

INTERNATIONAL JOURNAL OF

Cultural Property

VOLUME 18 2011 NUMBER 2



CAMBRIDGE

ISSN 0940-7391

Subscription Information: *International Journal of Cultural Property* (ISSN 0940-7391) is published quarterly in February, May, August, and November by Cambridge University Press for the International Cultural Property Society. Annual subscription rates for Volume 17 (2010): Institutional subscription rate, print and electronic: US \$338 in the U.S.A., Canada, and Mexico; UK £198 elsewhere. Institutional subscription rate, electronic only: US \$276 in the U.S.A., Canada, and Mexico; UK £163 elsewhere. Institutional subscription rate, print only: US \$310 in the U.S.A., Canada, and Mexico; UK £184 elsewhere. Individual subscription rate, print only: US \$70 in the U.S.A., Canada, and Mexico; UK £35 elsewhere. Single part rates, print only: US \$85 in the U.S.A., Canada, and Mexico; UK £51 elsewhere. Prices include surface postage.

Publishing, Advertising, and Subscription Offices: Cambridge University Press, 100 Brook Hill Drive, West Nyack, NY 10994-2133, USA (for USA, Canada, and Mexico); or Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU, England (for UK and elsewhere).

Society Inquiries: General inquiries concerning the International Cultural Property Society should be directed to Stanley N. Katz, Director, Center for the Arts and Cultural Policy Studies, Woodrow Wilson School, 428 Robertson Hall, Princeton University, Princeton, NJ 08544. Phone: 609-258-5637; fax: 609-258-1235; email: snkatz@princeton.edu

Rights and Permissions: All rights reserved. No part of this publication may be reproduced, in any form or by any means, electronic, photocopy, or otherwise, without permission in writing from Cambridge University Press. General enquiries from the USA, Mexico, and Canada should be addressed to the New York office of Cambridge University Press <http://www.cambridge.org/us/information/rights/contacts/newyork.htm>; general enquiries from elsewhere should be addressed to the Cambridge office <http://www.cambridge.org/uk/information/rights/contacts/cambridge.htm>; permission enquiries from Australia and New Zealand should be addressed to the Melbourne office http://www.cambridge.org/aus/information/contacts_melbourne.htm; enquiries regarding Spanish-language translation rights (only) should be addressed to the Madrid office <http://www.cambridge.org/uk/information/rights/contacts/madrid.htm>.

Photocopying information for users in the U.S.A.: The Item-Fee Code for the publication (0940-7391/10 \$15.00 + .10) indicates that copying for internal or personal use beyond that permitted by Sec. 107 or 108 of the U.S. Copyright Law is authorized for users duly registered with the Copyright Clearance Center (CCC) Transaction Reporting Service, provided that the appropriate remittance of \$15.00 per article is paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923. Specific written permission must be obtained for all other copying.

Abstracting Information: *International Journal of Cultural Property* is indexed and abstracted in Anthropological Literature; Art and Archaeology Technical Abstracts (Online Edition); ARTbibliographies Modern; Avery Index to Architectural Periodicals; Bibliography of the History of Art (BHA); British & Irish Archaeological Bibliography (Online Edition); IBZ—Internationale Bibliographie der Geistes- und Sozialwissenschaftlichen Zeitschriftenliteratur; Index to Foreign Legal Periodicals; Index to Legal Periodicals & Books; Internationale Bibliographie der Rezensionen Geistes- und Sozialwissenschaftlicher Literatur.

© International Cultural Property Society 2011

Cover: A student working at the Weaving Training Centre run by the National Women's Association of Bhutan (NWAB, an NGO) in Khaling, in the far East of Bhutan. The weavings from the Centre will be sent to NWAB Handicraft Emporium outlets across the country, the sales of which keep the NWAB afloat, as discussed in the article in this issue by Emma Lees. The weaver is weaving single faced supplementary weft patterns, otherwise known as 'kushuthara' designs, on a backstrap loom. Photograph by Emma Lees, 2005.

INTERNATIONAL JOURNAL OF Cultural Property

VOLUME 18 (2011) NUMBER 2

Editor

Alexander A. Bauer,
Queens College, CUNY, USA

Chronicles Editor

Kurt Siehr, *Universität Zürich, Switzerland*
and *Max-Planck-Institut, Germany*

Case Notes Editor

Robert K. Paterson, *Faculty of Law,*
University of British Columbia, Canada

Book Review Editor

Patrick J. O'Keefe, *University of*
Queensland, Australia

Associate Editors

Michael F. Brown, *Williams College, USA*

Stephanie Moser, *University of*
Southampton, UK

Lyndel V. Prott, *University of Queensland,*
Australia

Madhavi Sunder, *UC Davis School of*
Law, USA

Joe Watkins, *University of Oklahoma,*
USA

Editorial Board

Gregory J. Ashworth, *Rijksuniversiteit*
Groningen, Netherlands

Janet E. Blake, *University of Shahid*
Beheshti, Iran

Michael Blakey, *College of William and*
Mary, USA

Michael Cernea, *George Washington*
University, USA

Clemency Coggins, *Boston University,*
USA

María Luz Endere, *Conicet and*
Universidad del Centro de la
Provincia de Buenos Aires, Argentina

Pedro Paulo Funari, *Universidade*
Estadual de Campinas, Brazil

Richard Handler, *University of Virginia,*
USA

Thomas F. King, *Independent Writer/*
Consultant, USA

David Lowenthal, *University College*
London, UK

Claire Lyons, *Getty Museum, USA*

Lynn Meskell, *Stanford University, USA*

Elina Moustaira, *Faculty of Law,*
University of Athens, Greece

Dawson Munjeri, *Delegation of Zimbabwe*
to UNESCO, Zimbabwe and France

Anila Naeem, *NED University of*
Engineering and Technology, Pakistan

James A. R. Nafziger, *Willamette*
University College of Law, USA

Hyung Il Pai, *International Research*
Center for Japanese Studies, Japan

Jorge Sánchez Cordero, *Mexican Center*
of Uniform Law, Mexico

Daniel Shapiro, *President Emeritus,*
International Cultural Property Society,
USA

Folarin Shyllon, *Faculty of Law, Olabisi*
Onabanjo University, Nigeria

Samuel Sidibé, *National Museum of Mali,*
Mali

Neil Asher Silberman, *University of*
Massachusetts, Amherst, USA

Stephen K. Urice, *Esq., University of*
Miami School of Law, USA

Alison Wylie, *University of Washington,*
USA

Founder and Board Member Emeritus

John Henry Merryman, *Stanford*
University Law School, USA

INTERNATIONAL
Cultural Property
SOCIETY

BOARD OF DIRECTORS

President

Derek Gillman
Barnes Foundation, USA

Treasurer

Stanley N. Katz
Center for Arts and Cultural Policy Studies, Princeton University, USA

Secretary

Stephen K. Urice
University of Miami School of Law, USA

Vice-President

Stanley N. Katz
Center for Arts and Cultural Policy Studies, Princeton University, USA

Stephen W. Clark
J. Paul Getty Trust

Talat S. Halman
Center for Turkish Literature, Bilkent University, Turkey

Marc-André Renold
Art-Law Centre, University of Geneva Law School, Switzerland

Lawrence Rosen
Department of Anthropology, Princeton University, USA

Kurt Siehr, Law School
Universität Zurich, Switzerland and Max-Planck-Institut, Germany

President Emeritus
Daniel Shapiro

CONTENTS

VOLUME 18 (2011) NUMBER 2

ARTICLES

- Power Relations in the Traditional Knowledge Debate: A Critical Analysis of Forums*
Charles Kamau Maina 143
- Intangible Cultural Heritage in a Modernizing Bhutan: The Question of Remaining Viable and Dynamic*
Emma Lees 179
- The History of Canadian Immunity from Seizure Legislation*
Daniel Getz 201

CASE NOTES

- Rogers' Chocolates Ltd. and the Corporation of the City of Victoria: A Case Comment on Involuntary Designation and the Conservation of Heritage Buildings*
Gillian S. J. Piggott 225
- Massachusetts Museum of Contemporary Art Foundation v. Christoph Büchel: An Appellate Perspective on the Visual Artists Rights Act*
Anastasia Telesetsky 255

CAMBRIDGE

Outstanding Scholarship!

Cambridge Intellectual Property and Information Law

Trade Marks and Brands An Interdisciplinary Critique

Edited by LIONEL BENTLY,
JENNIFER DAVIS,
and JANE C. GINSBURG

\$126.00: Hb: 978-0-521-88965-0: 480 pp.
\$55.00: Pb: 978-0-521-18792-3

Copyright and Piracy An Interdisciplinary Critique

Edited by LIONEL BENTLY,
JENNIFER DAVIS,
and JANE C. GINSBURG

\$115.00: Hb: 978-0-521-19343-6: 502 pp.

The Global Governance of Knowledge Patent Offices and their Clients

PETER DRAHOS

\$115.00: Hb: 978-0-521-19566-9: 368 pp.
\$45.00: Pb: 978-0-521-14436-0

The Idea of Cultural Heritage Second Edition

DEREK GILLMAN

\$90.00: Hb: 978-0-521-19255-2: 216 pp.
\$27.99: Pb: 978-0-521-12257-3

Driving Innovation Intellectual Property Strategies for a Dynamic World

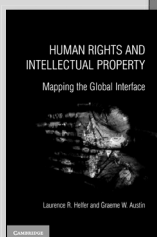
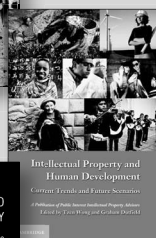
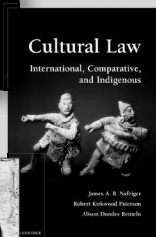
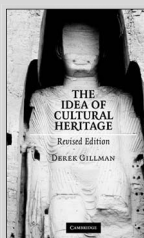
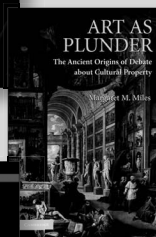
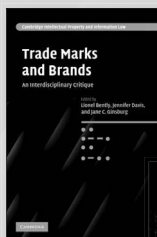
MICHAEL A. GOLLIN

\$95.00: Hb: 978-0-521-87780-0: 432 pp.
\$31.99: Pb: 978-0-521-70169-3

Human Rights and Intellectual Property Mapping the Global Interface

LAURENCE R. HELFER
and GRAEME W. AUSTIN

\$125.00: Hb: 978-0-521-88437-2: 568 pp.
\$50.00: Pb: 978-0-521-71125-8



Art as Plunder

The Ancient Origins of Debate
about Cultural Property

MARGARET M. MILES

\$98.00: Hb: 978-0-521-87280-5: 444 pp.
\$34.99: Pb: 978-0-521-17290-5

Cultural Law

International, Comparative,
and Indigenous

JAMES A. R. NAFZIGER,
ROBERT KIRKWOOD PATERSON,
and ALISON DUNDES RENTELN

\$150.00: Hb: 978-0-521-86550-0: 1,040 pp.

The Protection of Cultural Property in Armed Conflict

ROGER O'KEEFE

*Cambridge Studies in
International and Comparative Law*

\$116.00: Hb: 978-0-521-86797-9: 432 pp.
\$55.00: Pb: 978-0-521-17287-5

Teaching of Intellectual Property Principles and Methods

Edited by YO TAKAGI,
LARRY ALLMAN,
and MPAZI A. SINJELA

\$76.99: Pb: 978-0-521-71646-8: 352 pp.

Intellectual Property and Human Development Current Trends and Future Scenarios

Edited by TZEN WONG
and GRAHAM DUTFIELD

\$95.00: Hb: 978-0-521-19093-0: 448 pp.
\$32.99: Pb: 978-0-521-13828-4

Prices subject to change.

www.cambridge.org/us/law



CAMBRIDGE
UNIVERSITY PRESS