CASE STUDY 30

Protecting intellectual property rights: the toi iho trademark in New Zealand

In 2002 the Māori Arts Board of Creative New Zealand launched the toi iho™, a trademark denoting the quality and authenticity of Māori art. As early as 1936, Sir Apirana Ngata, a prominent Māori politician and lawyer, came up with the concept of a Māori mark of quality and authenticity. The idea was discussed again by the Māori Council in 1964, but was not brought to fruition until 2002, when the brand was developed under the guidance of the Te Waka Toi chair Elizabeth Ellis, a team of Māori artists and a series of national *hui* (meetings), supported by Creative New Zealand. The Māori community was thus very involved in the process: it was a ‘by Māori, for Māori initiative’.

Creative New Zealand registered four trademarks: toi iho™ Māori Made; toi iho™ Mainly Māori; toi iho™ Māori Co-production; and toi iho™ Licensed Stockist. The marks indicated to consumers that the goods were of good quality and that the creator of the goods was of Māori descent, or mainly of Māori descent, or that the goods were produced through collaboration between non-Māori and Māori people. The marks were created in response to concerns raised by Māori people regarding the protection of cultural and intellectual property rights, the misuse and abuse of Māori concepts, styles and imagery, and the lack of commercial benefits accruing back to Māori. About 250 Māori artists in fashion, architecture, and industrial and graphic design registered under the trademark.

It was awarded through a long application process requiring artists to show that their work had been in galleries and exhibitions, their work was ‘authentic’ and the artists themselves were Māori.[[1]](#footnote-1)

#### The Māori community takes over the trademark

In 2009, however, Creative New Zealand decided that it would no longer invest in managing and promoting these trademarks. Based on market research and artist feedback, they claimed that although there were artists actively using toi iho™ to promote their work, many more Māori artists were making successful careers without the need for it. According to Creative New Zealand, the trademarks had ‘failed to deliver on [their] promise in terms of increasing sales of Māori art. They advised licensed toi iho™ artists and stockists of the process to wind down their use of the trademarks.

Not all the Māori artists were happy with the winding down of their trademarks, however. One of them, Māori costume and jewellery artist Suzanne Tamaki, disputed the arguments advanced for winding them down, saying that she had benefited from being registered as a toi iho artist not just in terms of marketing and professionalism but also by being a member of a group of Māori artists:

[Toi iho] is quite cohesive for the artists, rather than us all doing our own thing and looking disjointed. It is something that’s cohesive for us as a whole.[[2]](#footnote-2)

The Māori community therefore campaigned to take over the trademarks from Creative New Zealand. In the words of Elizabeth Ellis, a Māori leader in the arts field and a trustee of the Arts Foundation of New Zealand who had been actively involved in setting up the initiative:

We, Māori, regard [toi iho] as a living entity, as an icon for Māori creativity and as a positive initiative for high quality Māori art. It is not like a bureaucratic project that can be easily discarded.[[3]](#footnote-3)

In May 2010 the toi iho trademarks were thus transferred from the State-funded Creative New Zealand to a new Māori-owned entity, the Transition Toi Iho Foundation (TTIF) as trustee for a new legal entity to be created.[[4]](#footnote-4)

1. . TOI IHO, a trade mark signifying excellence in Māori art, is to be reclaimed by Māori’: www.newswire.co.nz/2010/02/maori-save/ [↑](#footnote-ref-1)
2. . Ibid. [↑](#footnote-ref-2)
3. . Ellis, cited in ibid. [↑](#footnote-ref-3)
4. . Toi Iho in Māori Control (Finally!)’, 22 May 2010: http://news.tangatawhenua.com/2010/05/toi-iho-in-maori-control-finally [↑](#footnote-ref-4)