

# The Nexus and Disconnect of Moral Rights and the Protection of Traditional Knowledge

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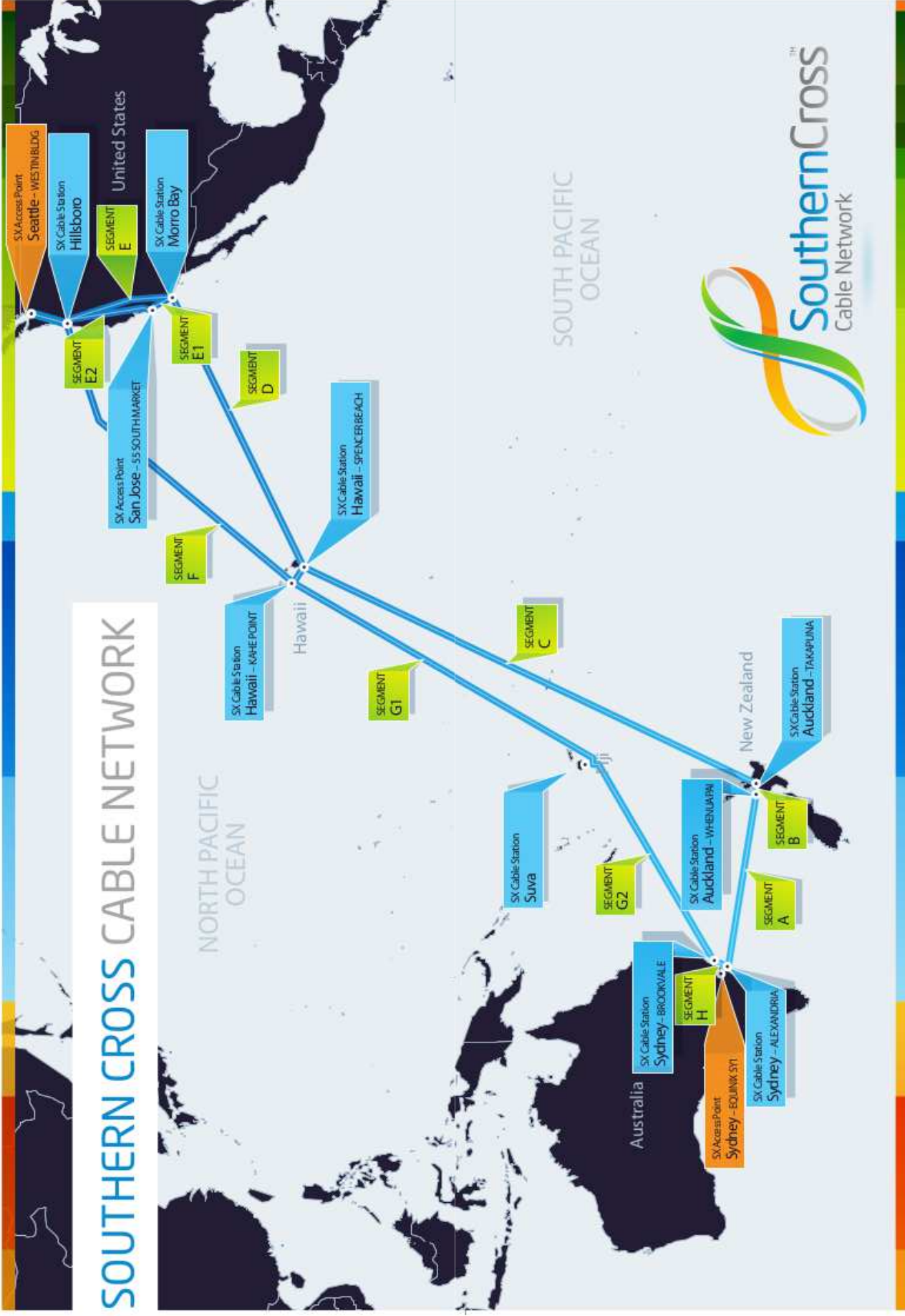
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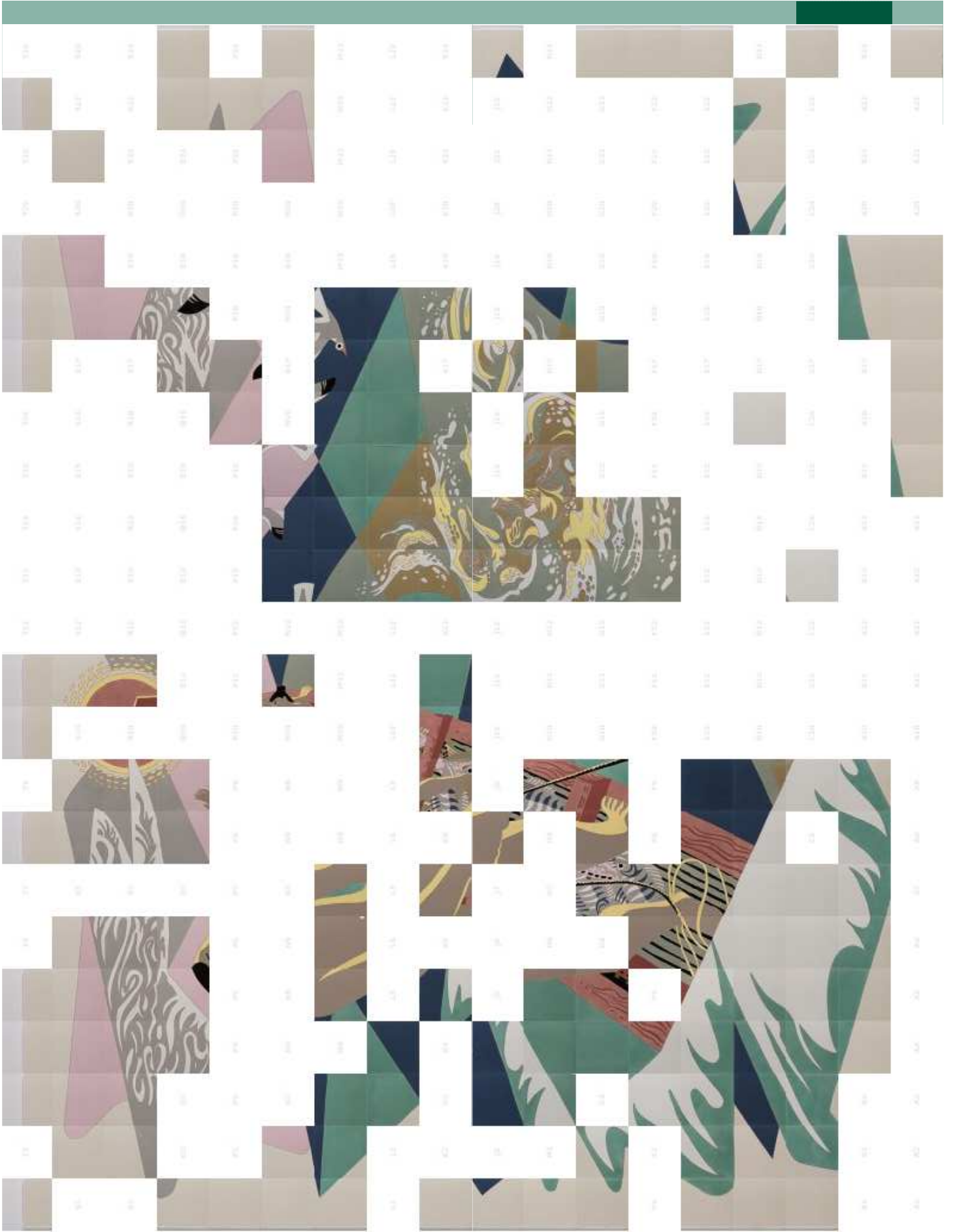
*Te Ika-a-Akoranga (The Fish of Akoranga) Bronwyn Holloway-Smith*  
<http://lettingspaceorgnz.squarespace.com/blog/2014/9/14/te-ika-akoranga-a-story-about-the-southern-cross-cable-and-a.html>



# SOUTHERN CROSS CABLE NETWORK









# Bronwyn Holloway-Smith

Contemporary artist based in Wellington, New Zealand

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Coordinate: E11

# The results of non-protection

- “[T]he cognitive heritage that gives indigenous peoples their identity is under assault from those who would gather it up, strip away its honored meanings, convert it to a product, and sell it. Each time that happens, the heritage and knowledge die a little, and with them, the people” (Patterson and Karjala, 2003)



# The nexus of traditional knowledge with moral rights

- artist's "non-economic" interests (cultural and identity interests)
- attribution (acknowledgement of source)
- integrity (respect for custom)
- divulgation (usage in accordance with custom)

# The nexus...

- “In principle, this could provide a powerful screen of protection for indigenous cultural productions,”... “At first glance native concerns seem tailor made for a moral-rights strategy” (Michael Brown: 2003)
- “Moral rights is one area where matters of cultural appropriateness could be addressed through copyright law. I do not suggest that moral rights are the solution to all cultural property issues, but it is one area of law which could be used to address some of these concerns” (Susy Frankel: 2001)

## The disconnect of traditional knowledge and moral rights

- collective interests rather than individual rights
- recognition of customary law as a means of controlling economic exploitation
- the separation into ip- related categories

# From WIPO's fact finding mission

- “traditional knowledge holders do not separate ‘artistic’ from ‘useful’ aspects of their intellectual creations and innovations; rather, all such aspects emanate from a single belief system which is expressed in daily life and ritual.”(WIPO 1999: 51).

