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INTRODUCTION
The African Regional Intellectual Property Organization (ARIPO) is an intergovernmental organization, which was established on 9 December, 1976 under the Lusaka Agreement signed in Lusaka, Zambia. Its mandate is to develop, harmonize and promote intellectual property in the Member States of the Organization and in Africa.

Membership of the Organization is open to all the States members of the United Nations Economic Commission for Africa (UNECA) or the African Union (AU). Currently there are nineteen Member States, namely; Botswana, The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, Swaziland, United Republic of Tanzania, Uganda, Zambia and Zimbabwe.

Substantive activities of the Organization are implemented through three treaties each focusing on a specific field of intellectual property. These treaties are: (a) the Harare Protocol on Patents and Industrial Designs; (b) the Banjul Protocol on Marks, and (c) the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore, and (d) the Arusha Protocol for the Protection of New Varieties of Plants.

The Harare Protocol was concluded in 1982 and entered into force on 25 April, 1984. Among other functions, it empowers the ARIPO Office to grant patents and register industrial designs as well as utility models on behalf of the treaty’s contracting states. The Harare Protocol incorporates other international treaties of relevance, for instance, the Patent Cooperation Treaty (PCT) and therefore enables applicants from the African region and elsewhere to file international applications and obtain protection of their intellectual property rights. The Harare Protocol has also been linked to the Budapest Treaty, which enables applicant to provide information on new micro-organisms claimed in patent applications. All Member States of ARIPO, with the exception of Somalia, are party to this treaty.

Search services
ARIPO has custody of worldwide patent documents. With the available documentation and information retrieval systems, the organization offers several search services to the public including state of the art, novelty, validity, Bibliographic and Patent map searches.


The Protocol empowers the ARIPO Office to register marks for goods and services in respect of and on behalf of the contracting states. Similar to the Harare Protocol, the Banjul Protocol provides a centralised system of registration and provides a mechanism for the ARIPO system to co-exists with the national systems of the Banjul Protocol contracting states. Thus, an applicant can choose to register a mark with a national office for protection limited to that country or may elect to use the ARIPO route in which case the application should designate at least one contracting state up to the maximum of nine.

The Swakopmund Protocol was concluded on 9 August, 2010 at a diplomatic conference held in Swakopmund, Namibia. It entered into force on 11 May, 2015. It acknowledges that traditional and local communities have for long utilised their traditional knowledge and culture for their survival and livelihood, and that there is now a gradual disappearance, erosion, misuse, unlawful exploitation and misappropriation of this traditional knowledge and folklore. As such, the conference concluded that the treaty was the first huge step towards prevention of this unlawful exploitation. Thus, the treaty seeks to empower and enhance capacity of custodians of traditional knowledge and folklore to realise their aspirations and prosperity through an effective protection system that will create a conducive environment for the respect, recognition, development and promotion of traditional knowledge and expressions of folklore and their continued use and development.

The Arusha Protocol for The Protection of New Varieties of Plants
The Arusha Protocol for the Protection of New Varieties of Plants was concluded by a Diplomatic Conference that was held in Arusha, the United Republic of Tanzania on 6 July, 2015. The Protocol will enter into force only when four States have deposited their instruments of ratification or accession for The Protocol will provide Member States with a regional plant variety protection system that recognizes the need to provide growers and farmers with improved varieties of plants inorder to ensure sustainable agricultural production.

Protection of Copyright and Related Rights
ARIPOs mandate on Copyright and Related Rights aims to ensure the Organization coordinates and develop policies for the effective growth and protection of Copyright and Related Rights, recognizing the value of creative industries to the contribution of national economies and employment in Member States, the emancipation of copyright from all forms of piracy and strengthening infrastructure used for enforcement of copyright laws in the Member States and Africa at large.

Capacity Building Activities and Awareness Creation
ARIPO established a state of the art Academy, which was inaugurated on 15 February, 2006 to serve as a center of excellence in teaching, training, research and skills development in the field of intellectual property for different target audiences, including creators, inventors, artists, business managers and IP professionals, journalists, parliamentarians, policy makers, university lecturers, government officials of IP institutions, students and the civil society. The Academy provides intellectual property training in different areas including Masters in Intellectual Property, tailor-made courses, professional courses, research studies, attachments, internships and fellowships, and training programmes that focus on industrial property, copyright, enforcement, traditional knowledge, generic resources and folklore.
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The African Regional Intellectual Property Organization (ARIPO) established the ARIPO Academy that is responsible for capacity building in the Member States of the Organization. ARIPO Academy and World Intellectual Property Organization (WIPO) Academy in collaboration with the Africa University (AU) launched a Master in Intellectual Property (MIP) degree programme and so far 218 MIP students have been trained. Currently, efforts are being taken to establish an MIP programme at the University of Dar es Salaam in Tanzania as well as the Kwame Nkrumah University of Science and Technology in Ghana.

ARIPO Secretariat undertakes National Roving Seminars on making better use of Intellectual Property (IP) for business competitiveness and development in Africa for implementation in the 2014-2015 biennium. The national roving seminars provide an enabling platform to promote innovation, creativity as well as awareness of the usefulness of intellectual property in the sectors of the economies of the Member States.

Between 2014 and 2017, the Roving Seminars were carried out in 15 ARIPO Member States, namely Swaziland, Mozambique, Liberia, Sierra Leone, The Gambia in 2014 and Rwanda, Kenya, Zambia, Lesotho, Ghana in 2015. In 2016, the Roving Seminars were carried out in Uganda, Namibia, and Botswana and in 2017 in Malawi and United Republic of Tanzania. In all, 15 out of the 19 Member States have been covered. In total 2028 participants attended the Seminars.

The Roving Seminars undertaken during the 2014-2015 biennium were under the theme “Making Better Use of Intellectual Property for Business Competitiveness and Developments in Africa” whilst from 2016, the roving seminars have been organized under the theme “Fostering creativity and innovation for economic growth and development in Africa” both of which reflect the missions of the Organization for the period of the ARIPO Strategic Plans.

Following the successful roving seminars in the Member States of the Organization, it was felt that the next phase of the roving seminars should be targeted at the IP generators. It is in this respect that during the development of the ARIPO Value and Growth Transformation Strategic Plan, emphasis was placed on building key relationships with the IP generators from Universities and Research Institutions.

Future ARIPO roving seminars from 2017 until 2020 will focus on sensitizing the Universities and the Research Institutions on the urgent need to develop sound institutional IP policies to stimulate innovation and commercialization of research results, particularly in terms of IP protection and Utilization.

ARIPO is collaborating with WIPO to develop guidelines on Intellectual Property Policy and Strategy for effective use of the IP system by Universities and Research and Development Institutions in Africa. A regional workshop was organized by WIPO and ARIPO at the end of October 2017 to validate the guidelines by experts from Universities and Research and Development Institutions together with IP Offices. The guidelines will be published by WIPO for use by ARIPO and its Member States to facilitate the establishment of the institutional IP policy and strategy by the Universities and Research and Development Institutions in Africa. It is within this context that ARIPO intends to roll out the Roving Seminars in the Universities and Research and Development Institutions, ARIPO carried out four (4) in Sierra Leone, Zambia, Swaziland and Rwanda.

The Roving Seminars in 2018 are proposed to take place in Mozambique, Liberia, Namibia and Lesotho.

We look forward to get feedback from you through our email below.

mail@aripo.org
10th Cohort of Master in Intellectual Property at Africa University

The official opening of 10th Cohort of the Master in Intellectual Property (MIP) program at the African University (AU) took place on 21 August, 2017, in Mutare, Zimbabwe.

Kenyan Company Sues Asia Sports Betting Firm for Trademark Infringement

A Kenyan Design firm, Dafabet Kenya Ltd., has sued one of Asia’s biggest sports betting firm for trademark infringement. Asian Betting and Gaming Enterprises was accused of using the name ‘Dafabet’ despite the name being registered locally by Dafabet Kenya Ltd.

According to the Plaintiff, the Asian firm used the name ‘Dafabet’ to promote sports betting in the country and launched its Kenyan site in March. But Dafabet Kenya, which describes itself as a Kenya-registered “top house sports designer input and equipment” firm, objected of using the name ‘Dafabet’ despite the name being registered locally by Dafabet Kenya Ltd.

The Kenyan firm claimed that the use of the name ‘Dafabet’ caused confusion among its customers, as it does not engage in betting. The company claimed that its core business involves indoor sports spaces designing. Reportedly, sports betting enthusiasts made inquiries on games to bet on through the client’s Facebook page and email accounts, and this put the company at risk. “Defendant’s illegal use of the plaintiff’s name Dafabet Kenya not only confused the Plaintiff’s clients but exposed the Plaintiff to third-party claims that may arise from the defendant’s illegal acts,” stated the plaintiff in court papers.

Dafabet Kenya wanted the court to issue an injunction preventing the Asian firm from using the name “Dafabet” locally.

SOURCE: nlipw.com/kenyan-company-sues-asia-sports-betting-firm-trademark-infringement/

University of Nairobi received a cheque from World Intellectual Property Organization

Mr. Sylvance Sange the Managing Director of Kenya Industrial Property Institute (KIPI) presented a cheque of KSh 4.2 million to the University of Nairobi (UoN) from World Intellectual Property Organization (WIPO) Academy, ARIPO and AU jointly offer the MIP program. The ARIPO Director General, Mr. Fernando dos Santos, officially opened the occasion graced by the AU Chaplin, Reverend Dr. P.T. Chikafu; AU Vice Chancellor, Prof. Munashe Furusa; WIPO Training Officer, Mrs. M. Chikowore; Ambassador of Japan, H.E. Mr. Toshiyuki Iwado and representatives from the Government of Zimbabwe. So far, 251 students have graduated since the start of the MIP program in May, 2008.

HIGHLIGHTS OF EVENTS


The World Intellectual Property Organization (WIPO) Academy, ARIPO and AU jointly offer the MIP program. The ARIPO Director General, Mr. Fernando dos Santos, officially opened the occasion graced by the AU Chaplin, Reverend Dr. P.T. Chikafu; AU Vice Chancellor, Prof. Munashe Furusa; WIPO Training Officer, Mrs. M. Chikowore; Ambassador of Japan, H.E. Mr. Toshiyuki Iwado and representatives from the Government of Zimbabwe. So far, 251 students have graduated since the start of the MIP program in May, 2008.
Intellectual Property Organization. The Intellectual Property Management Office (IPMO) led by the director, Prof. Julius Mwangi made a proposal to WIPO through Kenya Industrial Property Institute (KIPI) requesting for funds to carry out IP Audit for the entire University of Nairobi. Following extensive consultations with Kenya Industrial Property Institute (KIPI), officials of Regional Bureau for Africa and Prof. Tom Ogada, the proposed WIPO Consultant for the project, WIPO agreed to fund the Intellectual Property Audit project.

During the ceremony Mr. Sange said that creating knowledge has no boundaries and he urged all students to take their projects seriously as it could open immense opportunities for them upon completion of their studies.”

The Deputy Vice-Chancellor, Academics Affairs, Prof. Henry Mutoro, who was representing the Vice-Chancellor, Prof Peter Mbithi thanked KIPI for the support accorded to the university. Prof. Mutoro said that this is the first Intellectual Property Audit to be done by a university in Africa.

Deputy Vice-Chancellor, Research, Production & Extension, Prof. Lucy Irungu said that the UoN IP audit will enable the University to tap into the vast wealth from the copyrights. Prof Irungu pointed out that the University of Nairobi has many innovations and technologies that are yet to be commercialized and thus the IP audit will help the university to identify the projects in all colleges.

The Director, IPMO Prof. Julius Mwangi thanked KIPI for the support it has accorded the university to date. He said that the audit would be a case study and a point of reference to other universities.

The IPMO and entire UoN wish to extend special gratitude to Mr. Sange, Managing Director Kenya Industrial Property Institute (KIPI), officials of Regional Bureau for Africa and Prof. Tom Ogada, the proposed WIPO Consultant for the project. It’s through the extensive consultations of this team that the KSh4.2 million has been achieved.

SOURCE: http://ipmo.uonbi.ac.ke/node/13008
Zambia IP Seminar for R&Ds

The African Regional Intellectual Property Organization (ARIPO) and the Patents and Companies Registration Agency (PACRA) in cooperation with the University of Zambia (UNZA) organized an Intellectual Property (IP) Roving Seminar for Academic and Research Institutions from 12 - 13 July, 2017. The Seminar was held at the InterContinental Hotel in Lusaka, Zambia.

The objective of the Seminar was to enhance Intellectual Property awareness among researchers, academics, administrators, librarians, and interested members from other Academic and Research Institutions in Zambia with a view to promote the creation, protection and utilization of research results using intellectual property tools for economic and technological development.

The Minister of Commerce, Trade and Industry of the Republic of Zambia, Hon. Margaret Mwanakatwe, who is also the current Chairperson of the Council of Ministers of ARIPO, officially opened the seminar. In her opening statement, Hon. Mwanakatwe commended ARIPO for its Value and Growth Transformation Strategic Plan that recognises IP awareness and the building of relationships with academic and research institutions in Africa to utilise the IP system at both national and regional level. She indicated that such seminars provide a platform for sharing information, knowledge and experiences on IP-related matters that are fundamental for improving businesses. The Seminar was attended by 17 institutions, which include research and development institutions as well as academic institutions.

Tanzania National Roving Seminar

The African Regional Intellectual Property Organization (ARIPO) held a national Roving Seminar at the New Africa Hotel in Dar es Salaam, Tanzania. The Seminar was held from 20 - 21 July, 2017 was under the theme "Fostering creativity and innovation for economic growth and development in Africa."

The Minister of Trade, Industry and Investment (MP), Honourable Mr. Charles Mwijage, who officially opened the meeting, graced the Roving Seminar. In his opening remarks, he said that Tanzania is working to enhance its economy through industrialisation but this cannot be achieved without Intellectual Property matters as innovation was at the centre of it. This would enable SME's, researchers and creators to support the development and growth of the country. Quoting a 2012 study on the "Economic Contribution of the Copyright Based Industries in Tanzania between 2007 and 2010" conducted by the World Intellectual Property Organisation (WIPO) and the Government of Tanzania, the Minister informed participants at the seminar that the copyright based industries contributed between 3 to 4.6% to the GDP which was higher than the hotels and restaurants as well as the mining and quarrying sectors contribution. With regards to the ARIPO protocols and WIPO treaties on intellectual property, the Minister openly showed commitment for Tanzania to ratify the instruments and domesticate them.

The Director General of ARIPO, Mr. Fernando dos Santos, encouraged the researchers, creators, and innovators (IP generators) to utilize the regional system. He said that ARIPO receives many applications that designate Tanzania but few applications are received from the nationals of Tanzania. Statistics show that, of the total of 10041 patent applications filled at ARIPO since the inception of the system, at least 6492 designated Tanzania. With respect to industrial designs, utility models and trademarks, a total of 1198 applications of industrial designs, Tanzania was designated 784 times; while, 43 out of the 96 utility model applications designated Tanzania. In the case of trademarks, out of a total of 2295 applications, 1877 designated Tanzania. However,
Tanzanian innovators and entrepreneurs are not yet taking full advantage of the membership of the ARIP0 system. Only 9 patents, 12 trademarks and 60 industrial designs originated from Tanzania since the establishment of the ARIP0 system, 40 years ago. “This needs to change so that the local innovators can benefit from the regional system,” said Mr. dos Santos.

The World Intellectual Property Organization (WIPO) and the Japan Patent Office supported the Seminar. Also in attendance were; Mrs. Joyce Banya, The Representative of the Director General of the World Intellectual Property Organization (WIPO), Counselor at the Africa Bureau; Mr. Yuji Nakayama, First Secretary, Embassy of Japan in Tanzania, who represented the Japan Patent Office (JPO); Mrs. Doreen Sinare, The Chief Executive Officer and Copyright Administrator Copyright Society of Tanzania (COSOTA); Mr. Frank Kanyusi, Chief Executive Officer, Business Registration and Licensing Agency, (BRELA) and Ms. Joyce Mosile, Acting Registrar Plant Breeders Rights Office who also made remarks.

Airtel Malawi Pays Royalties to Copyright Society of Malawi

The Copyright Society of Malawi (COSOMA) signed an agreement with Airtel Malawi for the use of music (repertoire) as ringtones and downloads. The agreement signing which took place on 4 August, 2017 also marked the first distribution of (Malawi Kwacha) MK94,000,000 (approximately US$134,000) being arrears to musicians for 2014 and 2015 from money collected from online licensing. The top earner from the arrears paid was Skeffa Chimoto who took home MK3,665,397 (approximately US$5120). He performed a thank you song. This is a positive achievement in Malawi for the recognition by Airtel Malawi to remunerate the right holders for the online usage of their creative works as ringtones and downloads. The African Regional Intellectual Property Organization (ARIP0) encourages all Telecom Companies in the ARIP0 Member States to pay artists royalties for the use of their works. Eventually, this will result in a society that respects copyright and encourages artists to continue with their creativity. This also applies to other users of copyright works like broadcasters, hotels, restaurants, learning institutions, copy shops and the like.
25 Years of the Copyright Society of Malawi Existence

The Copyright Society of Malawi (COSOMA) in celebrating its Silver Jubilee organized a Gala Dinner that was graced by the Honorable Cecilia Chazama, MP, Minister of Civic Education, Culture and Community Development. The theme was “Celebrating the Past to Ignite the Future”.

The African Regional Intellectual Property Organization (ARIPO) was invited to celebrate with COSOMA during the commemoration of 25 years of its existence. During the week of 21 - 25 August, 2017, a number of projects were launched that COSOMA is currently implementing with a view to improving the welfare of the creators in Malawi. A workshop for book publishers, editors and authors was done. A Gala Dinner was also organized on 25 August, 2017 where COSOMA awarded individuals and organizations that have significantly contributed to the growth and development of COSOMA.

COSOMA successfully lobbied the Government for funding of the Integrated Arts Development Project together with the Rights holder Associations aimed at mitigating the challenges that artists face when accessing finance from the formal lending institutions; addressing the existing gaps in accessing and marketing legitimate copyright works. Finally the project also aims at enhancing artistic skills through the school for the Arts.

The Project has four components namely:
- Arts Savings and Credit Cooperative for creators of content (Arts SACCO)
- Arts Production and Marketing Cooperative (APMC)
- School of Arts
- National Arts and Heritage Council (NAHEC)

COSOMA is implementing the first three components while the Directorate of Culture is implementing the fourth component.

COSOMA in cooperation with the Ministry of Education, Science and Technology Malawi and KOPINOR the Reproduction Rights Society in Norway are partnering in the School Book Development Project. ARIPO had the opportunity of giving remarks and congratulating COSOMA by presenting a gift and also awarding some nominees. The week events were very successful in promoting creative industries in Malawi, having right holders of different genres present, the Government of Malawi in attendance throughout the week and honoring living personalities. For example Mr. Sermon Chavula the Coordinator of the Southern and Eastern Africa Copyright Network was honoured by having the Boardroom of COSOMA named after him.

Ending the Book Famine in Africa - Lesotho

The African Regional Intellectual Property Organization (ARIPO) participated in a Sub-Regional seminar titled “Ending the Book Famine in Africa: Libraries and the Promise of the Marrakesh Treaty” co-organized by Electronic Information for Libraries (EIFL) and the Lesotho Library Consortium (LELICO), in cooperation with the Registrar General’s Office. The seminar was held at Hotel Victoria Kingsway, Maseru, Lesotho from 12 - 13 September, 2017.

The meeting was chaired by Ms. Matseliso Moshoeshoe-Chadzingwa, Lesotho Library Consortium (LELICO). Mr. Tieho Rankhone of the United Nations Educational, Scientific and Cultural Organization (UNESCO) gave remarks on behalf of Palesa Montsi, Secretary General Lesotho National Commission to UNESCO and Ms. Teresa Hackett, Electronic Information for Libraries (EIFL) also gave remarks. ARIPO was represented by Ms. Maureen Fondo.

At the end of the meeting the participants came up with the first draft of a road map for the implementation of the Marrakesh Treaty in Lesotho herein includes:
1. Policy and legal framework
2. Institutional framework (Administrative infrastructure)
3. Capacity Building and Awareness Creation
4. Building evidence-based information pipelines for VIPs & other disabilities
5. Building Partnerships and Synergies

The meeting was very successful and productive, having the Ministers and Members of Parliament attending the sessions for the two days showed a strong political support in ensuring there is the understanding of the Marrakesh Treaty and the need to ratify it. The Registrar Generals Office was advised to work with the Ministers and Parliamentarians once the sessions resumes to fast track the ratification of the treaty.
Politics seems to be the only thing that happens in Kenya most of the time; but a look at the journal that registers innovations paints a picture of a nation whose creative minds are working hard to shape the world of science and technology.

It is published monthly and it is one of the clearest proofs that Kenyans are not sitting on their laurels as the rest of the world generates revolutionary scientific ideas.

Go through the Kenya Industrial Property Institute (KIPI) journal of any month and you are likely to come across a new idea developed locally that is about to change the world.

It is in that journal that KIPI publishes ideas that have earned a patent, meaning their owners have illustrated that they are fresh concepts that need legal protection against copying.

In the July journal, for instance, three of the six patents granted by KIPI originate from Kenya, two of which are owned by Jomo Kenyatta University of Agriculture and Technology (JKUAT).

In one of those, a team of four inventors were granted a patent for shoe polish made from the blackjack weed whose seeds are best known for clinging to people’s garments. The team had applied for the patent in August, 2014.

In the second, three people from the university earned recognition as the owners of an idea that involves making yoghurt using mostly pawpaw juice. They had also applied for the patent in 2014. The third patent announced in the July issue is jointly owned by the International Centre of Insect Physiology and Ecology (ICIPE) and Kenyatta University. It was granted to three inventors who had come up with an insect repellent that can alter the behaviour of insects to prevent them from spreading diseases. After a three-year wait, their dream of being patented has now come true.

Other ideas recently patented include an ambitious
proposition that electricity can be produced using a spring and two revolving masses. The owner of the patent, Mr. Joshua Langat Kipngetich, hails from Kericho County.

“When disturbed it will bring about continuous rotational motion as these two forces try to attain balance which it was previously set,” said a brief in the journal about Mr. Langat’s spring. He had applied for a patent in July, 2014.

Then there was a patent earned in June by a team of three people sponsored by Masinde Muliro University of Science and Technology. The patenting of their formula for keeping pests off stored grain ended their two-year wait.

A statement in the KIPI journal said the substances in the team’s pesticide “give 100 per cent protection to maize against damage by the larger grain borer and weevils for up to six months in a single application”.

Most other ideas granted patents by KIPI between May and August relate to innovations from Belgium, United States, Switzerland, Japan, Sweden, France, among other countries.

So, how does it feel to be granted a patent? What comes next?

Lifestyle caught up with Dr. Peter Ogoti, the lead inventor in the idea about manufacturing shoe polish from blackjack.

Dr. Ogoti, currently an assistant lecturer at the JKUAT’s biochemistry department, is optimistic that after the patent, it will now be possible to mass-produce the polish.

“Now that we have the patent, it’s a matter of checking with partners or collaborators from wherever they are so that we can do a pilot study about mass production of the bio shoe polish,” he said.

“After we establish that it can be produced en-masse, then we can liaise with various investors in counties to produce the polish, which is better, superior, easy to manufacture and which is eco-friendly,” he added.

It was by accident that Dr. Ogoti discovered that if you dry a blackjack plant (leaves and stem even without the black seeds) then grind it and later mix the powder with a chemical to milk out an extract, the resultant blackjack product possesses stain characteristics.

It was in 2009 as he was working on a project for his master’s degree when he made the discovery. After he had got an extract from the plant, and as he sought to find out the medicinal value of the plant in combating sleeping sickness, he had his eureka when part of the blackjack extract fell on a slab.

“When I looked at it, it was shining. Then I said, ‘Can I try to see whether it can be polish?’ Then I tried with my friend’s lab and we said, ‘Let’s try to see the next day whether it’s corrosive or not.’

“The next day I noted that this extract has potential of making shoe polish, and that is when I was able to relay to my supervisors about the potential of that plant and I had to write a proposal for which I was given Sh900,000 [by JKUAT] to do the work,” he narrated, flashing back to his unexpected finding in 2009.

His supervisors included Prof Mabel Imbuga — who would later become the university’s vice chancellor, Gabriel Magoma and Esther Magiri. In the patent granted for the polish, the three are listed as Dr. Ogoti’s co-inventors.

The abstract announcing their patent says: “A shoe polish composition comprising Bidens pilosa (commonly known as blackjack or garden weed), paraffin wax and petrolatum component is disclosed. The composition is presented in a form
of paste and is particularly meant for shoes or leather care.

The major component of the product paste is dichloromethane extract of the weed.”

Dichloromethane is the substance used to squeeze out the extract that is needed from the blackjack, much like a detergent squeezes out a stain from a cloth. The dichloromethane is later separated from the extract to leave a pure substance obtained from blackjack.

The pure extract is then mixed with petroleum jelly and paraffin wax — which Dr. Ogoti said is readily available in shops — then boiled to about 90 degrees Celsius after which it is poured to containers to dry up. At the point of boiling, different colours of the polish can be made.

“When it is in the boiling process, the first batch you make is the black one. But when you want to come up with different colouration, it’s a matter of adding some other dyes based on the colour you want,” Dr. Ogoti said.

Compared with other shoe polish products in the market, he said, the one from blackjack possesses unique qualities.

“It doesn’t crack when exposed to air. But if it’s exposed to sunlight, it can melt like others. But if it’s in a cold place, even if it’s open, it cannot crack,” he said.

“Some of the shoe polish made from Black Jack weed by Dr. Ogoti Peter Mose, a Biochemistry lecturer at JKUAT. PHOTO| FRANCIS NDERITU

“"In terms of dust, it doesn’t take much compared to the other shoe polish. In terms of longevity, this one, being environment friendly, doesn’t even burn the leather. It will give long life to leather compared to the one already in the market,” added Dr. Ogoti. And on the potency of the chemicals it has, he noted: “This product is not toxic. It is not poisonous, compared to this one that is already in the market. I tested its toxicity using mice. The organs, like the liver and kidneys were not affected. That means it’s not poisonous.”

The hopes for mass production of the product, he said, now lie in the hands of the university.

When he spoke to Lifestyle, he was optimistic that the institution will convene a meeting to chart the way forward after the grant of the patent.

Even the registration with Kenya Bureau of Standards, he said, will happen as a joint effort. “We’ll work as a team; the university being in front; others to follow,” he said.

Asked how much it would cost to set up a full-fledged plant, he said: “If it’s within one county, almost Sh1 billion can make a big industry with all the facilities and be able to produce this en-masse.” If the dream of mass-producing the polish is actualised, Dr. Ogoti foresees improved livelihoods. Having grown up in a farming village in Manga district, Nyamira County, he knows only too well the menace the blackjack poses to farmers. With the new use of the weed, he hopes that farmers like those in his home village will find a new cash crop and in the end there will be a cheaper shoe polish in the market. “It’s affordable because this weed grows everywhere. It doesn’t require fertiliser. It just grows with other crops,” he reasoned. “Up to 100,000 jobs can be created countrywide.”

He also clarified that it is not the black seeds that are most useful in the polish making process. “The leaves are the main ones which are used to make that extract. But you’re not limited to removing the seeds. You can use the whole plant; just dry it and convert into a powder form and then you can soak into organic solvent,” he said.

Times without number during the interview, Dr. Ogoti stressed on how the blackjack stands to transform Kenya. Asked whether any other crop can produce an extract that can make polish, he answered to the negative.

“At the moment, what I understand with my discovery, this is the one I know,” he said.

The blackjack has, in a way, transformed his life. It was the shoe polish discovery that contributed to his being hired at JKUAT. When he made the finding, he was a master’s student at the institution’s main campus in Juja. The novelty of his idea earned him a spot at a show in Nairobi in 2009 where, the idea drew much attention. He leveraged on the attention to push his case for being hired.

“This innovation gave me a plus to get a job at the university in 2010,” he said, adding that it also helped him secure a full scholarship from a German
agency to pursue his doctor of philosophy degree from JKUAT, which he completed in June.

His relationship with JKUAT started in 1999, two years after sitting his KCSE at Itibo Boys High School in Kisii County. At JKUAT he studied biochemistry and chemistry, graduating in 2003. He returned to the same institution a year later to pursue his master’s and it is in the course of obtaining his degree that the polish discovery happened.

A father of three, Dr. Ogoti started off his employment at JKUAT as a senior technologist then became an assistant research fellow before becoming an assistant lecturer, his current post.

The patenting of his shoe polish project is expected to inspire more Kenyans to be innovative. He has a message to would-be inventors: “Never lose hope. Patience pays. No matter how long it will take, at one time you’ll be there. I never thought that a small guy from a very poor background, would at one time be able to discover this.”

Other inventors who have appeared in this year’s KIPI journal include Mr. Mwitari Paul Gitobu who, in the February edition, was granted a patent for producing cement.

“The invention provides an environmentally friendly method for making cement material. More specifically the method pertains to the production of cement using low energy inputs,” said the journal.

Other inventors listed in February are Wycliffe Chisutia Wanyonyi, Paul Mwanza Shiundu, John Mmari Onyari and Francis Jackim Mulaa. Their patent published was about an environment friendly method of cleaning fish and animal skins. The University of Nairobi owns their innovation. “This method produces fish leather with more patterns unique to fish skin created through the descaling process, which in turn provide beauty totally different from that of general leather,” the journal reads. Still in February, innovators from Masinde Muliro University of Science and Technology were also honoured. Muhamed Swaleh and Maurice Vincent Omolo were recognised as the inventors of a smokeless jiko. Another innovator, Patrick Kiruki, made a mark in the March journal with his project of a portable, foldable toilet that can separate solid and liquid waste and store them in biodegradable bags.

SOURCE:
Innovation for the Real World

Desh Deshpande is bringing the market to MIT’s labs

“My original plan had nothing to do with coming to the United States to become an entrepreneur,” says Gururaj Deshpande. When the young man from southwestern India first settled in the Americas, his plan was to pursue graduate studies in electrical engineering at the University of New Brunswick, not far from Canada’s Atlantic coast. From there, he went to pursue a doctorate at Queens University in Ontario. “Desh,” as everyone calls him, aspired to a career in teaching or research, perhaps at MIT, perhaps at Bell Labs.

After he completed his doctorate, Deshpande made a critical decision. Peter Brackett, a professor-turned-entrepreneur from Queen’s, convinced him to try the corporate world. Brackett helped Deshpande land a job at Codex, a Motorola subsidiary in Ontario, where he worked on developing advanced modem technology. As he watched Codex benefit from his leadership and expertise, Deshpande came to believe that he could make it on his own. In 1984, he moved to the United States, where, four years later, he founded network equipment-maker Coral Network. In 1991, he launched a network-switching firm: Cascade Communications. By 1997, over 70 percent of all Internet traffic was carried over Deshpande’s products. That year, Deshpande sold Cascade to Ascend Communications. The deal closed for $3.7 billion.

The excitement of entrepreneurship drew Deshpande right back to work. A year after selling Cascade, he worked with a team of MIT researchers to launch Sycamore Networks. In 2000, he founded Tejas Networks, a Bangalore-based telecommunications equipment company. He is chairman of A123Systems, a manufacturer of high-power lithium-ion batteries. When A123Systems went public in October, 2009, it raised $438 million and traded at a 50 percent premium on the day it was listed.

Startup Philanthropy

“My wife, Jaishree, and I talked about how we had had good opportunities here,” Deshpande explains. “So we asked ourselves, ‘How could we create opportunities for others?’” Naturally enough, the couple turned to entrepreneurship. “It’s been a thrilling experience,” he says, “and we want to share it with others.”

The first fruit of their deliberations is the Deshpande Center for Technological Innovation at the Massachusetts Institute of Technology. Deshpande joined MIT’s board in 2000, and two years later...
made a $20 million gift to launch the center. His goal: to bring entrepreneurship to the laboratory.

"I’m an engineer by training," he explains. "When I got started 40 years ago, engineers would design a new product off in a back room somewhere. Then we would call in the sales people and tell them what the product did. The customer was almost an afterthought. That’s all changed. Today, the customer is telling engineers what to build. Market forces—customer preferences—drive the engineering process. We want to push that up, even earlier in the pipeline. We want to introduce market forces into the innovation process."

As he outlines the purpose of the Deshpande Center, you can hear both the engineering and entrepreneurial sides of his brain working. There is, he argues, a “disconnect” between university-led scientific breakthroughs and finding the right commercial application for those discoveries. Some of the products of scientific research are turned into new commercial technologies, but the success rate, in Deshpande’s view, is too low. Academics and innovators are brilliant people, but they are not necessarily entrepreneurs—and it takes an entrepreneur to see the best business opportunity for a new discovery. “Innovation,” says Deshpande, “currently has a bad supply chain.” The decline of industrial research laboratories at places like IBM and Bell Labs has “moved the basic center of gravity for research back to the universities.” But if academic research is to have real-world impact, Deshpande explains, the disconnect between academia and the market needs to be fixed. What’s at stake is nothing less than America’s future competitiveness.

The Deshpande Center was one of the very first "proofs of concept centers." Faculty members who think they have an idea with commercial potential can apply for a start up “ignition” grant (usually about $50,000) to develop prototypes and determine market potential. About half the ideas that get ignition-funding advance to the next stage, an "innovation" grant (up to $200,000) to iron out commercial risks and ready the technology for market. At the end of this second stage, the aim is for the technology to be ready to attract significant private investment.

One of the early successes for the Deshpande Center was its’ backing for MIT engineering professor Douglas Hart. Hart had seen some of his peers from graduate school go into business rather than academia; having chosen the academic route himself, he was “feeling a little jealous and a little poor.” Hart was at the forefront of scientific research on fluid dynamics. He believed his discoveries could open up new technologies for three-dimensional imaging, but it was still just “a solution looking for a problem.”

The head of the Deshpande Center approached Hart. “Are you serious about starting a company?” she asked. Hart answered, “Yes. I just don’t know how.” The Deshpande Center provided the professor with support and mentoring. He was teamed up with two Harvard MBA students who had the commercial know-how and drive to turn his idea into a business. “I picked the two most obnoxious guys I could find,” Hart admits. “I learned a lot.” At the latest count the Deshpande Center has granted $11 million to back more than 90 ideas, which have resulted in 26 spin-outs.

Hart originally thought he would try to apply his discoveries to the production of better security scanners, like the ones at airports or government buildings. But the entrepreneurs he was working with convinced him there were better commercial applications for his discovery. The market opportunity the team spotted was in dentistry. By tweaking the technology, Hart could make instant 3-D images of teeth, faster and with less intrusion than the traditional technique of taking a physical cast. They started Brontes Technologies, which, after two and a half years of growth, was sold to 3M in 2006 for $95 million.

Hart is now working on another spin-out, Lantos Technologies that is adapting his 3-D technology for use in imaging the ear canal for better-fitting hearing aids and audio headphones. Having already been through the process of starting a company, Hart probably could have proceeded on his own, but he went back to the Deshpande Center because of the advice and mentoring it provides. Lantos has received venture-capital backing and expects to receive final FDA approval to go on the market in mid-2012.

Despite having two business successes under his belt, Hart says that what really gets him excited is “teaching two new classes this year. I am proud of being an entrepreneur but I am first and foremost a professor.” By letting Hart focus on the science and partnering him with ambitious business students to commercialize his ideas, the support of the Deshpande Center is giving him the best of both worlds.

At the latest count the Deshpande Center has granted $11 million to back more than 90 ideas, which have resulted in 26 spin-outs. Apart from Brontes, others have included chemistry professor Donald Sadoway’s Liquid Metal Battery Corporation, which promises cheap storage of solar and wind power and won investment from Bill Gates’ venture fund; materials science professor Michael Cima’s Taris Biomedical, which has received $36 million in venture capital to develop a new drug-delivery mechanism for bladder conditions; and the Vertica Software database business founded by computer science professor Michael Stonebraker and acquired
by Hewlett-Packard in 2011 for a sum reported to be about $200 million. There are also high hopes for technologies in the pipeline, including a new surgical “glue” and a continuous glucose sensor for diabetics.

If anyone asks whether the Deshpande Center is really necessary, whether some—maybe all—of these technologies would have found their way to market without its help, the center’s current director, Leon Sandler, has an emphatic answer. “We believe that most of these technologies would not find their way to market without our help,” he says. There are a number of things that need to be proven before a promising technology can become a profitable commercial application. “For that reason, we have to be willing to take risks.”

It is probably too early to know the full effect of the Deshpande Center. “We’re not growing lettuce,” adds Sandler. “We’re growing oak trees. It takes time to see results.” So far, the center has seen just over one in four grants turn into businesses, which Sandler thinks is about right. Its spin-outs have raised in excess of $350 million of investment and employ more than 400 people. If even just a portion of the spin-outs achieve their hoped-for success when they hit the market, the impact of the Deshpande Center will be much greater.

Scaling Up

When talking about results, Deshpande is keen to point out wider effects of the center on the culture of MIT. “Academics used to focus on the ideas that were the most scientifically prestigious, rather than most market-relevant,” he explains. “We are changing the way that universities operate, changing new graduate students’ approach to research.” Hart agrees, saying that before he connected with the Deshpande Center, “I hadn’t been sure if commercial opportunities were open to academics.” Today he reckons that more than 70 percent of post-doctoral research students are starting their career thinking that they are going to be part of the new generation of “faculty entrepreneurs.” Indeed, one of his own graduate students has just spun out a 3-D imaging company called Viztu. Though Viztu has not received any direct support from the Deshpande Center, Hart insists that many of the next generation of start-ups should be counted as part of the center’s wider impact on campus.

Successful start-ups do provide the Deshpande Center with some revenue, but it gets only a small sliver of the modest royalties taken by MIT. It would take a Google-sized success to make the center self-financing. Some of the new businesses have also made gifts of stock, which may become an important source of financing in the future but again, not immediately. Of Deshpande’s original gift of $20 million, $8 million went into the center’s endowment and the balance has funded its programs. Other donors are now coming on board to provide the necessary future funding, including other MIT alumni working in technology. “I’m confident that the center will be sustainable,” says the founder. A shift from the philanthropic model to one that is more like a for-profit, in which successes provide funding for future ventures, could guarantee long-term sustainability.

As the Deshpande Center reaches its tenth birthday, interest in the model is spreading to other universities. Former executive director Krisztina Holly is now leading similar work at the Stevens Institute of Innovation at the University of Southern California. The state of Colorado has recently launched the Colorado Innovation Network, a partnership between the Governor, Colorado State University, and the University of Colorado. The model is also expanding overseas. Singapore has launched an Innovation Center (as part of the Singapore-MIT Alliance for Research and Technology) that is replicating the Deshpande Center practices. Universities in Portugal and Russia are looking to follow suit. Deshpande is supporting this dissemination process through the newly created Deshpande Innovation Network that is available to any university.
Entrepreneurship in India

A paradox of Deshpande’s philanthropy is that just as his giving to support economic innovation is getting traction in the States and across the globe, his giving in India has become focused on something quite different. “Our first instinct was to replicate the MIT center,” Deshpande remembers, thinking of the first conversations he and Jaishree had about starting a similar program in India. (They are both graduates of the Indian Institute of Technology Madras, known as the MIT of India.) Upon reflection, however, they concluded that in India, “social innovation is more exciting than scientific innovation.” What Deshpande calls “the unifying concept” of his work in the United States and India is that it all challenges the idea of universities as ivory towers, and connects academics to society, “treating the whole world as part of the campus.”

The Deshpandes decided to focus their Indian philanthropy in Karnataka. At first that looks like an obvious choice for a tech entrepreneur, for the southwestern Indian state is home of the subcontinent’s flourishing IT sector. But the couple eschewed the boomtown of Bangalore and went instead to Desh’s hometown of Hubli. The choice is not merely sentimental. Deshpande calls Hubli and its surrounding districts, with a population of about 10 million, an ideal “sandbox.” (In software development, a sandbox is a safe environment where programmers can test out new code without risk to the functioning of the larger program.) Hubli is representative of the challenges and opportunities facing most of his home country, Deshpande believes, and therefore a good area for innovations to be tested in.

He has invested heavily in cultural change in the universities of the sandbox, since pedagogy at most higher-education institutions in India is still based on rote repetition rather than problem-solving. Deshpande believes Indian universities need to be more outward looking, because solutions to social problems must take place in society rather than in laboratories. To encourage that cultural change, the Deshpande Center for Social Entrepreneurship is backing nearly 5,000 projects that involve students in finding solutions to social problems. Unsurprisingly, technology and engineering still play a part—one of the projects is to design a lighter, more efficient cart for street vendors—but the emphasis, as at MIT, is on technologies that are driven by the needs and wants of real people. “In philanthropy, the beneficiaries have the least say in the process, whereas in the for-profit world, the customer is king,” Deshpande explains. What he is trying to do in India is put the “customers” for development back in charge. “Outsiders can be catalysts, but not change makers. Ours is a venture-capital model that is building social leadership locally.”

This approach to social innovation echoes the MIT center’s efforts to market-test scientific innovations. Having thus stimulated a cohort of social entrepreneurs in India, the donor is now developing a cadre of several hundred nonprofit leaders, known as Deshpande Fellows. He also recruits local business leaders as “Hubli Champions” to partner with and support this new generation of social entrepreneurs.

Where commercial and social innovation diverge is the presence or absence of market forces. In the social sector, there is no obvious mechanism
to drive out bad ideas and grow good ones. To help compensate, Deshpande hopes “to bring the excellence of execution of the for-profit world to the nonprofit world, to flush out the non-performing assets.” For that to happen, good ideas need to be replicated and expanded, pushing aside weaker competitors. One of the first places Deshpande is trying to achieve this is in school meal programs in India.

Studies have shown that providing a nutritious lunch to schoolchildren not only reduces malnutrition but also boosts school attendance and performance. Desh and Jaishree are helping the Akshaya Patra Foundation, a nonprofit created in 2000 to provide lunches, to build eight kitchens across India that will serve 1.3 million meals per day at a cost of 12¢ per child. With an estimated 100 million children across India who could benefit from a school lunch, even this large project will need to expand dramatically and find a way to sustain itself. Deshpande is not confident that philanthropy alone can solve the problem. But if Akshaya Patra’s program can reach 5 million children, he thinks it will set a standard for school meal programs that will eventually have to be matched nationally by better government provision.

In his most recent philanthropic ventures, Deshpande has brought the social lessons from India back to America. He created the Merrimack Valley Sandbox, focused on the cities of Lowell and Lawrence, close to his hometown of Andover, Massachusetts. This, too, is a university-based program, run out of the Center for Innovation and Entrepreneurship at the University of Massachusetts Lowell, but it is modeled on the Hubli program rather than the MIT center. Through a program of $500 grants, Deshpande supports students to come up with local solutions to local problems, and he is building a network of supporters from the local business community to mentor and support the growth and replication of those ideas. A new Deshpande Center at the University of New Brunswick, which opened in October, 2011, is a hybrid of the MIT and Hubli models.

Out of the Ivory Tower

The thread that runs through Deshpande’s philanthropy is a vision for how innovation translates into real-world change. The first challenge is culture change: to get problem solvers—whether MIT scientists in their laboratories or social entrepreneurs in Hubli or the Merrimack Valley—to bring their ideas into contact with reality. The second is to create an ecosystem that supports the best ideas. In the for-profit world, competition from new start-ups provides a ready pool of innovations that are often adopted through the acquisition of small companies by large ones, just as 3M bought Doug Hart’s 3-D dental imagery technology. In the market for social innovation, Deshpande believes that nonprofits should play the role of start-ups.

Bringing real people into the world of ideas may be Deshpande’s most valuable contribution: getting scientists to think about customers, social entrepreneurs to focus on the needy, and policymakers to think of their constituents. The “proof of concept” approach to innovation is in some ways anathema to how the government works. Experimentation and testing until the best real-world solution becomes obvious runs counter to a political cycle that wants to proclaim success before the next election. “Five years is too long for a politician,” Deshpande muses. Maybe improving the public policy process will be his next engineering challenge.

Matthew Bishop is New York bureau chief for the Economist. Michael Green is an economist and writer. Together they are co-authors of Philanthrocapitalism, The Road from Ruin, and In Gold We Trust?

SOURCE:
http://www.philanthropyroundtable.org/topic/excellence_in_philanthropy/innovation_for_the_real_world

Akshaya Patra operates kitchens feeding millions of Indian schoolchildren. (Photo courtesy of Akshaya Patra)
Patent information enables rainwater harvesting in Zambia

By Catherine Jewell, Communications Division, WIPO

The patent system promotes innovation by rewarding inventors for the time, energy and money they invest in coming up with new and improved technologies. But just as importantly, it ensures that information about technology is shared effectively.

Part of the deal when applying for a patent to protect a new technology is that each applicant has to tell the world what their technology can do and how it works. At a certain point in the patenting process, this information is published. So every time a patent is granted, the pool of publicly available technological information expands. This information can inspire new inventions and is also extremely valuable as a means of identifying technologies that can be adapted for use in resource-poor countries.

The knowledge and technology embedded in patent information can be used to tackle poverty, support economic growth and create employment opportunities without having to reinvent the wheel. Enhancing the capacity of least developed countries (LDCs) to access publicly available patent information can ensure that resource-poor communities get access to the technologies they need, and thereby significantly improve their livelihoods.

Helping least developed countries benefit from patent information

In a move to demonstrate the benefits of strengthening use of IP-related and other technical knowledge in LDCs, WIPO recently developed and launched a pilot project under its Development Agenda. The project is being rolled out in three countries, Bangladesh, Nepal and Zambia. Its aim is to show how LDC governments can use IP-related information to identify and support the transfer of appropriate technologies and the social and economic benefits that can flow from this. Two priority areas for development have been identified in each country.

"Patent information is an invaluable resource, yet remains largely underexploited as a tool to tackle some of the major development challenges facing LDCs. This initiative seeks to demonstrate the practical value of such information to LDCs," explains Kiflé Shenkoru, Director of WIPO’s Division for LDCs.

Such information can be used to improve agricultural productivity, for example. Poor food security is a constant threat to the livelihoods of millions living in resource-poor countries. But with the skills and wherewithal to access, manage and use IP-related and other technical information in the area of food production, these countries can boost yields through better soil management, irrigation and cultivation practices.

Harnessing IP to harvest rainwater

The water harvesting project undertaken in Zambia as part of the Development Agenda pilot illustrates the dramatic scope for improving the lives of rural communities. In collaboration with a range of national stakeholders, water harvesting and water purification were identified as priority areas for the project in Zambia. The latter is pending implementation but has significant potential to reduce debilitating and life-threatening waterborne diseases.

The country’s agricultural sector, made up largely of small-scale producers, is the mainstay of the national economy. But productivity levels are severely constrained by the absence of effective irrigation and water storage systems. At present, farming activity generally only occurs during and shortly after the rainy season, from October to April. It is largely suspended in the dry season, especially in higher areas due to water shortages. Despite reasonable annual rainfall (between 800mm and 1,000mm) and an abundance of ground and surface water resources, many communities still face severe water shortages because of poor water storage facilities. This often results in widespread hunger.
But what if smallholders could harvest the gallons of rainwater that fall each year? “If properly harvested, such rainwater could go a long way towards increasing productivity in the agricultural sector, resulting in improved livelihoods for millions of small-scale farmers,” says Allan Phiri, one of the national experts working on the project. However, the practice of rainwater harvesting in Zambia is not widespread, and where it does occur it is often inadequate and inefficient.

Implementation of the project is the responsibility of a multi-stakeholder National Expert Group (NEG) made up of senior government officials as well as representatives from business (including Mr. Phiri), academia and development agencies. The NEG’s role is to select one or a number of appropriate technologies to improve rainwater harvesting in Zambia, to prepare a business plan for their application and use, and to identify sources of funding and production know-how.

With the support of the District Commissions and the local Chief, the project was initially rolled out in the drought-stricken area of Simamba Village in Siavonga, in Zambia’s Southern Province. A local committee was formed including local government officials, local NGOs, community representatives and farmers. The committee worked closely with the project’s national experts, and continues to play a key role in the project’s practical implementation.

An assessment of local conditions and existing water storage practices revealed that water seepage and evaporation cause significant water losses in traditional storage systems.

Once the NEG had identified and evaluated the community’s specific needs, WIPO undertook an international search for state-of-the-art water storage technologies. The aim was to identify technologies that “would enable farmers living on higher ground to carry out irrigation activities even during the dry season and to earn an income throughout the year,” notes Mr. Phiri.

The WIPO search generated 28 patented technologies, each with the potential to ensure a continuous supply of water. Each of these technologies was evaluated to determine its suitability for local adoption. National experts were clear that “the chosen technology should be easy to adopt, simple in design and inexpensive to produce,” notes Mr. Phiri. The use of locally available materials was another important factor as this would help ensure the technology’s affordability and broad uptake. With these factors in mind, the technology selected by NEG was adapted to the community’s needs. This essentially involved substituting more expensive elements of the technology with locally available materials.

“Once employed, the technology will allow farmers in groups of 10 families (around 60 people) to grow vegetables and other crops on patches of land of one lime (an area of 50m x 50m) each,” Mr. Phiri
explains. The idea is that each family will own a 10,000 liter-capacity tank to capture and store rainwater during the rainy season. “The proposed technology has never been used in Zambia. Once the prototype is successfully implemented, we expect this technology will be quickly and widely disseminated,” Mr. Phiri notes.

A locally owned solution
Day-to-day management of the tanks rests with the community under the supervision of the chief or headman, he explains. Ownership of the project by the local community is key to its sustainability and long-term success. By our calculations the project will yield a rate of return of more than 30 percent. This will make a huge difference to the lives of these householders,” says Mr. Shenkoru. Mr. Phiri agrees, noting that in addition to improving rural incomes, the project will generate employment, alleviate poverty and improve food security.

“When the people from WIPO first came to our community, we were quite skeptical because we have been cheated in the past, but the water harvesting project is making a real difference to the lives of community members. Our farmers can now grow crops and can feed their families and their animals during the dry season. We are even thinking about starting to use our water supplies to farm fish,” says Senior Chief Simamba XI.

More widespread adoption of the technology depends on securing the funds to replicate the project in other communities. That will take time. But the value of the exercise goes well beyond the direct benefits to householders in the Simamba Village area.

“This was a very important educational project,” says Lloyd Thole, Former Assistant Registrar of Zambia’s Patents and Companies Registration Agency (PACRA). “It is clear testimony to the importance of patents and technologies and their use in implementing different types of projects in the developing world. There is no need to reinvent the wheel as technologies are already available. All that is needed is to transfer and adapt them to the local situation.”

SOURCE:
Financing Alternatives for Companies: Using Intellectual Property as Collateral

Article by Stout, a leading independent advisory firm based in USA

For many intellectual property (IP) centered companies suffering from cash flow constraints, traditional financing options may be unavailable or too expensive to pursue. Using IP as collateral is an emerging business option that may offer a financing opportunity for companies with valuable IP assets seeking alternative sources of capital. In this article, we will examine some of the ways businesses can capitalize on their IP by using it as collateral for funding.

Companies large and small may need additional capital for a variety of purposes. Startup and smaller companies may need capital for such reasons as starting up or expanding operations, sustaining or increasing their research and development spending, or for complementary acquisitions. In addition, startups often need short- or mid-term loans to supplement various rounds of funding. For established companies, financing requirements may stem from marketplace challenges, the need to expand, or a myriad other reasons. For instance, following the 2009 recession, companies experienced difficulty in securing capital as banks restricted the number and amount of loans to businesses. Fortunately, for some businesses, a realistic alternative to traditional financing is collateralization of their IP assets.

In this article, we will discuss the use of IP as collateral for certain financing arrangements. In the context of IP collateral, can be defined as a borrower’s pledge of specific property, such as future cash flows from existing IP assets, or rights to the underlying IP itself, in order to provide recourse for the lender in the event of loan default. Historically, the practice of obtaining financing secured by one form or another of IP, while relatively rare, was not unheard of. One well-known instance of using IP as collateral occurred when Thomas Edison used his patent on the incandescent electric light bulb as collateral to secure financing to start his company, the General Electric Company.

In recent years, however, it has become increasingly common for lenders to file liens against IP assets. According to a paper by William Mann at Wharton, “of the stock of United States patents, 16% have been pledged as collateral at some point.”

Arrangements Using IP as Collateral

Specialty lenders primarily serve the market for IP-collateralized debt. However, a number of traditional banks and finance companies are warming up to this financing strategy.

Specialty lenders offer a wide range of financing vehicles for borrowers who wish to use their IP to secure funding. Ranging from traditional loans to mezzanine debt with equity conversion clauses, lenders and investors can now structure many creative forms of financing based on a borrower’s specific capital needs. For this article, we focus on the more common uses of IP as collateral: IP-backed loans, IP collateral enhancement, IP royalty securitization, and IP sale and license-back transactions.

IP-Backed Loans

For conventional asset-backed loans, lenders typically turn to physical assets, such as inventory, machinery, or real estate, in determining loan size and terms. The borrower grants a security interest in these assets to the lender as collateral against the loan. IP-backed loans are similar to their tangible asset-backed counterparts. Under these arrangements, a company can borrow a percentage of the value of certain of their IP assets using these intangible assets as collateral. For both tangible and intangible assets, asset-based lenders assess credit risk, at least partially, on the basis of the value and liquidity of the underlying collateral.

Unlike tangible assets, where depreciated historical value can typically be determined from a company’s balance sheet, internally developed IP is not typically recognized on a company’s balance sheet. Rather, expenditures associated with internally generated intangibles are normally expensed in the period incurred through the income statement. On the other hand, purchased intangible assets are typically capitalized and normally appear on the company’s balance sheet, either directly if only the IP was purchased, or as part of the acquirer’s requirement to allocate the purchase price amongst the acquired assets in a business acquisition.

Between the lack of transparency under Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) and the need to identify liquidation value (as opposed to “going concern” value), an independent valuation of the IP is almost always necessary in order to establish the value of these assets for lending purposes. David Peress, Executive Vice President of Hilco Streambank, a firm specializing in executing complex IP sales and licensing transactions, believes that valuations are a critical step in the process of lending against IP as they are used to help determine how much a lender can lend against this asset class. For patents and trade secrets, the valuation of these assets requires a deep understanding of the legal, technical, and economic issues surrounding the inventions. Similarly, a substantial amount of expertise is required to value marketing assets such as trademarks and trade names. For a given loan amount, lower asset values result in a higher loan-to-value ratio, which means higher risk for the lender.
This type of secured lending is often a desirable form of borrowing for companies that have valuable IP, but a lack of unencumbered tangible assets, a sufficient credit rating, or an adequate track record of generating excess cash flows to qualify for more traditional types of financing, debt capital markets, or unsecured bank borrowing. Additionally, such loans allow the company to generate cash without diluting current equity investors’ ownership by bringing in new investors. On the other hand, such loans are often relatively costly; the loan-to-value ratio is normally lower than it would be with more liquid, less risky collateral. Also, using IP as collateral may diminish future managerial freedom due to debt covenants and other obligations to lenders.

IP-backed lending is not an option unique to early-stage technology companies. Kodak’s patent portfolio was used as collateral to secure a $965 million line of credit that helped keep its doors open during its bankruptcy proceedings.4

**IP Collateral Enhancement**

IP collateral enhancements (e.g., insurance or guarantees on the value of the IP for a defined duration) reduce credit and foreclosure risk, thereby improving the overall credit profile, increasing leverage available to the borrower, and possibly lowering interest rates demanded by the lender. By guaranteeing the value of IP, firms offering IP collateral enhancements make it easier for companies to use IP as collateral for loans.

For some creditors, IP is likely to be an enhancement to a collateral package, rather than the basis of a stand-alone deal. Collateral enhancement firms that specialize in IP transactions, such as M•CAM Global Holdings LLC (“M•CAM”), assist regulated banks and traditional asset-based lenders who may not have all the tools, skills, and experience necessary to confidently evaluate IP as collateral. IP collateral enhancement provides the lender (and its regulators, as applicable) with a creditworthy (“A’ rated or better) “floor” value upon which to determine lendable IP collateral advance rates. M•CAM has expertise in underwriting intangible assets in order to provide collateral enhancements. Adam Tepper, Chief Strategy Officer, explains M•CAM’s Certified Asset Purchase Price (“CAPP”) program as follows:

A borrower applies for a loan with a lender where the borrower’s intangible assets are pledged as collateral. Concurrently, the lender purchases a CAPP insurance policy from a consortium of creditworthy insurers participating in M•CAM’s CAPP program whereby, in the event of the borrower’s loan going into foreclosure, the CAPP policy provides the lender with an insured value for the borrower’s intangible asset collateral upon transfer of the title from the lender to the CAPP insurers. At loan origination, M•CAM’s insured value for the collateral is predetermined based on a pre-agreed to schedule over the loan period.

However, the lender is not obligated to sell the insured intangible assets to M•CAM. The insured value, in many cases, acts as a “floor” value or "stalking horse" bid as part of the bankruptcy liquidation process. Accordingly, the lender will always be guaranteed to get no less than the insured value while maintaining any upside should the assets be worth more than the insured value.

M•CAM’s proprietary analytic system determines the value for IP assets by assessing three main considerations:

- How long will the company and the targeted marketplace be depending on the innovations protected by the IP assets? As innovations can be rendered obsolete by newer technologies, it is important to determine whether the innovations are at the beginning, middle, or late stage of the technology lifecycle.
- How active is the market for intangibles similar to those serving as collateral? What form does the activity take (e.g., licensing, cross-licensing, purchases and sales of similar IP)? Do these transactions represent cash expenditures or in-kind purchases?
- Do secondary markets for the innovations serving as collateral exist and what are the sizes of those markets? That is, are there other applications of the innovations outside of its original intended field of use? For example, can the owner transfer the IP for a laser missile guidance system to the manufacturer of a high precision surgical device?

An example of such an IP credit enhancement, provided by another credit enhancement firm, was a transaction involving a 2004 loan to BCBG Max Azria Group, a manufacturer and retailer of women’s apparel. Of the $53 million dollar loan transaction, $12 million was supported by a guarantee issued by the third-party credit enhancement firm based on collateral comprised of the company’s portfolio of trademarks.5

When assessing collateral for collateral enhancement purposes, a key question for lenders and bank regulators is whether the collateral can be sold or monetized in a reasonable period of time, says James Loder, former Chief Underwriter with XL Insurance. According to Mr. Loder, with the exception of well-known brands, trademarks may be less desirable for use as collateral because of the perceived difficulty in monetization of those assets. He
explains that if a brand is tainted, but the technology is still viable, the technology can still be used independently of the brand associated with it.

The typical term of IP collateral enhancement coverage underwritten by M•CAM is no more than five years, and the fees vary based on the perceived riskiness of the borrower and the IP assets. An underwriting fee of 0.25% to 0.50% of the face value of the policy is collected from the lender (and usually charged back to the borrower) at the closing of the loan. In addition, an annual premium ranging from 2.0% to 4.0% of the policy value is charged to the lender (and usually passed on to the borrower) for the duration of the arrangement. According to Mr. Loder, approximately a dozen transactions have been consummated to date in the marketplace; he also notes that IP collateral enhancement is a relatively new product. As more lenders become comfortable using IP as collateral without any guarantee or insurance, there may be downward pricing pressure for collateral enhancement services.

**IP Royalty Securitization**

There are many forms and legal structures used to facilitate IP royalty securitization. However, IP royalty securitization itself is a relatively straightforward process that involves the IP owner pooling and selling future IP-related income streams in exchange for a current lump-sum payment. In a typical securitization, in exchange for a lump-sum payment and a royalty-free license, the IP holder would transfer the IP assets to a special purpose vehicle ("SPV"). All future earnings generated by the IP assets flow to the SPV, which are then distributed to investors. Under this deal structure, the original IP asset holder no longer is the legal owner of the IP assets; hence, the assets are shielded from creditors in the case of the original IP owner's bankruptcy.

The difference between this financing method compared to an IP-backed loan described previously is that the IP owner securitizing its assets is not borrowing money, but rather is selling a stream of anticipated future cash flows that would otherwise accrue to the owner of the IP assets. Furthermore, unlike IP-backed loans or traditional bonds, with securitization, the burden of repayment is shifted away from the originator to the designated pool of assets. The originator is therefore protected from the operating performance of the securitized assets.

A high-profile example of an IP securitization occurred in 2007 when Sears created $1.8 billion worth of bonds based on the brand names Kenmore, Craftsman, and DieHard. Sears transferred ownership of the brands to a separate, wholly owned, bankruptcy-remote SPV named KCD IP (for Kenmore Craftsman DieHard IP). KCD charges Sears royalty fees to license those brands and uses the royalties to pay the principal and interest on the bonds.6

**Advantages and Disadvantages of IP as Collateral**

Given the growing recognition of IP as an asset to be collateralized, there are a number of advantages and disadvantages to consider when looking into the financing options mentioned earlier, including:

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5. This option is typically the same as provided by Mr. Elliott.

6. This option is typically the same as provided by Mr. Elliott.
Advantages of using IP as collateral

- IP offers different avenues for monetization to the asset owner by increasing the pool of available credit to a borrower. Corporations are able to receive additional leverage and/or a lower cost of funding if a company is able to secure credit from lenders for its intangible assets as compared to relying solely on tangible assets for financing.
- IP can increase the owner’s return through leveraging. Monies secured through financing are collected in one lump sum rather than over time and the lump sum can then be invested in projects that are expected to have a higher return than the cost of financing. IP provides a conduit to financing that 1) may not otherwise be available 2) doesn't cause the dilution of the existing equity positions and 3) may be less expensive than certain other alternative financing options.
- It may be more attractive to finance the IP assets on a basis that is predicated on the strength and performance of the IP assets rather than the creditworthiness of the borrower. If the IP assets are a consistently revenue-generating part of the company, they may have a more attractive cash flows stream for lending than the company as a whole, which may lead to lower execution costs.
- IP-based financing may offer some options for businesses to hedge themselves from risks. With securitization, for instance, the obligation of the IP’s performance is shifted away from the originator and the assets are safeguarded from bankruptcy proceedings.

Disadvantages of using IP as collateral

- If the IP is the company's primary asset and pledged as collateral, a default on the loan could result in the loss of the IP and a termination of the company.
- More established forms of collateral, such as tangible property, are generally more stable and often provide lenders with readily available market information when assessing the value of the property. Because the valuation of IP is generally more difficult than for tangible assets, potential creditors are less willing to invest because they know less of how the market will react to the property in the future.
- Tangible assets are often easier to liquidate than IP. Due to the unique nature of IP, the pool of potential buyers may be more restricted compared to the group of willing buyers for tangible assets.
- IP-based collateralized financing is still considered a somewhat nascent market, and with a limited number of lenders who are comfortable extending loans against IP assets, it can be a more expensive alternative than traditional financing options.
- For an asset to have value, it must be able to be discreetly identified. For certain IP assets, there may be difficulty in meeting this requirement. For instance, the success of a product may reflect its use of patents, trade secrets, copyrighted materials, and marketing assets such as trade names or trademarks.

How Companies Can Make Their IP More Attractive to Lenders

Though risks exist with using IP as collateral to secure financing, there are several options a company may consider to reduce these risks and increase the chances of the asset being accepted as collateral. In determining whether a compelling lending opportunity exists, lenders conduct thorough due diligence and borrowers can preemptively strategize to position their assets in the best possible light to creditors.

A debtor interested in receiving financing based on an IP portfolio can take extra steps to reduce the risks attached to these assets. Abha Divine, Co-Founder and Managing Director of Techquity Capital Management, LLC (“Techquity”), a company specializing in the monetization of IP and that has been involved in several transactions such as those described in this article, offers valuable insight into how an IP holder can make their IP more attractive to lenders and investors. “Techquity’s criteria are high-quality assets with no liens and that are unencumbered or lightly encumbered. In order for us to extend financing against it, we need to be the sole and primary security against it.” For patent assets, she adds, “We gauge quality based on the fundamental invention, how well the patents were prosecuted, and any validity challenges we may identify. We try to avoid patents that appear to be a late entry to a crowded technology space.” Another patent risk to mitigate is invalidity risk and may require, for example, getting an opinion from a reputable IP law firm regarding the validity of the patents, and obtaining infringement enforcement insurance.

As previously discussed, an objective valuation of the IP is critical in the process of securing financing using this asset class as collateral. The valuation should communicate to lenders the key factors demonstrating the full value of the IP to a lender. These factors include the size and growth expectations of the markets for the inventions, the robustness and diversity of the cash flow being generated by the IP, the expected future support (cash, technological, or service) required from the IP owner to collect royalties, and potential liquidation value. According to Mr. Peress, the most valuable IP includes assets that can be utilized across several industries or business models. This allows for multiple groups of potential purchasers in the event of default, and is therefore more attractive to potential lenders as it gives them a wider safety net.

A company should be able to provide evidence of the IP assets’ potential liquidity. If the asset is revenue generating, established licensing agreements and financial reports detailing the corresponding licensing revenue demonstrates that the IP is viable and creates income against which a loan can be repaid.

In the event of the asset owner’s failure to pay or bankruptcy, lenders need to be comfortable that the assets can be disposed of at a fair price, in a reasonable amount of time, and with minimal transaction costs. Owners are encouraged to provide evidence of use in the marketplace and thus identify potential market buyers. If available, a list of comparable transactions in the marketplace is useful in evidencing demand and establishing pricing expectations to lenders. Borrowers may also want to consider providing potential recovery values for the IP in an event of liquidation. According to
Mr. Peress, valuing IP using net orderly liquidation value and net forced liquidation value can give comfort to lenders that, in the event of default, an adequate portion of the IP's value is recoverable. Understanding this path to recovery should the borrower default is a critical component of sound underwriting for lenders.

Summary of Article Contributors

This table above contains a summary of the firms highlighted in this article. While this is not a complete list of firms providing services relating to fund raising using IP as collateral, these firms are illustrative of the types of firms involved in this area.

Conclusion

Billions of dollars have been injected into the IP investment market. As the value of IP becomes more widely recognized and IP monetization techniques become more effective, we expect more IP collateralized borrowing deals to be consummated.

This article has attempted to illustrate some of the more common financing methods for companies with valuable IP. Companies wishing to capitalize on their IP should be aware of the different financing options using IP as collateral, the advantages and disadvantages of each arrangement, and how to best position their IP to make it attractive for potential lenders.

3. The primary reason for this difference in generally accepted accounting principles (“GAAP”) treatment is that the arms-length value of purchased IP is evident from the purchase transaction itself while the future benefits from internally generated IP are typically much less certain and are often difficult to quantify.
5. "Fashion Designer BCBG Max Azria Picks Up $53 Million; Bond Collateralizes Intellectual Property and Trademarks", PRWeb, 13 December, 2004

SOURCE
Why Private Equity and Venture Capital Firms Should Care About IP

Investment companies may realize enhanced returns by focusing on intellectual property assets, an area of growing importance and significant corporate value.

It is well established that intellectual property (IP) assets can generate what economists refer to as "excess profits" to their owners, creating relatively high returns compared with other asset types. Not only do the IP owners benefit, but so can the private equity and venture capital firms that invest in IP-owning companies.

Today, it appears that IP assets contribute more value to corporations than do other assets. In 1975, intangible assets represented only 17% of the market value of the S&P 500 companies. In contrast, in 2015, intangible assets represented 87% of the market value of the S&P 500. We believe that much of this value represents legally protected IP assets, including patents, trademarks, copyrights, and trade secrets, among others.

IP is valuable and important in virtually all industries. Any industry in which companies make substantial investments in research and development, technology, and brands typically generates valuable IP. For example, medical device, biotechnology, and pharmaceutical companies in the healthcare and life sciences industries typically protect most, if not all, of their products with patents and/or trade secrets. These companies also create valuable trademarks as they go to market so that their products are easily recognizable to potential customers. Similarly, most high-tech companies in various industries, including aerospace, telecommunications, computers, semiconductors, and electronics, rely on IP assets to protect hard-won market share and competitive advantages.

Patent infringement litigation matters, for which the world’s largest companies have played the roles of both plaintiff and defendant, have been well documented in the popular press. Approximately 5,600 such suits were filed in the United States in 2015. Furthermore, it is well-known that many consumer product companies that sell food, beverages, clothing, electronics, and other commonly purchased consumables rely on their trademarks and brands to communicate their underlying corporate values and implied product-quality promises to their customers. Even traditional industries, such as manufacturing, energy, and automotive, are led by companies that put particular focus on developing and exploiting their IP assets.

As a result of the high value of IP today, financially significant IP-based transactions are common. For example, RPX Clearinghouse LLC purchased approximately 4,000 patent assets related to telecommunications technologies from Rockstar Consortium LLC in early 2015 for approximately $900 million. In addition, the brokered patent market (i.e., the market for patents for which sellers hire a third party to broker the deal) accounted for approximately $1.1 billion in buying opportunities and $233 million in transacted sales between June 1, 2014, and May 31, 2015. Currently, Yahoo’s Excalibur patent portfolio – containing approximately 2,500 patents that are not core to the Yahoo business and that were not included in the acquisition of Yahoo by Verizon – is up for sale and expected to yield hundreds of millions of dollars, and possibly more than a billion dollars.

We believe that private equity and venture capital firms may have opportunities to improve returns on their investments if they are willing to put more focus on IP assets. In particular, we see two specific areas in which private equity and venture capital firms can potentially create significant value related to IP:

1. Realizing increased returns from current investments by having portfolio companies focus on identifying and monetizing their IP assets.
2. Improving future investment decisions by performing more effective IP due diligence related to companies they are considering purchasing

Realizing Increased Returns From Current Investments

One of the most attractive and potentially profitable aspects of IP assets is that they are highly leverageable and exploitable. Each IP asset or group of related assets has a “spectrum of value” associated with it, made up of the collection of individual potential internal and external value/monetization opportunities associated with the asset. “Monetization” of IP assets simply relates to the various strategies and methods an IP asset owner may use to realize and maximize various aspects of the spectrum of value. Each individual opportunity can be considered a slice or channel in the spectrum of value. Individual value/monetization opportunities may include:

Internal use in support of product/service manufacture and sales
• Sale of the IP
• Licensing out and/or cross-licensing of the IP to various companies, for various applications, within a single industry or across multiple industries, and in one or many geographies
• Contribution of IP to a joint venture
• Enforcement/litigation against potential infringers
• Use as collateral for financing activities
• Defensive uses (i.e., to preclude or at least discourage competition)

For example, a certain engine-related patent can be used by the patent owner in the automotive industry to support the manufacture and sale of its cars. The same patent can concurrently be licensed to unrelated airplane, motorcycle, and boat manufacturers for use in their products, providing the patent owner with additional revenue streams resulting from the use of the same asset while not cannibalizing the patent owner’s automotive engine sales.

At the same time, the patent owner could evaluate the possibility of engaging in litigation with its automotive competitors for patent infringement to the extent they may be using the subject patent without a license. The collection of any relevant litigation damages or settlement revenues can be added to 1) revenues from internal use of the patent, and 2) revenues from licensing the patent to companies in nonautomotive industries. Clearly, the spectrum of value concept is one that is unique to IP assets, as most tangible assets such as plant and equipment are not as versatile (e.g., a machine on the production line can normally produce only one type of product at a time and can’t simultaneously be leveraged to other geographies and fields of use).

Assessment

Once identified and organized, the IP asset groups should be assessed to identify those that are most valuable and which can be further monetized. The goal of this assessment is not necessarily to compute a dollar value for the relevant assets (although that exercise may be helpful in certain circumstances). Instead, the goal should be to generally identify which groups of IP assets are relatively more valuable than others and likely merit the use of the company’s finite resources for purposes of monetization.

The assessment process should include enough analysis to indicate the potential revenue opportunity for the IP owner while carefully evaluating the many potential risks that could cause the monetization efforts to fail. The assessment process should consider a variety of issues/questions. For instance, if you were evaluating a patent, a patentable technology, or certain technology-based trade secrets, then relevant questions might include:

- Is the IP owner willing to license to its competitors?
- Is the patent potentially infringed?
- How does the owner use the patent today, if at all?
- Which other applications inside or outside of the company could benefit from the use of the technology?
- Which potentially relevant applications/uses for the patent are particularly “hot” and potentially large?
- What is the remaining economic life of the patented technology?

Identification

To successfully generate returns from IP assets, the IP assets must first be identified and inventoried. Some types of IP assets are very easy to identify. However, IP is sometimes difficult to identify because, typically, IP assets created in-house are expensed as they are created and, therefore, are not found on a company’s balance sheet. Certainly, patents, patent applications, trademarks, and copyrights are often easy to identify as they are either formally registered with governments in various geographic jurisdictions or are less formally tracked to facilitate protection, payment of maintenance fees, and possible use by the IP owner. These assets are also often vital to the owner’s business success. Alternatively, trade secrets, know-how, proprietary processes (including business processes), formulas, recipes, and internally created software, among others, may have an equal or even a superior contribution to business success, but are often considerably more challenging to identify.

The key to identifying the potentially most valuable IP assets is to systematically interview knowledgeable employees throughout the organization to understand the sources of a company’s competitive advantages and to analyze areas of substantial corporate success and/or investment. If properly planned, these interviews can be done surprisingly quickly. Once key IP assets have been identified, they should be documented and grouped together based on their synergy in supporting technologies, products and services, and/or current or anticipated future revenue streams.

Monetization Strategy

- Is the IP owner willing to license to its competitors?
- Is the patent potentially infringed?
- Do any “chain of title” issues exist?
- Have maintenance fees been paid?
- What is the remaining legal life of the patent protections?
- Is the patent subject to limitations related to standards organizations, other license agreements, etc.?
- Do foreign counterpart rights exist or would they still be available to obtain?
Technical

- Is the patent landscape crowded?
- Which companies’ patents exhibit a high degree of interdependency with, and frequently cite, the relevant patents?
- Is design-around potentially easy or difficult?
- Are non-infringing alternatives readily available?
- What is required to incorporate the technology into products and/or processes? What supporting infrastructure is required? Are there any switching costs?

Monetization

- Once assessed, a monetization strategy may be developed and implemented for the IP assets that appear to have the most potential value. A typical licensing strategy will include:
  - Method of monetization (e.g., sale, license, litigation)
  - Companies to be approached and relevant personnel to contact
  - Preliminary value proposition to each potential monetization target
  - Methods for approaching selected companies (e.g., phone calls, emails, letters)
  - Marketing/communications collateral that will be developed for each selected monetization method
  - Identification of who will take responsibility for each step in each marketing effort
  - Estimated timeline for implementation of the strategy
  - Total cost estimates to implement the strategy
  - Estimated revenue projections
  - Identification and analysis of risks associated with various strategic options

IP monetization can be successfully applied in high-performing platform companies that could provide value to industries where the IP owner does not operate, as well as in stable, low-growth, or troubled portfolio companies that may be generating subpar operating results.

As an example of a successful monetization effort, we assisted a large private equity firm in undertaking an inventory of the IP assets at several of its portfolio companies. While conducting an inventory and assessment at one of the portfolio companies, our team identified certain manufacturing processes of substantial value that we recommended be protected and managed as trade secrets. We worked with the company and its counsel to protect and ultimately license these trade secrets for several million dollars paid over a number of years by unrelated companies in noncompetitive industries.

Improving Future Investment Decisions by Performing More Effective IP Due Diligence

A second opportunity related to IP that should be of interest to private equity and venture capital firms relates to their ability to potentially improve future investment decisions and results. This is accomplished by performing more effective IP due diligence on businesses that the firms are considering for purchase. Based on our experience, many companies do not spend enough time and resources considering IP opportunities (and potential IP-related issues) as part of a potential acquisition. This is especially the case considering the potential importance of such assets (as noted previously). By performing more effective IP due diligence, companies can expect to be better informed and, therefore, make better acquisition-related decisions. This due diligence may highlight otherwise unrecognized bargains and likely will position a private equity or venture capital firm to more efficiently and effectively implement monetization efforts once the acquisition has closed. The due diligence process can also reveal challenging issues associated with the acquisition target’s IP portfolio that may negatively affect its value. Additional due diligence and follow-up can then be
performed related to such issues until they are resolved or better understood.

An important part of IP due diligence, and a good potential first step, is to simply identify what IP assets the target company owns. As mentioned previously, identifying IP assets is often challenging when one owns and operates a company, but it is even more difficult when trying to do the same for a company for which only limited information and access is available. To start, an acquirer should consider various high-level issues that may indicate that the target company has important, valuable IP. Some such issues include:

- Does the target company generate consistently superior returns on sales or assets?
- Does the target company have unique competitive advantages, such as superior manufacturing processes, trade secrets, supply chain efficiencies, or distribution advantages?
- Does the target company have identifiable intangibles and goodwill from previous acquisitions, and are IP assets internally developed?
- Does the target company have a history of relatively significant investments in technology, manufacturing processes, business processes, software, and/or marketing assets?
- Does the target company have internally developed or customized software, machinery and equipment, processes, formulas, or business methods?

Once these and other relevant questions have been addressed, the acquiring company should implement at least some measure of due diligence to not only identify the specific IP assets that are easy to find (e.g., patents, trademarks), but also the IP assets that are more difficult to uncover but that may have substantial value (e.g., trade secrets, know-how, business processes, software, specialized equipment).

The rest of the IP-focused due diligence process is very similar to the assessment that one might conduct as part of the monetization process as described previously. The acquiring company should, to the best of its ability, try to answer various questions related to important business/financial, legal, and technical issues to better understand the potential value of the IP owned by the target and any potential risks that could diminish the value of the potential acquisition.

As an example of a successful due diligence effort, we assisted a client in its evaluation of the purchase of a Japanese manufacturer and distributor of food additives (the “Target Company”), which was in bankruptcy.

In addition to its manufacturing facilities, the Target Company had significant IP assets, including in-process research and development, trademarks, and patents. In particular, our client requested that we estimate the value of the Target Company’s patent portfolio, focusing initially on certain product lines using publicly available information and later relying on the Target Company’s proprietary data.

During the course of this project, we worked closely with our client’s mergers and acquisitions team, which relied on our analysis in determining the value of the intangible assets. The client believed the intangible assets constituted the largest share of the offered purchase price. Ultimately, another interested purchaser beat our client’s competitive bid for the troubled company, and the acquisition did not take place. However, the client was very satisfied that, relying on our IP analysis, it made a bid that reflected the value of the Target Company for its own purposes and recognized that the price it would have had to pay to purchase the Target Company would not satisfy its return requirements.

**Keys to IP Success**

Given the significant importance of IP assets to many companies, it is wise for private equity and venture capital firms to incorporate IP issues into their business practices. Specifically, they should consider the role IP plays in 1) their management of portfolio companies through monetization efforts, and 2) their consideration of new acquisitions through focused, and perhaps enhanced, IP due diligence.

Success in these areas is likely to increase returns on current and future investments.

4Note that the illustrative list of assessment questions/issues provided herein specifically focuses on patents. While some of the assessment questions/issues listed may be relevant to other types of IP assets, each IP asset type has certain unique questions/issues that would be addressed in an assessment for purposes of monetization.

**SOURCE:**

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**QUICK**

**QUICK ANSWERS**

1. D
2. C
3. E
4. B
5. D
INTRODUCTION

The new ARIPO Headquarters Building was officially inaugurated on 9 December 2016. Its location is a premier area, a diplomatic zone and has a greenery view. The new building incorporates extensive office space, conference facilities, state-of-the-art auditorium, cafeteria and courtyard garden which is set to become a gallery/exhibition space displaying samples of registered Intellectual Property (IP). It also has an ample parking lot. It is within this context that the Organization is making available some of the new facilities to the public for hire.

ARIPO has over 40 years of experience in the field of IP and in conjunction with the opening up of ARIPO to the public will launch ARIPO support services in the field of IP to facilitate growth in the utilisation of IP in Africa.

ARIPO’s vision is to become Africa’s leading intellectual property hub with a mission to foster creativity and innovation for economic growth and development in Africa. As we pursue this course, we uphold the principles of client-focus, engagement, innovation, integrity and accountability which define our core values.

This business model provides the basic information for hiring the state-of-the-art facilities and the premier IP services that ARIPO offers.

ARIPO FACILITIES FOR HIRE

The new ARIPO Headquarters Building offers state-of-the-art facilities geared towards providing excellent impressions for a professional outlook that any business would be proud to be associated with. First impressions are crucial and a great environment can give a business pitch and the best chance of success. The facilities offer a variety of meeting packages that range from intimate private spaces to ambient conference rooms that can accommodate up to 150 participants. All meeting facilities are equipped with designer furniture and aesthetic artwork, high performance audiovisual and conference equipment.

CONFERENCE FACILITIES

All the conference facilities can be hired for seminars, workshops or symposiums and ARIPO’s professional technical staff are always available on the ground to assist. The facilities are offered as a full package or room hire only as follows:

<table>
<thead>
<tr>
<th>FULL PACKAGE</th>
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<tr>
<td>Stationery (writing pad, pen, markers, flip charts)</td>
<td>Stationery (writing pad, pen, markers, flip charts)</td>
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<td>Overhead projector</td>
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<td>PA system</td>
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<td>Teleconferencing equipment</td>
<td>Teleconferencing equipment</td>
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<td>Refreshments (juices, sweets, water)</td>
<td>Refreshments (juices, sweets, water)</td>
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<td>Lunch, morning and afternoon teas</td>
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Wi-Fi available for both packages

1. THE AUDITORIUM

The ARIPO state-of-the-art auditorium has a seating capacity of 150 people and is acoustic and sound engineered to function as a broadcast centre that enables live presentations and discussions through large flat screen monitors.

The auditorium, the first of its kind in Harare, has:

- 3rd Generation Confidea® conference system which features, focused intelligent audio visual equipment, state-of-the-art Quad-Band wireless technologies, fault-tolerant error correcting protocols and advanced encryption algorithms
- Equipment allows moderated discussion, simultaneous interpretation and electronic voting
- 3 x 60inch LED monitors
- 3 interpretation booths
- Fully air-conditioned
- Individual charging ports
- Wheel chair access
- Spacious and comfortable seats

The Auditorium can be hired at the following rates:

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<tr>
<th>FULL PACKAGE</th>
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<td>$60 per participant per day</td>
<td>$40 per participant per day</td>
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2. JEREMIAH HERBERT NTABGOBA CONFERENCE HALL

The Jeremiah Herbert Ntabgoba Conference Hall with the seating capacity of 50 people has:
- State-of-the-art digital projector
- High speed wireless audio system
- Interpretation booth
- 50 inch LED Screen
- Projector
- Desk microphones

The Jeremiah Herbert Ntabgoba Conference Hall can be hired at the following rates:

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<td>$40 per participant per day</td>
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3. MULTI-PURPOSE HALL

ARIPO has a multi-purpose hall with the seating capacity of 60 people, which can also be converted into other usage such as entertainment, catering and seminars. However with a large number of participants using the main conference hall, the multi-purpose hall can be given as gratis for catering services.

Multi-purpose hall can be hired at the following rates:

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<td>$30 per participant per day</td>
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CAFETERIA

For all meetings, conferences or symposiums, ARIPO offers a spacious cafeteria with a seating capacity of 60 people. The cafeteria may be used for events and meetings taking place at ARIPO or can be hired separately by those seeking to outsource meals for their guests. Additional arrangements can be made for hosting dinners and other meals outside working hours. If the number exceeds 60, the multi-purpose hall can be used as a cafeteria.

BOARDROOMS

There are two impressive Boardrooms which accommodate up to 10 people each and are ideal for executive meetings including conference calls, presentations, screenings or breakout sessions. The Boardrooms are supported by integrated audiovisual equipment including video conferencing facility.
The Boardrooms are equipped with:
- Integrated AV equipment
- HDLCD TV
- Polycom conference phone
- Featured artwork
- White board
- Free Wi-Fi

**TRAINING LAB**

Technical, online and virtual training are a key part of modern learning. ARIPO offers a spacious modern training lab equipped with 25 workstations, Wi-Fi, projector and audio equipment. The training lab can be used for practical trainings that require use of computers.

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<th>FULL PACKAGE</th>
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<td>$30 per participant per day</td>
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**Anderson Ray Zikonda Library**

The library facilities offer:
- Free access and subscription
- Specialized collection of books, dissertations on IP
- Free access to specialized IP collections and books
- Free virtual library access
- Free information research services

Our highly qualified and experienced Team also offers:
- Indexing services
- Editorial services
- Bibliography services
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