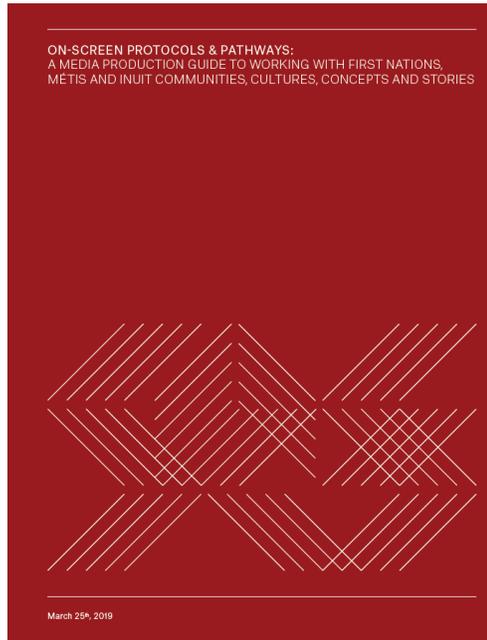
Authentication Tools

e.g., Igloo Tag

Toolkit and Methodology

Canadian Heritage will develop a toolkit and methodology focused on analyzing and documenting policy issues related to protecting and promoting Indigenous arts and cultural expressions

Protocols

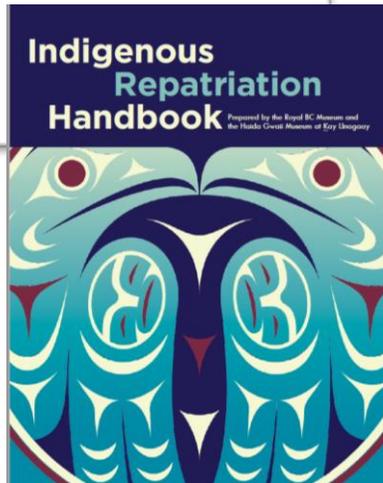
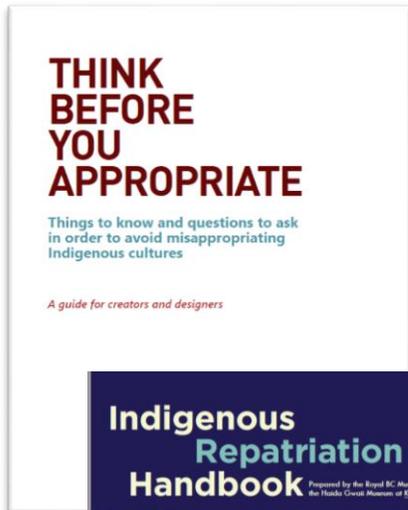


Protocols can help cultural industry stakeholders better understand how to appropriately and respectfully work with Indigenous cultures, including their stories, concepts, arts, and symbols

Example

- *On-Screen Protocols and Pathways: A Media Production Guide to Working with First Nations, Metis and Inuit Communities, Cultures, Concepts and Stories*

Guidelines



Guidelines can be targeted to a specific issue, promoting professional and public awareness, and supporting normative activity in specific areas

Examples

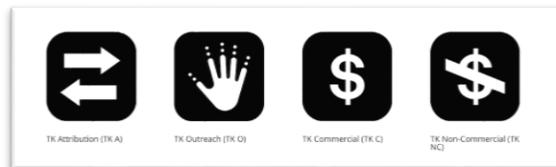
- Think Before You Appropriate: A Guide for Creators and Designers
- Royal BC Museum Indigenous Repatriation Handbook

Licensing and Labeling Tools

TK Labels from Local Contexts Project



TK Licenses from Local Contexts Project



Digital licensing and labeling tools can allow Indigenous communities to indicate the presence of traditional knowledge in arts and cultural expressions, and articulate protocols for accessing and using cultural content

Example

- Local Contexts Traditional Knowledge Licensing and Labeling

Authentication Tools

Inuit Art Foundation



Authentication tools such as physical tags can be added to arts and crafts to identify and verify that the work was created by an Indigenous artist

Examples

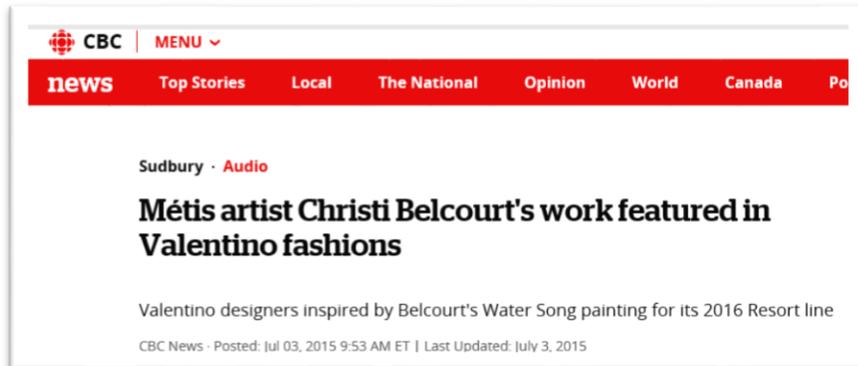
- Igloo Tag
- Authentic Indigenous Tags

Tier 1	Tier 2	Tier 3
		
<p>Tier 1 products are designed, produced and distributed by Indigenous artists or businesses.</p>	<p>Tier 2 products are designed, approved and distributed by Indigenous artists but may be produced by non-Indigenous people or businesses.</p>	<p>Tier 3 products bear the artwork of an Indigenous artist who has been fairly compensated for their work and has also approved of the final design. The producer and/or distributor need not be of Indigenous ancestry.</p>

Fair and Progressive Contracting



There are examples emerging of new and progressive practices that demonstrate fair and respectful consultations and progressive terms and conditions in contracts

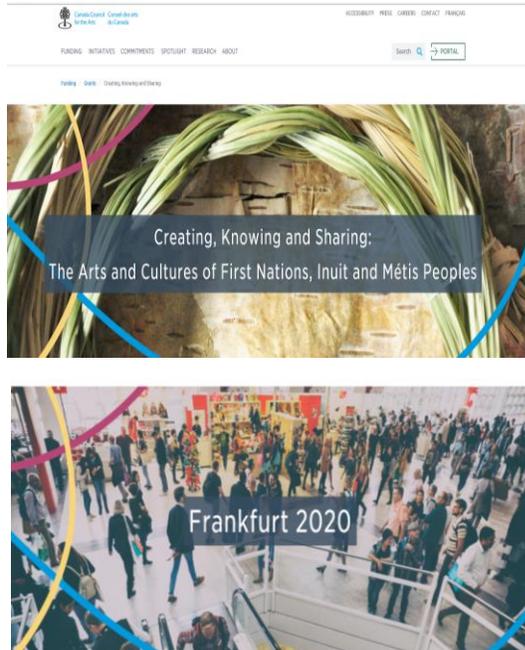


Examples

- The Canadian Museum for Human Rights and First Nations artist Carey Newman
- Metis artist Christi Belcourt and Italian fashion designer Valentino

Promotion and Investment

New programs can be created, or existing programs augmented to increase investment in and promotion of Indigenous arts and culture at home and abroad



Examples

- Creating, Knowing and Sharing - Canada Council for the Arts
- Frankfurt Book Fair – Canadian Heritage Creative Export Strategy
- Listen, Hear Our Voices - Library and Archives Canada digitization for Indigenous language and culture recordings

Public Awareness and Education

Indigenous Peoples and Intellectual Property

From: Innovation, Science and Economic Development Canada



The intersection of the intellectual property (IP) system and the protection of Indigenous knowledge and cultural expressions is receiving increasing attention within Indigenous communities in Canada, among government policy-makers and in international trade and policy fora. Indigenous peoples have a particular stake in this area as it relates to their broader interests in protecting their knowledge and culture and ensuring its appropriate use.

In spring 2018, the Minister of Innovation, Science and Economic Development announced the [Intellectual Property Strategy](#) as part of Canada's Innovation and Skills Plan. Building on the Government of Canada's commitments to implement the [United Nations Declaration on the Rights of Indigenous Peoples](#) and to recognize Indigenous rights, the Strategy includes initiatives aimed at making Canada's IP system more inclusive and reflective of the needs and interests of Indigenous peoples.

Learn more about IP and how it relates to Indigenous knowledge and cultural expressions in our [Introduction to Intellectual Property Rights and the Protection of Indigenous Knowledge and Cultural Expressions in Canada](#). This information is also available in [Inuktitut PDF - 329 KB](#), [Plain Crow PDF - 370 KB](#), [Gibwee PDF - 332 KB](#) and will soon be available in Michif and Miikmaq.

Public awareness campaigns and efforts can be an efficient and effective way of deterring misuse and misappropriation by raising awareness of the issues and educating creators on their rights

Examples

- IP Strategy and IP literacy commitment

Legislation



Legislative solutions can be developed at a national and provincial/territorial level either through new legislation or amendment of existing legislation

Examples

- *An Act Respecting Indigenous Languages (Bill C-91)*

Finding the Right Solutions

While issues of protecting and promoting Indigenous arts and cultural expressions are often raised in the context of IP, they are often complex, intertwining intellectual property concerns, marketplace issues, and moral and cultural questions

- To be effective and efficient, solutions must be based on an understanding of the challenges that communities, creators, and artists are facing
- Solutions need to draw from a range of tools and best practices being developed locally, nationally, and internationally (e.g., the tool kit of legislation, protocols, promotion and investment, etc.)
- The challenges and the opportunities extend beyond Canadian borders, and can involve international considerations (e.g., trade relations, international obligations, importing and exporting considerations)