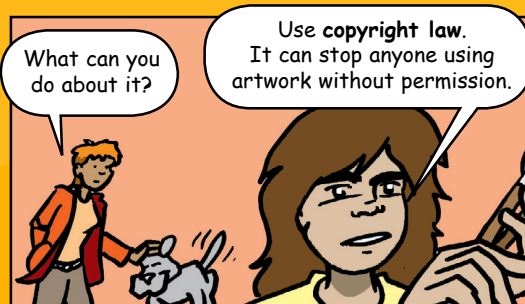
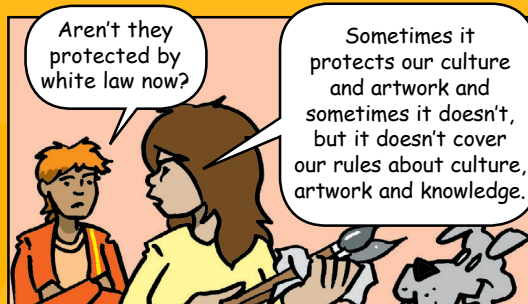
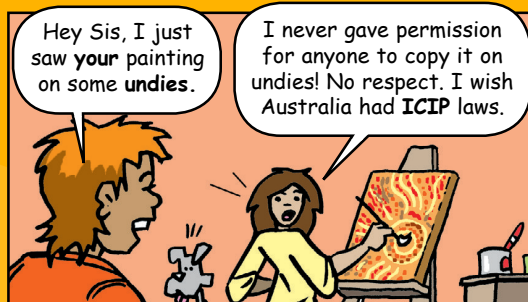


ARTISTS in the BLACK

INDIGENOUS CULTURAL & INTELLECTUAL PROPERTY (ICIP)



ICIP means Indigenous Cultural and Intellectual Property or Cultural Heritage. It could include:

- Rights to ensure that traditional laws & customary obligations are respected;
- Rights to be paid for use of your ICIP, particularly if it is used without your permission; and
- Rights to full acknowledgement of artists and the community connected with the artwork.

INDIGENOUS CULTURAL & INTELLECTUAL PROPERTY (ICIP)

ICIP is a short way of saying Australian “Indigenous Cultural and Intellectual Property”. Sometimes the words “Cultural Heritage” are used to mean the same thing.

1. What is ICIP?

Different laws all over the world protect some of the things that people produce as a result of their intellectual effort. The things protected include artworks and designs. These laws are generally referred to as “intellectual property” laws.

ICIP refers to all of the rights that Indigenous people want to have (and want to control) to protect their arts and culture. The idea of ICIP is based on the principle of self-determination. ICIP is said to include these rights:

- Right to ensure that traditional laws and customary obligations are respected, particularly when money is made from ICIP
 - Eg when a T-shirt is manufactured with a print of a traditional motif on it, the design should be one that is allowed to be used for this purpose.
- Right to be paid for use of your ICIP, particularly if it has been used without your permission
 - Eg If someone copies your artwork onto fabric and sells it, then you get paid for the illegal use of your work.
- Right to full and proper attribution or naming of the community connected with the work
- Right to protect traditional knowledge and sacred cultural material
- Right to prevent insulting, offensive and misleading uses of ICIP in all media
 - Eg an artwork containing traditional knowledge is printed on underwear. The artist should be able to stop that happening.
 - Eg A large painting containing traditional knowledge is cut up by a gallery to make 10 small paintings. The artist can take action to get apology and money for the harm caused.
- Right to control the recording of cultural customs and expressions, and language which may be essential to cultural identity, knowledge, skill and teaching about Indigenous culture
 - Eg being able to place conditions on an anthropologist who wants to make a book about your language.

2. What does ICIP cover?

ICIP covers many things. Some of these are

- writing eg a book, poetry
- music eg a song
- performances eg dance, ceremonies
- artistic work eg painting
- languages
- tangible cultural property eg sacred sites, burial grounds
- intangible cultural property eg
- documentation of Indigenous peoples' heritage in all forms of media eg reports, films, sound recordings

3. Does Australian law protect ICIP?

Australian law only protects some ICIP, including:

- Works that are protected by Australian copyright law. Australian copyright law protects the expression of an idea eg in a painting, a song or a story that is written down.
- Moral rights of individual artists
- Designs that come under the Australian Designs Act

Australian law does not protect other aspects of ICIP, including:

- An idea or information that is put into a work
- A style or method of art eg cross hatching or dots
- Some performances such as dance and music if they have not been recorded at all
- In general, a community's rights in an artwork

Further Information

About Copyright

If you would like to know more about copyright get a copy of the *Artist in the Black* Copyright Leaflet available from the Arts Law Centre of Australia.

Arts Law Centre of Australia

Tel: (02) 9356 2566 / 1800 221 457

Website: www.artslaw.com.au

Australian Copyright Council

Website: www.copyright.org.au

DISCLAIMER

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The law as at 1 March 2005. This information applies to people who live in, or are affected by the law as it applies in Australia.

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Comic Writer: Blanch Lake

Comic Artist: Ross Carnsew

Underlying design by Adam Hill, koori8@bigpond.net.au

Streetwize Communications

6/245 Chalmers St

Redfern NSW 2016

www.streetwize.com.au

Arts Law Centre of Australia

The Gunnery 43-51 Cowper Wharf Road Woolloomooloo NSW 2011

t. 02 9356 2566/1800 221 457 f. 02 9358 6475 e. artslaw@artslaw.com.au

ABN 71 002 706 256 . ACN 002 706 256

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