

# Crafting Singularity for Export: Place, Identity, and the Global Making of Value, 1830s-1930s

20th March 2026, 9:00- 17:30

## Extended Abstract

### *Reimagining the Valorization of Craft Knowledge and the Role of Intellectual Property: Historical Lineages, Contemporary Challenges, and Interdisciplinary Perspectives*

#### 1. Introduction

Craft knowledge and traditional practices are a crucial component of global cultural heritage. Its recognition and valorization opens up important opportunities for community building, but also serves as an economic resource for crafters and craft-based companies. UNESCO recognizes traditional crafts as part of intangible cultural heritage.<sup>1</sup> Craft knowledge is transmitted intergenerationally, often strongly locally embedded and important for social cohesion, sustainability and well-being. On the other hand, despite the local embedding and the importance of terroir, crafters and craft-based companies greatly benefit from exchanging and sharing knowledge, practices, technologies and experiences both locally and internationally as well, as is shown by both historical<sup>2</sup> and contemporary case studies<sup>3</sup>. Moreover, cross-country collaboration and exchange is increasingly enabled and supported through crafter residencies, workshops, and mobility programs.<sup>4</sup> In addition, digital platforms, online communities, and virtual marketplaces decouple craft from its traditional reliance on physical spaces and geographical proximity. Artisans can connect directly with global audiences, showcase their work in virtual galleries, and participate in online craft communities. Furthermore, digital tools facilitate new forms of making, blurring the boundaries between physical and digital craft practices. Digital design tools, 3D printing, and online collaborative platforms enable new forms of artisanal innovation, creative expression, learning, exchange and sharing.

Globalization, mass industrialized production, and digitalization have at the same time increased the exposure of crafters to misappropriation and market pressures, **prompting**

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<sup>1</sup> Convention for the Safeguarding of the Intangible Cultural Heritage, Paris, 2003, available at: <https://www.unesco.org/en/legal-affairs/convention-safeguarding-intangible-cultural-heritage>.

<sup>2</sup> See the extended abstracts provided by the various speakers for the symposium

<sup>3</sup> For more recent case-studies, see for instance the projects Tracks4Crafts <https://tracks4crafts.eu/> and Crafting Futures <https://www.craftingfutures.be/en/>. For an interesting concrete, contemporary and local example, see: UNFOLD. Another relevant development is the growing popularity of “makerspaces”

<sup>4</sup> See for instance: <https://www.craftwork4all.com/> and various training networks within the context of Erasmus+.

**renewed attention to intellectual property (IP) as a mechanism for safeguarding craft know-how and traditional practices.** Debates surrounding the protection of traditional knowledge and Traditional Cultural Expressions (TCEs) in the context of the World Intellectual Property Office emphasize the need to protect both tangible and intangible dimensions of indigenous and community-based creativity, which remain insufficiently addressed under current legal regimes.<sup>5</sup>

Globalization and digitalization **raise critical epistemological questions** in the context of crafts and cultural heritage about key concepts and notions such as local and global; terroir and mobility; formal and informal knowledge; individual and collective; innovation, originality and tradition, authenticity and recognition; materiality and immateriality; sustainability; ownership, protection and sharing; openness and appropriation; value, etc. Moreover, these notions are defined and analyzed in different ways and from different perspectives by different disciplines. Actually, the concept “singularity”, the key term in the symposium title, is another term with a particular understanding and conceptualization in different disciplines.

IP legal frameworks and IP literature employ some of those concepts and notions prominently and visibly (e.g. individual, innovative, originality, terroir). Yet, a deeper understanding of the adaptive and open nature of IP law reveals that “legal craftsmanship” may allow for shaping IP strategies in a way that also accommodate other (above-mentioned) key dimensions of craft traditions, current craft practices and creativity.

Therefore, the **aim of this contribution** at the symposium on 20<sup>th</sup> of March is to learn about the historical case studies presented by the other speakers and to draw lessons in terms of contemporary challenges for crafts in terms of the valorization of craft knowledge and traditional practices. I will first very briefly explore some historical foundations, followed by contemporary challenges, and examine the potential of IP strategies to act as a facilitator rather than a barrier for crafts. In doing so, I will try to link to examples and cases used by the other conference presenters to identify similarities and differences, to underline some contemporary controversies and to highlight interdisciplinary perspectives related to conceptualization and language.

## **2. Historical Patterns of Craft Knowledge Protection and IP**

Historically, craft know-how was protected through customary governance systems rather than formal state-based rights. Medieval guilds, apprenticeship models, and

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<sup>5</sup> See for instance: Alberto Vargas (2022), "WIPO's Proposed Treatment of Sacred Traditional Cultural Expressions as a Distinct Form of Intellectual Property", Chicago Journal of International Law, Vol. 23: No. 1, Article 14, available at: <https://chicagounbound.uchicago.edu/cjil/vol23/iss1/14> and Christoph B. Graber (2009), Aboriginal Self-Determination vs. the Propertisation of Traditional Culture: The Case of Sacred Wanjina Sites, Australian Indigenous Law Review, Vol. 13, No. 2, pp. 18-34, available at: <https://ssrn.com/abstract=1600689>.

hereditary transmission of craft skills illustrate early mechanisms of controlling access to knowledge, preserving the integrity of design traditions and safeguarding the quality of production processes and products.<sup>6</sup>

Although modern legal scholarship focuses mostly on the ‘positivist’ boundaries between cultural heritage law and IP, historical protection models generally viewed craft knowledge as informal, relational and collectively held rather than individually created and owned. In addition, differences related to materiality and immateriality and tangibility versus intangibility tend to be highlighted in the legal literature.<sup>7</sup> This historical pattern aligns with contemporary discussions within WIPO on traditional knowledge, which recognize that traditional knowledge embodies knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity, requiring legal approaches that differ from how IP frameworks are typically governed.

Understanding these type of historical patterns and foundations emphasizes that any modern IP approach and IP strategies need to account for collectivity, intergenerational knowledge stewardship, authenticity, integrity, quality, respect and sharing norms while enabling creativity, innovation and the use of new technologies.

### 3. IP Strategies for Valorizing Craft Know-How

Several IP instruments and strategies may be employed to valorize and – if considered desirable and suitable – to protect craft know-how, practices and products. These instruments vary from trademarks, in particular collective/certification trademarks, copyright, design rights, patents, trade secrets to *sui generis* regimes for products that can be linked to their origin. Each of these instruments require that certain legal criteria are fulfilled, some also depend on registration and entail significant registration and maintenance costs. In identifying the most appropriate strategy or a combination of

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<sup>6</sup> Robert P. Merges (2004), “From Medieval Guilds to Open Source Software: Informal Norms, Appropriability Institutions, and Innovation”, Conference on the Legal History of Intellectual Property November 13, 2004, Madison, Wisconsin, available at: [https://www.law.berkeley.edu/files/From\\_Medieval\\_Guilds\\_to\\_Open\\_Source\\_Software.pdf](https://www.law.berkeley.edu/files/From_Medieval_Guilds_to_Open_Source_Software.pdf);

Stephan R. Epstein (1998), “Craft Guilds, Apprenticeship, and Technological Change,” *The Journal of Economic History*, Vol. 58, No. 3, pp. 684-713; Stephan R. Epstein (2004), Property Rights to Technical Knowledge in Premodern Europe, 1300-1800, *The American Economic Review*, Vol. 94, No. 2, Papers and Proceedings of the One Hundred Sixteenth Annual Meeting of the American Economic Association San Diego, CA, January 3-5, 2004, pp. 382-387.

<sup>7</sup> Fiona Macmillan (2021), “Intellectual Property and Cultural Heritage: Towards Interdisciplinarity”, in: , Irene Calboli and Maria Lillà Montagnani (eds.), *Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives*, pp. 331-343, available at: <https://doi.org/10.1093/oso/9780198826743.003.0022> and Steven Van Uytsel (2017), “When Geographical Indications Meet Intangible Cultural Heritage: The New Japanese Act on Geographical Indications”, in: Irene Calboli & Wee Loon Ng-Loy (eds.), *Geographical Indications at the Crossroads of Trade, Development, and Culture, Focus on Asia-Pacific*, Cambridge University Press, pp. 508 - 529.

instruments and strategies for crafts, these criteria and the respective limitations and challenges related to these rights need to be taken into consideration.

Some jurisdictions have created *sui generis* protection mechanisms, such as geographical Indications (GIs), which are increasingly being used for safeguarding traditional craft products tied to specific regions. In 2014, Japan adopted a GI Act that also covers craft products<sup>8</sup> entitled “Act for the Protection of the Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs”.<sup>9</sup> It has been operating under the supervision of the Ministry of Agriculture, Forestry and Fishery (MAFF) since 1 June 2015.<sup>10</sup> More recently, the European Union (EU) has created a new regulatory system for protecting the names of craft and industrial products whose quality, reputation or other characteristics are attributable to their geographical origin.<sup>11</sup> On 1 December 2025, the European Union Intellectual Property Office (EUIPO) opened applications for the registration of the names of Craft and Industrial products as Geographical Indications (CIGIs). A search on GI View did not reveal any Japanese applications for such CIGIs in the system.<sup>12</sup> Moreover, the list of registered GIs in Japan with a European origin also seems to be mostly limited to agricultural products.<sup>13</sup> This may be related to restrictions

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<sup>8</sup> See: “Products manufactured or processed using agricultural, forestry, and fishery products” in Article 2(4) GI Act including feed (limited to things manufactured or processed from agricultural, forestry, or fishery products as raw produce or as ingredients), lacquer, bamboo material, essential oil, charcoal, timber, tatami facing, and raw silk (See Implementation of Act for the Protection of the Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs, Law No. 227 of 2015, art. 1 (Japan) available at [www.maff.go.jp/j/shokusan/gi\\_act/outline/pdf/doc7.pdf](http://www.maff.go.jp/j/shokusan/gi_act/outline/pdf/doc7.pdf)).

<sup>9</sup> Tokutei Norin Suisan Butsu to no Meisho no Hogo ni Kansuru Horitsu, available at [www.maff.go.jp/j/shokusan/gi\\_act/outline/pdf/doc4.pdf](http://www.maff.go.jp/j/shokusan/gi_act/outline/pdf/doc4.pdf). See Nami Togawa, Report on the New Japanese Law on Protection of Geographical Indications, International Association for the Protection of Intellectual Property (2014), available at: <http://aippi.org/wp-content/uploads/committees/220/GR220japan.pdf> and Steven Van Uytsel (2017), “When Geographical Indications Meet Intangible Cultural Heritage: The New Japanese Act on Geographical Indications”, in: Irene Calboli & Wee Loon Ng-Loy (eds.), Geographical Indications at the Crossroads of Trade, Development, and Culture, Focus on Asia-Pacific, Cambridge University Press, pp. 508-529.

<sup>10</sup> Interestingly, MAFF had been trying to set up a *sui generis* system for the protection of GIs in 2003. However, in a power struggle with the Ministry of Economy, Trade and Industry of Japan (METI), MAFF had to recognize its superior in METI, which developed the regionally based collective trademark system. See Louis Augustin-Jean & Kae Sekine (2012), “From Products of Origin to Geographical Indications in Japan: Perspectives on the Construction of Quality for the Emblematic Productions of Kobe & Matsusaka Beef”, in: Louis Augustin-Jean, Hélène Ilbert & Neantro Saavedra-Rivano (eds.), Geographical Indications and International Agricultural Trade: The Challenge for Asia, 139; Daisuke Kojo (2007), “Comment: The Importance of the Geographic Origin of Agricultural Products: A Comparison of Japanese and American Approaches”, 14 Mo. Env'tl. L. & Pol'y Rev. 275, 294. On the regionally based collective trademarks, see Kenneth Port (2015), “Regionally Based Collective Trademark System in Japan: Geographical Indicators by a Different Name or a Political Misdirection?”, 6 Cybaris, An Intel. Prop. L. Rev. 2.

<sup>11</sup> Regulation (EU) 2023/2411 of the EP and of the Council of 18 October 2023 on the protection of geographical indications for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753, [2023] L1/56.

<sup>12</sup> <https://www.tmdn.org/giview/>.

<sup>13</sup> [https://www.maff.go.jp/e/policies/intel/gi\\_act/designation2.html](https://www.maff.go.jp/e/policies/intel/gi_act/designation2.html).

imposed through the Agreement between the European Union and Japan for an Economic Partnership<sup>14</sup>, which I plan to explore further for the symposium.

#### 4. Interdisciplinary Approaches

Cultural heritage scholars note that IP and heritage law often operate in separate legal spheres, yet overlap where community artefacts and practices are concerned, necessitating interdisciplinary analysis that bridges legal, economic, historical, anthropological, and political perspectives.<sup>15</sup> For instance, anthropological studies highlight the embodied and tacit nature of craft knowledge—knowledge that cannot simply be codified into conventional IP rights structures. Economic research underscores the role of traditional crafts in local development and cultural tourism. Heritage institutions, including museums and archives, confront daily challenges in navigating IP constraints while respecting community rights.<sup>16</sup> In addition, as noted above, concepts and notions used to refer to craft knowledge and practices in these various disciplines differ and are interpreted in various ways, which needs to be considered while reimagining the role of IP in valorizing craft knowledge and practices.

#### 5. Towards a Future-looking Framework for Valorizing Craft Know-How

**Community-driven governance** mechanisms for craft knowledge align with international calls for indigenous and traditional communities to control their cultural heritage and related IP rights. Combining GIs, collective marks, and trade secret models into **hybrid IP strategies** offer practical ways to protect both the origin link, the quality and reputation and specific craft techniques. Copyright, design rights and patents may supplement for particular original and innovative products and applications. **Sui generis frameworks** are increasingly recognized as necessary to accommodate the community, and identity-linked nature of craft knowledge, addressing limitations of existing IP regimes. **Integration with intangible cultural heritage policy** supports holistic safeguarding by emphasizing continuity alongside economic empowerment. **Ethical IP commercialization and digital governance** (e.g. use of Creative Commons based

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<sup>14</sup> Agreement between the European Union and Japan for an Economic Partnership, [2018] L330/61, p. 3.

<sup>15</sup> Fiona Macmillan (2021), “Intellectual Property and Cultural Heritage: Towards Interdisciplinarity”, in: , Irene Calboli and Maria Lilla Montagnani (eds.), Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives, pp. 331-343, available at: <https://doi.org/10.1093/oso/9780198826743.003.0022>.

<sup>16</sup> Molly Torsen and Jane Anderson (2010), Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries and Archives, written for the World Intellectual Property Organization, available at: [https://www.wipo.int/edocs/pubdocs/en/tk/1023/wipo\\_pub\\_1023.pdf](https://www.wipo.int/edocs/pubdocs/en/tk/1023/wipo_pub_1023.pdf).

models) should ensure fair benefit-sharing and prevent misuse while enabling innovation in craft-based markets.

## **6. Final Thoughts**

This extended abstract highlights the intricate relationship between cultural heritage, craft know-how and practices, and IP. Historical governance structures reveal that craft know-how has long been managed collectively, while contemporary challenges seemingly expose gaps in existing legal frameworks. I suggest that neither conventional IP nor cultural heritage law alone can safeguard craft knowledge; rather, carefully crafted community-centered solutions, particularly hybrid IP portfolio strategies and *sui generis* GI regimes for craft products, are essential for ensuring the sustainable transmission and protection of craft knowledge, practices and products.

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