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## **STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE**

### **Review Report on the Trademarks (Amendment) Bill (Bill No. 28 of 2025)**



**PARLIAMENT OF THE REPUBLIC OF FIJI**  
Parliamentary Paper No. 118 of 2025

*December 2025*

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## Acronyms

AG	Attorney-General
FIPO	Fiji Intellectual Property Office
FRCS	Fiji Revenue and Customs Services
SGO	Solicitor-General's Office
TMA	Trademark Act
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WIPO	World Intellectual Property Organisation

## Chairperson's Foreword

The Standing Committee on Foreign Affairs and Defence (“Committee”) hereby submits to Parliament its Review Report on the Trademarks Amendment Bill (Bill No. 28 of 2025) which was referred to the Committee on 6 August 2025. The Bill seeks to strengthen Fiji’s trademark laws by addressing gaps in the protection of cultural heritage and indigenous intellectual property.

Once commenced, the Trademarks Act 2021 will replace the Trade-Marks Act 1933, modernising the legal framework and aligning it with Fiji’s international obligations under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Paris Convention. Key reforms include the adoption of the Nice Classification system, multi-class applications, a fair opposition process, and stronger measures against infringement and large-scale counterfeiting. While these enhancements significantly improve the registration, protection, and enforcement of trademarks, the World Intellectual Property Organisation (WIPO) has highlighted the need for clearer procedures under the High Court Rules 1988 to fully safeguard trademark rights.

Any opposition to accepted application by the Commissioner must be in writing outlining the grounds of opposition and the Commissioner is empowered under Section 44 of the Trademarks Act 2021 to determine the opposition to all other sections of the Act. On section 12(2) the Minister responsible for Trademarks (the Attorney General) has ultimate power to approve or reject any trademark application under the section. Under section 13 of the Trademarks Act 2021, no court, tribunal or commission has the power to hear or determine any challenge to the decision of the Minister on a claim, complaint or application for registration section 12(2). The Attorney General will need to work closely with the *iTaukei* Affairs Minister and other indigenous groups to ensure no conflict would arise.

To effectively review the Trademarks Amendment Bill 2025, the Committee received public submissions from relevant stakeholders to address specific provisions within the Bill that they consider most pertinent. This was livestreamed via Parliament’s Facebook page and aired on the *Walesi* Parliament channel. The submissions assisted the Committee in comprehending the practical implications of the proposed amendments and identifying potential challenges.

The Committee visited the Fiji Intellectual Property Office (FIPO), under the Solicitor-General’s Office on 9 September 2025 to gain a better understanding of the operations of FIPO.

The FIPO has submitted several requests to raise its budget so it can set up the Intellectual Property Office. At present, funding goes mainly towards overtime, allowances, and running expenses; staffing remains managed by the Solicitor-General’s Office. The Committee

recommends creating an established structure to better support the office's management and operations.

The Committee observed that existing procedures within FIPO are predominantly manual, necessitating significant time and effort, particularly for the review of applications spanning 50 distinct classes and subclasses. To improve efficiency, FIPO has reached out to WIPO for technical support to assist with the digitisation process, and this support has recently been approved. While full and proper digitisation has not yet been implemented, preparatory steps, including the scanning of documents, have already commenced. It is hoped that WIPO will assist in providing access to the Industrial Property Automation System (IPAS), which will be instrumental in digitising records and streamlining operational processes.

Capacity building also remains a priority for the Office, with some minimal WIPO-led training sessions (online and face-to-face) for administrative staff and legal officers having taken place. Additional staffing for the proper operation of the office is sought but must be supported through an effectively structured business case model that would cover all intellectual property rights, patents, trademarks, copyrights, registered designs, geographical indications and traditional knowledge and traditional cultural expressions.

The Committee expresses its appreciation to the Office of the Solicitor-General and the Ministry of *iTaukei* Affairs for availing themselves on 20 August 2025 to provide valuable insights and a brief overview of the Bill, which greatly assisted the Committee in its deliberations. The Committee would also like to thank the submitters, including those who provided written submissions, whose contributions greatly assisted in the compilation of this review report.

I thank the members of the Standing Committee on Foreign Affairs and Defence for their contributions in producing this bipartisan report.

On behalf of the Standing Committee on Foreign Affairs and Defence, I respectfully submit this report to Parliament.



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**Hon. Lenora Qereqeretabua**  
**Chairperson**

## 1.0 Committee Remit and Composition

Under Standing Order 109(2)(e) the Standing Committee on Foreign Affairs and Defence is mandated to consider matters related to Fiji's relations with other countries, development aid, foreign direct investment, oversight of the military, and relations with multi-lateral organisations. The members of the Standing Committee on Foreign Affairs and Defence are:



**Hon. Lenora Qereqeretabua**  
**Chairperson**  
*Deputy Speaker of Parliament*  
*Assistant Minister for Foreign Affairs*



**Hon. Rinesh Sharma**  
**Deputy Chairperson**



**Hon. Ratu Isikeli Tuiwailevu**  
**Member**  
*Assistant Minister for iTaukei Affairs, Heritage and Arts*



**Hon. Penioni Ravunawa**  
**Member**  
*Assistant Minister for Health and Medical Services*



**Hon. Virendra Lal**  
**Member**



**Hon. Taito Rokomatu**  
**Member**

## 1.1 Committee Secretariat Team

Supporting the Committee in its work is a group of Parliament Officers who make up the Committee Secretariat and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15(3)(i).

The Secretariat team is made up of the following:

1. Mr. Ajendra Pratap, Manager Committees
2. Ms. Tirisiane Logavatu, Senior Committee Clerk
3. Mrs. Elesi Tabuyaqona, Deputy Committee Clerk

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## **2.0 Introduction**

### **2.1 Background**

The Standing Committee on Foreign, Affairs and Defence referred to as the ("Committee"), was assigned the Trademarks Amendment Bill 2025 (Bill No. 28 of 2025) for review on 6<sup>th</sup> August 2025. The Bill was referred to the Committee in accordance with Standing Order 51(2), which tasked the Committee with the examination of the Bill and the responsibility to report on its findings in the September Parliament Sitting.

### **2.2 Procedure and Programme**

The Committee has conducted a thorough review of the Trademarks Amendment Bill 2025 (Bill No. 28 of 2025). This report outlines the findings, observations, and recommendations of the Committee regarding the Bill, which aims to update and strengthen Fiji's trademark laws to align with international best practices, foster business innovation, and safeguard intellectual property rights. The Committee read through the Bill and deliberated on its clauses. The Committee called for oral and written submissions from interested stakeholders by placing advertisements through the Parliament social media platform. The Committee was mindful of the provisions in Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise its observations and this Report.

### **2.3 Committee Remit**

The Standing Committee on Foreign Affairs and Defence, in accordance with Parliament's Standing Order 109(2)(e), is tasked with several duties. As outlined in Standing Order 110, these include scrutinising each Bill referred to it by Parliament and reviewing any subordinate legislation presented in Parliament that falls under its purview. This subject matter in this Bill is outside the usual mandate of the Committee, but the referral was made to help ease the workload of the other Standing Committees.

### **3.0 The Trademarks Amendment Bill (Bill No. 28 of 2025) to amend the Trademarks Act 2021**

#### **3.1 Introduction**

The Trademarks (Amendment) Bill (Bill No. 28 of 2025) to amend the Trademarks Act 2021 was reviewed by the Committee. The Bill seeks to address existing gaps in the nation's trademark laws, particularly concerning the protection of cultural heritage and indigenous intellectual property.

The Act was passed in 2021 and is yet to be commenced into legal effect by the Minister and upon being done so will replace the Trade-Marks Act of 1933. The Act establishes an updated regime for the registration, protection, and enforcement of trademarks in Fiji. It brings Fiji's intellectual property law into conformity with its international obligations, particularly under the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights (‘TRIPS’) and the Paris Convention for the Protection of Industrial Property.

The current Act creates a modern legal framework that encourages innovation and fair competition, while strengthening protection against infringement and counterfeiting. It introduces major reforms, including the adoption of the Nice Classification system and a multi-class application process, making trademark registration easier, internationally aligned, and cost-effective.

The Act strengthens Fiji's trademark system by introducing a fair opposition process and tougher enforcement measures, including criminal penalties for large-scale counterfeiting, in line with international obligations.

The World Intellectual Property Organisation (WIPO) reviewed the Act and identified gaps. While procedures exist under the High Court Rules 1988, the Act still needs regulation that pave clearer procedures to fully protect trademark rights and outline enforcement processes.

To effectively review the Bill, the Committee received public submissions from relevant stakeholders to address specific provisions within the Bill that they consider most pertinent. The submissions assisted the Committee in comprehending the practical implications of the proposed amendments and identifying potential challenges.

## 4.0 Trademarks Act 1933 and Trademarks Act 2021 – Definition

Trade-Marks Act 1933	Trademarks Act 2021
<p>Trade-Marks Act (TMA) 1933 s2 a trademark is a “mark used or proposed to be used upon or in connection with goods for the purpose of indicating that they are the goods of the proprietor of such trade-mark by virtue of manufacture, selection, certification, dealing with or offering for sale.”</p> <p>“mark” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof.</p> <p>TMA 1933 – Currently used until such a date appointed by the AG by notice in the Gazette as per s1(2) TMA 2021.</p>	<p>Trademarks Act (TMA) 2021 s2(1) a “trademark”—</p> <p>(a) means any sign capable of—</p> <ul style="list-style-type: none"> <li>(i) being represented graphically; and</li> <li>(ii) distinguishing the goods or services of one person from those of another person; and</li> </ul> <p>(b) includes, except in section 77, a certification trademark and collective trademark;</p> <p>“sign” includes—</p> <p>(a) a brand, colour, device, heading, label, letter, name, numeral, shape, signature, smell, sound, taste, ticket or word; and</p> <p>(b) any combination of signs;</p>

## **5.0 Core Objectives of the Trademarks (Amendment) Bill 2025**

The primary aim of the Bill is to strengthen the legal framework governing trademarks in Fiji by:

**5.1 Preventing the Misuse of Cultural Symbols:**

Introducing provisions to block trademark applications that misuse or misappropriate *iTaukei* cultural symbols and traditional knowledge.

**5.2 Enhancing Enforcement Measures:**

Granting courts the authority to take proactive action against potential infringements before they occur, thereby providing stronger deterrents against the unauthorised use of cultural elements.

**5.3 Strengthens Fiji's trademark framework:**

Aligning national law with TRIPS and Paris Convention, the Nice Agreement and the Madrid Systems, Madrid Agreement and Madrid Protocol, the Trademark Law Treaty and the Singapore Treaty.

**5.4 Close enforcement gaps and provide more efficient, fair and transparent system for TM owners, and consumers.**

**5.5 Protecting Indigenous Cultural Heritage:**

A primary driver is to safeguard culturally and religiously significant words, phrases, symbols, and images. (Clause 2) - Protect Fiji's heritage and prevent cultural misappropriations.

**5.6 Modernising Enforcement:**

Streamlining infringement proceedings and providing mechanisms for provisional measures. (Clause 3)

**5.7 Alignment with International Standards:**

Continuing the effort to align Fiji's trademark law with international best practices, particularly those related to intellectual property rights (TRIPS Agreement).

## 6.0 Committee's deliberation and analysis of the Bill

### 6.1 Initial Reading of the Bill and Deliberation by the Committee

The Committee noted that the Trademarks Amendment Bill 2025 seeks to address existing gaps in the nation's trademark laws.

The Committee had extensive discussions on the provisions of the Bill and resolved that it be prudent to invite public submissions on the proposed amendments. These consultations allowed the Committee to gauge the public's perspective on the Bill and deliberate further, whilst also bearing in mind the-mandate-set by Parliament to table this Report at the next Parliament sitting.

In exercising its mandate, the Committee began its review on 19th August 2025. A round-table discussion was held on 20th August 2025 with representatives from the Office of the Solicitor-General and the Ministry of *iTaukei* Affairs to gain a comprehensive understanding of the Bill.

The Committee held hearings with key stakeholders to gather preliminary insights and identify potential concerns. The public consultations were vital in ensuring that the views of all stakeholders, and the public, were heard and incorporated into the Committee's deliberations.

#### Stakeholder Engagement

Institutions that made both oral and written submissions on the Bill included:

- Siwatibau & Sloan Lawyers;
- Oceanica Intellectual Property Law Firm;
- Office of the Solicitor General; and
- Munro Leys;

Written submissions were also received from the following institutions:

- Fiji Council of Churches.
- Ministry of *iTaukei* Affairs; and
- Fiji Revenue and Customs Services (FRCS).

### 6.2 Bill Summary

The summaries of the proposed amendments are outlined below:

Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 2 of the Bill expands the grounds for refusal for registering a trademark,

if the words, phrases or symbols make reference to culturally or religiously significant words, symbols or phrases.

Clause 3 of the Bill amends the Act by inserting a new section 107A which allows owners of a registered trademark to apply to the court for an order for temporary or provisional measures to prevent trademark infringements or to preserve evidence before formal legal proceedings are commenced.

Clause 4 of the Bill amends section 110 of the Act by inserting a definition of “commercial scale” which covers commercial activity of various qualities and quantities, as long as it is likely to cause harm to the owner of a registered trademark.

Clause 5 of the Bill amends section 131 of the Act by reducing the time required for a person to respond to infringement proceedings, thereby allowing for matters to be dispensed with without having to always resort to legal proceedings. This also aligns this clause with section 129(2) which had conflicting timelines.

Clause 6 of the Bill amends section 173 of the Act by inserting a new transitional provision. This ensures that any existing trademarks which include indigenous words, marks, symbols or images may not be renewed upon their expiry, without the express written consent of the Minister.

### **6.3 In-depth Analysis of the Clauses of the Bill**

The Committee had discussions on the clauses and identified certain provisions that merit proper consideration. The Committee noted that the Bill seeks to make amendments to the Trademarks Act 2021, and these changes were made to provide a clear view of the evolution of the Act and the Bill.

The Committee made comparative analysis of the Bill and the Trademarks Act 2021:

Trademarks Act 2021 2025	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
<i>Short title and commencement</i>	<b>Clause 1—</b>  <b>1.—(1)</b> This Act may be cited as the Trademarks Act 2021.	<i>No amendments</i>	<i>Short title and commencement</i>  1.—(1) This Act may be cited as the Trademarks (Amendment) Act 2025.
			(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.
			(3) In this Act, the Trademarks Act 2021 is referred to as the “Principal Act”.
<b>12 (2)</b> The Commissioner must not register as a trademark or part of a trademark—	<b>Clause 2—</b>  <b>“Section 12 amended</b>  “Section 12(2) of the Principal Act is amended by—	<b>Clause 2—</b>  <b>“Section 12 amended</b>  “Section 12(2) of the Principal Act is amended by	12.—(2) The Commissioner must not register as a trademark or part of a trademark—

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
		<p>(a) <del>in paragraph (a), deleting “; and”;</del> in subsection (2) —</p> <p>(i) in paragraph (a), deleting “; and”;</p> <p>(ii) in paragraph (b), deleting “; and”;</p> <p>(iii) after paragraph (b), inserting new following new paragraph—</p> <p>“(c) that comprises of—</p> <p>(i) any iTaukei word, phrase, or symbol of cultural, spiritual, or historical significance;</p>	<p>(a) the word “Fiji” or any word that makes reference to or implies approval from the State; and</p> <p>(b) a body corporate’s name or trading name duly registered under the Companies Act 2015; and</p> <p>(c) that comprises —</p> <p>(i) any iTaukei word, phrase, or symbol of cultural, spiritual, or historical significance;</p>

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
	<p>(ii) any Fiji Hindi, Rotuman or any other indigenous word deeply tied to cultural identity or societal values;</p> <p>(iii) religious or communal symbol; or</p> <p>(iv) any term likely to mislead or falsely suggest association with Fiji's indigenous communities, traditions, or institutions.”;</p> <p>unless the use of the word or mark or the use of a disclaimer on the word or mark is approved by the Minister</p>	<p>(ii) any Fiji Hindi, Rotuman or any other indigenous word deeply tied to cultural identity or societal values;</p> <p>(iii) religious or communal symbol; or</p> <p>(iv) any term likely to mislead or falsely suggest association with Fiji's indigenous communities, traditions, or institutions,”; and</p>	<p>(ii) any Fiji Hindi, Rotuman or any other indigenous word deeply tied to cultural identity or societal values;</p> <p>(iii) religious or communal symbol; or</p> <p>(iv) any term likely to mislead or falsely suggest association with Fiji's indigenous communities, traditions, or institutions,”; and</p> <p>(b) after subsection (2), inserting the following new subsection— “(2A) Where the Commissioner does not register a trademark under subsection (2), he or she must within 14 days,</p> <p>(2A) Where the Commissioner does not register a trademark under subsection (2), he or she must within 14 days,</p> <p>(2A) Where the Commissioner does not register a trademark under subsection (2), he or she must within 14 days,</p>

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
<i>Position where no order made under section 101</i>	<i>Clause 3—</i>  <b>107.</b> If the court decides that no order should be made under section 101, the person in whose possession, custody, or control the infringing goods, infringing material, or infringing objects were before being delivered up is entitled to their return.	<i>No amendments</i>  provide the applicant with reasons, in writing, for the decision."	<i>Position where no order made under section 101</i>  107. If the court decides that no order should be made under section 101, the person in whose possession, custody, or control the infringing goods, infringing material, or infringing objects were before being delivered up is entitled to their return.
<i>Application for provisional measures</i>	<i>Application for provisional measures</i>	<i>Application for provisional measures</i>	<i>Application for provisional measures</i>  107A.—(1) The owner of a registered trademark which has been, or is likely to be infringed, may at any time, make an application to the court for an order for provisional measures to—

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
	<p>(a) prevent an infringement or imminent infringement of an intellectual property right; or</p> <p>(b) preserve evidence relating to an alleged infringement.</p>	<p>(a) prevent an infringement or imminent infringement of an intellectual property right; or</p> <p>(b) preserve evidence relating to an alleged infringement.</p>	<p>(2) The court may make an order under subsection (1) with or without notice to the respondent, where the court is satisfied that—</p>
			<p>(a) a delay is likely to cause irreparable harm to the owner of a registered trademark; or</p>

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
	<p>(b) there is a real risk that evidence may be destroyed, concealed, or otherwise rendered inaccessible.</p> <p>(3) Without limiting subsection (1), an order for provisional measures may include—</p> <p>(a) an interlocutory injunction restraining the sale, distribution, importation, customs clearance or other dealing with the infringing goods, infringing material, or infringing objects;</p> <p>(b) the seizure or detention of suspected infringing goods, infringing material, or infringing objects; or</p>	<p>(b) there is a real risk that evidence may be destroyed, concealed, or otherwise rendered inaccessible.</p> <p>(3) Without limiting subsection (1), an order for provisional measures may include—</p> <p>(a) an interlocutory injunction restraining the sale, distribution, importation, customs clearance or other dealing with the infringing goods, infringing material, or infringing objects;</p> <p>(b) the seizure or detention of suspected infringing goods, infringing material, or infringing objects; or</p>	

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
	<p>(c) the preservation or inspection of documents, data, or articles relevant to the alleged infringement.</p>	<p>(c) the preservation or inspection of documents, data, or articles relevant to the alleged infringement.</p>	
	<p>(4) An application for an order under this section must be supported by evidence that—</p>	<p>(4) An application for an order under this section must be supported by evidence that—</p>	<p>(a) the applicant has a <i>prima facie</i> right to the intellectual property;</p> <p>(b) there is credible evidence of infringement or imminent infringement; and</p>
			<p>(a) the applicant has a <i>prima facie</i> right to the intellectual property;</p> <p>(b) there is credible evidence of infringement or imminent infringement; and</p>

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
		(c) the measures sought are proportionate and necessary in the circumstances.	(c) the measures sought are proportionate and necessary in the circumstances.
		(5) The court may require the applicant to provide security, an undertaking, or other appropriate assurance, as the court considers just, for the payment of any costs, damages, or losses that may arise from the making or execution of the order.	(5) The court may require the applicant to provide security, an undertaking, or other appropriate assurance, as the court considers just, for the payment of any costs, damages, or losses that may arise from the making or execution of the order.
		(6) Where an order is made without notice to the respondent—	(6) Where an order is made without notice to the respondent—
		(a) the order must be served on the respondent as soon as practicable, in any event, not later than 7 working days; and	(a) the order must be served on the respondent as soon as practicable, in any event, not later than 7 working days; and



Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee 2025	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
	to be unjustified, is entitled to compensation from the applicant, including reasonable legal costs and expenses, in accordance with the rules of the court.”	to be unjustified, is entitled to compensation from the applicant, including reasonable legal costs and expenses, in accordance with the rules of the court.”	to be unjustified, is entitled to compensation from the applicant, including reasonable legal costs and expenses, in accordance with the rules of the court.”
<i>Offence to counterfeit registered trademark</i>	<p><b>Clause 4—</b></p> <p>“<i>Section 110 amended</i></p> <p>4. Section 110 of the Principal Act is amended by—</p>	<p><i>No amendments</i></p> <p><i>Offence to counterfeit registered trademark</i></p> <p>110.— (1) For the purposes of this section, “commercial scale” means any act or conduct involving the unauthorised use of intellectual property rights that, having regard to its magnitude, context, frequency, or economic impact, is carried out for commercial advantage or financial gain, or is otherwise of a nature or extent that affects legitimate commercial interests, whether or not for profit.”.</p>	

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
<b>110.—(1) Every person who, on a commercial scale, with the intention of obtaining a gain for himself or herself or any other person or of causing loss to any person, counterfeits a registered trademark commits an offence.</b>	<p>(a) renumbering subsection (1) as subsection (2);</p> <p>(2) For the purposes of subsection (1), a person counterfeits a registered trademark if, without the consent of the owner of the registered trademark, the person knowingly—</p> <p>(a) makes a sign that is identical to, or cannot be distinguished in its essential aspects from, the registered trademark so as to be likely to deceive; or</p> <p>(b) falsifies a genuine registered trademark,</p>	<p>(a) renumbering subsection (2) as subsection (3); and</p> <p>(3) For the purposes of subsection (1), a person counterfeits a registered trademark if, without the consent of the owner of the registered trademark, the person knowingly—</p> <p>(a) makes a sign that is identical to, or cannot be distinguished in its essential aspects from, the registered trademark so as to be likely to deceive; or</p> <p>(b) falsifies a genuine registered trademark, whether by alteration, addition, effacement, partial removal, or otherwise.</p>	

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
whether by alteration, addition, effacement, partial removal, or otherwise.		<p>(d) inserting the following new subsection (1)—</p> <p>(1) For the purposes of this section, “commercial scale” means any act or conduct involving the unauthorised use of intellectual property rights that, having regard to its magnitude, context, frequency, or economic impact, is carried out for commercial advantage or financial gain, or is otherwise of a nature or extent that affects legitimate commercial interests, whether or not for profit.”.</p>	

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
<i>Disposal of infringing goods</i>	<p><b>Clause 5—</b></p> <p><i>“Section 131 amended</i></p> <p>5. Section 131(3)(a) of the Principal Act is amended by deleting “20 working days” and substituting “10 working days”.</p>	<p><i>(Clause 5—</i></p> <p><i>“Section 131(3)(a) of the Principal Act is amended by deleting “20 working days” and substituting “10 working days”.</i></p>	<p><i>Disposal of infringing goods</i></p> <p>131.— (3) If the rights holder had provided adequate evidence to the satisfaction of the Comptroller that the goods are infringing goods and—</p> <p>(a) the importer, the exporter, the consignee, the consignor, the owner of the goods, or the declarant who has been served by the Comptroller with a notice of suspension, has been informed about the possibility of confiscation and destruction of disposal outside the channels of</p>

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
channels of commerce by default of the goods and does not oppose the measure within 20 working days after having been served the notice; or	<i>Transitional</i>	<p><b>Clause 6—</b></p> <p>“<i>Section 173 inserted</i></p> <p>Section 173 of the Principal Act is amended after subsection (3) by inserting the following new subsection—</p> <p><b>“(4) Notwithstanding</b></p> <p><i>Despite subsection (3), a trademark that, immediately before the commencement of this Act was valid, retains its existing registration period under the Trade-Marks Act 1933 but may not be renewed if it is prohibited under section 12 (2) (c).”</i></p>	commerce by default of the goods and does not oppose the measure within <b>10 working days</b> after having been served the notice; or

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
<p>173. - (1) Notwithstanding the repeal of the Trade-Marks Act 1933, the Trade-Marks Act 1933 continues in force and applies in respect of—</p> <p>(a) an application for the registration of a trade-mark that was received by the Solicitor-General before the commencement of this Act until the trademark is registered and any proceedings related to that application, whether or not the proceedings commenced before the commencement of this Act;</p> <p>(b) an application for the alteration, renewal, assignment, or cancellation of a registered trade-mark that was received by the Solicitor-General before the commencement of this Act; and</p>	<p>173.—(1) Notwithstanding the repeal of the Trade-Marks Act 1933, the Trade-Marks Act 1933 continues in force and applies in respect of—</p> <p>(a) an application for the registration of a trade-mark that was received by the Solicitor-General before the commencement of this Act until the trademark is registered and any proceedings related to that application, whether or not the proceedings commenced before the commencement of this Act;</p> <p>(b) an application for the alteration, renewal, assignment, or cancellation of a registered trade-mark that was received by the Solicitor-General before the commencement of this Act; and</p>		

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
(c) any proceedings that commenced under the Trade-Marks Act 1933 before the commencement of this Act.		(c) any proceedings that commenced under the Trade-Marks Act 1933 before the commencement of this Act.	(c) any proceedings that commenced under the Trade-Marks Act 1933 before the commencement of this Act.
(2) Nothing in this Act invalidates the original registration of a trademark that, immediately before the commencement of this Act, was valid.		(2) Nothing in this Act invalidates the original registration of a trademark that, immediately before the commencement of this Act, was valid.	(2) Nothing in this Act invalidates the original registration of a trademark that, immediately before the commencement of this Act, was valid.
			(3) A trademark that, immediately before the commencement of this Act was valid, retains its existing registration period under the Trade-Marks Act 1933 but, at the expiration of that registration period, section 53 applies.
			(4) Despite subsection (3), a trademark that, immediately before the commencement of this Act was valid, retains its existing registration period under the Trade-Marks Act 1933 and may

Trademarks Act 2021	Trademarks (Amendment) Bill 2025	Proposed Amendments by the Committee	If amendments are passed, the new Act will be the Trademarks (Amendment) Act 2025
			only be renewed where it complies with section 12 (2) (c).

## 7.0 General Recommendations

- 7.1 Section 12 of the 2021 Act gives the Minister sole discretion to approve or refuse applications involving indigenous terminology such as traditional knowledge, cultural expressions, and cultural heritage without requiring reasons or the disclosure of materials relied upon. Such discretion, if left unchecked, could negatively impact businesses that require trademark registration. While not part of the amendment bill, the Committee recommends that the decision of the Minister be subject to an appeal process. (*reference to 8.2.1, 8.5*)
- 7.2 The Committee recommends that the new requirements apply only to fresh trademark registration applications and not to existing trademarks nor the renewal of trademarks. (*reference to 8.2.2, 8.5.1*)
- 7.3 With respect to s131(3)(a) *Disposal of Infringing Goods*, the Committee recommends a more reasonable timeframe of 10 working days to allow adequate time for affected parties to comply. (*reference to 8.2.4, 8.5*)
- 7.4 The Committee noted numerous applications for trademark registrations in the opposing period of three months have remained pending as there has been no functioning mechanism in place. This creates uncertainty for businesses; therefore, the Committee recommends that the Solicitor-General's Office through FIPO establish an effective and efficient mechanism to resolve trademarks registration oppositions. (*reference to 8.2.5*)
- 7.5 Prior to commencement of the Act, the Committee recommends that adequate notice be provided before implementation, and that training opportunities be extended beyond registry staff to include private practitioners and businesses, particularly given the introduction of modern concepts such as non-traditional marks (sound, design, etc.). (*reference to 8.2.6*)
- 7.6 The Committee recommends that the SGO take the lead role in keeping key stakeholders connected and informed of intellectual property registrations, including trademarks, copyrights, and patents, particularly in relation to goods that may pass through Fiji's borders. Since intellectual property rights registered in Fiji are enforceable at the border, the TRIPS and the Paris Convention, will further guide enforcement once the law is amended.

## 8.0 Submissions

All the submissions received during the public consultations were considered and deliberated on extensively. The main points and issues noted from the submissions are summarised below.

Submissions received provided a range of comments and suggestions, which cover various issues pertaining to certain clauses of the Bill.

A copy of the oral and written submissions can be obtained from the online Appendices of the Report, which can be accessed via the Parliament website: [www.parliament.gov.fj](http://www.parliament.gov.fj)

- 8.1 The joint submission by the Solicitor-General's Office (SGO) and the Ministry of *iTaukei* Affairs underscored the need to modernise Fiji's intellectual property framework in a way that is both practical and suited to Fiji's circumstances. They highlighted that while the Trademarks Act 2021 was enacted, it has yet to come into force, and Fiji still relies on the outdated Trade-Marks Act 1933. The SGO stressed that intellectual property laws cannot simply be replicated from other jurisdictions such as New Zealand or Australia, as Fiji currently lacks the technical capacity, expertise, and resources to enforce advanced provisions (e.g., protection of smell, taste, or sound marks). Their main emphasis was on closing enforcement gaps, aligning with minimum international standards (TRIPS and Paris Convention), and building national capacity through the recruitment and training of examiners to ensure that the law is not only enacted but effectively implemented.
  - 8.1.1 In addition, the Ministry of *iTaukei* Affairs officials placed emphasis on the protection of indigenous cultural heritage. They underscored that words, symbols, and names of cultural, spiritual, or historical significance—such as *Bula* or *Nalagi*—form part of Fiji's identity and must not be commercially exploited without proper consent. They stressed that Clause 2 of the Bill provides safeguards to ensure such trademarks cannot be registered or renewed without the written consent of the Minister, following proper verification and consultation with affected communities. The Ministry highlighted the importance of prior informed consent, benefit-sharing, and the safeguarding of intangible cultural values (*mana and sau*) to prevent cultural appropriation and misuse by both local and foreign businesses.
  - 8.1.2 Together, both offices emphasised that the Bill represents a step forward in balancing modernisation of Fiji's trademark system with the protection of indigenous heritage, ensuring that Fiji complies with its international obligations while safeguarding its unique cultural identity.
- 8.2 Siwatibau and Sloan Lawyers acknowledged the importance of modernising Fiji's trademark laws but raised several concerns with the proposed amendments.

8.2.1 They noted that Section 12 gives the Minister sole discretion to approve or refuse applications involving indigenous words or expressions, without requiring reasons or the disclosure of materials relied upon. They highlighted the risk of delays, given Ministers' heavy schedules, and stressed that such discretion, if left unchecked, could negatively impact businesses that require timely registration before entering the market. They recommended that decisions under this section should be accompanied by reasons, allow applicants to submit supporting evidence (such as community consent), and be subject to appeal or review.

8.2.2 The firm further raised concern that the proposed provisions may affect the renewal of existing trademarks registered under the 1933 Act. They noted that many businesses, including small local enterprises, have built reputations and invested heavily in their brands over decades. Preventing renewal under the new Act was considered unfair, and they recommended that the new requirements apply only to new registrations and not to existing ones.

8.2.3 On the issue of interim injunctions, the firm supported the inclusion of such measures but expressed concern over the broad wording of the compensation provisions. They cautioned that small businesses might be discouraged from seeking legal protection if they faced the prospect of heavy compensation claims should their case fail, even when pursued in good faith. They suggested that existing provisions on security for costs were sufficient.

8.2.4 With respect to customs enforcement, the firm pointed out that the reduction of the opposition period from 20 days to 7 days could disadvantage businesses in remote areas. They recommended a balanced timeframe of 10 to 14 days to allow adequate opportunity for affected parties to respond.

8.2.5 Siwatibau and Sloan Lawyers also emphasised the persistent challenge of unresolved opposition proceedings under the current law, due to the lack of a functioning tribunal. They cautioned that without proper structures, staffing, and resources, the new Act risked facing the same shortcomings.

8.2.6 Finally, the firm underlined the necessity of regulations and training for both practitioners and brand owners prior to commencement of the Act. They recommended that adequate notice be provided before implementation, and that training opportunities be extended beyond registry staff to include private practitioners and businesses, particularly given the introduction of modern concepts such as non-traditional marks (sound, design, etc.).

8.3 The Committee noted the submission from the Oceanica Intellectual Property Law Firm with extensive regional and international experience in intellectual property and traditional knowledge. The firm expressed strong support for the Bill, noting that Fiji

still lacks a dedicated Traditional Knowledge and Cultural Expressions law. The amendments were therefore welcomed as an important interim measure to safeguard cultural heritage.

8.3.1 The firm highlighted broader concerns about the long delay in passing a Traditional Knowledge and Cultural Expressions law, which has resulted in cases of misappropriation such as the registration of indigenous names by local businesses which should require prior consent from the indigenous owners. They urged that the current amendments be seen as a first step toward a comprehensive legal framework that not only protects but also enables indigenous communities to benefit from their cultural heritage.

8.4 The Committee invited the Office of the Solicitor-General once again to clarify issues that were raised by other institutions. During their submission, the Office highlighted that under the current law, the Minister holds extensive powers under the Trademarks Act of 1933, including granting approvals for specific words such as “City” or “Fiji,” though these powers must be exercised in consultation with the Ministry of *iTaukei* Affairs to safeguard customs, traditions, and language. The proposed amendment seeks to clearly set out this relationship in regulations to prevent abuse of authority, ensuring that decisions of the Ministry of *iTaukei* Affairs prevail in cases of conflict and that consent from indigenous owners of cultural words and symbols is mandatory. The amendment focuses on strengthening enforcement, particularly in handling counterfeit and infringing goods, while existing grievance mechanisms remain in place under the 2021 Act. It also introduces provisions for perpetual protection of traditional knowledge and cultural expressions, benefit-sharing systems, and transitional arrangements for existing registrants of indigenous marks, requiring future collaboration with rightful owners. Ultimately, the law aims to balance cultural protection with business engagement, align Fiji with international standards, and establish a strong domestic platform before considering treaties such as the Madrid Protocol.

8.5 Law firm, Munro Leys, highlighted that it supports Clauses 3 and 4 of the Bill, which strengthen enforcement through provisional measures and clearer definitions. However, they have concerns with Clauses 2, 5 and 6. Clause 2, which, in their opinion: seek to control registration of indigenous and culturally sensitive marks; is too broad and uncertain; risks discouraging investment, harming indigenous entrepreneurs; and restricting tourism operators who rely on Fijian words and symbols.

8.5.1 Existing protections in Section 12(1) already cover offensive or misleading marks, and they recommend instead refining the test to focus on offence or misuse, with transparent decisions guided by an advisory committee of cultural experts, similar to the New Zealand model. In the opinion of Munro Leys representative, Clause 6 unfairly prevents the renewal of existing trademarks, even where new applications could be approved, and should instead require renewals to follow the same approval process.

8.6 The Committee noted the written submission from the Ministry of *iTaukei* Affairs. The Ministry strongly supports the Bill, stressing the need to stop cultural appropriation and misuse of *iTaukei* cultural heritage in trademarks. They highlight past cases such as attempts to trademark *kesakesa* patterns, the word “*Bula*,” *masi* designs, and sacred salutations. Current laws are inadequate, leading to violations of indigenous intellectual property rights, disrespect of sacred heritage, economic harm (especially to *iTaukei* women artisans), and erosion of cultural identity. The Ministry supports most clauses of the Bill, with some recommendations for clarity and fairness, particularly around renewals and litigation risks. Overall, the Ministry urges Parliament to pass the Bill to safeguard Fiji’s cultural heritage, noting this is crucial until a dedicated law on traditional knowledge and expressions of culture is introduced.

8.7 The Committee noted the written submission from the Fiji Council of Churches. The Council generally supports the Bill and its objectives to protect trademarks, particularly against the commercialisation of traditional artefacts, flora, and fauna. While aligning with the Government’s reasons for the review, the Council raises concern about the Minister’s absolute powers under the Bill, questioning the lack of judicial recourse for affected parties. Overall, the submission expresses trust in the Government’s intentions but calls for safeguards against unchecked ministerial author.

8.8 The Committee noted the written submission from the Fiji Revenue and Customs Services (FRCS) strongly supports the overall objectives of the Bill and recognises the significant progress it represents for Fiji’s intellectual property regime. FRCS has reviewed the Bill and noted that the Principal Act (Trademarks Act 2021) has captured the Border Protection Measures outlined in section 125 to section 132 of the Act.

## **9.0 Sustainable Development Goals (SDG)**

### **9.1 SDG 5 – Gender Equality**

Amendment to Section 12 of the 2021 Trademarks Act grants the Minister sole discretion to approve or refuse trademark applications involving indigenous terminology, including traditional knowledge and cultural expressions, without requiring justification or disclosing the basis for such decisions. This lack of transparency and accountability risks excluding legitimate applicants—particularly women-led Indigenous businesses—from protecting their intellectual property. The absence of procedural safeguards disproportionately affects those who rely on trademarks for economic participation, cultural preservation, and community development. The Committee recommends that decisions under Section 12 be accompanied by clear reasons, allow the submission of supporting evidence, and be subject to appeal or review.

This issue carries significant gendered implications, especially for indigenous women, who are the primary custodians and creators of traditional art. Mass production and trademarking of imitations by foreign entities devalue authentic cultural products and directly undermine the economic livelihoods of these women. As cultural knowledge holders and key contributors to rural economies, indigenous women face a disproportionate risk of economic disenfranchisement under the current legislative framework. Any reform of the Act must centrally consider their rights, agency, and protection, ensuring that intellectual property law does not perpetuate gender and cultural inequities but upholds indigenous women's ownership, recognition, and economic empowerment.

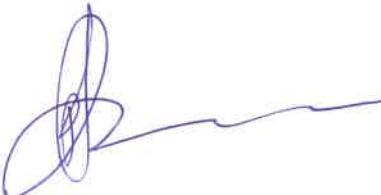
## 10.0 Conclusion

The Committee notes that the Trademarks (Amendment) Bill is an important step toward modernizing Fiji's intellectual property framework, strengthening enforcement, and protecting indigenous and cultural heritage. While Clauses 3 and 4 are widely supported, concerns remain regarding Clauses 2, 5, and 6, particularly over broad discretion in approving culturally significant marks, restrictions on renewal of existing trademarks, and impractical timelines for customs objections. Stakeholder submissions recommend refining the decision-making processes to ensure transparency, accountability, and cultural expertise, as well as implementing practical procedures and timelines that support businesses and tourism. Overall, the Bill represents a positive move toward safeguarding Fiji's unique cultural and traditional knowledge, but amendments are needed to balance protection with economic development and the growth of indigenous and local enterprises.

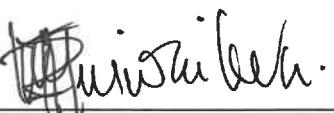
## 11.0 Committee Members' Signatures



Hon. Lenora Qereqeretabua  
Chairperson



Hon. Rinesh Sharma  
Deputy Chairperson



Hon. Ratu Isikeli Tuiwailevu  
Member



Hon. Penioni Ravunawa  
Member



Hon. Virendra Lal  
Member



Hon. Taito Rokomatu  
Member

## 12.0 Annexure

### Published evidence

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Written evidence, transcripts, and supporting documents can be viewed on the Parliament website at the following link: