

Copyright, Traditional Cultural Expressions and Digital Commercialisation: A Case Study of the Avelune Collective–MiraNova Dispute

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Abstract

The digitisation and commercialisation of traditional cultural expressions have created increasingly complex intellectual property questions. Traditional songs, patterns, stories, symbols, craft techniques, ceremonial designs, and visual motifs may be deeply embedded within the cultural identity of communities while remaining inadequately protected by conventional copyright doctrines. The emergence of digital platforms has intensified this problem by enabling cultural expressions to be reproduced, modified, marketed, and distributed globally at minimal cost. This article examines these challenges through a fictional case study involving the Avelune Cultural Collective, a community-based organisation responsible for preserving a traditional textile tradition, and MiraNova Design House, a fictional international fashion company accused of commercially appropriating Avelune cultural motifs.

The dispute arose after MiraNova launched a luxury fashion collection incorporating patterns substantially resembling designs historically used by the Avelune community. The company argued that the designs were part of the public domain and that individual geometric elements were insufficiently original to qualify for copyright protection. The Avelune Collective argued that the commercial collection reproduced a culturally significant combination of motifs and that the company's use occurred without consent, attribution, or benefit-sharing. The dispute subsequently expanded to include digital images, social media marketing, artificial intelligence-assisted design, moral rights, geographical associations, and the limits of conventional copyright doctrine.

Using a qualitative case-study methodology, this article analyses the dispute through hypothetical archival records, design registrations, community protocols, commercial contracts, marketing materials, expert opinions, and judicial submissions. The analysis demonstrates that conventional individualistic copyright frameworks may struggle to address community-based cultural creativity. It further identifies a tension between the public-domain principle and the collective interests of communities seeking control over culturally significant expressions. The article proposes a layered protection model combining conventional intellectual property rights, community protocols, contractual licensing, provenance requirements, collective marks, benefit-sharing mechanisms, and specialised protection for traditional cultural expressions.

The article concludes that effective protection of traditional cultural expressions does not require abandoning the public-domain principle. Rather, legal systems should develop complementary mechanisms capable of recognising collective cultural interests while maintaining appropriate space for artistic freedom, research, cultural exchange, and legitimate transformative creativity.

Keywords: copyright; traditional cultural expressions; indigenous knowledge; cultural heritage; digital commerce; cultural appropriation; moral rights; collective intellectual property; fashion law; case study

1. Introduction

Intellectual property law has historically been constructed around identifiable creators, defined works, individual ownership, and commercially transferable rights. These assumptions are relatively straightforward in many conventional copyright disputes. A novelist writes a book, a photographer produces an image, or a designer creates a particular graphic work. The law can then identify the relevant creator, determine whether the work satisfies the applicable originality threshold, and establish ownership.

Traditional cultural expressions present a substantially different problem.

Cultural expressions may develop gradually over generations. Their creators may be unknown. Their forms may evolve through collective participation. Their significance may extend beyond commercial value to include ceremonial, spiritual, historical, or social meaning.

Examples of traditional cultural expressions may include:

- textile patterns;
- songs;
- dances;
- stories;
- symbols;
- architectural designs;
- jewellery;
- sculptures;
- paintings;
- ceremonial objects; and
- traditional craft techniques.

The legal status of these expressions varies significantly between jurisdictions.

A design that appears to be an ordinary artistic pattern from a conventional copyright perspective may represent an important cultural symbol to the community that developed it.

Digital technology has made these questions more urgent.

A photograph of a traditional design can be uploaded to a social media platform and viewed globally within minutes. A fashion company can reproduce a pattern in a commercial collection without physically accessing the community from which the design originated. Digital design software can facilitate rapid modification and integration of traditional motifs into new products.

Generative artificial intelligence introduces another layer of complexity. A designer may use an AI system to generate new patterns based upon textual descriptions such as "traditional northern ceremonial weaving." The resulting designs may unintentionally resemble culturally significant motifs.

The present article examines these challenges through the fictional dispute between the Avelune Cultural Collective and MiraNova Design House.

The dispute concerns the commercial use of traditional Avelune textile patterns by an international fashion company.

The principal research question is:

How can intellectual property law protect collectively developed traditional cultural expressions in digital commercial environments without unduly restricting artistic creativity and cultural exchange?

The article addresses five subsidiary questions.

First, can traditional cultural expressions satisfy conventional copyright requirements?

Second, where individual authorship cannot be identified, who should exercise intellectual property rights?

Third, how should digital reproduction and commercialisation affect the analysis?

Fourth, can contractual and community-based mechanisms supplement copyright protection?

Fifth, how should artificial intelligence-assisted cultural design be governed?

2. Traditional Cultural Expressions and Intellectual Property

2.1 The collective nature of cultural creativity

Conventional copyright systems often identify individual creators.

Traditional cultural expressions frequently operate differently.

A textile design may have been developed collectively through generations of artisans. A particular pattern may have been modified repeatedly while retaining its cultural identity.

This creates an attribution problem.

If no individual can establish authorship, conventional copyright law may conclude that no current individual possesses copyright.

The absence of an identifiable individual author does not necessarily mean that the community has no legitimate interest.

The community may possess historical, cultural, and economic interests even when those interests do not fit neatly within conventional copyright doctrine.

2.2 Public domain and cultural heritage

The public domain is a fundamental feature of intellectual property systems.

Once copyright expires, works generally become available for public use.

Traditional cultural expressions may, however, predate modern copyright systems by centuries.

Treating all historically developed cultural material as freely exploitable may create a mismatch between legal availability and cultural expectations.

This does not mean that every historical cultural element should become permanently restricted.

Rather, it suggests that the legal system may need to distinguish between:

1. ordinary cultural influence;
2. respectful artistic reference;
3. commercial reproduction;
4. deceptive representation;
5. exploitation of sacred or restricted material; and
6. large-scale commercial appropriation.

3. Methodology

This study employs a qualitative case-study methodology.

The fictional dispute was designed to integrate legal, cultural, technological, and commercial dimensions.

The hypothetical documentary record includes:

- community archives;
- textile catalogues;
- artisan interviews;
- company design briefs;
- licensing proposals;
- product photographs;
- marketing materials;
- expert reports;
- social media records; and
- fictional court submissions.

The study applies doctrinal analysis to the fictional materials while also considering institutional mechanisms for protecting traditional cultural expressions.

No real persons, communities, companies, universities, court proceedings, or factual disputes are described.

4. Background to the Avelune Community

The Avelune community is a fictional cultural community located in the northern region of the fictional state of Valdoria.

Avelune textile traditions developed over approximately two centuries.

The community became particularly associated with a distinctive textile pattern known as the **River-Star Motif**.

The motif consists of a central four-point geometric figure surrounded by curved lines representing water movement.

According to fictional community records, the design was historically used on ceremonial garments and later incorporated into household textiles.

The motif was not treated as private property by individual artisans.

Instead, community rules governed its use.

The community's fictional cultural protocol classified the motif into three categories:

1. unrestricted patterns;
2. community-use patterns; and
3. ceremonial patterns.

The River-Star Motif was classified as a community-use pattern.

5. The Rise of MiraNova Design House

MiraNova Design House was established in 2027 as a fictional international luxury fashion company headquartered in Barcelona, Spain.

The company marketed clothing, handbags, scarves, and home accessories.

In 2032, MiraNova announced a new collection titled **Northern Currents**.

The collection incorporated geometric patterns inspired by "heritage textile traditions of northern Europe."

The company's marketing campaign included photographs of models wearing garments displaying patterns visually similar to the River-Star Motif.

The campaign rapidly became successful.

Within six months, MiraNova reported fictional sales of approximately €48 million from the collection.

The Avelune Collective became aware of the collection after images circulated through social media.

6. The Initial Complaint

The Avelune Collective contacted MiraNova and argued that the collection incorporated the River-Star Motif without authorisation.

The Collective requested:

- withdrawal of selected products;
- recognition of Avelune cultural origin;
- financial compensation;

- disclosure of design-development records;
- an undertaking concerning future use; and
- a consultation mechanism.

MiraNova rejected the claim.

The company argued that the individual geometric elements were common artistic forms and that no copyright existed in the historical motif.

It further argued that its designers had created the final patterns independently.

Table 1. Chronology of the Fictional Dispute

Year	Event
1820s	Early development of Avelune textile tradition
1960	Community textile archive established
2018	Digital archive of Avelune textiles created
2027	MiraNova Design House established
2031	MiraNova research team begins heritage-inspired collection
2032	Northern Currents collection launched
2032	Avelune Collective raises objection
2033	Licensing negotiations begin
2033	Social media campaign intensifies dispute
2034	Fictional litigation commenced
2035	Court orders cultural and design evidence review

7. The Copyright Question

The first legal issue was whether the River-Star Motif could qualify for copyright protection.

MiraNova argued that the motif was composed of simple geometric shapes.

Copyright law generally does not provide exclusive rights over ideas, concepts, or commonplace individual elements.

The Avelune Collective therefore faced a difficult argument.

Its claim could not realistically depend upon ownership of every individual line or geometric shape.

Instead, the Collective argued that the distinctive combination of elements constituted a protectable expression.

The fictional expert evidence identified seven recurring characteristics:

1. the four-point central figure;
2. asymmetrical surrounding lines;
3. a particular sequence of curved elements;

4. repeated triangular interruptions;
5. a defined spatial relationship;
6. a specific arrangement of negative space; and
7. a characteristic border structure.

The experts concluded that the combination was highly distinctive even though several individual elements were commonplace.

8. Collective Authorship

A further problem concerned authorship.

No single Avelune artisan could be identified as the original creator of the River-Star Motif.

The design had evolved over generations.

This challenged conventional copyright assumptions.

The fictional Avelune legal team therefore proposed that community rights should be recognised through a collective cultural organisation.

The proposal was based upon three principles.

First, historical development does not eliminate contemporary community interests.

Second, collective creativity should not automatically become legally irrelevant merely because no individual author can be identified.

Third, any legal mechanism should preserve the ability of community members to use and develop their own cultural expressions.

9. Moral Rights

The dispute also raised moral-rights considerations.

The Avelune Collective argued that MiraNova's advertising detached the River-Star Motif from its cultural context.

In one fictional advertisement, the pattern was described as a "mysterious ancient Nordic symbol."

The Avelune community disputed this description.

According to its records, the motif represented continuity, water, and intergenerational relationships.

The community argued that inaccurate commercial descriptions could distort cultural meaning.

This raises an important question: should protection extend beyond economic control to include cultural attribution and integrity?

Moral rights potentially provide one mechanism.

However, conventional moral rights are often linked to identifiable authors.

The collective nature of traditional cultural expressions again exposes the limitations of individualistic models.

10. Digital Reproduction

The dispute intensified when MiraNova uploaded high-resolution photographs of its collection to digital platforms.

The Avelune Collective argued that the images themselves facilitated further unauthorised reproduction.

The company's defence was that the digital images merely represented its own legally marketed products.

The case illustrates a broader issue.

Digital technologies transform cultural appropriation from a local event into a scalable commercial process.

A pattern copied once may appear on millions of screens.

A traditional textile that once circulated within a limited geographical community may become globally visible without the community exercising meaningful control.

Table 2. Forms of Digital Cultural Commercialisation

Digital Activity	Potential Benefit	Potential Risk
Online museum archive	Cultural preservation	Unauthorised copying
Social media publication	Public awareness	Mass reproduction
Commercial website	Market exposure	Commercial appropriation
Digital fashion design	Innovation	Cultural imitation
AI image generation	Creative experimentation	Unintentional replication
Online marketplace	Artisan sales	Counterfeiting

11. The Artificial Intelligence Dimension

During the proceedings, the Avelune Collective discovered that MiraNova's design team had experimented with a generative design tool.

The fictional internal design brief included the instruction:

"Generate contemporary luxury textile patterns inspired by traditional northern river cultures."

Several AI-generated concepts were produced.

One of the outputs closely resembled the River-Star Motif.

MiraNova argued that the final commercial design was subsequently modified by human designers.

The Collective argued that the AI system had effectively reproduced a culturally significant design.

This raised a new question.

If a generative AI system has been trained on publicly accessible cultural images, can its outputs reproduce traditional cultural expressions without direct human intention?

The issue illustrates the intersection between two emerging areas of intellectual property law: AI-generated content and traditional cultural expressions.

12. Design Comparison

The fictional expert panel compared the original Avelune motif, the AI-generated concept, and the final MiraNova design.

Table 3. Hypothetical Similarity Assessment

Feature	Avelune Motif	AI Concept	MiraNova Design
Central four-point figure	Present	Present	Present
Curved river lines	Present	Present	Present
Triangular interruptions	Present	Present	Present
Border arrangement	Present	Partial	Present
Negative-space structure	Distinctive	Similar	Highly similar
Colour scheme	Variable	Different	Different
Overall composition	Distinctive	Similar	Highly similar

The experts concluded that the final design was highly similar in structure but differed in colour and scale.

This finding did not automatically establish legal infringement.

Similarity remains a legal question requiring assessment of protected expression, access, authorship, applicable exceptions, and jurisdiction.

Nevertheless, it strengthened the Collective's argument that the cultural resemblance was not coincidental.

13. The Role of Cultural Protocols

The Avelune community had developed written cultural protocols governing the use of its textile motifs.

The protocol required commercial users to:

- consult the community;
- identify the cultural source;
- avoid sacred motifs;
- negotiate commercial licensing where appropriate;
- provide attribution; and
- contribute to community cultural preservation.

MiraNova argued that these protocols had no automatic legal effect.

This was technically significant.

A community-created protocol may express legitimate cultural expectations without automatically creating a property right enforceable against outsiders.

However, the existence of the protocol could still provide evidence of:

- cultural significance;
- community governance;
- provenance;
- customary practice; and
- the community's expectations concerning use.

14. Licensing Negotiations

Following public criticism, MiraNova offered to pay €250,000 for a retrospective cultural licence.

The Avelune Collective rejected the proposal.

It argued that the amount did not reflect the commercial value generated by the collection.

The Collective proposed a revenue-sharing arrangement.

Table 4. Hypothetical Licensing Proposals

Proposal	Upfront Payment	Revenue Share	Attribution
MiraNova initial proposal	€250,000	None	Limited
Avelune proposal	€500,000	4%	Mandatory
Mediated proposal	€350,000	2%	Mandatory
Revised MiraNova proposal	€400,000	1.5%	Mandatory

The parties eventually agreed to a temporary licensing arrangement while the litigation continued.

The agreement included a provision establishing a cultural preservation fund.

15. Benefit-Sharing

Benefit-sharing became a central element of the settlement framework.

The Avelune Collective argued that commercial exploitation of traditional culture should generate benefits for the community.

The proposed mechanism allocated revenue to:

- artisan training;
- textile preservation;
- community archives;
- scholarships;
- cultural festivals; and
- digital preservation.

This illustrates how intellectual property arrangements can serve broader cultural policy objectives.

16. The Fictional Court's Analysis

The fictional court rejected the argument that every Avelune motif automatically constituted conventional copyright.

It also rejected MiraNova's broader claim that historical cultural expressions were always freely available for commercial use.

Instead, the court distinguished between three categories.

Category One: Generic elements

Simple geometric shapes and general ideas were not protected independently.

Category Two: Distinctive combinations

Specific arrangements demonstrating sufficient originality could receive protection where the applicable legal requirements were satisfied.

Category Three: Culturally restricted expressions

Certain ceremonial expressions could receive additional protection under specialised cultural-heritage legislation or contractual/community mechanisms.

The court therefore adopted a layered approach.

Table 5. Fictional Court's Categorisation

Cultural Element	Legal Treatment
Individual geometric shapes	Generally unprotected
Generic decorative concepts	Generally unprotected
Distinctive artistic combinations	Potential copyright protection
Community-use motifs	Protection supplemented by licensing
Ceremonial designs	Enhanced cultural protection
Community name/emblem	Collective trademark protection
Commercial reproductions	Subject to applicable rights and agreements

17. Collective Trademarks

The dispute encouraged the Avelune community to register a collective certification mark.

The mark could be used on products produced according to recognised Avelune cultural standards.

This created a different form of intellectual property protection.

Rather than preventing everyone from creating similar geometric patterns, the collective mark would communicate authenticity.

Consumers could distinguish:

- products made by Avelune artisans;
- licensed commercial collaborations; and
- unrelated products merely inspired by similar aesthetics.

This illustrates the value of combining copyright with trademark-based mechanisms.

18. Geographical Associations

The case also raised questions concerning geographical identity.

Consumers might associate Avelune textiles with the geographical region where the community traditionally lived.

However, the fictional Avelune community did not initially possess a geographical indication for its textile products.

A geographical certification mechanism could potentially protect the reputation of authentic community-produced goods.

Such protection would operate differently from copyright.

Copyright protects expression.

A geographical indication protects the relationship between a product and its geographical origin and associated qualities.

The two mechanisms could therefore be complementary.

19. Economic Effects

The dispute had measurable fictional economic consequences.

Before the MiraNova collection, Avelune artisans sold approximately 2,100 textile products annually through local markets.

Following the controversy, online interest increased substantially.

However, the community experienced both positive and negative effects.

Table 6. Hypothetical Economic Effects

Indicator	Before Dispute	After Dispute
Annual artisan sales	2,100 units	3,850 units
Average product price	€85	€118
International enquiries	140	1,420
Community licensing revenue	€0	€350,000
Cultural preservation fund	€0	€180,000
Unauthorised online listings	36	214

The figures illustrate a paradox.

Increased visibility created commercial opportunities while simultaneously increasing unauthorised exploitation.

20. Digital Platforms and Enforcement

The community subsequently identified hundreds of online listings using the River-Star Motif.

Some sellers claimed that their products were "authentic Avelune-inspired designs."

Others falsely claimed that their products had been approved by the Avelune community.

The latter category created a distinct trademark and consumer-protection concern.

The community therefore developed a digital authentication programme.

Each authorised product received a registration number linked to a public verification database.

This mechanism did not create intellectual property rights by itself.

Instead, it created an additional layer of market transparency.

21. Governance Model

The case study supports a multi-layer governance model.

Layer One: Conventional Copyright

Copyright should protect original contemporary works where legal requirements are satisfied.

Layer Two: Collective Trademarks

Collective or certification marks can communicate authenticity and provenance.

Layer Three: Community Protocols

Community rules can establish expectations concerning culturally appropriate use.

Layer Four: Contracts

Licensing agreements can establish commercial rights and benefit-sharing.

Layer Five: Cultural Heritage Law

Specialised legislation can address expressions that conventional copyright cannot adequately protect.

Layer Six: Digital Enforcement

Platforms can support authentication, notice procedures, and removal of deceptive listings.

22. Discussion

22.1 The limits of copyright

The case demonstrates that copyright alone cannot resolve every problem associated with traditional cultural expressions.

Copyright has several structural limitations.

First, protection generally requires an identifiable work.

Second, duration is limited.

Third, ownership often assumes identifiable creators.

Fourth, copyright does not necessarily recognise cultural or spiritual significance.

Fifth, copyright does not automatically provide a comprehensive system of attribution or benefit-sharing.

Consequently, traditional cultural expressions may require complementary mechanisms.

22.2 Avoiding excessive restriction

A stronger protection framework must nevertheless avoid excessive restriction.

Culture develops through interaction.

Artists routinely draw inspiration from historical traditions.

If communities were granted unrestricted perpetual control over every cultural element, legitimate artistic exchange could become impossible.

The law should therefore distinguish between respectful inspiration and commercial appropriation.

Relevant factors could include:

- cultural specificity;
- commercial scale;
- attribution;
- community consent;
- economic benefit;
- similarity;
- sensitivity of the expression;
- whether the expression is sacred or restricted; and
- whether consumers are likely to believe there is community endorsement.

23. Cultural Consent

Consent should become a central concept in commercial use of traditional cultural expressions.

However, consent must be meaningful.

A company should not be able to obtain approval from one individual and claim that an entire community has authorised commercial use.

Community governance structures should therefore identify appropriate representatives.

A transparent licensing system could specify:

- who can authorise use;
- which designs may be licensed;
- permissible modifications;
- attribution requirements;
- financial terms;
- duration;
- geographical scope; and
- termination rights.

24. Artificial Intelligence and Cultural Heritage

The AI dimension of the case requires particular attention.

Traditional cultural expressions are increasingly digitised.

Once digitised, they can become training material for machine-learning systems.

This creates several possible risks.

A model may reproduce culturally distinctive patterns.

It may generate outputs that appear authentic without community involvement.

It may erase provenance information.

It may create false associations between commercial products and communities.

The development of provenance standards could therefore become increasingly important.

AI systems that generate culturally specific designs could be required, where technically and legally feasible, to provide information concerning the source categories that influenced generation.

25. Policy Recommendations

The case study supports nine policy recommendations.

First, legal systems should develop clearer definitions of traditional cultural expressions.

Second, communities should be permitted to establish recognised cultural protocols.

Third, collective or certification marks should be encouraged as tools for authenticity and provenance.

Fourth, commercial users should be encouraged to enter licensing arrangements involving attribution and benefit-sharing.

Fifth, culturally sensitive or ceremonial expressions should receive stronger protection where justified.

Sixth, digital platforms should establish mechanisms for responding to deceptive claims of cultural authenticity.

Seventh, AI developers should explore provenance mechanisms for culturally significant training materials.

Eighth, governments should support digital archives controlled or governed by relevant communities.

Ninth, international cooperation should continue toward harmonised approaches to traditional cultural expressions.

26. Implications for Intellectual Property Scholarship

The Avelune–MiraNova dispute raises broader theoretical questions concerning the purpose of intellectual property.

If intellectual property exists partly to incentivise creation, conventional individual ownership may appear sufficient.

If intellectual property also serves attribution, cultural preservation, and economic development functions, then collective rights become more important.

Traditional cultural expressions therefore challenge the assumption that creativity is always individual.

They demonstrate that creativity can be cumulative, intergenerational, and communal.

The law may need to recognise that cultural production does not always fit neatly into conventional categories.

27. Limitations

The principal limitation of this study is that the dispute is entirely fictional.

The Avelune community, MiraNova Design House, court proceedings, economic data, licensing arrangements, expert evidence, and legal outcomes were created solely for academic illustration.

The case also combines several distinct areas of law, including copyright, trademarks, cultural heritage, consumer protection, digital platforms, and artificial intelligence.

Actual legal disputes would depend heavily on jurisdiction-specific legislation and judicial interpretation.

The economic figures presented in the article are hypothetical and should not be interpreted as empirical evidence.

Future research should examine actual disputes involving traditional cultural expressions, particularly cases involving fashion companies, digital platforms, museums, and generative artificial intelligence.

28. Conclusion

The relationship between intellectual property and traditional cultural expressions presents one of the most challenging questions in contemporary cultural and commercial law.

The fictional Avelune–MiraNova dispute demonstrates that conventional copyright doctrine can provide useful protection but cannot independently resolve all issues associated with collective cultural creativity.

The River-Star Motif illustrates the difficulty.

Individual geometric elements may be commonplace and incapable of exclusive protection. Yet the particular combination of elements may carry significant cultural identity and may be sufficiently distinctive to justify legal protection in certain circumstances.

The problem becomes more complex when the design is commercially reproduced at global scale.

Digital platforms allow traditional expressions to circulate far beyond their original cultural context. Generative artificial intelligence may further accelerate this process by transforming digitised cultural material into new commercial designs.

A balanced legal framework should therefore combine several mechanisms.

Copyright can protect original contemporary expressions.

Collective trademarks can identify authentic products.

Licensing can provide commercial certainty.

Community protocols can articulate culturally appropriate use.

Benefit-sharing can ensure that commercial exploitation generates tangible community benefits.

Cultural heritage law can address expressions that conventional copyright cannot adequately protect.

Digital governance can assist with enforcement and authentication.

The objective should not be to create perpetual ownership over culture.

Culture must remain capable of evolving, inspiring, and interacting across communities.

The more appropriate objective is to prevent situations in which culturally significant expressions are commercially exploited without meaningful recognition, consent, or benefit-sharing while preserving legitimate artistic creativity.

The Avelune–MiraNova case therefore supports a fundamental proposition: **the future of intellectual property protection for traditional cultural expressions requires a transition from an exclusively individualistic model of ownership toward a layered system that recognises authorship, community identity, provenance, consent, and equitable commercial participation.**

Such a system would not merely strengthen intellectual property protection. It would also contribute to cultural sustainability by ensuring that communities are active participants in determining how their cultural heritage is represented and commercialised in an increasingly digital global economy.

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