

BIOPROSPECTING

SUBMISSIONS

Introductions

On behalf of Te Arawa FOMA and at the request of a number of other Te Arawa people I have attended three Hui on Bio-prospecting. Including the national one at Wellington on the 13th September 2007

Following on from these Hui I have spent a considerable amount of time reflecting on the discussion points and in discussion with leaders of Te Arawa.

Consequently these submissions are not unilateral and are the result of consultation with other Te Arawa people. But they raise a huge number of questions.

Situation

For some time now Maori have been looking at ways as how they can protect their Matauranga and Taonga from exploitation by other people and this has proven to be very difficult. Fundamentally trying to place a Trade Mark or a Patent as a means of protection and ownership has proven to be virtually impossible. Particularly in the case of Matauranga which is merely a conception so the slightest alteration can change the context from the real original to something entirely different.

If Matauranga is defined as Knowledge then how much of the old knowledge today is relevant or is it like culture ever changing to meet with the demands of evolution and an ever changing environment?

Is it possible to freeze Matauranga in such a way as there can be no change and in that case it could be patented or trade marked? But if it is frozen then how much use will it be as time goes on in terms of progression?

While it can be recognized that Matauranga and Taonga can belong to Maori who is not to say that the same Matauranga and Taonga does not also belong to other Pacific Island peoples or Pan Malaysian people and where did the genesis start, and if there is a genesis then are the originators the true owners and we have become owners through the passage of time?

If the ownership of Matauranga and Taonga is recognized as belonging to Maori as indigenous people then how do we prevent other people using it and claim sole ownership? How is the usage to be monitored and how can action be taken if it is mis used and who is not to say that it is not the work of the user or a variant thereof?

In the case of trade marks and patents they only apply to a situation that stands still over a period of time and doesn't change. (21 years.) In the case of Maturanga and Taonga, particularly in the art form they are constantly changing and there is no way whatsoever that a patent, trade mark or the law would be able to cope with the ever changing scene.

It is quite interesting to hear of Maori talk of protecting Maturanga and Taonga particularly when in many cases it is not uncommon for Maori to use other peoples Taonga such as Waiata and Haka and the Gang culture of the States and to modify it to their own use and custom. The Haka Ka mate Ka mate is a prime example of this. Originally it belonged to Raukawa. Now it seems to belong to anyone who can remember the words

To be able to evaluate the progress Te Arawa have divided both Maturanga and Taonga into that of the Ao Tawhito and the Ao Hou.

Te Ao Tawhito

In the case of the Ao Tawhito Maori see Maturanga and Taonga of that era as being of the ancient world. To be held by special people with much of it standing still. Captured in a time capsule and only used by certain people such as a Tohunga. with specialist knowledge that enables them to use it without repercussion. However, regardless, it is impossible to lock it away as in order to live and to be retained it has to be used.

Many years ago, I was one of those people that were privileged to sight the documents laying out the beginning of the ethos and the Tuhoë people. At the time these documents had never been seen outside of Tuhoë and Ngati Awa and only then by very special people. They were brought to Rotorua at night and laid out at in the Whare Nui for people to see and discuss as a part of the Wananga of that time. By both Maori and non Maori.

This was ancient knowledge and even today is still held by certain people and is of a historical nature of the Ao Tawhito. But it is guarded very very jealously and serves as a base from which to evolve from..

Te Ao Hou.

What is Maturanga and Taonga today that solely belongs to Maori? Is there any that does not enjoy common ownership?

Can it be suggested that Taonga today in the Ao Hou consists of Geothermal, Oil, Gas, Minerals Aggregates, Gold and other precious metals and similar like matters. Can it be suggested that Maturanga today consists of knowing how to produce a battery that never goes flat and a number of other processes and the discovery of a number of objects and processes that as yet are still waiting to be discovered.

Such as the use of the Extraphiles from the hot pools at Tiki Tere that live in temperatures of 100 degrees and consume methane and heavy metals including gold and

by excreting the heavy metals are able to build a form of fresh water coral? Is this the Taonga of today?

Gold eventuates from geothermal activity and Glass Earth Ltd have a licence to explore 2500 square kilometers of Aotearoa by aerial survey. Have Maori got a share in this company, the processes and the possible benefits?

In the case of the Extraphiles Tiki Tere has entered into an agreement with a Crown Research Institute for the extraction thereof and then they will be sent away to the Universities of Hawaii and Nanjing for further analysis. 300, million of them can occupy the width of a hair and under the microscope one can actually see the stomach and intestine. Is this really how life began? In a boiling pool? What is the medicinal potential?

Te Arawa was quite aware that it would be impossible to retain the I.P. Once the analysis had been carried out the Extraphiles could be cloned, duplicated, copied and reduced down to their basic DNA and reconstituted. Each time there would be a change in the I, P. and Maori would not be able to keep up with it. That alone would be impossible to monitor let alone capture.

So the Tiki Tere Trust took it a step further and an Agreement was entered into with all four parties in that if there were any economic benefits then they would share these benefits four ways. So the I.P in this case becomes irrelevant.

Tiki Tere is quite satisfied with that because it has cost them nothing. There are no ongoing costs. If it proves to be a bonanza then Tiki Tere gets to share in the profit on an equal basis and this would allow Tiki Tere to service the wants of its people. If nothing eventuates, then so what.

Supplementary to that, another Maori owned Trust in Te Arawa has moved to do exactly the same thing with the flower and fauna of its local Ngahere.

As they have said, they are not waiting for a decision on the Wai 262 Claim as that may never be resolved and once again while Maori are waiting other people are acting.

These are the opportunities just waiting to be taken up by Maori and like apples on the tree, if you are not going to use them then you can guarantee that someone else will move in and take them, and find a use for them.

The Barriers,

As has been stated there is no funding to be able to carry out the research on the Taonga o te Ao Hou and in the process developing new Matauranga.

As was stated by a Kaumatua from the Coast, a German firm took his manuka honey and set about analysing it for medicinal purposes. He could do nothing about it and had to

stand by and watch a foreign company reap the benefits because he himself did not have access to funding to carry out the same work on behalf of his Iwi.

ForST is reluctant to invest in the analysis of Taonga, despite its title because it can be a bottomless pit in terms of funding with no beneficial return from the scientific research.

However Tiki Tere on the other hand has been able to obtain a promise of \$120 million to develop a Taonga o the Ao Tawhito and to progress it through the Maturanga o te Ao Hou to a Taonga o te Ao Hou. A geothermal power station. .

Te Arawa wants to see the Government provide funding as a part of the Waitangi Settlements for Scientific Research for Maori in particular and to make provision for a Science Centre to be centred in conjunction with Scion in Rotorua. This will enable the native flora and fauna to be analysed by Maori for Maori so that any benefits including I.P and economic accrue to Maori. But until that happens it will never be possible to process the Wai 262 Claim.

Conclusion

Te Arawa respects the ownership of Maturanga and Taonga belonging to other people and other nations.

Te Arawa cannot see how the monitoring and policing of the usage of Maturanga and Taonga can be policed unless trade marks and patents can be applied and one has very deep pockets to enforce the ownership.

There is clear evidence that trademarks and patents cannot be applied because of the ever changing dynamics of both the physical nature and of the concepts of both Taonga and Maturanga which means that there is no consistency. Maturanga and Taonga are living dynamic forces.

Furthermore in terms of Maori who are the actual owners of Maturanga and Taonga in the traditional sense as there is clear evidence that much of this is duplicated by other peoples. The Pacific Islanders in particular. Consequently, who are the real owners?

Te Arawa is more interested in Bio-prospecting in the new world.

Consequently Te Arawa is moving to analyse and protect the new Maturanga and Taonga and its usage that that eventuates from the scientific research of te Ao Hou and belongs to Te Arawa which can be proven as being unique to Te Arawa.

Te Arawa is not interested in Government intervention and a collective approach by other Iwi.

Te Arawa has been the Kaitiaki of its Taonga and Maturanga since mai ra nei and sees no reason to change and to devolve that responsibility to other people..

Submissions

1. Te Arawa are not unduly concerned at the use of their Maturanga and Taonga in the Art form by other people and see it an ever ongoing evolution in the recognition of indigenous art. .
2. Provided it is not abused they see it as an honour because of the recognition and even if it is abused they know that there is little that they can do about it except express their displeasure and endeavour to make the culprit understand of the significance it has to the people that do own it.
3. In other word Te Arawa Taonga and Maturanga in the Art form will continue to live as living Art and shall never die because it is perpetuated by people additional to Te Arawa who see its value.
4. Te Arawa accepts the position that any minor variants take away the ability to register ownership of Maturanga and Taonga as being unique. Particularly when a lot of Maori Taonga and Maturanga is common to Pacific Island peoples as well. And if we really want to be true then we also need to go back to the genesis of the Taonga and Maturanga which may not be Maori.
5. Consequently they do no see it as being feasible to monitor and to police the situation when a number of their own people supply souvenirs which leave a lot to be desired to tourists.
6. Te Arawa also questions as to whether each Iwi can define what is theirs alone when the resurrection of the Institute of Maori Arts and Crafts at Rotorua was undertaken by two brothers from Ngati Porou. At the same time the same two people became responsible for the carving in the Treaty house. All with that special Ngati Porou technique and style.
7. Te Arawa intends to move on and intends to stake its claim into the Taonga and Maturanga o te Ao Hou.
8. Consequently it refuses to be bound by any collective including any other Iwi or Hapu or the Government. It does not need that. . It will continue to have due regard and to be Kaitiaki of its Maturanga and Taonga since mai ra nei. This will be with out the insistence or interference of any other group such as the Government here or over seas and as such will continue to explore ways of ensuring the best utilization. Te Arawa for Te Arawa. (How can Te Arawa accept Kaitiakitanga for another Iwi's Taonga? This would be contrary to the whole principle of Tikanga.)
9. Te Arawa suggests that if people are serious in the protection of their Taonga and Maturanga o te Ao Hou that they join with Te Arawa in an approach to the Government to establish a fund and a science centre whereby the potential of the Wai 262 Claim can be fully explored and establish trade marks and patents in the process. Then Maori can then put it to rest and move on to other more productive matters.
10. Te Arawa does not want to stand still and to be locked into the past. It wants to move ahead and to be a part of the Taonga and Maturanga of te Ao Hou.

11. Te Arawa wants to progress forward and not to be bound by people who perhaps are not so interested in progress.
12. Te Arawa wants to be a member of the Global family. Always striving for new knowledge and to be moving forward.

Its an exciting world out there and Te Arawa, while it respects the past does not want to be locked into it.

These submission have been made on the basis that life does not stand still. If other people want to use Te Arawa Taonga in terms of Art either contemporary or otherwise then so be it. Te Arawa sees that as recognition and part of the ongoing evolution of life. If there is recognition by other people and other races then it means that it has a value and provided it is not abused then Te Arawa is only too pleased to share on the basis that Te Arawa Taonga will continue to have a life.

If it is abused then there is very little that Te Arawa could do in the way of recourse. So it is better to have people working together with understanding where there is respect and appreciation other than working at odds.

Ti Hei Mauriora.

WRJ Gray
Te Arawa

22nd September 2007