

ASSOCIATION OF HAWAIIAN CIVIC CLUBS

A RESOLUTION

No. 2018 – 43

URGING THE HAWAI'I STATE LEGISLATURE TO FUND AND ESTABLISH A NATIVE HAWAIIAN INTELLECTUAL PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS, AND GENETIC RESOURCES

WHEREAS, the Native Hawaiian people's collective intellectual property rights are based upon the traditional, cultural knowledge developed over thousands of years and passed down from generation to generation; and

WHEREAS, the value of Native Hawaiian cultural expressions and art forms are exhibited in many forms, including the use of ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making, kākau, weaving, feather work, carving and wayfinding; and

WHEREAS, the western intellectual property system was developed to protect the rights of creators and inventors against plagiarism and reward and encourage new inventions and was not developed to protect the rights of indigenous peoples to their collective, traditional knowledge, cultural expressions, and art forms; and

WHEREAS, the current western intellectual property laws, recognize patents, registered trademarks, designs and copyright often facilitate the theft, misuse and misappropriation of indigenous knowledge by researchers, authors, scientists, biotechnology corporations, universities, fashion industry, and others; and

WHEREAS, disputes between indigenous peoples and third-party users of indigenous knowledge resources over ownership and control, have steadily increased in the last five years; and

WHEREAS, on July 29, 2018 a non-Hawaiian owned Chicago food chain, Aloha Poke Co., issued cease-and-desist letters threatening small poke food businesses in Hawai'i and across the nation from using the words "Aloha" and "Poke" claiming ownership of these cultural expressions; and

WHEREAS, issues relating to indigenous intellectual property rights have been addressed in many international forums, including the World Intellectual Property Organization's (WIPO) Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore; the United Nations Commission on Human Rights; the Draft Declaration on the Rights of Indigenous Peoples; and in relation to the

environment in Agenda 21 of the Rio de Janeiro Summit and the Convention on Biological Diversity; and

WHEREAS, other indigenous people have developed strategies and sui generis legal frameworks or systems to protect their collective intellectual property rights and knowledge, including the Indian Arts and Crafts Association (IACA) federally funded through the U.S. Department of the Interior, the Toi Iho registered trademark for Maori art and artists funded through a charitable trust, and the Alaska State Council Silver Hand Program for Alaska Native artists funded through the state; and

WHEREAS, the Association of Hawaiian Civic Clubs previously adopted resolutions to protect Native Hawaiian cultural intellectual property and resources, and urged the Legislature to enact legislation, in consultation with Native Hawaiians, that recognize and protects the Native Hawaiian people's collective intellectual property rights in Resolution No. 02-08, 03-13 and 17-57; and

WHEREAS, the laws of the State of Hawai'i recognize the traditional and customary rights of Native Hawaiians, but do not currently expressly recognize and protect the collective intellectual property rights of the Native Hawaiian peoples; and

WHEREAS, the Native Hawaiian Intellectual Property Task Force would be responsible to provide a report to the State Legislature by 2022, including proposed legislation, regarding the establishment of a sui generis legal system to recognize and protect Native Hawaiian cultural intellectual property, traditional cultural expressions, and genetic resources; and

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 59th Annual Convention in Kalapaki, Kaua'i, in the malama of Welehu and the rising of 'Olepau, this 17th day of November 2018, that it urges the Hawai'i State legislature to fund and establish a Native Hawaiian Intellectual Property task force to develop a sui generis legal system to recognize and protect Native Hawaiian cultural intellectual property, traditional cultural expressions, and genetic resources; and

BE IT FURTHER RESOLVED, the Native Hawaiian Intellectual Property Task Force shall consult with indigenous communities, as appropriate; and

BE IT FURTHER RESOLVED, that the Department of Business Economic Development and Tourism, the State Foundation on Culture and the Arts, the Department of Commerce and Consumer Affairs, the Department of Land and Natural Resources, the University of Hawai'i System and any other relevant state agency is urged, in collaboration with the Association of Hawaiian Civic Clubs, the Office of Hawaiian Affairs, Council for Native Hawaiian Advancement, PA'I Foundation, Hawai'i Arts Alliance, Maui Arts & Cultural Center, Nā Mea Hawai'i, Native Hawaiian Chamber of Commerce, Native Hawaiian intellectual property lawyers, and other relevant legal scholars to develop the Native Hawaiian Intellectual Property Task Force; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the Department of Business Economic Development and Tourism, the State Foundation on Culture and the Arts, the Department of Commerce and Consumer Affairs, the Department of Land and Natural Resources, PA'I Foundation, Hawai'i Arts Alliance, Maui Arts & Cultural Center, Council for Native Hawaiian Advancement, Nā Mea Hawai'i, the Native Hawaiian Chamber of Commerce, and Members of Hawai'i Congressional Delegation, as well as the Governor of the State of Hawai'i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate Committee on Hawaiian Affairs, Chair of the State House Committee on Ocean, Marine Resources & Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Welehu and the rising of 'Olepau on the 17th day of November 2018, at the 59th Annual Convention of the Association of Hawaiian Civic Clubs in Kalapana, Kaua'i.

A handwritten signature in black ink that reads "Annelie C. Amaral". The signature is written in a cursive style and is positioned above a horizontal line.

Annelie C. Amaral, President