

# INDIGENOUS RIGHTS AND RELATIONS IN THE CULTURAL INDUSTRIES

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# Outline

- Traditional cultural expressions and copyright;
- First Nations arts Protocols;
- Indigenous fashion collaborations;
- Qantas Emily Kame Kngwarreye Dreamliner case study.;
- IP Australia Indigenous knowledge program.

# Traditional cultural expressions in Australia

## 1. TCEs include:

- language, stories, art, designs, symbols, songs, music, dance, films, know how, ancestral remains, sacred sites;
- Copyright can protect some TCEs;
- Copyright protects the original artistic, literary, musical, dramatic works, with identifiable authors, over certain timeframe and expressed in material form;
- Copyright does not protect styles, symbols or oral stories and songs, communal owned works



# FIRST NATIONS ART PROTOCOLS

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# Protocols for using First Nations Cultural and Intellectual Property in the Arts

Respect

Self-determination

Communication, consultation and consent

Interpretation

Cultural integrity and authenticity

Secrecy and confidentiality

Attribution

Benefit sharing

Continuing cultures

Recognition and protection





Untitled, *giran*  
2018 © Jonathan  
Jones

# Indigenous fashion collaborations

- Indigenous fashion- ethical collaborations with art centres, artists and designers;
- Use of copyright in ethical licensing of artworks and textiles;
- Australian Fashion week- Indigenous designers mentored and showcased;
- Gorman x Mangkaja art centre;
- Kip and Co x Babbarra Womens centre;
- Otis Carey x Billabong;
- Vogue Australia



**MANGKA**  
x gorma

Photographed by Charles Fréger  
Location: Fitzroy Crossing, WA





# Qantas Emily Kame Kngwarreye Dreamliner

- In 2016-17, Qantas worked with Copyright Agency to licence the artwork, Yam Dreaming from the Emily Kngwarreye Estate;
- The Kngwarreye family were consulted on the cultural significance of the artwork;
- Balarinji designed the work to fit onto the Dreamliner plane;
- Licence agreement included royalties, term of licence, colours to match paint on plane, how the artwork was to be displayed, merchandise;
- Royalties paid to the Kngwarreye estate;
- Dreamliner plane flown from Seattle to Alice Springs to meet the Kngwarreye family



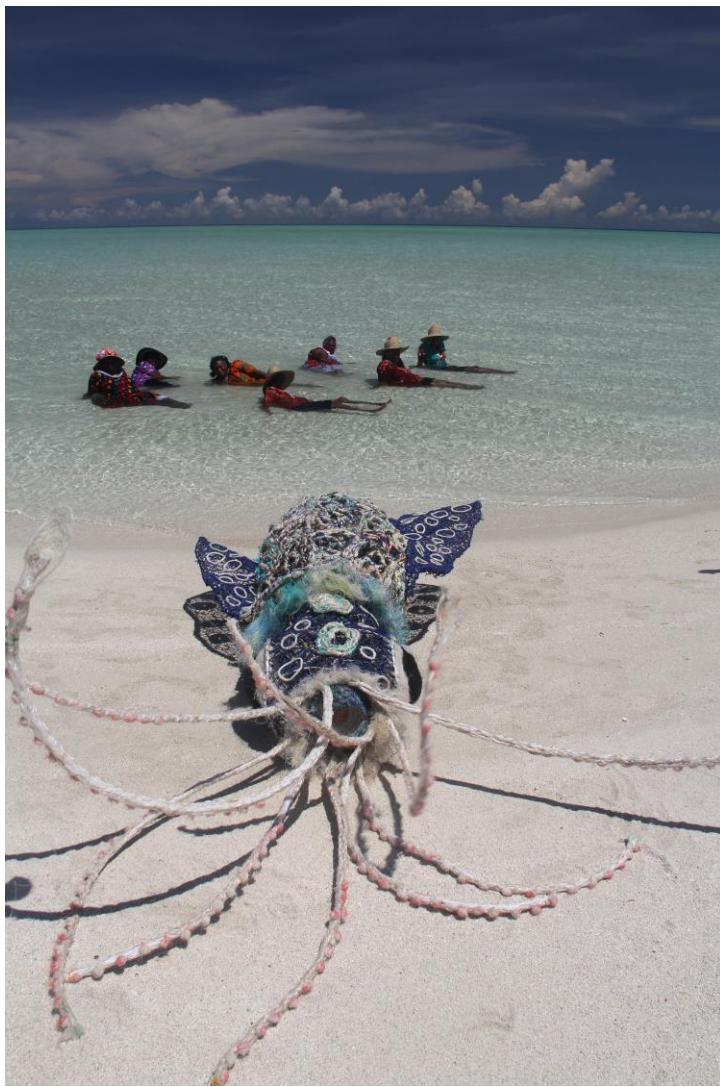
# IP Australia Indigenous knowledge program

- Indigenous expert reference panel established in 2021;
- Non-Indigenous people should not be trading off culture;
- The Expert panel should consider applications to understand the intent behind use of IK and whether use is with consent;
- If the Panel finds a use of IK is inappropriate or harmful the Registrar or their delegate should act on this decision;
- Examiners identify applications that need Panel consideration

# Key points

- Copyright can protect some tangible, contemporary TCEs;
- Where there are gaps in protection, look to protocols and contracts;
- Protocols and Guidelines are a good way to help raise awareness against misuse and misappropriation of TCEs and TK;
- Licensing of art and designs can allow Indigenous rights to be implemented into the contract.

# Thank you



Erub Ladies with their giant squid 2019