

# Aboriginal firm denied right to use flag and use of word 'gap'

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**EXCLUSIVE**

By **REMY VARGA**, REPORTER

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An Aboriginal business is fighting for the right to feature the indigenous flag in its “Clothing the Gap” fashion designs, while also fending off a copyright attack from a global retail giant.

Spark Health, which is an Aboriginal-owned health promotion business, has been told by US-based retailer GAP INC that it cannot use the word “Gap” in its fashion line, which plays on the phrase “Closing the Gap” that is used to describe the efforts to improve the lives of Aboriginal and Torres Strait Islander Australians.

To add to its woes, the Preston-based profit-for-purpose outfit has been sent a “cease and desist” letter by Queensland-based WAM Clothing over its use of the Aboriginal flag in its clothing designs.

Spark Health founder and Gunditjmara woman Laura Thompson described it as a two-pronged attack.

“One is an international worldwide company [pursuing us] for using the word ‘Gap’ and the other is for trying to share our culture,” Ms Thompson said.

“The purpose of Spark Health is to improve Aboriginal peoples lives.”

The copyright of the Aboriginal flag is owned by its designer, Harold Thomas, a Luritja man, who has licensed its use in clothing exclusively to WAM.

Ms Thompson said she wrote to Mr Thomas requesting permission to use the Aboriginal flag in August last year.

She said she was happy to pay a fee in order to replicate the design.

An online petition started by Spark Health, criticising the exclusive licensing of the flag to a non-indigenous company, has gathered more than 12,000 signatures so far.

“This is a question of control,” the petition reads.

“Should WAM Clothing, a non-indigenous business, hold the monopoly in a market to profit off Aboriginal peoples’ identity and love for ‘their’ flag?”

Spark Health director of operations, Sarah Sheridan, who is not indigenous, said WAM was exploiting Aboriginal Australia.

“Non-indigenous Australians must listen to, and support the voices of Aboriginal people and back their self-determination,” she said.

“Rather than exploiting them in the way that WAM clothing currently are.”

A WAM spokesperson said it was obligated to enforce the copyright.

“In addition to creating our own product lines bearing the Aboriginal flag, WAM Clothing works with manufacturers and sellers of clothing bearing the Aboriginal flag — including Aboriginal-owned organisations — providing them with options to continue manufacturing and selling their own clothing ranges bearing the flag, which ensures that Harold Thomas is paid a royalty,” the spokesperson said.

WAM provided a statement from Mr Thomas, in which he said, as the designer, it was up to him to decide who could use the Aboriginal flag.

“As it is my common law right and aboriginal heritage right ... I can choose who I like to have a licence agreement to manufacture and sell goods which have the Aboriginal flag on it,” he said.

WAM Clothing was co-founded by Ben Wootzer, whose previous company Birubi Art was found to be in breach of Australian consumer law after selling over 18,000 Aboriginal such as boomerangs and didgeridoos were in fact made in Indonesia.

GAP Inc did not respond to *The Australian's* request for comment.

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