

**Teams @ 14.00 – 16.00 (1-3 pm CET), Thursday 10 June, 2021**

Agenda

1. **Introduction**

A short recap of the past meetings was made to new participants. Noting overlapping work this meeting provide an opportunity to know more about the results of the study made under the Sámi Parliamentary Council’s work program. New members of the team, communications’s officer at WIPO TK Department Rebecka Ferderer, Jacob Adams, Jerker Rydén and Lars Ilshammar from the Swedish Royal Library, and Jussi Nuorteva from Finnish National Archives (came later), Mira Rauhala, a trainee at Siida Museum introduced themselves. We are happy to note that Mira will continue from 1 September on for three months as a trainee at the Ministry assisting with the organizing of the Conference. Also Tuomas Aslak Juuso was able to be present in the beginning of the meeting.

**Finland**

Anna Vuopala and Marjaana Seppinen/ Ministry of Education

Leena Marsio/ Finnish Heritage Agency

Marjo Aalto-Setälä/PRH, Patent and Registration Office

Jukka Liedes, the Copyright Society of Finland

Eva Englund/Nordic Council of Ministers, Secretariat, Culture, Sami issues

**Sweden**

Robert Nilsson/ Culture department, copyright and IPRs

Martin Berger/ PRS, Patent and Registration Office

**Norway**

Silja Somby and Jon Petter Gintal/ Sami Parliament (Samediggi), Norway

Jostein Sandvik/ Patentstyret

Maria Jongers/ Ministry of Culture and Church affairs

**Greenland (Naalakkersuisut)**

Pia Lynge and Naja Brandt, Ministry of Education, Culture and Church

**Experts**

Oula Antti Labba, Saami Council

Tuomas Mattila, University of Helsinki

Jerker Rydén, Lars Ilshammar/ National Library of Sweden

Inker-Anni Linkola-Aikio, Tiina-Maria Aalto, Suvi King, Mira Rauhala/ Sámi Archives

Jerker Rydén described the Swedish project idea to enable access to media products containing Sámi culture. The project idea has been discussed with the Sámi Parliament in Sweden. There would be an opportunity to pilot the solution based on the ECL, extended collective licensing, that would enable licensing of the rights in various media, e.g. audiovisual works.

Anna reminded of the benefits of following the [Dialogue portal](https://minedu.fi/en/project?tunnus=OKM057:00/2020) to stay up to date on the development of the program and get access to various new studies and other content as well as the written briefings of the Team meetings.

The draft leaflets on “Save the date” to the Conference were only mentioned at the meeting to highlight that we now have translations available in two out of three Sami languages in Finland (Inari Sami and North Sami). The flyer in Skolt Sámi will be sent to the Nordic team later when it is made. Everyone in the Team is encouraged to distribute it in each respective relevant network.

1. **Ownership of Sámi intangible cultural heritage**

Silja Somby and Jacob Adams presented shortly the study made by Piia Nuorgam and Jacob Adams under the SPC work program by the Sámi Parliament in Norway. The pre-study on Sami ICH (IMKÁS) will work as the foundation of the dialogue at the Conference. The study provides background to the approach of the Sámi who sees their right to protection of their traditional knowledge and traditional cultural expressions to exist already under the current legislation. It is a rights-based approach that would not need establishment of new rights but acknowledgement and recognition of the rights. The study built upon the experiences of the Disney case and contained numerous requests by the SPC. Main goals were to review the landscape of jurisdictions in Sápmi and the work that has been done by the Sámi for instance in the form of ethical guidelines etc. to manifest their rights. The approach to the topics was not same everywhere in Sápmi and therefore the most important recommendation is that communication and coordination on protection of TK and TCE is improved throughout Sápmi and that the strong need for capacity building is addressed - internally for the Sámi to know the topics and tools and also externally for everyone who would like to use Sámi TK/TCEs to understand how to treat them. Recent measures taken by companies aiming at assessing the sensitivity of certain uses is not enough but more dialogue is needed. The findings of the study were also presented at the IP subgroup and the narrative from this meeting contains a description of the findings. The study will be published in Norwegian and North Sámi within days. Recommendations of the study will be published in English. The study will be distributed to the Team along with the slides by Piia Nuorgam.

1. **Findings from the subgroups**

The subgroup for IP issues (copyright and related rights) was convened on May 25 and June 1. Many IP specialists from the Nordics (including professor Jan Rosén, Rainer Oesch, directors from CMOs, Kopiosto and Teosto) gathered to discuss how current forms of copyright and trademark -based mechanisms could work as part-solutions to protection of Sámi TK and TCEs.

The IP group discussed the viability of protection of classics, treatment of yoik at CMO’s and archives, collective marks under trademark law and the possibility of a board to assist the IP offices in assessing sensitivity of trademark applications (based on a model from New Zealand). The Sámi representatives considered that these models were interesting but would not give the Sámi the right to decide about the use of their TK and TCEs. Therefore, they preferred the rights-based approach (as presented shortly above) and the dialogue on how the IP system could acknowledge these rights. There was a special need to focus on defining the structures to support the collective ownership of Sámi ICH. The narrative attached to this briefing covers the discussions and findings in more detail. The dialogue continues in the fall with a 3rd and 4th meeting. The IP subgroup could define what are the gaps, i.e. what new is needed and what kind of roadmap does achieving it require. The new thing missing is the “treatment obligation” to recognize the ownership the Sámi have in their TK/TCEs as IP. It could amount to some recommendations or conclusions from the Nordic governments to work on in the following years. The ethical guidelines that have been formulated in Sápmi could assist in this process. Anna (chair) noted that rights based and the measures based approaches are not alternative, but could contain both rights and measures, depending on the situation. For instance, the EU uses the measures based approach in WIPO because the EU’s policy in indigenous issues are normally dealt with as external, not internal issues. However, the Council conclusions from 2017 on the UNDRIP the Commission’s work document describes the Sámi and the Greenland inuit to be European indigenous peoples.

Representatives of the Sámi mentioned that recently the ethical guidelines on film using Sámi culture published in Sweden had raised a lot of objections from the Swedish art field. The artists said that their freedom of artistic expression was at stake. See: <https://kulturanalys.se/wp-content/uploads/2021/06/2021_1-webb.pdf> Due to this strong resistance there is a need for dialogue and not “one way” measures. It was also highlighted that the problem with for instance the protection of classics is that it must first be put in “public domain” in order to revive it. It would be much better to work on the recognition. There is resistance to see cultural expressions as intellectual property. An expert in IP said that the protection of classics does not imply that copyright does not exist.

1. **The new draft version of the program**

The Team discussed the newest draft of the program. Comments had been provided by Jon Petter Gintal, Silja Somby, Christina Haetta, Eva Englund and Leena Marsio.

The opening would be containing opening words by the new Minister of Science and Culture in Finland, Antti Kurvinen together with Tuomas Aslak Juuso, the president of the Sámi Parliament. The other presidents of the Sámi parliaments would also be invited to make opening remarks. Also the expertise of the Saami Council should be used, as it is the oldest organization working for the benefit of Sámi rights in the Nordics and Russia. Minister for Nordic co-operation and Equality Thomas Blomqvist and Paula Lehtomäki, Secretary General of the NMC will be sending a video greeting.

A keynote would be given by a Sámi and/or Greenland artist, artesan, practitioner of traditional livelyhoods (Sámi duodji, reindeer hearding, fishing etc). It would be very important to have all levels present at the Conference as it is also directed to a both experts in IP and those who work with maintaining and developing the indigenous cultures. Some video clips and interviews of locals might be interesting too.

There would be a possibility to present the work done in this Nordic team, and the different levels of work that will be required to make progress in real terms in protecting TK and TCEs in the Nordics.

We need to work on political common understanding in the Nordics about what cross border work requires from each country’s government, and experts in IP and cultural heritage. It requires understanding the other legislation that underpins the protection of TK and TCEs namely, the legislation on indigenous people’s rights in the Constitutions of Finland, Sweden and Norway, which are complemented by the Human rights’ Conventions and the UN Declaration of Indigenous Peoples rights, article 31. The dialogue should be based on the premises of understanding the different approaches on the topics and to enable them to be acknowledged in the WIPO based world IP and the Unesco ICH system.

Silja presented some suggestions for speakers in the panel and had rewritten the titles to be more concrete in nature.

The substantive level work was proposed to build on the common features of the legislation in Finland, Sweden and Norway specifically in the Nagoya protocol implementation. There are very few experiences in Finland and Norway about it. In Finland it relies on a database to be formed and maintained by the Sámi parliament who can provide TK from this database via a request by the Nature resource center (which is the focal point). In Norway, the focal point could be the Sámi parliament too. The speaker from Unesco would not be suitable for this but perhaps in another context.

There was positive feedback on the proposals. As a reflection of the proposal, it was considered important that the existing ethical guidelines would be taken into practice at the IP Offices and this way support the businesses in recognizing Sámi TK/TCEs. Therefore, a panel item on ethical guidelines might be a good idea. It would also be important to show positive experiences from using IP to protect Sámi TK/TCEs, and concretely how those systems work? How can respect be shown and who can give consent in each case? It was important to note that the Sámi parliaments do not have enough capacity to deal with IP related matters on pan-Sámi level. To find common ground on costs, this should be addressed too. It was decided that the Nagoya would not be discussed as of the content but from the perspective whether the solutions implementing it in Finland and Norway reflected the possibility for the Sámi to control the use of their TK related to genetic resources.

The names for speakers are included in the draft and those who are in this team should indicate acceptance in order to start seeking confirmation from some of the speakers, at the latest in September.

Jussi Nuorteva mentioned about an EU funded pan-Nordic project on the Digital Access to Sámi Heritage Archives which will enable access to Sámi archive content <https://digisamiarchives.com/> The project is led by director Inga Marja Steinfjell ([ingste@arkivverket.no](mailto:ingste@arkivverket.no)) and Johan Anders Paulsen ([johpau@arkivverket.no](mailto:johpau@arkivverket.no)) both working at the DA-project. Artificial intelligence and crowdsourcing is used to build a common database on Sámi ICH. The model is built on something used at the Adelaide archives in Australia. The AI READ Transcribus can read even handwritten Sámi language texts. There are some archives that cannot be reached as they are very fragmented such as the minority archives in Sweden and the Skolt Sámi archives in Russia. The aim of the project is to put 1,1 million pages freely available on the Internet. The project uses existing systems such as the Semantic web of the Aalto university. It was pointed out due to a remark relating to free access that as regards restricted information about Sámi culture, it can be tagged and shown only to a selected group.

Leena Marsio mentioned that the ICH subgroup will meet on June 18 and that there is a very good setting of experts present. Harriet Deacon, a UNESCO facilitator was present in the IP subgroup as an observer and submitted comments to the work also in writing.

Another idea was raised, namely the usefulness of the GI protection (geographical indications) as a form of protection of Sámi TK and TCEs. There is the question whether it would be good to attract international attention on the dialogue taking place during the Finnish Presidency of the Nordic Council of Ministers. This will be forwarded to the group.

1. **Any other business**

No issues were raised.

1. **Next meeting**

Next meeting will be on 7 September.