Ethical Mapping of Traditional Knowledge Through Template Licences

Dr. Teresa Scassa, University of Ottawa
Dr. Fraser Taylor, Carleton University
Dr. Tracey P. Lauriault, Carleton University
Nate J. Engler, Carleton University
David Fewer, University of Ottawa

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The Project: Mapping the Legal and Policy Boundaries of Digital Cartography
TK and Digital Cartography

• Strong relationship of many indigenous peoples to land or territory means that there is a great deal of TK with a geographical dimension

• Many kinds of TK can be expressed through cybergcartography
  – Changes in climate and environment (current; historic)
  – Relationship of people with the land
  – Toponyms (place names)
  – Wayfinding (trails and routes)
Traditional Knowledge (TK)

- Traditional knowledge (TK) is:
  - Part of a system of knowledge
  - Produced through a process of interaction between members of a community
  - No single “author”
  - Frequently passed down through oral traditions
  - Not static; nor is it necessarily old
  - Very diverse (cultural knowledge, knowledge of land, plants, animals, medicine, natural phenomena)
  - Expressed in a broad range of cultural forms
Inuit Sea Ice Use and Occupancy Project (ISIUOP): Investigates the importance, use and knowledge of sea ice from the perspective of Northern communities and Inuit experts (http://sikuatlas.ca/index.html)
Digitizing TK
Legal Layer

- Law forms an often invisible normative layer
  - Shapes collaborative research projects
  - Shapes assumptions about downstream uses
- May be problematic when the collaboration involves participants from different cultural communities and where dissemination is broad
- Law shapes assumptions about the normative boundaries of peoples’ relationships with each other and with things
- Laws and norms of dominant culture tend to prevail if not specifically addressed
TK v. IP protection

• Intellectual property (patents, copyrights, trademarks) is protected as a matter of law in most countries
  – Recognized as a form of property right
  – Can be licensed, transferred
  – Rights can be enforced in court

• International treaties around TK urge non-specific and non-mandatory protection for TK
  – Most regimes focus on protection from undue exploitation
  – No property rights
TK v IP

• Intellectual property fits well with western systems of knowledge creation and exploitation
• IP norms tend to be at least partially internalized: we recognize “works” in which rights exist; we are able to identify authors
• IP rights are not suited to recognizing or protecting TK
An example of conflicting normative assumptions

• Facts/information cannot be protected under copyright law
• A video of an elder recounting TK is a “cinematographic work” that is protected by copyright
• Copyright rests by default with the interviewer/maker of the video
• The knowledge content is “public domain” material
Licensing

• Concept is similar to Creative Commons (CC) model:
  – Suite of flexible template licences
  – Available in legal text, human readable format, and intuitive symbols
  – Adaptable to multiple languages
  – Accessible, easy to use
Licensing

• But different from CC in that:
  – Licenses will contain both legal (IP) and normative (TK) layer
  – Restrictions may be different from CC
  – May be in menu format rather than fixed templates
  – Use of licences in relation to TK will require more explicit identification of TK incorporated into the work
Examples of Possible Restrictions

• Give back/reciprocity
• Community consent
• Purpose-based consent
• Non-commercial restrictions
• Attribution/Identification (individual or community based)
• No sharing/personal use only
• No publication
• Withdrawal of consent
Challenges

- **Identification** – how to identify and describe TK
- **Propagation** – how will downstream users be bound by normative obligations (as opposed to property-based)
- **Duration** – IP rights have a fixed term, but there is no defined term of protection for TK
- **Understandability** – challenges of translation of legal and normative understandings across cultures
- **Usability** – will licences be accessible and flexible enough to be useful tools
Other resources

- Mukurtu CMS: http://www.mukurtu.org/
- Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic (CIPPIC): https://gcrc.carleton.ca/confluence/download/attachments/9142314/2+-+Towards+a+TK+License+-+14+Nov+12+-+DAF.pdf