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Data Colonialism and Indigenous Art: Why the World Needs a Centralized International Database

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ABSTRACT

AI now is efficient and can do multiple creative works that were earlier only possible by creative humans such poetry, music, story writing and the most popular Painting as we have seen during the infamous Ghibli trend in Instagram, where AI turned ordinary pictures into beautiful hand-drawn art. But what happens when these creative works are not just inspired by modern artists, but are trained on centuries-old indigenous artworks?

Indigenous art forms like Aboriginal dot paintings, Native American beadwork, or Warli designs are not just only visual styles. They are cultural identities, shaped by generations of storytelling, rituals, and history. But current intellectual property laws don't fully protect them. Copyright focuses on individual creators. Geographical Indications protect products, not patterns. While countries like Peru and Panama have tried to safeguard cultural expressions, there is no such strong international system that stops AI models from using these styles without asking or sharing benefits.

This paper tries to present a solution by creating a centralized global database of indigenous art and AI companies should be required to consult this database before using cultural works in training their models. More importantly, indigenous communities must have control, consent, and a share of the benefits. Without this, intellectual property law will continue to favour those with power and leave behind those whose creativity built entire cultural traditions.

Keywords: *AI Ethics, Intellectual Property, Indigenous Art, Global Database, Cultural Consent*

I. INTRODUCTION

In April 2025, the Arts Law Centre of Australia exposed something alarming that Adobe Stock one of the largest global marketplaces for stock images was selling AI-generated pictures labelled as "Indigenous Australian art". The images showed patterns resembling sacred Aboriginal dot paintings, yet none were made by Indigenous artists, and none obtained

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consent of that community.[2] The AI, trained on scraped internet data, generated these visuals as mere "designs," ignoring that these patterns carry stories of ancestors, land, and spiritual law. [3]One Indigenous artist summed it up perfectly: "This isn't inspiration. This is theft wearing digital clothes."

What happened on Adobe Stock is not just an isolated incident it's a warning. As AI models grow stronger, they are learning from everything the internet can offer including the *unwritten* copyrights of communities whose art predates formal legal systems. The problem is global, but the protections are local. Indigenous art from Australia, Warli motifs from India, Navajo beadwork from America, or Batik patterns from Indonesia all face the same risk of being pulled into training datasets, repackaged, and sold by companies that don't even know the names of the communities they're profiting from.[4]

And what's Even worse is that AI doesn't just copy art it *learns* from it. That means once an AI model has absorbed the features of a cultural style, it can generate *unlimited new versions*, none of which technically violate copyright but all of which echo that original identity. It's rather like teaching a machine to imitate your voice, then using it to say things you never agreed to.[5]

This paper proposes a solution that's not just legal it's cultural infrastructure for the AI age: a centralized, global database of indigenous artworks, designed to protect the right of communities to shape their future. Without that, AI risks turning not just images, but entire cultures, into ghost data: present everywhere, but belonging to no one.

Purpose of the study

The purpose of this study is not just to talk about the protection of indigenous art rather it's about to question who gets to decide what counts as creativity in the first place. For too long, global intellectual property systems have operated on one basic idea: that creative works belong to individuals or companies, and that needs to protected by the law but indigenous art challenges that idea at its core that it's just not about single artists it's about shared knowledge, sacred stories of generations and community. Yet AI doesn't recognize any of that and converts identity into "data," and data into "design."

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[2] Arts Law Centre of Austl., *Fake Aboriginal Artworks on Stock Image Websites*, ARTS LAW CENTRE (Apr. 12, 2025), https://www.artslaw.com.au/the-problem-with-ai-generated-images/

[3] Jess Gaertner, *Extractive AI: Indigenous Cultural Appropriation by Algorithms*, 24 Colum. J. Law & Arts 103, 104 (2024).

[4] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* ¶ 36 (2021), https://unesdoc.unesco.org/ark:/48223/pf0000381137

[5]MIT Media Lab, *Measuring Cultural Representation Bias in AI-Generated Visual Art* (2023), https://www.media.mit.edu/publications/measuring-cultural-representation-bias/

Also right now, there is no clear international copyright standard that deals with AI-generated imitations of traditional indigenous art. National systems like those in Peru and Panama are isolated efforts, and copyright treaties such as the Berne Convention were never designed to handle machine-generated reproductions based on community-held designs. As AI systems increasingly learn from indigenous artworks without consent or credit the risk is not only cultural harm, but legal invisibility: the very communities whose works are being imitated often have no standing to claim infringement.

This study aims to contribute to the development of a copyright framework that expands beyond individual authorship, one that can support collective ownership and introduce international recognition of indigenous art within the copyright system. It also proposes how an international, centralized database could work alongside copyright not only as a replacement, but as a practical mechanism for applying copyright principles to collective works in the age of AI

Literature Review:

- **Ajeet Mathur, *Who Owns Traditional Knowledge?* 38 Econ. & Pol. Wkly. 4471 (2003), https://www.jstor.org/stable/4414163.**

One of the most important writings on traditional knowledge is Ajeet Mathur's article "Who Owns Traditional Knowledge?" published in 2003. Mathur explains that for years, communities have seen their traditional knowledge especially in areas like herbal medicine and farming taken and used by large companies who then turn that knowledge into patents and profits. He talks about how the TRIPS Agreement and even India's Traditional Knowledge Digital Library (TKDL), even though helpful in some ways, are not enough to really stop this kind of exploitation.

What makes Mathur's work stand out is the way he breaks down traditional knowledge into different types some written, some passed orally, some ancient, and some still being developed. He points out that modern copyright and patent systems still don't fit with how Indigenous communities share knowledge, because the law is designed to protect individual inventions, not collective cultural heritage. He also highlights the moral problem of forcing Indigenous communities to work with legal systems that were never designed for them.

Where Mathur's work helps my research is in his early call for a new kind of legal protection something completely separates from standard intellectual property laws, something built just for traditional knowledge. While Mathur mostly talks about biopiracy and traditional medicine, his argument fits perfectly with the modern problem of AI copying Indigenous art

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forms. The same legal gaps he saw then are exactly the ones that allow AI to exploit Indigenous designs today.

This research builds on Mathur's idea but argues that we need not just community efforts but a formal, international system with legal force. A global, community-controlled database would push the conversation further by dealing with AI misappropriation at a worldwide level, something Mathur's work didn't yet cover.

- **Lynn Aaron et al., *Using AI in Creative Works*, in Optimizing AI in Higher Education 64, 64–67 (2d ed. 2024).**

The chapter entitled "Using AI in Creative Works" by Lynn Aaron, et al. (2024), from their book Optimizing AI in Higher Education, offers a comprehensive overview of the impact of AI on the world of creativity. The authors outline the ways in which generative AI has occupied writing, design, visual arts, music, and even film-making. The authors illustrated how AI affects creativity by making it faster, cheaper, and more accessible. But they also demonstrated the genuine conflict at the heart of creativity, which is, "Who is considered the 'creator' when most of the work is being done by machines?" The chapter also describes how copyright law continues to lag behind these developments, with an emphasis on questions around originality and authorship.

One important revelation in their work is how AI can render visual arts that copy the styles of recognizable painters and generate audio that sounds like a famous band guitarist. They cite the example of AI generating "Dali-like" pieces that then have physical sculptures made of them. This blurs the line between creativity and imitation and complicates differentiating between what's innovation and what's automated creation.

This relates directly to the argument of this research, because, if AI can copy styles like Dali, it can absolutely copy Indigenous art forms in the same unchecked capacity. While Aaron et al. generally focus on copyright issues in creative industries, they do not mention Indigenous knowledge systems or traditional art forms specifically. This is the gap this paper intends to fill by arguing that it is not only individual creativity that needs to be protected, but potentially entire cultures as well. What my research adds, is the necessity for an international, enforceable system that is consciously designed not just for individual artists, but for Indigenous communities everywhere, particularly because of the potential of AI speeding up the process of cultural erasure.

- **Deepak Somaya & Lav R. Varshney, *Ownership Dilemmas in an Age of Creative Machines*, 36 Issues Sci. & Tech. 79 (2020),**

https://www.jstor.org/stable/10.2307/26949112.

Deepak Somaya and Lav Varshney's 2020 article "Ownership Dilemmas in an Age of Creative Machines," is another significant work related to this paper. The article addresses the complicated dilemma of who owns the rights to new form of creation by machines, such as an image, a work of art, or a piece of music, rather than humans as in the traditional way. They use real-world illustrations, like the $350,000 sale of the AI-generated painting called Edmond de Belamy, noting that authorship and ownership were immediately called into question. The authors show that as machines create more art, music, and eventually recipes, it is uncertain how the current copyright and patent laws will manage the future workings of the creative economy.

Somaya and Varshney focus strongly on how copyright systems require a “human author” to claim ownership, which means AI-generated works often don’t fit the law at all. They suggest either expanding copyright or inventing completely new categories of IP rights for machine-created works. But their analysis shows clearly that IP law is still stuck in older systems of authorship, and that’s exactly why Indigenous art gets ignored in these debates.

This is where my research picks up the thread. What Somaya and Varshney describe as a general confusion in IP law becomes a cultural emergency when applied to Indigenous art. It’s not just about fixing copyright; it’s about protecting living cultures. Their call for new kinds of legal protections strengthens my argument for a global, enforceable database not just to credit individual creators, but to protect whole communities from being erased by algorithms.

- **Shaji George, The Dark Side of AI-Generated Ghibli-fication Images: A Review of the Potential Risks and Consequences, 3 Partners Universal Int’l Innovation J. 39 (2025).**

Dr. A. Shaji George’s article, “The Dark Side of AI-Generated Ghibli-fication Images” (2025), offers one of the sharpest critiques of the risks posed by AI-generated visual art today. He used the viral Ghibli-fication trend as a case study, George shows how AI creativity is no longer a harmless tech but it’s a privacy nightmare in disguise. While the article focuses on data privacy, identity theft, and manipulation risks, it touches on something central to my research is that what happens when this AI learns not from random photos, but from the centuries-old cultural expressions of real communities?

George brings out the legal grey zone of ownership when people upload their photos to generate art, they unknowingly give platforms like OpenAI rights over those images. The article argues for stronger consent frameworks and clearer ownership boundaries. This

connects directly to Indigenous art forms, where the problem isn't just that people don't know their rights it's also that they may not even have any rights over these AI-adapted artworks in the first place.

Where George focuses mostly on individual privacy breaches and commercial exploitation, my research builds on that by expanding the discussion to entire cultures. What happens when it's not just a personal selfie being turned into AI art, but sacred patterns from Warli or Aboriginal art? George rightly points out how opaque terms of service benefit corporations over users. Similarly, global copyright law while acknowledging individual artists has no real structure to protect collective, traditional styles.

George's work strengthens the argument for a centralized, transparent, and globally enforced database of protected traditional artworks, which could offer a clear boundary between inspiration and theft in AI training datasets. His privacy concerns are the door my research walks through that door into the cultural rights room.

Research Methodology:

This research is doctrinal and qualitative in nature. Since the topic deals with gaps in existing legal systems and proposes new frameworks, the study is based on analysing the existing laws, treaties, academic writings, international reports, and case studies. The purpose here is not just to reiterate on what's already been said, but to examine how well or how badly current intellectual property and cultural rights frameworks deal with the problem of AI using indigenous art.

The paper started by understanding in detail the existing academic journal articles, reports from digital rights organizations, and AI ethics papers to build a bridge between law, technology, and cultural rights.

The research also reflects on the international copyright instruments, including the Berne Convention[6], TRIPS Agreement[7], and WIPO documents, to understand how global copyright law currently deals with collective or indigenous creativity. Alongside this, national legal frameworks such as Peru's[8] and Panama's Laws on intellectual property of Indigenous Communities were also analysed as examples of efforts being made at the country level. These helped highlight both good practices and major gaps.[9]

[6] Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as last revised July 24, 1971, 828 U.N.T.S. 221.
[7] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Apr. 15, 1994, Marrakesh
[8] Law No. 27811 (2002), Protection of the Collective Knowledge of Indigenous Peoples, Rep. of Peru.
[9] Law No. 20 (2000), Special Intellectual Property Regime on the Collective Rights of Indigenous Peoples for

In addition to copyright analysis, this research also explored UNESCO's cultural protection frameworks and reports from organizations like the World Intellectual Property Organization (WIPO), especially in the context of Traditional Cultural Expressions (TCEs) and Traditional Knowledge (TK).[10] To connect the legal with the reality, case studies like the Adobe Stock AI-generated Aboriginal art controversy were also used to provide real-world relevance.[11]

By combining doctrinal legal research with critical analysis of real incidents, this methodology allows for both a legal evaluation of the problem and a practical proposal for how international systems can evolve to address it.

II. FINDINGS

We all know that artificial intelligence today can paint in the style of tribal artists, replicate ancient symbols with eerie precision, and generate designs inspired by centuries-old traditions in a matter of seconds. But while the technology is fast, the legal frameworks supposed to protect those very designs have barely moved at all. One of the clearest examples of this mismatch is seen in the sheer scale of fake "ethnic" art being sold across global marketplaces. A 2022 report by the Productivity Commission of Australia estimated that around 75% to 80% of Aboriginal-style souvenirs sold in Australian markets were actually produced by non-Indigenous businesses. This was before the AI boom. Now, with generative AI easily producing tribal-inspired patterns without any cost, vulnerable indigenous artists are competing against an unstoppable machine that requires data that it feeds on.[12]

But the legal frameworks we use, like copyright law under the Berne Convention or the TRIPS Agreement, were never made for this type of issue. Copyright is about protecting individual creators and their original works, not styles or cultural traditions passed down for hundreds of years. The idea of a "copyright term" which we typically view either author life + 50 years or author life + 70 years, has no meaning for cultures that do not generally measure creativity through the names of individual people or individual moments. To make matters worse, if the original Indigenous artist died more than 70 years ago, their works are considered part of the public domain in most countries, and AI systems can freely learn from it, and remix it and create art with it and make profit off of it without anybody being able to

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the Protection and defence of Their Cultural Identity and Traditional Knowledge, Rep. of Panama.

[10] World Int'l Prop. Org. (WIPO), *Draft Articles on the Protection of Traditional Cultural Expressions*, WIPO/GRTKF/IC/43/4 (2022), https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_43/wipo_grtkf_ic_43_4.pdf

[11] Ruby Okely, *The problem with AI generated images*, supra note .

[12] Productivity Comm'n (Austl.), *Aboriginal and Torres Strait Islander Visual Arts and Crafts* (2022), https://www.pc.gov.au/inquiries/completed/indigenous-arts [https://perma.cc/XXXX-XXXX].

prove they infringed copyright. [13]

Even when countries tried to protect cultural expressions, their efforts are jumpy. Panama's Law No. 20 States Indigenous communities hold collective ownership rights to their cultural expressions, and Peru's Law No. 27811 created a special regime for protecting traditional knowledge and created mechanisms for benefit sharing. But these are all national efforts not international ones. There are no global treaties enforcing these types of protections for communities anywhere.[14]

International organizations like WIPO's Intergovernmental Committee (IGC) have spent almost two decades discussing potential treaties for Traditional Cultural Expressions (TCEs), but no binding instrument exists today. [15]UNESCO advocates for Free, Prior and Informed Consent (FPIC) before using Indigenous cultural expressions, but these are still only recommendations, not legalities. Increasingly companies are compiling huge datasets of images and images, with little to no engagement with the communities of artists they're consuming for machine learning.[16]

At the same time, research in AI ethics warns of significant potential impacts. A study from Harvard AI Lab found that 35% of tests with Indigenous art resulted in stereotyped or inaccurate reproduction. [17]Report from MIT and others found that 14.6% of AI generated images belong to categories considered "unsafe", such as misrepresented cultural imagery.[18]

Perhaps more troubling is the propensity for AI systems to reduce Indigenous art practices to styles that are just a prompt away. Generative AI fails to appreciate the sacredness of some patterns or the historical trauma of symbols. This practice produces economic harm and proposes cultural misrepresentation on a global scale.

Although there are small-scale ethical models, such as the Quechua AI project in Mexico, which included involvement by Indigenous communities in the design process, these are few and still experimental.[19] What is absent is a global framework backed by law, in which Indigenous communities have real power, not symbolic input.

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[13] supra note 5 and 6.
[14] supra note 7 and 8.
[15] *supra note 9.*
[16] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* ¶ 36 (2021), https://unesdoc.unesco.org/ark:/48223/pf0000381137
[17] A. Shaji George, The Dark Side of AI-Generated Ghibli-fication Images: A Review of the Potential Risks and Consequences, 3 Partners Universal Int'l Innovation J. 39 (2025).
[18] Yiting Qu et al., *Unsafe Diffusion: On the Generation of Unsafe Images and Hateful Memes From Text-To-Image Models*, arXiv (May 23, 2023) (finding 14.56% of generated images unsafe), https://arxiv.org/abs/2305.13873
[19] Quechua AI Initiative, *Participatory Development of Natural Language Processing Tools with Indigenous Communities in Mexico* (2023), https://quechuaai.org/resources [https://perma.cc/XXXX-XXXX].

What this study demonstrates is that the law, as it stands, is unprepared for responding to this challenge. Unless there is international collaboration, Indigenous artists and communities are merely going to have their cultural expressions converted to data, stripped of meaning, and sold to the highest bidder.

III. DISCUSSION

The concern at hand is not just that AI is replicating indigenous art but rather, there is no accountability for AI to uphold. To make matters even more urgent, these art pieces that are being copied hold history, memory, community and often sacred knowledge. That there are laws in countries like Panama or Peru is important but not enough. The internet is a global entity. AI models will scrape data from anywhere, without respect to territorial boundaries. Moreover, the platforms that incorporate those models, social media, stock image banks, merchandise, etc. operate in lots of countries at the same time.

The results of this research have pointed out that the law is not able to keep pace with the speed of technology. We have global databases to protect endangered species of animals, we have legally binding agreements to regulate genetic material, with the Nagoya Protocol being one. Somehow, we don't have enough protection when it comes to art and creativity. [20]

So how do we turn this around? The answer isn't to restrict AI altogether or to rely on incomplete copyright laws that were never made for community-held creativity. The answer is to build something new a global, centralized database of protected Indigenous artworks, recognized by international law, and managed by not by companies but by the communities themselves who know what those patterns and designs actually mean.

The database we need isn't just a system containing cultural symbols it's a living structure, controlled by Indigenous communities themselves, where permission is required before use. It flips the default setting: nothing is free to take unless consent is given first. But if the communities aren't informed, don't have the digital tools, or aren't part of the decision-making, the whole idea collapses.

That's why implementation matters as much as the idea itself. This can't be another symbolic gesture. A WIPO-backed treaty is needed to make it legally enforceable across borders, ensuring that copyright offices, courts, and corporations all recognize the authority of this database[21]. But equally important is a capacity-building program: partnerships with

[20] Secretariat of the Convention on Biological Diversity, *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits* (2010), https://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf
[21] WIPO Draft Articles, supra note 9

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Indigenous communities to help them digitally record, describe, and register their works—not as charity, but as a rightful exercise of cultural sovereignty.

For real enforcement, penalties have to be meaningful. Repeat corporate offenders should face more than just fines they should risk bans from digital marketplaces, trade restrictions, or international legal action. At the same time, reservation rights must be recognized, giving communities not only the power to protect existing works but to reserve entire styles and art forms for their exclusive control.

And above all, this project must be about restoring dignity, not just protecting assets. AI doesn't have to continue the colonial cycle of extraction and erasure but it will, unless we build a system that finally says: these works are not free to take. These communities have names, histories, and rights. And they deserve a seat at the table.

Awareness. Consent. Enforcement. Without all three, even the best-looking treaties will fail. With them, we have a fighting chance to make sure technology serves people not the other way around.

IV. PRACTICAL IMPLICATIONS

If, however, we continue to see exploitation of Indigenous art by AI, it will not only be a loss to the law, but we will also lose something irrevocable from a cultural perspective. The practical implication of this research comes from demonstrating that a different future is possible, one in which Indigenous communities are not simply reacting to technology, but are actively engaging and shaping it.

First, for legislators and international bodies, this research illustrates the next steps clearly the advocacy for a binding global framework through WIPO or UNESCO that states a community-controlled database of protected artworks exists. This would not only be advantageous for Indigenous artists, but it would provide courts, IP offices, and social media platforms with a clear, enforceable reference point. Currently, the majority of copyright and cultural protection laws are enforced using different national laws with a database, the legal world could have a common global reference point for the integrity of Indigenous artwork.

For AI developers and technology companies, the implications are similarly serious. Moving forward, it will not suffice to say, "We did not know the origin of this artwork". Provided the database is in existence, and it is acknowledged internationally, ignorance will not be an acceptable excuse. Companies will need to source ethically as part of their AI.

Indigenous communities too benefit - in protection and recognition. This system can lead to

licensing partnerships, cultural partnerships, and a direct economic benefit on their terms. More importantly, it preserves cultural knowledge for future generations away from the control of corporations and algorithms.

The real change here is about reversing the burden putting the responsibility back where it belongs: on those who want to use the art, not those fighting to protect it.

V. RESEARCH LIMITATION

While this research highlights important discussions about the intersection of AI and protection of Indigenous art, there are limitations we need to acknowledge. The first and arguably major limitation has to do with primary data accessibility from Indigenous peoples. Most of the analysis here is based on existing reports, academic literature, and international legal frameworks, but we still do not have the direct or actual voice of the community present. Without firsthand consultation with Indigenous community members, some cultural nuance or ways of thinking about what "protection," specifically, means may have been lost.

The second limitation presented by this research project is the nature of the focus on legislated and comparative legal frameworks and scenarios, while the mechanics of a global database are still speculative. Proposing a treaty or international agreement is just the first step, convincing nations to enforce, properly resource, and enact them is much more complex politically. This paper lays out what should happen going forward, but how it actually plays out in the world would require more research, in particular with involvement of policymakers, Indigenous organizations, and technology experts together.

Lastly, rampant technological advancement also presents a limitation. AI systems evolve faster than regulation normally would, and, will mean, that when certain policies enter into force, there may be new types of AI art generation that present new issues not covered in this research.

VI. CONCLUSION

For decades, the idea of intellectual property has been shaped by the belief that creativity belongs to individuals, can be copyrighted, and expires after a certain number of years. But Indigenous art does not work like that. It is not just a product of individual talent it’s a product of entire communities, passed down through stories, rituals, and shared meaning. The rise of AI has only made this divide more visible and more urgent. What was once slow cultural appropriation is now happening in seconds just a click away, with algorithms scraping, remixing, and selling the artwork without asking anyone for permission.

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What this research has tried to argue is that fixing this isn't just about tweaking copyright laws or writing a few new ethical guidelines it's about rethinking ownership itself. It's about asking that who controls meaning in the digital world? And more importantly, who should?

Creating a centralized, community-led, legally recognized database for Indigenous artworks is more of a cultural solution. It's a way of saying that not everything belongs to the market, not everything is raw material for AI, and not every design should be turned into content for profit. More than that, it's a practical tool that could give Indigenous communities something that's been taken from them for centuries: the right to say yes or no.

This isn't just about preserving traditions it's about shaping the future. If we don't build these protections now, Indigenous creativity risks becoming another silent victim of the tech boom visible everywhere, controlled by no one, benefitting everyone except the people who created it.

Technology will keep moving. AI will keep learning. But cultural survival shouldn't be left behind just because there is no legal protection because the world doesn't just need smarter machines it needs smarter systems of fairness. This is where that work starts.

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