

**“THE NEW ECONOMY”: UTILIZING CREATIVE, CULTURAL,  
AND INNOVATIVE INDUSTRIES FOR SUSTAINABLE  
SOCIOECONOMIC DEVELOPMENT IN FIJI**

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Today, creative, cultural, and innovative industries are becoming important differentiators and drivers of competitiveness and economic development in many regions of the world. Creative industry has many characteristics, including being knowledge intensive and of high economic value. These characteristics determine that the development of creative industry not only directly promotes economic growth but also drives upgrades of other industries, thereby promoting economic growth indirectly as well as directly. The Pacific region has long been projected as a pristine paradise with vast cultural, natural, and biological resources that have unique opportunities for sustainable economic development in Pacific Island countries. Pacific Island countries have great potential to develop vibrant creative industries using their own tangible and intangible cultural properties. However, to create and sustainably use benefits from the cultural economy, first, creative industries need to be developed, using local customs, traditions, and traditional knowledge. Second, creative industries need to be protected and creatively exploited using appropriate intellectual property mechanisms. This paper intends to propose new methods for evaluating the role of intellectual property laws in the development of creative industries and the role of those industries in the economic, social, and cultural development suitable for Fiji.

**Introduction**

CREATIVE INDUSTRY is made up of creativity and innovation, which are the intellectual products of individual creations. Relevant and efficient laws provide the intellectual property rights (IPR) to protect creative

achievements. The survival of any creative industry is closely related to the implementation of effective IPR strategies. In the course of commercial structural adjustments and socioeconomic development patterns, the Fijian government has encouraged the development of creative industry. For example, the import substitution policy<sup>1</sup> allows people to create new local products/services for sustainable socioeconomic development. However, promotion alone will not secure a bright future for creative industry. To promote healthy development in the creative industry, there is also a strong need for effective policy formulation to establish a good IPR environment.

### **Overview of Creative Industry**

Creative industry is a collective of a broad range of activities, which include the cultural industries as well as all cultural or artistic productions. Cultural industries combine the creation, production, and commercialization of creative contents, which are tangible and cultural in nature. Thus, creative industries are those in which the consequential product or services contains a substantial element of artistic or creative endeavor.

Creative industry is becoming a powerful component of modern post-industrial knowledge-based economies. Its profound importance is evident in the advanced industrial economies, and the information economy is already a leading edge from which national wealth flows and a key to improving competitiveness.<sup>2</sup> Creative industry can provide developing countries the much needed increase in “human capital” that can create new parameters for socioeconomic development.

According to a World Bank survey in 2003, creative industries are estimated to account for more than 7 percent of the world’s gross domestic products.<sup>3</sup> Creative industry already represents a leading sector in the Organisation for Economic Co-operation and Development economies, showing annual growth rates of 5–20 percent yearly.<sup>4</sup> In the United Kingdom, which has the largest cultural economy in the world, the creative industry was generating 2.89 percent of gross value added to the UK economy by 2009.<sup>5</sup> Countries such as Australia, New Zealand, Canada, and Ireland have also successfully exploited the benefits of cultural industries.

World wide, creative industries are becoming a pivotal sector of the economy. However, the potential of the creative industries in the Pacific Island Countries (PICs) remains largely untapped.<sup>6</sup> Despite its capacity to assist the socioeconomic development of PICs through promoting small businesses, increasing employment, increasing exports, and perhaps providing comparative advantages in international trade, this sector is one of the

**TABLE 1. World Trade Statistics on Creative Goods and Services, Creative Goods: PIC Exports 2003 to 2008.**

Economic Group	Exports (Free on Board, in Millions of \$)						Growth Rate
	2003	2004	2005	2006	2007	2008	2003–2008
Oceania	12	20	22	21	27	27	15.76
Cook Islands	—	—	0	—	—	—	—
Fiji	11	9	5	5	5	—	—
French Polynesia	—	9	16	15	20	26	—
Kiribati	—	—	—	—	—	—	—
New Caledonia	1	1	1	1	1	1	5.43
PNG	0	0	—	—	—	—	—
Vanuatu	—	—	—	—	0	—	—

*Source: International Monetary Fund (IMF) balance of payments statistics and United Nations Conference on Trade and Development calculations based on IMF balance of payments statistics.*

least developed. A survey conducted by the United Nations in 2008 shows that compared with other developing countries, PICs import more creative industry goods and services than they export. Tables 1 and 2 illustrate the number of exports and imports of creative goods and services in PICs from 2003 to 2008.

Based on the data shown in Tables 1 and 2, from 2003 to 2008 Fiji alone spent 311 million dollars in importing creative goods and services while generating only 35 million in revenue from exports. The volume of imports suggests that there is high demand for creative industry products. PICs

**TABLE 2. World Trade Statistics on Creative Goods and Services, Creative Goods: PIC Imports 2003 to 2008.**

Economic Group	Imports (Free on Board, in Millions of \$)						Growth Rate
	2003	2004	2005	2006	2007	2008	2003–2008
Oceania	152	234	197	218	184	187	0.73
Cook Islands	—	—	3	—	—	—	—
Fiji	77	83	57	51	43	—	—
French Polynesia	—	67	68	67	67	92	—
Kiribati	—	—	—	—	—	—	—
New Caledonia	55	66	68	66	70	96	8.75
PNG	21	18	—	—	—	—	—
Vanuatu	—	—	—	—	5	—	—

*Source: IMF balance of payments statistics and United Nations Conference on Trade and Development combined calculations based on IMF balance of payments statistics.*

should realize that a system involving intellectual property rights with creative markets can create a new bright spot for their socioeconomic development. However, very little has been done to protect and promote the creative industry in the Pacific.

According to George and Mitchell, Pacific governments and societies generally do not see these industries as viable enterprises.<sup>7</sup> They also added that there are very limited avenues available in the Pacific for artists to seek vocational training, since artists tend to be self-taught and develop their skills through “trial and error.”<sup>8</sup> Given the intangible nature of many creative works, relevant policies are needed to protect the lawful benefits of the participants and creative enterprises through intellectual property systems. In addition, many creative industry products are distributed by digital products, which are susceptible to being easily copied, resulting in substantial loss to the creators. Therefore, the creative industry needs better, more effective intellectual property protections to safeguard the lawful rights and interests of participants and to encourage the development of creativity and innovations.

### **Present Intellectual Property Structure in Fiji**

Intellectual property (IP) laws are claimed to provide protection to the creators and their creations, such as literary and artistic works, symbols, names, images, designs, and inventive processes used in commerce. The current national IP regime is based on preindependence UK legislation. Fiji’s IP system is not compliant with the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS), despite Fiji being a World Trade Organization member since 1996. Fiji is also party to the Universal Copyright Convention,<sup>9</sup> the World Intellectual Property Organization Convention (WIPO),<sup>10</sup> the Berne Convention (Literary and Artistic Works),<sup>11</sup> the Rome Convention (Performers, Producers of Phonograms),<sup>12</sup> and the Geneva Convention (Unauthorized Duplication of Phonograms).<sup>13</sup>

The Copyright Act of 1999, Trademarks Act of 1933, Patents Act of 1879, Merchandise Marks Act of 1933, Industry Emblem Act of 1973, and the United Kingdom Designs Protection Act of 1936 operate to protect the intellectual property rights of creators in Fiji. Geographical indications, protection of plant varieties, and integrated circuit topographies, recognized under the TRIPS agreements, are largely not protected under any legislation in Fiji. During a 2006 regional consultation on the cultural industries in Suva, the Pacific Forum members recommended and accepted the need to strengthen regional cooperation and integration for IP promotion and protection.<sup>14</sup> Given the inherent disadvantageous characteristics,

such as size and lack of resources, regional integration may provide better assistance to PICs in promoting and protecting intellectual property and IP rights holders.

### **The Relationship between Creative Industry and Intellectual Protection**

Intellectual property is a good tool to protect intellectual products, since creative industry is the product of intellectual activities. Innovation and creativity are the main components of creative industry. A creative product may be associated with expensive research (such as labor and material costs spent on research, design, production, etc). The high cost associated with some creative products is perhaps one of the reasons why a country like Fiji, which has limited resources, is producing very few creative products. Therefore, it is vital for policy makers to formulate and implement sufficient IP protection to promote and protect the interests of rights holders. From the music industry to the drug industry, intellectual property is a lucrative market, and both individuals and corporations have a lot to lose from the infringement of intellectual property rights. For example, the music industry yields a high economic return. According to South Pacific Recording, the music industry loses approximately \$10 to \$20 million each year as a result of piracy in Fiji.<sup>15</sup> Although these facts bring to light the economic losses to industries and individuals from IP infringement, the Fijian government is far from reaching a consensus on how to address these issues. Therefore, it becomes vital that a systematic and vigilant IP protection system should be in place for the sustainable survival and development of creative industry.

For sustainable development of the creative industry, the current IP system should be improved to comply with international IP standards. The main creative products are copyright works. In accordance with Fijian copyright law, the copyright is created once the work is completed.<sup>16</sup> Unlike another two important IP rights, patent rights<sup>17</sup> and trade mark rights,<sup>18</sup> applications for copyright protection are required, and must be approved, before taking effect. This means that formal application needs to be made to the Fiji Intellectual Office and, depending on the individual application, a copyright certificate is issued to the rights holders. However, it is often difficult to adduce evidence to support such applications for copyright. Therefore, it is advisable to fix the creativity at the beginning in written form and record the whole process of formation, development, and improvement through procedures provided by law.

Patents and trademarks are required by the applicable legislation to be registered before relevant rights can be created. These rights are thereafter given statutory protection. Another option sometimes preferred is to use trade secret practice to protect intellectual products. Trade secrets may work for some, but disputes can arise and may become difficult to solve in judicial practice. To receive protection under the law on trade secrets, it is important for a rights holder to prove that they are entitled to certain forms of production and that such production can be treated as a trade secret. Trade secrets also require proof that the other person possesses technology or operation information that is the same or similar to that of the rights holder. Therefore, the protection of intellectual products through trade secrets may require higher evidential requirements, which in turn may prove to be problematic.

It is equally necessary that all participants, including the holder of any IPR and the IP officers and facilitators should have a sound understanding of IP protection and promotion. Protection alone will not be a sufficient indicator of a sustainable creative industry. There is a strong need for effective promotion and legal literacy campaigning to promote creativity. For example, the Fiji Intellectual Property office should be facilitating workshops, seminars, and legal literacy courses accessible to people interested or involved in the industry.

### **Creative Industry and Related “IPR” Concerns**

With increasing globalization, there is a strong tendency to combine culture and economy. A country like Fiji will need to improve its cultural innovation ability to have any chance of competing in the cultural market. According to Songjie and Xinghua “a creative city needs to have the hard power of the development of creative industry (suitable environment that is fit for the cultural development) and soft power (culture heritage and the reality of culture, especially talents reserve).”<sup>19</sup> Fiji has both the soft and hard power; however, it is still far from enjoying the benefits of creative products.

In Fiji, there are many IP issues in relation to the creative industry that are hindering its ability to develop competitive advantages and to compete for a cultural market share. First, there is no proper IP system available in Fiji. Second, the current IP laws are outdated and do not comply with international standards. Third, the enforcement of the law against piratical infringements is weak and ineffective, which hinders cultural innovations and is not favorable to encouraging artistic workers. Fourth, there are very few excellent cultural works with independent copyright. The difficulty is

that most cultural works are associated with a group of people, culture, or/and religion. This creates difficulty in identifying the true rights holders and sometimes leaves potential creative products out of economic reach. Fiji imports most of its cultural products with few outstanding local works. Most revenue from film tickets; the sale of cable, satellite, and music rights; as well as DVDs, internet, and mobile phone downloads are generated from importing these products and services. All technologies, like computers, are from foreign companies, while popular books, even compulsory textbooks for teaching in primary, higher, and tertiary institutions, are from abroad.

Finally, there is no independent cultural brand. There are few products associated with brand Fiji, like Fiji Water; however they do not qualify as cultural products. Independent brands are the basic core of competitiveness in the creative industry and are important tools for maintaining and spreading national cultural products. Countries with a developed cultural industry all have independent brands of cultural products, for example American Hollywood films, Indian Bollywood films, Disney cartoons, French fashion designs, Korean and Japanese computer games, etc. In comparison, Fiji has not developed any significant independent cultural brands in the international cultural market.

### **The New National IP Strategic Plan**

Since the promulgation of the National Intellectual Property Strategy in December 2011, Fiji's IP system has entered a new phase. The IP strategy is a significant decision made for Fijian socioeconomic development, the implementation of which will determine the development direction of Fijian Society. At the current time of "import substitution strategy," economic growth pattern transition, and the promotion of local products and services, the creative industry can be properly harnessed if these policies are effectively implemented.

The Fijian National IP strategy, which has been developed with the assistance of WIPO, aims to "ensure the establishment of an IP system," that "is linked as directly as possible to the pace and characteristics of social development and economic growth, hence social and economic development policies."<sup>20</sup> The proposed IP strategy, if enacted, will support the implementation of a People's Charter for Change, Peace, and Progress (PCCPP).<sup>21</sup> The aim of the IP strategy is to first work closely with pillars 4, 5, and 11 of the PCCPP before engaging with "sector-specific issues" such as culture, health, education, poverty reduction, trade, science and technology, agriculture, the exploitation of traditional knowledge, and

bio-diversity.”<sup>22</sup> In order to achieve the first priorities, the IP strategy has implemented three key components: to initiate IP policies and legislative reforms; to modernize the administration of IP, and to strengthen the capacity for enforcement and regulation. It is proposed that these are to be implemented over a three-year period starting in 2012. The implementation of this IP strategy suggests that through the support of a stronger IP system, the percentage of cultural products can increase and the contribution to the economic development be larger.

### **Developing Creative Industry: Solutions and Recommendations**

Creativity is a ubiquitous asset, which is deeply embedded in a country’s social and historical context.<sup>23</sup> This industry, if properly developed and utilized, can provide new opportunities for Fiji to develop new areas of wealth and employment-creation consistent with wider trends in the global economy. However, “the nurturing and effective harnessing of this asset may be just as challenging, if not more so, for policy makers.”<sup>24</sup> The biggest challenge faced in developing this industry is not the problem of whether to choose creative resources, “rather attention needs to be paid to those areas which offer greatest opportunity for linking up with the international economy via the strengthening of domestic supply capabilities.”<sup>25</sup>

This paper provides the following policy recommendations, which, if properly implemented, could assist the government to effectively promote and create a new economy from creative industry.

*Recommendation 1.* To create the cultural innovation environment, there needs to be a robust IP system in Fiji. An effective IP protection is essential for both domestic and international markets. Policy makers together with the Fiji Intellectual Property Office (FIPO) should take the current opportunity, while the government is reviewing the IP system in Fiji, to make amendments to copyright, trademark, and other related laws. This will allow improvement in relevant property rights systems to safeguard intellectual products.

*Recommendation 2.* In order to create effective policies for creative industry, government needs to build an innovation policy system. The current IP system in relation to the cultural industry is underdeveloped. The main reason is that we lack relevant experience in IP and IP public policies. Therefore, to improve the cultural innovative ability, Fijian policy makers, including FIPO, need to coordinate the IP system with national cultural, education, socioeconomic, and foreign trade policies and to incorporate relevant IP provisions into these policies.

*Recommendation 3.* There is also a need for specialized education and training, including support for IP practice talents both in their own rights



and with an added business dimension. To effectively harness profits from creative works, Fiji should establish suitable scientific and research conditions, research and development capacity, as well as promotion for groups of creative artists (for example, dance, music, costume, etc.). Since many creative artists are not familiar with domestic and foreign IP laws and rules, the government, perhaps through FIPO, should try to provide workshops.

*Recommendation 4.* In order for individuals or enterprises to successfully benefit from IP rights, assistance should be provided for IP management. IP in itself is not a product, but the special idea behind it is. IP is the way an idea or concept is expressed and the distinctive way it is named or described. With the advancement of technology, it is important to understand and manage innovations and “know-how.” However, many enterprises do not know how to manage or handle IP related issues. As such, relevant governmental departments, like FIPO, should provide guidance to enterprises to establish a set of IP management mechanisms, including IP application, management, dispute alerts, solutions, etc. The Fiji Intellectual Property Office may consider providing consulting and legal services for IP management.

*Recommendation 5.* Fiji needs to improve IP law enforcement and judicial protection. The enforcement of any IP regime is an important prerequisite for policy development in the new economy. Therefore, the improvement of IP law enforcement and level of judicial protection can create a positive environment for the healthy development of the creative industry.

### **Conclusion**

Today creative industry has become a pivotal industry for many countries around the world and is becoming an increasingly important part of national economies both in terms of impact and size as well as job-creation and value added to gross domestic product. If properly harnessed, Fiji can benefit from creative industry. For example, creative industry can provide a potential source for national income and help create more sustainable employment. While the socioeconomic potential of creative industry is great and many developing countries like those in the South Pacific have untapped potential in this area, most, such as Fiji, are still marginal players, despite their rich cultural heritage and an inexhaustible pool of talent.

As has been suggested in this paper, creative industry needs effective IP regimes before the fruits of this industry are sustainably included in the national economic development. Because it is in the nature of creative products to be more easily copied than scientific and technological products, in order to develop, the creative industry requires IP protection. It is

necessary, therefore, to ensure that the enforcement of any IP strategy is centered on the creation, use, and protection of IP. It is possible that if properly implemented and managed, the creative industry could become the new economy and a socioeconomic growth point for the South Pacific region.

### NOTES

1. Since July 30, 2012, the government of Fiji has passed an import substitution policy to boost and promote locally grown and created products. This affords local producers and makers more opportunities both in the local market and in the export market. Import substitution policy reduces a country's foreign economic dependency by simply replacing imports with domestic productions.

2. United Nations Conference on Trade and Development, "Creative Industry and Development" (TD (XI)/BP/13, June 4, 2004), [http://unctad.org/en/Docs/tdxibpd13\\_en.pdf](http://unctad.org/en/Docs/tdxibpd13_en.pdf).

3. United Nations Conference on Trade and Development, "Creative Industry and Development," Para 2.

4. J. Howkins, *The Creative Economy* (London: Penguin, 2001).

5. Department for Culture, Media & Sport, "Statistics: Creative Industries Economic Estimates," [http://www.culture.gov.uk/what\\_we\\_do/research\\_and\\_statistics/4848.aspx](http://www.culture.gov.uk/what_we_do/research_and_statistics/4848.aspx).

6. Secretariat of the Pacific Community, *Regional Consultation on the Cultural Industries* (Suva: Secretariat of the Pacific Community, 2010).

7. H. George and L. Mitchell, "Situational Analysis of the Cultural Industries in the Pacific Secretariat of the Pacific Community" (report to the South Pacific Forum Secretariat, 2010), 8.

8. George and Mitchell, "Situational Analysis."

9. Since December 1971.

10. Since March 1972.

11. Since December 1971.

12. Since 1972.

13. Since April 1973.

14. Secretariat of the Pacific Community, *Regional Consultation on the Cultural Industries*, 30–31.

15. Iliesa Tora, "Pirates Cost Govt \$20m Yearly," *The Fiji Times*, July 9, 2011. South Pacific Recording is Fiji's largest and longest established local Music and Video Company, involved in imports, manufacturing, distribution, wholesale, retailing, and exports.

16. The Copyright Act 1999 (FJ), section 14.
17. The Patent Act 1879, section 6.
18. The Trade Marks Act 1970, section 11.
19. Li Songjie and Li Xinghua, "The Role of Cultural Creative Industry in the Process of the City Development: The Case of Jingdezhen," *Studies in Sociology of Science* 2, no. 2 (2011), 74–78.
20. The Fiji National Intellectual Property Strategy has been developed with the assistance of the World Intellectual Property Office, Regional Bureau for Asia and the Pacific branch, see M. Leesti, "Fiji National Intellectual Property Strategy 2009 (Draft 1)" (World Intellectual Property Organization, 2009).
21. The current Interim Government of Fiji issued a socioeconomic policy paper "People's Charter" in 2008.
22. People's Charter for Change, Peace, and Progress 2008 (FJ), Pillar 4, "Enhancing Public Sector Efficiency, Performance Effectiveness and Service Deliver"; Pillar 5, "Achieving Higher Economic Growth While Ensuring Sustainability"; Pillar 11, "Enhancing Global Integration and International Relations."
23. United Nations Conference on Trade and Development, "Creative Industry and Development" (TD (XI)/BP/13, June 4, 2004), [http://unctad.org/en/Docs/tdxibpd13\\_en.pdf](http://unctad.org/en/Docs/tdxibpd13_en.pdf).
24. United Nations Conference on Trade and Development, "Creative Industry and Development," Para 31.
25. United Nations Conference on Trade and Development, "Creative Industry and Development," Para 32.