

# INDIAN COUNTRY TODAY

HOME GLOBAL NATIONAL BUSINESS POLITICS LIVING OPINION YOUR ICT

Subscribe Advertise ICT Store

LETTERS EDITORIALS COLUMNISTS CARTOONS BLOGS NATIVE CURRENTS



Helen Padilla

## Padilla: Combating fake Indian Arts and Crafts: a proposal for action

By Helen B. Padilla

Story Published: Oct 14, 2008  
Story Updated: Oct 14, 2008

In 1935, Congress enacted the first of several laws – the Indian Arts and Crafts Act – aimed at putting an end to trafficking in non-genuine Indian arts and crafts. Exactly 70 years later, in 2005, the U.S. Interior Department's inspector general estimated that nearly one-half of the \$1 billion generated each year by the market for Indian arts and crafts comes from the sale of non-authentic goods – fakes. Most knowledgeable observers believe that the inspector general's estimate is far too low.

Nearly three-quarters of a century after the federal government acted to protect a critical source of income for many Native artisans and their tribal communities, they still benefit from only a fraction of

Helen Padilla

**TOOLS**

|              |             |
|--------------|-------------|
| SAVE         | E-MAIL      |
| PRINT        | SUBMIT!     |
| MOST POPULAR | RSS FEED    |
| DIGG         | DEL.ICIO.US |

» 0 Comments

the income generated by that market. A large part of the fake goods in the U.S. market is produced overseas and then sold in the United States at prices that undercut what Native artisans need to charge for their work to make a viable living. Perhaps even more alarming than the economic impact, the huge number of fakes in the marketplace puts the cultural knowledge and value embodied in, and transmitted by, Native arts and crafts at risk. The consequences of this massive swindle are all too sadly familiar – livelihoods damaged, traditions compromised and tribal economies undermined.

**The consequences of this massive swindle are all too sadly familiar – livelihoods damaged, traditions compromised, and tribal economies undermined.**

The laws enacted specifically to deal with the problem of fakes – the Indian Arts and Crafts Act and its state counterparts – have been ineffective in stopping the problem. A major reason for the ineffectiveness of the current laws is that these are consumer protection/truth-in-advertising laws. As such, they focus on wrongdoing at the level of individual retail transactions. In a \$1 billion-a-year market, this sporadic prosecution of individual retailers is little more than an exercise in futility. Clearly, there is a need to tackle the problem using other creative methods.

One such mechanism is the federal international trade laws. The U.S. laws that regulate international trade are broadly effective in protecting our economy from injurious imports and could serve as the basis for a highly effective enforcement initiative targeting imported fakes, particularly if these trade laws were used in conjunction with the existing consumer protection laws. An enforcement initiative utilizing the U.S. trade statutes (particularly Section 337 of the Tariff Act of 1930: 19 U.S.C. § 1337), would start the enforcement effort at the other end of the distribution chain by targeting the importation of fakes into the United States and their distribution by dishonest wholesalers after they enter the United States.

These laws all provide for a private right of action; that is, they can be invoked by parties other than federal and state law enforcement agencies. Tribal governments and individual Native artists can bring suit under these federal international trade statutes to stop the sale of fake Indian arts and crafts. By taking responsibility for enforcing these federal statutes through private litigation, Indian tribes that are directly harmed by their violation can take specific, concrete steps to halt this long-running attack on the economies and culture of Native people. The American Indian Law Center Inc., the country's oldest Indian-



Search

**YOUR ICT**

Cory witherill, full-blooded... by: Prairiehouse Sports

**Classifieds**

|             |                                     |  |
|-------------|-------------------------------------|--|
| <b>Jobs</b> | <b>RFP</b><br>Request for Proposals | <b>BSD</b><br>Business Service Directory |
|-------------|-------------------------------------|--|

**G2E Features These Show Stoppers:**

**F&B**  
SCHEDULE | AT G2E

**ENTERTAINMENT arena**  
AT G2E

*Retail*  
**PROMENADE**  
AT G2E

**ON DEMAND**

|   |  |
|---|--|
| <b>Digital Copy</b><br>Receive Indian Country Today in PDF format | <b>News Alerts</b><br>Sign up to receive our News Alerts |
| <b>ICT audio</b><br>Listen to audio programs from ICT             | <b>Video</b><br>Watch ICT videos right in your browser   |
| <b>RSS Feeds</b><br>Stay up-to-date with ICT                      | <b>Mobile</b><br>ICT on your cell phone or PDA           |

**1-800-277-2345**  
cancer.org

**POLL**

**Are you likely to vote in the 2008 presidential election?**

Yes  
 No

**Why Defend Smokers?**  
Attacks on smokers destroy your liberty, too.  
[www.heartland.org](http://www.heartland.org)

controlled and Indian-operated legal and policy nonprofit organization, located in Albuquerque, N.M., is coordinating such an enforcement effort.

The AILC's first step will be to invite all interested stakeholders, including tribal governments, Native American arts and crafts cooperatives, and individual artisans to participate in the Indian Arts and Crafts Protection Collaborative. The purpose of the collaborative will ultimately be to instigate legal action using federal international trade laws to stem the tide of fake Indian arts and crafts illegally entering the U.S.

The collaborative will, in time, bring private litigation at the U.S. International Trade Commission in Washington, D.C., and, subsequently, in federal district court seeking broad injunctive relief barring the importation and trafficking in fake Indian arts and crafts as well as monetary damages from large U.S. distributors engaged in such trafficking. The outcome of this effort would be twofold: the work of Native artisans could once more be priced at its true value, and the integrity of the cultural and economic well-being of Native artists and their tribal communities would be effectively protected.

At the National Congress of American Indians' 65th annual convention in Phoenix next Friday, Oct. 24, the NCAI's General Assembly will vote on a resolution of support for the enforcement initiative outlined above. On Tuesday, Oct. 21 at 6:30 p.m., this enforcement initiative will be the subject of a special breakout session. I urge the tribal governments to support this resolution. More importantly, I urge the formation of a broad coalition of tribal governments, arts and crafts organizations, individual artists, and other individuals and organizations committed to authenticity in Native arts and crafts to come together to support and to participate in this initiative by joining the collaborative.

*Helen Padilla, a Native of Isleta Pueblo, is the new director of the American Indian Law Center Inc. A licensed attorney practicing Indian law, she is also chair-elect of the Indian Law section of the State Bar of New Mexico and vice chair of the Laguna Gaming Control Board*



Photo courtesy Tony Eriacho Jr./Council for Indigenous Arts and Culture

*Seeing the difference: a side-by-side look at some authentic Native objects, left, and fakes. Top: An original piece done by Tony Eriacho Jr., a Zuni silversmith from the Council for Indigenous Arts and Culture, and his wife, Ola, who does all the inlaying. The other photos show pieces crafted by other Zuni artisans.*

### [Native American Jewelry](#)

Low Prices On Navajo & Zuni Jewelry Buy A Beautiful Authentic Piece Now  
[www.UglyOtter.com](http://www.UglyOtter.com)

### [Washington Gambling](#)

Local casino gaming & gambling Great gaming destination  
[yakimalegendscasino.org](http://yakimalegendscasino.org)

Ads by Google

## Add a comment

Name:

Comment: 500 Characters Left

*Comments are moderated and will not appear on this story until after they have been reviewed and deemed appropriate for posting.*

*Indian Country Today and its affiliated companies are not responsible for the content of comments posted or for anything arising out of use of the above comments or other interaction among the users. We reserve the right to screen, refuse to post, remove or edit user-generated content at any time and for any or no reason in our absolute and sole discretion without prior notice, although we have no duty to do so or to monitor any Public Forum.*

Submit

### MOST POPULAR

- Making a path to recovery
- Rosenfeld: Alaska is a disaster
- Gilbert: An Indian country diary
- Indian recognition of non-recognized tribes
- Peter: Alaska 101 for presidential candidates

