

Case study for WCC workshop, Day 1¹

Group 3: Commercial use of culturally significant symbols: the case of the Sámi sun symbol trademark

IP tool: trademarks

Summary: Craft cities may want to use culturally significant symbols in their city brands, and even register trademarks linked to these symbols. However, it is important to consider the communities who created such symbols and who have cultural stewardship over them today, even where such a symbol might be considered to be in the 'public domain' by some people. This case study discusses the problems that arose when a commercial jewellery company registered a trademark in Norway in 2009 based on a cultural symbol of the Sámi indigenous community of Sápmi in northern Europe. Sámi craftspeople were prevented from selling handicrafts featuring their own symbol in 2018 and raised an objection with the Norwegian Intellectual Property Office. The trademark was invalidated in 2020 and the jewellery company lost control of their trademark in Norway, likely suffering reputational damage.

Case study:

Culturally significant symbols can help in linking a city brand to its heritage crafts. However, it is important to consider the moral and legal rights of bearer communities that originally created those cultural symbols. Failure to do so may cause cultural and economic harm to bearer communities, and reputational and economic harm to city authorities and commercial enterprises. City authorities and other third parties should therefore consider carefully the selection of culturally significant branding, ask for free, prior and informed consent from community representatives, and negotiate benefit sharing agreements where required.

The case study looks at an example of misappropriation of an indigenous Sámi sun symbol by a commercial actor, a jewellery company, in Norway. The Sámi are an indigenous people residing in Sápmi, a region cutting across northern Scandinavia (Norway, Finland, Sweden) and the Kola Peninsula in Northwest Russia. A sun symbol from a seventeenth century Sámi drum was registered as a trademark by a jewellery company in Norway in 2009. The jewellery company started enforcing their trademark against Sámi craftspeople in about 2018, asking them to stop using the symbol in their work. After objections and media attention highlighting the unfairness of this situation for the Sámi community, the trademark was invalidated by the Norwegian Intellectual Property Office in 2020. In their decision, they found that the registration of a religious symbol was likely to infringe on the rights of the Sámi, whose access to their own cultural and religious symbols should be protected by law. Today, the jewellery company still uses the mark as their logo, but they no longer own the trademark in Norway. Negative press around the enforcement and invalidation of the trademark likely caused reputational damage to the company.

¹ Deacon, Harriet J. 2020. Ethics, intellectual property and commercialization of cultural heritage. *Pravovedenie* 64 (1).