ARIPPO Magazine
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Vol. 6, No. 1, January - March 2016

SOFTWARE PIRACY
KNOW MORE ABOUT SOFTWARE PIRACY

DIGITAL CREATIVITY
FEEDING THE IMAGINATION IN NEW WAYS

HOPE FOR WATER
TANZANIAN ENTREPRENEUR DEVELOPS WATER FILTER

DID YOU KNOW?
COURT CONFIRMS LEGAL STATUS OF BIRTHDAY TO YOU!

NEW ARIPPO LOGO
AN IN DEPTH EXPLANATION OF THE NEW ARIPPO LOGO
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 & 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.

The Harare Protocol was concluded in 1982 and entered into force on April 25, 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 Banjul Protocol was concluded on November 19, 1993 in Banjul, The Gambia and entered into force on November 28, 1997. Contracting states under this Protocol are Botswana, Kingdom of Lesotho, Liberia, Malawi, Namibia, Swaziland, Uganda, São Tomé & Príncipe, The United Republic of Tanzania and Zimbabwe.

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 adopted in 2010 and entered into force on May 11, 2015. The Protocol has so far received 7 ratifications from Botswana, The Gambia, Malawi, Namibia, Rwanda, Zambia and Zimbabwe. It aims to protect the overall traditional knowledge and folklore of Africa and to ensure that it is properly utilized for the welfare of her people. 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.

The Arusha Protocol was adopted by a Diplomatic Conference that was held in Arusha, Tanzania, on July 6 2015. When it becomes operational, 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 in order to ensure sustainable agricultural production. The provision for plant breeders’ rights in the region will allow farmers access to a wide range of improved varieties thereby contributing to the attainment of the regional goal of economic development and food security.

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 February 15, 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.
CONTENTS

Background Information on ARIPO ............ 2
Editorial Team ........................................ 3
Director General’s Message ....................... 4
Highlights of Events................................. 5
Member States News................................. 7
Staff Matters.......................................... 11
AFRICAN IP Perspectives......................... 14
Feature Article....................................... 15
Emerging Issues in IP.............................. 18
Did you Know?....................................... 19
Member States Contact Details.................. 21
Contacts.............................................. 22
In the last 20 years, as a result of the implementation of the World Trade Organization Agreement on the Trade Related Aspects of Intellectual Property Rights (known as TRIPS Agreement), almost all African countries have established institutions and legislation to protect intellectual property rights. Prior to this, the continent had also established two regional organizations for the protection of intellectual property, namely the African Organization of Intellectual Property (OAPI) in 1962 and the African Regional Intellectual Property Organization (ARIPO) in 1976.

In spite of these developments, Africa has however not fully exploited the IP system for the benefit of its people. Uptake of intellectual property is still very low on the continent. Currently, patents constitute 80% of the technological information available in the world. In 2013, 2.57 million patent applications were filed worldwide and 9.45 million patents were in force. To those impressive numbers, Africa contributed 0.6% only. It is worth stating that Africa’s share of the worldwide patent filings has not changed since 2003.

However, there is perhaps a light at the end of the tunnel. The Global Innovation Index 2014 indicates that in 2013, five African economies namely; Burkina Faso, The Gambia, Malawi, Mozambique and Rwanda became part of the group of economies defined as ‘innovation learners’ (economies that performed at least 10% higher than expected for their level of GDP), and the Sub-Saharan African region now makes up nearly 50% of the innovation learner economies. Other countries previously classified as “innovation learners” are; Kenya, Mauritius, Senegal and Uganda. The newly published Global Innovation Index 2015 reveals that a number of ARIPO Member States are considered “innovation achievers”, performing increasingly well at levels previously reserved for the lower-middle-income group among them Rwanda, Mozambique and Malawi. In addition, Kenya and Uganda are generally outperforming other economies at their level of development. Furthermore, some ARIPO Member States namely; Mozambique, Rwanda and Tanzania are consistently quoted as belonging to the fastest growing economies globally.

These encouraging signs of innovation and development will change perceptions and use of intellectual property in the region. ARIPO being the hub of management of intellectual property in Africa will be required to adjust its pace in order to adequately respond to the challenges of those rapidly growing economies and their needs for a robust and efficient Intellectual Property system.

Since its creation in 1976, ARIPO has grown in its membership and mandate. It now has 19 Member States and its mandates now cover patents, trademarks, industrial designs, utility models, copyright, traditional knowledge and folklore and more recently, protection of new varieties of plants. Regrettably, the number of applications followed the slow trend witnessed on the continent. It is with those challenges in mind that we have developed a new Strategic Plan to be implemented in the period 2016 – 2020. The strategy is based on a "Value and Growth Strategic Transformation" framework.

In our Value and Growth Strategic Transformation Plan for 2016 – 2020, we aim to achieve many new milestones through improved productivity and efficiency across the entire Organization, especially in our intellectual property registration, operations and education process, while continuously seeking new ways to improve and grow our support services.

In partnership with key stakeholders, we need to invest and build a robust intellectual property infrastructure to position ourselves for future growth characterised by speed and agility, in order to serve all our customers across this beautiful continent of Africa. We are committed to serving our Member States with the highest global IP application and enforcement operations through international partnerships and advocacy.

Many thanks to all the key stakeholders who have participated and contributed towards this 5 year Strategic Plan.

F.A. dos Santos
DIRECTOR GENERAL
HIGHLIGHTS OF EVENTS


The conference brought together intellectual property attorneys, judges, corporate IP managers, industrial experts and scholars from China and around the world to discuss IP trends, new insights and strategies.

The conference theme was “IP Route and Strategy: Internationalization of Chinese Enterprises”.

ARIPO, represented by the Director General, Mr. Fernando dos Santos and Mr. Charles Pundo, Head: Formality Examinations attended and mounted an exhibition at the event.

Mr. Tommy Zhang, President and Editor-in-Chief of China IP Magazine, officially opened the event. Mr. Dos Santos gave remarks as one of the guest speakers during the opening ceremony.

Other guest speakers included officials from China Intellectual Property Law Society, Chinese Academy of Sciences, Beijing Intellectual Property Law Association, the Association for the Protection of Intellectual Property (AIPPI), WIPO China Office.

The Director General briefed the forum on ARIPO’s activities and the general status of IP in Africa and expressed concern on the low protection figures coming from China.

He further stressed that this was not equal in measure with the amount of investment being channeled to Africa by the Chinese government and private enterprises. He encouraged the Chinese IP right holders to use the ARIPO system and safeguard their IP rights.

Although this was ARIPO’s inaugural participation in the history of the forum, the number of visitors received at the booth and the enquiries which were made about ARIPO’s services were encouraging.
Adams and Adams (Mozambique) Visit ARIPO

A delegation from Adams and Adams (Mozambique) visited the ARIPO office on 24 February 2016 to learn about ARIPO’s operations and procedures. The two member delegation was made up of Mr. Elio Teixeira and Mr. Carlos Martins.

On arrival at ARIPO, the delegation paid a courtesy call on the Director General of ARIPO, Mr. Fernando dos Santos. The Director General welcomed the visitors to ARIPO and gave them a brief outline of the vision of the Organization.

After the courtesy call, they toured the various departments and met members of staff who explained their specific roles in the administration of IP at the office.

The delegation thereafter held discussions with the Director of Industrial Property, Mr. Christopher Kiige and officials in the Formality Examinations section, which centred on the operations of the Banjul and Harare Protocols, in view of the recent amendments that were made to the two protocols.

Launch of WIPO-ARIPO Digitization Project

A delegation from the World Intellectual Property Organization (WIPO) is visiting the ARIPO office from March 7 to 11 to launch and initiate the implementation of the WIPO-ARIPO project for the digitization of ARIPO’s IP back files.

This project which has been sponsored by the World Intellectual Property Organization (WIPO) has been contracted to VentureCom, a software company based in Harare to provide the service. The project is expected to be completed in the next six months.
What is Software Piracy?

By Henrietta Chiteure

Most people in Zimbabwe are involved in software piracy simply because they would never go out and buy original software for their personal computers, they would rather burn copies or download it from torrents or other websites simply because people think that software is free.

Unknowingly this basically makes us all pirates in that field. Previously we had a serious report that proved that 90% of Zimbabwe software is counterfeit and with that in mind it would be wise if people knew what software piracy is.

Software piracy is the illegal copying, distribution, or use of software. It is such a profitable “business” that it has caught the attention of organized crime groups in a number of countries.

It can also be defined as reproduction, distribution and use of software without permission of the owner of copyright. When you purchase a commercial software package, an end user license agreement (EULA) is included to protect that software program from copyright infringement.

Typically, the license states that you can install the original copy of software you bought on one computer and that you can make a backup copy in case the original is lost or damaged.

You agree to the licensing agreement when you open the software package (this is called a shrink wrap license), when you open the envelope that contains the software disks, or when you install the software.

Software piracy applies mainly to full function commercial software. The time-limited or function-restricted versions of commercial software called shareware are less likely to be pirated since they are freely available. Similarly, freeware, a type of software that is copyrighted but freely distributed at no charge, also offers little incentive for piracy.

Types of software piracy include:

- **Softlifting**: Borrowing and installing a copy of a software application from a colleague.
- **Client server overuse**: Installing more copies of the software than you have licenses for.
- **Hard-disk loading**: Installing and selling unauthorized copies of software on refurbished or new computers.
- **Counterfeiting**: Duplicating and selling copyrighted programs.
- **Online piracy**: Typically involves downloading illegal software from peer-to-peer network, Internet auction or blog. (In the past, the only place to download software was from a bulletin board system and these were limited to local areas because of long distance charges while online.)
- **Signs of pirated production**: absence of polygraphic packing; – examined polygraphic packing is different from the original; – counterfeit polygraphic packing; – absence of original reserved label; – counterfeit hologram; – indication of another copyright owner; – absence of Copyright and Adjacent Rights Protection sign; – different from the original kind and way of wrapping; – different from the original production; – absence of special stamping on the polygraphic wrapping; – two or more movies on the videotape or dvd; – other distinctive features that can be detected during examination.

Source: [www.technomag.co.zw/2016/02/11/what-is-software-piracy/#sthash.DYToffyV.dpuf](http://www.technomag.co.zw/2016/02/11/what-is-software-piracy/#sthash.DYToffyV.dpuf)
Kenya Takes Steps to Enhance Intellectual Property Awareness

Kenya’s Education Cabinet Secretary Dr. Fred Matiang’i consulting with the Director National Commission for Science and Technology and Innovation (NACOSTI) Dr. Moses Rugutt during the official opening of Science, Technology and Innovation whose theme was ‘Unleashing Innovation Clusters, Hubs and Parks as Drivers of Africa’s Transformation’

The government of Kenya has inaugurated a board to steer the Kenya National Innovation Agency (KNIA), which is charged with increasing awareness of intellectual property rights among investors, universities, research institutions and the general public. The move comes as experts have offered gloomy views on the IP situation in Kenya and elsewhere in Africa.

Chrispine Odhiambo, a private consultant on IP issues, said intellectual property has not been fully appreciated in Kenya. According to him the issue is not considered a priority due to poor enforcement. “We need to build awareness as well as increase funding to ensure local IP protection,” Odhiambo said at the Kenya Commission for University Education Symposium in Nairobi. He added that another reason why IP issues are ignored is because of the cumbersome, expensive and tedious process of applying for patents.

According to him, the process should be made easier and affordable. “Innovations funds should be availed to young researchers to enable them register their innovations,” he stated. He said the situation that obtains in Kenya is similar to what is happening in many other African countries. “There is great potential in Africa but unfortunately knowledge harnessing is being done by outsiders,” he pointed out. He added IP offices are required in all research centres, innovation hubs and higher education institutions.

At the forum, whose theme was “Innovation Hubs, Clusters and Parks and Africa’s Transformation,” Joyce Banya from the World Intellectual Property Organization Regional Bureau’s Development Sector said science, technology and innovation cannot be divorced from intellectual property. IP is indispensable for transforming knowledge into assets.

Tanzanian Entrepreneur Develops Innovative Water Filter

By Catherine Jewell, Communications Division, WIPO

Tanzania is one of the poorest countries in the world, and like many countries in Africa, it faces acute water shortages. Although it borders three of Africa’s Great Lakes, many people, especially in remote rural areas, lack access to safe drinking water. All too often, both surface water and groundwater sources are contaminated with toxic heavy metals, bacteria, viruses and other pollutants from mining, industrial effluent and poor sewage systems. But there is hope. A local chemical engineer, Dr. Askwar Hilonga, has developed a low-cost customizable water filtration system that promises to transform the lives of many Africans.

Dr. Hilonga who lectures at the Nelson Mandela African Institution of Science and Technology, recently won the first Africa Prize for Engineering Innovation from the UK’s Royal Academy of Engineering. The prize of GBP25,000 (TZS79 million) seeks to encourage talented engineers in sub-Saharan Africa to find solutions to local challenges and develop them into businesses.


By Catherine Jewell, Communications Division, WIPO

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Dr. Hilonga
Ghana plans to scale up the institutional practice of herbal medicines along with orthodox medical practice in the country, Ghana’s Health Minister Alex Segbefia has said.

The Ministry of Health (MOH) and the Ghana Health Service (GHS) have inaugurated a herbal medicine unit in the Port City of Tema, 38 km east of the national capital, to help in the mainstreaming of herbal medicines, said the minister.

Statistics in Ghana show that nearly 25 percent of the population relies on natural and herbal medicines to deal with their illnesses. The reasons may vary, but factors such as geographic access, financial access, customs, beliefs and perceptions play a significant role in the decision to use herbal or traditional medicines. Minister Segbefia said this situation placed a responsibility on the unit to ensure the safety and effectiveness of the traditional medicine services.

“It is fulfilling to observe that in Ghana we have come a long way in harnessing the potential of traditional medicine. The re-emergence of traditional and complementary medicine, especially as an interest area in science, research and health provision, is a testimony of the progress we have made in this area,” he said. He stressed the need to deepen the evidence available, and improve the credibility and acceptance of traditional and herbal and natural medicines. “Today, as we launch a yet another herbal medicines unit, we are effectively demonstrating our confidence that as a practice within the health sector, patient safety can be assured,” said Segbefia. The Tema polyclinic herbal unit brings the number of herbal medicine centers opened across the country to 18.

Dr Linda Van-Otoo, Greater Accra Regional Director of Health Services, said the new unit would help minimize quacks, and also encourage genuine producers of herbal medicine. Current estimates have it that between 35 and 50 percent of prescription drugs have been derived from natural products including herbs. The popular Artemisinin is one of them.

A training workshop for a branding project took place on February 17 and 18, 2016 in Voi (Kenya), bringing together 30 basket weavers from surrounding small villages. The objective was to learn the importance of the trademark system, standards and quality control for branding products. In February, Voi (Kenya) hosted a workshop of basket weavers, representing their respective basket-weaving groups, in Taita Taveta County.

**A Family Art**

A “Taita Basket” is the collective name of the sisal baskets made by women in Taita Taveta County. The baskets are laboriously crafted according to the traditional art from hand-twisted thin sisal fibers dyed with natural plants. They are remarkably soft, thanks to the tightly woven fine mesh and they boast resistance to color fading. The knowledge of basket making has been passed down from mothers to daughters from generation to generation.

**Unlocking the Power of IP**

The workshop was the first step in a multi-step intellectual property-related branding project focusing on Taita Baskets. The participants welcomed the idea of having a collective mark to protect and promote their baskets as a brand. They also learned the importance of standards and quality control through lectures and exercises provided by experts.

ARIPO Value and Growth Transformation Strategic Plan 2016—2020

by Graham Mhlakaza

ARIPO launched its Value and Growth Transformation Strategic Plan 2016-2020 during the annual staff retreat held in Victoria Falls, Republic of Zimbabwe on 13 February, 2016.

The Strategic Plan was developed under the facilitation of Deloitte Advisory Services (Private) Limited and was approved by the Thirty-Ninth Session of the Administrative Council of ARIPO held in Lusaka, Republic of Zambia in November 2015.

In his address, the Director General Mr. Fernando dos Santos highlighted that ARIPO was eager to improve its current performance through a transformation programme that is well-constructed and sustainable, and which will over the course of the next five years change the face of the Organization with regards to performance culture. In order to achieve this ‘vision’, ARIPO has embarked on a Value and Growth Transformation Organizational change programme.

According to Deloitte, “within today’s highly competitive employment market, businesses and organizations are avidly looking to employ and retain people with a track record of consistently improving their performance. They want individuals who are more self-managing, more self-leading and more accountable”.

In pursuit of this change initiative, the Organization shall implement an in-house Value and Growth Transformation Performance Management System (PMS), which shall provide the necessary processes and procedures to enable staff to perform at their best.

The PMS shall focus primarily on entrenching a culture of High Performance Leadership. To do this, all individuals need to take charge, clarifying for themselves what needs to be done and why, with leaders then providing guidance on how such performance should transpire. Individuals shall be aligned with the Organization’s mission, vision, strategy, objectives and key measures which in turn would provide the Organization with measurable returns through the improvement of people performance.

The programme works both from top-down and bottom-up. Leaders shall be involved in the coaching and development of positive attitude to achieve high performance improvements throughout the entire Organization.

The strategic change process will grow and develop our larger leader capabilities to achieve many new milestones through productivity and efficiency improvements across the entire Organization especially in our endeavour to improve intellectual property registration, operations and education process, while continuously seeking new ways to achieve and grow a world class service.

The Organization shall invest and build a robust intellectual property infrastructure with key stakeholders in order to position ourselves for future growth, one that has much speed and agility in order to serve all our customers across this beautiful continent.

It remains the Organization’s commitment to serve our Member States with the highest global IP application and enforcement operations through international partnerships and advocacy.

The full text of the Strategic Plan can be downloaded from www.aripo.org

STAFF MATTERS

ARIPO bade farewell to Thokozile Chimulu who had worked for ARIPO for 10 years as the Organization’s Receptionist. At a farewell reception held for her on 29 February 2016, colleagues had all but just pleasant wishes for her. ARIPO wishes her all the best in her next endeavours.

ARIPO Bids Farewell to Thokozile Chimulu

ARIPO bade farewell to Thokozile Chimulu who had worked for ARIPO for 10 years as the Organization’s Receptionist. At a farewell reception held for her on 29 February 2016, colleagues had all but just pleasant wishes for her. ARIPO wishes her all the best in her next endeavours.

The DG presents a certificate of service to Thokozile Chimulu
Setting the Tone for Effective Value and Growth Transformation Strategic Plan’s Execution

By Graham Mhlakaza

The implementation of the strategic plan is largely the task of getting people to change their own behavior (performance). Changing behavior requires high performance leadership, support and accountability, cascading down throughout all the levels of the Organization. Research has proven that approximately 5% of all organizations implement their strategies successfully, while 70% of strategic initiatives fail to meet their objectives. The remaining 25% have some success but do not meet the full potential of the strategy devised.

ARIPO’s quest to be Africa’s leading intellectual property hub in the next 5 years can only be possible if the Organization embraces the importance of assessing and determining management and staff’s current and required performance for the new strategy.

The Member States are responsible for making certain that the leadership of the organization is approaching strategy implementation in a manner that will improve the organization’s chance for success. Management’s role is to effectively implement the strategy. The Director General is seized with entrenching a culture of High Performance Leadership to ensure that his team has the leadership capacity and capability to drive the strategy and ensure growth and sustainability. The challenge therefore is to override the traditional methods of performance appraisals and adopt a participative performance management system that creates a platform for individuals to be more self-managing, more self-leading and more accountable. Individuals should be able to set performance goals for themselves and justify the same and the leaders must be in a position to provide guidance on how performance should transpire.

In order to set the tone for effective strategy execution, the Director General convened a High Performance Accountability Plan (HPAP) development session for the newly appointed management team on 10 March 2016. During the session, the Director General tabled his vision, priorities and expectations from the management team and sought their commitment to the vision, priorities and expectations of the Member States and further assured managers of support for effective implementation of the strategy.

The Director General further drew the participants to the need to start doing things differently if the Organization is to achieve sustainable value and growth. The participants were further called on the need to develop new thinking in line with the demands of their new roles, shift from transactional issues and focus more strategically and create lasting legacies for generations to come.

The Consultant, Garth Bell, coached the participants on dealing with various types of people in an Organization (knights, knaves, divas) as well as on how to develop HPAP’s through which their performance will be determined and assessed, which when finalized, will cascade down to the rest of the staff. At the conclusion of the session, the participants affirmed their commitment to the success of the Value and Growth Transformation Strategic Plan which will develop larger leader capabilities to foster creativity and innovation for economic growth and development in Africa over the next 5 years.
Key Staff Appointments

The Director General of ARIPO, Mr Fernando dos Santos has appointed a new Management Team to assist him in steering the Value and Growth Transformation Strategic Change process over the next five years. The team will also be responsible for managing their respective Strategic areas to deliver the expected results set out in the program of activities and budget. The team is comprised of the following officers:

**Palesa Kaibe**  
Head of Finance

**Charles Pundo**  
Head of Formality Examination

**Maureen Fondo**  
Head of Copyright and Related Rights

**Pierre Runiga**  
Head of Policy Legal and International Co-operation

**Grey Njowola**  
Head of Information and Communication Technologies

**Letu Shilongo**  
Head of Internal Audit

**Graham Mhlakaza**  
Head of Human Resources

**Palesa Kaibe**  
Head of Finance

**Mziwokolo Bukhwele**  
Head of Administration, Documentations and Communications
Teach IP Rights In Schools to Grow Kenya's Economy

By Mbugua Njoroge King’a

Kenyans have until Friday to submit views on the curriculum they want. This comes in the wake of the Education Cabinet Secretary’s assertion that the current curriculum is overly academic and it undermines the abilities and inclinations many students have in talent-based and vocational fields.

This places the onus on the Kenya Institute of Curriculum Development in ensuring that the envisaged curriculum review addresses societal needs, key competencies for learner-teacher education, and strategies of identifying and nurturing talents, cross cutting and contemporary issues that the curriculum reforms should tackle among others.

It is an open secret that Kenya’s Vision 2030 economic blue print, developmental policies and strategies are all pegged on her education system. This is why Dr. Matiangi’s statement and KICD’s invitation for submission of views on the curriculum reforms by individuals, public and private institutions should be seen as a rare window of opportunity to correct the past wrongs that have relegated our country into unenviable holder of despicable ‘third world’ adjective for too many years now.

Indeed, Kenya finds herself in this precarious economic state despite being endowed with numerous natural and human resources. In contrast, Kenya and her African countries colleagues, the majority of largest economies...
The New ARIPO Logo

Introduction

In 2015 ARIPO embarked on an exercise to rejuvenate its brand. This included among other things devising a new marketing and public relations strategy for the Organization. In order to reposition ARIPO one of the critical areas was the design of a new logo. Consultants were engaged to design the new logo to ensure that the new logo was trendy, modern, easy to use and would leave an indelible impression on ARIPO’s various stakeholders.

The new logo was approved by the Organization’s policy body the Administrative Council at its Thirty-ninth Session that was held in Lusaka, Zambia from November 16 to 18, 2015.

ARIPO is the custodian of Intellectual Property in Africa, and as such, it should be universally appealing as a global brand to the international and African markets. It also needs to increase its visibility. In the development of the concepts for the new ARIPO identity, the meaning of the symbols, styles and colours chosen took to consideration the changing dynamics in global economics. The ultimate goal is to make the target audience identify with the Organization or identify the Organization with the logo, which is the face of the Organization. The logo is a visual representation of the brand. It is the new symbol that embodies the new ARIPO vision, mission and values that are focused on becoming the intellectual hub for Africa and beyond. The logo allows customers, partners and stakeholders to identify with the Organization’s core brand.

The spirals decorate the logo around the African map representing the notion of leading from outward perception to the inner essence. The inward movements inward are drawing attention towards the hub. The outward spiralling, signifying rebirth or growth, represent the consciousness of nature beginning from the core (hub) or centre. The way the spirals embrace Africa suggests community, integrity and perfection.

The swirls or spirals (curving lines) that were used around the map constitute continuity of Intellectual Property in Africa and are indicative of the fluidity and dynamism of thought and innovation. The circular shapes reflect protection, endurance, and restriction. They have no beginning or end points, suggesting that the success and work of ARIPO is repeated at progressively higher levels. Inspired by zebra-like stripes - unique to each individual much like an idea, patents, copyright, plant varieties, etc. are unique, the stripes are representing the individual mandates of ARIPO. The map of Africa is also used to create the hub (shelter, central place of welcoming, protective) that embraces and safeguards intellectual property rights.

Mr. Muziwoxolo Bukhwele, Head, Administration, Documentation and Communication

Colours

Blue represents to trust, honesty and dependability. The dark blue represents depth in intelligence, the moderate cyan (lighter blue on the map) representing self-reliance, reliability, dependability, loyalty, stability, vitality, restoration and wealth. The very dark greyish represents neutrality, compromise, control and contrast; it is impartial and has a steadying effect on other colours around it.

The bold typography in Times New Roman, used for ARIPO demonstrates an element of appropriateness, simplicity and legibility and therefore does not compete with the icon. Times New Roman is easy to use and it combines excellent legibility with good economy. Century Gothic is used on “African Regional Intellectual Property Organization”, as it is simple, fun, and clean. It also gives a good contrast and compliment to Times New Roman.
Protection of Intellectual Property Low in Botswana

The Director General of ARIPO, Mr Fernando dos Santos has noted that Botswana innovators and entrepreneurs are not taking advantage of the country’s membership to the regional organizations system. Mr dos Santos said this at the official opening of the first leg of an ARIPO roving seminar that was held in Gaborone from March 14 to 15 and aimed at raising awareness on the importance of the protection of Intellectual Property (IP) and on the advantages of the use of ARIPO route for the protection of IP rights. The first leg of the seminar was held under the theme ‘Making better use of IP for business competitiveness and development in Africa’.

“Statistics show extremely low numbers of intangible goods and services protected through the system. In 40 years of the existence of the Organization only 11 patents, two industrial designs and one trademark were filed by Botswana nationals,” he said. ARIPO was established mainly to pool together resources of its member countries in intellectual property matters as well as promote harmonisation and development of the IP laws and matters. However, statistics show that Botswana’s engagement with ARIPO is bearing fruit as, of the total 9,072 patent applications filed at ARIPO, at least 5,242 designated Botswana. On trademarks, there are at least 1,511 Botswana designation while on designs Botswana was included 785 times. On utility models, 35 out of the 67 applications designated Botswana.

In her opening remarks, the Acting Deputy Permanent Secretary in the Ministry of Trade and Industry, Rosinah Bontsi said since Botswana became a member of ARIPO in 1985, it has benefited immensely in terms of capacity building and financially. “Botswana has benefited from technical assistance offered by ARIPO in the administration of the IP Act, which involves the examination of patents and industrial designs, training of staff at Companies & Intellectual Property Authority (CIPA) and conducting awareness seminars on IP laws,” Bontsi said. She added that Botswana also receives revenue from ARIPO through registration fees for patents and trademarks filed through regional systems. She added that the seminar is coming at a right time when the country is looking to diversify the economy noting that Botswana needs to innovate and develop industries that are knowledge-based thus creating employment opportunities for citizens. “Through an IP system we can achieve this. It is my belief that by acquiring knowledge on IP, one will be in a position to influence thousands of students that the innovative projects they undertake can be turned into products which can be protected,” she said. Bontsi noted that the IP protection can allow such products to be further developed and commercialised through licensing and can provide economic empowerment and employment opportunities for students as they complete studies. “An efficient IP administration system will attract more users of our IP services, which will contribute to positive growth as Botswana becomes more attractive for both domestic and foreign direct investment, which can lead to greater economic growth,” she added.

The second leg of the ARIPO national roving seminars in Botswana was held under the series on “Fostering creativity and innovation for economic growth and development in Africa” and kicked-off in Gaborone from March 16 to 18 2016. The three day seminar was dedicated to Protection and Utilization of New Varieties of Plants, Geographical Indications, Traditional Knowledge and Handicraft for Economic Development. Dr P.O.P. Mosupi, Director Agricultural Research, Ministry of Agriculture officially opened the seminar. Eighty participants drawn from the Botswana private and public sectors, Traditional Knowledge practitioners, plant breeders, academics and researchers from research and development institutions participated in the seminar.

Source: http://www.mmegi.bw/index.php?aid=58549#sthash.aSMeqSSw.dpuf

Mrs Rosinah Bontsi, Acting Deputy Permanent Secretary Trade – Ministry of Trade and Industry addressing the participants during the official opening of the seminar.

Dr. P.O.P. Mosupi, Director Agricultural Research, Ministry of Agriculture, Botswana addressing the participants during the official opening of the seminar.

Participants & ARIPO Staff at the roving seminar.
The second of the 2016 series of ARIPO national roving seminars on fostering creativity and innovation for economic growth and development in Africa was held in Kampala, Uganda from March 29 to April 1, 2016.

Officially opening the seminar, the Minister for Justice and Constitutional Affairs of the Republic of Uganda, Hon. Major General (Rtd) Kahinda Otafiire, revealed that Uganda was in the process of signing the Swakopmund and Arusha Protocols.

This Ugandan leg of the national roving seminars was organized in three parts. The first part discussed matters relating to the registration, commercialization and monetization of patents, utility models, industrial designs, trademarks and geographical indications. The second addressed issues concerned with the protection and utilization of traditional knowledge, expressions of folklore and genetic resources, while the third part discussed copyright and related rights issues.

The first day of the roving seminar attracted participants from the IP office, Ugandan universities, legal practitioners, SMEs and other stakeholders. The roving seminar helped to create more awareness to these stakeholders and generators of Intellectual Property (IP) on how they can utilize the IP system to foster innovation and creativity for the economic growth and development of Africa.

On Wednesday March 30, 2016, ARIPO held the second part of the Uganda roving seminar. This phase of the seminar was on the protection and utilization of traditional knowledge, expressions of folklore, genetic resources and geographical indications. Requests by the participants, saw a presentation on the protection of plant breeders’ rights under the Arusha protocol being made.

There were 82 participants from the Ministries of agriculture and gender, labor and social development, agricultural, industrial and scientific research and development institutions, universities, legal practitioners as well as officials from the Uganda Registration Services Bureau.

Commendably, the Ugandan government revealed that it has started documenting some of the country’s traditional knowledge and folkloric products. This step will complement ARIPO’s efforts in establishing a regional database of the same as an integral step towards the implementation of the Swakopmund Protocol.

In Uganda, as has become noticeable everywhere, graduates of Masters in Intellectual Property (MIP) program from there made significant contributions during these roving seminars.
Intellectual Property for an Emerging Africa

The African Ministerial Conference 2015: Intellectual Property for an Emerging Africa co-organized by the Government of Senegal and WIPO in co-operation with the African Union (AU), and the Japan Patent Office in Dakar, Senegal from November 3 to 5, 2015 is an opportunity to explore the relevance of intellectual property (IP) to African economies and its role in supporting the development of vibrant innovation ecosystems and creative industries across the continent.

In the global knowledge economy, innovation, creativity and IP hold far-reaching promise for spurring economic growth, trade and employment in countries at all stages of development. Realizing this promise, however, is not automatic. Each nation must find the right mix of policies to mobilize the innate innovative and creative potential of its economy.

Today, the intellectual component of production is far greater than in the past and IP is an indispensable mechanism for translating that know-how into a tradeable commercial asset and capturing the competitive advantage that it represents. IP rights establish a secure legal framework for investment in - and commercialization of - innovation and creativity, enabling firms, including innovative start-ups, to navigate the perilous process of transforming an idea into a commercially viable product and to compete with success in the global marketplace, while safeguarding the public interest. As such, IP is a key factor in creating an environment in which innovation and creativity can flourish and generate future growth and prosperity.

It can only deliver these benefits, however, when the IP system is based on an appropriate policy mix that balances the often competing interests of producers on the one hand and consumers on the other. This is the challenge that faces policy-makers in Africa and across the world. Over the years, the main IP focus in Africa has been to establish and develop basic IP infrastructure, regulatory frameworks, capacity-building, and human capital. The goal now is to put these IP tools to work in support of the economic objectives of African economies.

Africa has a great tradition of innovation and creativity and has extraordinary creative resources but has often struggled to realize their full economic potential. That is changing. Increasingly, African economies are seeking to add value to their innovative and creative resources through the IP system.

Although African economies still face many competing and compelling policy priorities, innovation and IP are slowly but surely rising up the African policy agenda. I believe that Africa is on the cusp of something new and exciting. Today, the continent is home to some of the world’s fastest growing economies and African nations are embracing the opportunities afforded by the knowledge economy and the digital revolution to reduce poverty, enhance agricultural productivity, and boost industrial competitiveness in their drive to secure sustainable and inclusive development.

The 2015 Global Innovation Index (GII) reveals positive developments in the African innovation landscape. Mauritius, South Africa and Senegal top the Sub-Saharan Africa rankings this year, and a growing number of African economies are punching above their economic weight in the area of innovation. For example, in Sub-Saharan Africa, low income economies like Rwanda, Mozambique and Malawi are now performing on a par with middle-income economies. Similarly, Burkina Faso, Kenya, Mali, and Uganda are generally out-performing other economies with similar levels of development. Despite limited means, these African economies are proving efficient in translating the investments they make in innovation and the creative economy into concrete outputs.

The African Ministerial Conference 2015 is an opportunity to explore with policy and thought leaders how IP can best support the scientific and technological transformation of African economies, and to deepen understanding of the strategic importance of IP as a driver of economic and social development and poverty reduction across the continent.

Court Confirms Legal Status of Happy Birthday to You!

By C. Dennis Loomis, Partner, BakerHostetler, Los Angeles, USA

Happy Birthday to You has been called the best known song in the world. Certainly, one would be hard pressed to find anyone who has not sung and heard it dozens if not hundreds of times.

But you may not have known that for decades Warner/Chappell Music and its affiliate Summy-Birchard, Inc., demanded and received millions of dollars in copyright royalties from thousands of companies and individuals for the right to include renditions of Happy Birthday melody but was set to the Good Morning lyrics. In 1921, the song Happy Birthday being sung to the same tune as the Good Morning song first published in Song Stories for the Kindergarten, was sung to the same tune as the Good Morning song first published in Song Stories for the Kindergarten, assigned to him by author/composer sisters Mildred and Patty Hill. One of the songs, Good Morning to You, included the now-familiar Happy Birthday melody but was set to the words “Good morning to you. Good morning to you. Good morning dear children, Good morning to all.” Mildred was the composer, and Patty wrote the Good Morning lyrics. In 1921, following Mildred’s death, third sister Jessica Hill filed for renewal of this copyright. Copyright protection for the Happy Birthday melody thus expired in 1949, at the end of the 28 year renewal term under the copyright law then prevailing.

Copyright claim covers lyrics only

Warner/Chappell concedes that the Happy Birthday melody is in the public domain, and bases its copyright claim exclusively on the Happy Birthday lyrics. Under US copyright law, rights in the words and the music comprising a song may be separately owned, separately copyrighted and separately enforced. Generally, the author of song lyrics owns the copyright in that work upon creation. (The exception is a work made for hire, where the employer owns the copyright in works created by its employees). Under US copyright law when these events occurred, an author obtained common law copyright in a work upon its creation. Once the work was registered with the US Copyright Office, the common law copyright was superseded by federal copyright law. So long as the author had not affirmatively abandoned its common law copyright or authorized a public distribution of the work, the common law copyright could subsist indefinitely.

The crux of the case

The operative question in this case was whether the author of the Happy Birthday lyrics had effectively assigned her common law copyright to Warner/Chappell’s predecessor-in-interest. This launched the parties on an exhaustive search through newspaper articles, magazines, copyright office records and court files dating back 100 years and more, to discover who wrote the lyrics to Happy Birthday to You and what that person had done with the copyright in that composition.

Establishing authorship is a challenge

Neither party was able to establish with any certainty who had authored the Happy Birthday lyrics. In 1901 and again in 1909, publications mentioned the song Happy Birthday being sung by children in school gatherings, but did not include all the Happy Birthday verses nor say who wrote them. The first publication of the full lyrics occurred in a book for elementary teachers published and copyrighted in 1911. The book noted that Happy Birthday was sung to the same tune as the Good Morning song first published in Song Stories, but did not identify anyone as author of the Happy Birthday words. Over the next two decades other song books were published and copyrighted that included Happy Birthday with full lyrics but with no attribution to an author of those words. In the early 1930’s, Happy Birthday was sung in several motion pictures, and in 1933 it was performed in the play As
Thousands Cheer. In 1934, Jessica Hill sued the producers of As Thousands Cheer for copyright infringement, but not for infringement of the Happy Birthday lyrics. Rather, her claim was limited to alleged infringement of the copyrighted Good Morning melody that was performed with the Happy Birthday words. Warner/Chappell’s claim that Patty Hill authored the Happy Birthday lyrics was based on her deposition testimony in that case, in which she said that she wrote the words to Happy Birthday around the same time as she wrote the words to Good Morning.

While there was evidence suggesting that someone else may have composed those lyrics, the Court’s analysis proceeded on the assumption that Patty was the author. In 1935, the Clayton F. Summy Company (successor to Clayton Summy’s earlier entity) registered copyrights in two works entitled Happy Birthday to You. Warner/Chappell predicates its claim of copyright in the Happy Birthday lyrics on one of these, registration number E51990. Its theory is that Patty Hill authored the Happy Birthday lyrics around 1900, the Hill sisters assigned their common law copyright in those words to Summy Co. in 1935, and then the E51990 filing secured federal copyright registration over the words for Summy Co. The plaintiffs challenge every significant part of this history. They dispute that Patty Hill wrote the words. They claim that even if she was the author, she either abandoned her common law rights or lost them due to public dissemination of the lyrics. And finally, they assert that any common law copyright that Patty Hill may have owned in the Happy Birthday lyrics was never effectively transferred to Summy Co. With the battle lines drawn, the competing sides each filed cross motions for summary judgment. Such a motion asks the court to rule that there is no genuine dispute about any fact that is material to deciding the controversy, and that based on the undisputed facts, the moving party is entitled to judgment in its favor as a matter of law.

What the plaintiffs claim

The plaintiffs contradict this argument by pointing out that registration E51990 states that it is an “Application for Copyright for Republished Musical Composition with New Copyright Matter,” listing the new matter as “arrangement as easy piano solo, with text.” It names the author of the new matter as Preston Ware Oren. The plaintiffs argue that E51900 thus only claims copyright in the piano arrangement of the Happy Birthday tune written by Mr. Oren. As no one claims that Oren wrote the words to Happy Birthday, the copyright certificate does not create any presumption that Summy Co. secured copyright in the words by that registration.

The plaintiffs dismiss the claim that the 1943 Hill/Summy settlement agreement infused copyright protection on the lyrics into the E51990 registration from 1935, because the 1930's transfers showed no intent to cover lyrics, and the “catchall” 1943 assignment could not retroactively impugn rights into the E51900 registration that were not there in 1935.

Warner/Chappell’s argument

Warner/Chappell’s argument primarily focused on the statutory presumption of validity that attaches to a copyright registration. That statutory presumption (based on provisions in the 1909 and 1976 Copyright Acts, expanded by case law, dictates that the copyright certificate creates a rebuttable evidentiary presumption that the registrant has met all requirements for copyright validity. The E51990 registration includes a deposit copy of Happy Birthday including both the music and the words. Warner/Chappell contends therefore that the presumption of validity creates prima facie evidence that it owns a valid copyright in those words, which at least precludes summary judgment in favor of plaintiffs. Warner/Chappell also relies on a 1943 settlement agreement resolving a lawsuit between the Hill sisters and Summy Co. That suit concerned allegations that Summy had exceeded its rights under copyright transfers made by the Hill sisters to Summy in the mid 1930’s. Those transfers covered various piano arrangements of Happy Birthday. In an agreement settling that lawsuit, the sisters assigned to Summy Co. any copyrights that they might own. Warner/Chappell contends that the claims in that case reflect that the 1930's transfers covered the lyrics, and further, that even if the copyright in the Happy Birthday lyrics had not been transferred to Summy Co. previously, this agreement retroactively accomplished that result.

What the Court says

The parties first appeared before Judge King to argue their positions on March 23, 2015. The Court subsequently ordered the parties to file additional legal briefs, and held another hearing on July 29, 2015. Finally, on September 22, 2015, Judge King issued his decision in an exhaustive 43 page memorandum. He ruled that the record did not support summary adjudication for the plaintiffs based on the theories that common law copyright in the lyrics had been abandoned or forfeited by publication. Conversely, he concluded that the E51990 registration on its face did not encompass copyright in the Happy Birthday lyrics, and so Warner/Chappell was not entitled to summary judgment based on the presumption of validity. On the question whether Warner/Chappell owned copyright in the Happy Birthday lyrics based on the E51990 registration, Judge King decided that there was no credible or sufficient evidence in the record to find that that the Hill sisters had ever transferred any common law copyright in those lyrics to Summy Co. Therefore, as a matter of law, that registration could not have vested any copyright in the lyrics to Summy Co., meaning that Warner/Chappell has no enforceable copyright in Happy Birthday.

Warner/Chappell filed a motion asking the Court to reconsider its decision, asserting that Judge King had failed to afford the E51990 registration the proper presumption of validity, and had incorrectly analyzed the Summy/Hill transfer agreements. Had that motion failed, the case would have proceeded to trial on damages for the plaintiff class. Most likely, a very interesting appeal would have followed. But in December, the parties reported reaching a global agreement to settle the matter. On February 8, 2016, they filed their proposed settlement agreement as part of a motion for court approval as required for class action cases. The agreement would see Warner/Chappell refund up to USD14 million in license fees paid by class members for use of Happy Birthday broken into two classes. “Period one” claimants would receive up to 100 percent of license fees paid after June 13, 2009, up to an aggregate of USD6.25 million. The balance of the USD14 million fund would be paid to “Period Two” claimants, who would receive up to 15 percent of license fees paid from September 4, 1949 to June 13, 2009. A hearing on court approval of the settlement is scheduled for March 14, 2016. 

DID YOU KNOW

MAGAZINE: Vol. 6, No.1, January - March 2016

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