BACKGROUND INFORMATION ON THE AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

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. A fourth treaty, the Arusha Protocol for the Protection of New Varieties of Plants is yet to enter into force.

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 Paris Convention, 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-exist 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 ten.

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. 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. 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.

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, genetic resources and folklore.
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This year the world as we know it took a different turn. The effects of the COVID-19 pandemic have been felt worldwide and across all business sectors. The process of acquiring IP protection was also affected. In compliance with national lockdown issued by the Government of Zimbabwe, the ARIPO Headquarters has remained closed to the public since 29 March 2020.

However, ARIPO operations and services offered by the Organization to users have remained largely unaffected by the crisis. The Organization has remained fully operational owing to the already established 24-hour online services. ARIPO staff have also been assured less exposure to the virus as they can also work from home.

The outbreak has also resulted in measures such as travel restrictions that have affected the ARIPO operations. However, new technology has ensured that ARIPO is in touch with the Member States through online meeting platforms through which webinars and meetings are held.

In this magazine, we discuss in detail how ARIPO developed contingency plans and adapted to the new normal of doing business and ensuring effectiveness and efficiency are observed to provide our customers are satisfied during the pandemic. The magazine also looks at the copyright and related rights mandate, which has proven to be very useful as significant achievements have been made since its inception in 2002. This includes adopting the African Copyright and Related Rights Agenda in 2017, which was complemented by the Nairobi Strategic Plan in 2019 and the development of the Copyright draft Protocol.

We also look at the success of the Master’s in Intellectual Property (MIP) that started in 2008 in partnership with the World Intellectual Property Organization (WIPO), the African Regional Intellectual Property Organization (ARIPO), and Africa University. The program was started to bridge the IP gap that existed on the continent. The need to build Intellectual Property (IP) capacity to harness African innovation and creativity has been felt across Africa in recent years. This is because many African countries have become more aware of the IP system and its role in driving business competitiveness and bringing about structural socio-economic transformation. So far, the MIP program has produced 324 graduates from 26 countries from across Africa.

In this issue, we also feature an article by one of the MIP graduates, Mr. Luxmore Chiwuta, who looks at how IP assets can be used to grow institutional revenue. He is part of the critical mass of IP professionals in the continent, supporting IP systems development to promote the socio-cultural and techno-economic development in Africa.

There is no denying that COVID-19 has dramatically affected all areas of our lives, and the Intellectual Property arena is no different. However, we at ARIPO reassure you that we have put the necessary systems to support you on IP matters.

Email: communications@aripo.org
NOTICE 5: ARIPO UPDATES ON COVID-19

04 May 2020

In view of the Pandemic of COVID-19, the Government of the Republic of Zimbabwe has made yet another extension of the national lockdown for a further 14 days ending on 17 May 2020.

In that regard, the Headquarters shall remain closed to the public until further notice.

However, the Director General of ARIPO reiterates that the Office remains operational with its staff working from home. The users are strongly advised to use the Office’s 24-hour online services to file applications and make online payments.

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The Office will keep users updated on the situation as it evolves.

Fernando Dos Santos
Director General
The Impact of COVID-19 on the ARIPO Operations: from Contingency Plans to the New Normal

By Dr Fernando dos Santos, ARIPO Director General

The 43rd Session of the Administrative Council of the African Regional Intellectual Property Organization (ARIPO) met as usual in November 2019 to deliberate on the past and future activities, plans and budget of the organization. Each year, the main concern of the governing body is the unpredictability of the markets that may shape the users’ filing decisions and subsequently cause an effect on the income of the Organization. However, at the time, no one could have predicted the scale of the crisis that would affect the World just in the new year that would disrupt the implementation of the Organization’s annual work plan and the budget approved for the year 2020.

On the first day of the year 2020, the World woke up to the news that a strange respiratory disease was detected in the remote city of Wuhan, Hubei Province in China and that the Municipal authorities had decided to close the Wuhan’s Huanan Seafood Wholesale Market, the epicenter of the contagion. The available official data suggests that the first case of COVID-19 can be traced back to November 17, 2019.

By January 10, Chinese authorities disclosed the first novel coronavirus genome sequence of the SARS-CoV-2, the virus that causes COVID-19. On January 30, the World Health Organization (WHO) declared the novel coronavirus a ‘public health emergency of international concern’ and 41 days later, on March 11, it was escalated to a global pandemic.

Pursuant to the call by WHO to Governments to activate and scale up emergency responses to the pandemic, the Government of Zimbabwe, the host country of ARIPO, declared COVID-19 a ‘National Disaster’. The decision enabled the Government to put in place appropriate measures to face the situation in a systematic manner. Resultantly, the Government imposed a nationwide lockdown for 21 days from March 30. As the effects of the pandemic did not subside, the Government extended the lockdown on more than one occasion and on May 17 the extension was imposed indefinitely.

For an organization such as ARIPO that provides services to the public, restrictions in traveling and gathering with the view to enforcing social distancing requirements were to have a major impact on its operations. This is so because part of the activities for 2020 would have been undertaken face-to-face or through viewing physical documents, such as: lodging of applications, formality and substantive examination, training of stakeholders from the member states and meetings with service providers, users and partner organizations. ARIPO officials are also heavily involved in activities that require traveling, such as: capacity building and awareness creation initiatives in the headquarters and in the member states and in international negotiations which occur in formal meetings and forums at the global level.

1Josephine Ma ‘Coronavirus: China’s first confirmed Covid-19 case traced back to November 17’ The South China Morning Post 13 March 2020
3Government extends level2 lock down indefinitely, ZBC News available at https://www.zbcnews.co.zw/government-extends-level2-lock-down-indefinitely/
In order to adapt to the new circumstances imposed on society by COVID-19 pandemic, ARIPO had to make adjustments in its daily operations by reviewing its strategies and planning for the future differently. For example, with the view to respond effectively to the prevailing situation, the organization developed two important guiding documents, namely: ‘The COVID-19 Risk Assessment and Mitigation’ and ‘Impact of COVID-19 on Going Concern Strategy’ containing strategies to facilitate prioritization and focus in addressing the pandemic in the context of ARIPO.

**ARIPO response to the pandemic**

The declaration of COVID-19 as a global pandemic and national responses that followed were indicative of the gravity of the situation. Indeed, by mid-March, the cases all over the World had surpassed 118 000 and 114 countries were affected.4 In Zimbabwe, the first official case of COVID-19 was announced on March 20, followed by a second case that soon became the first recorded fatality in the country.5

The WHO and the national government response measures to COVID-19 pandemic posed the following challenges to ARIPO:

- a. Safety at the headquarters premises;
- b. Managing operational issues;
- c. Staff cohesion, users’ and member states engagement.

**Safety at the headquarters premises**

The main concern posed by the COVID-19 pandemic in the headquarters premises was the safety of the people working and visiting the Office, namely: officers, workers providing outsourced services such as security, gardening and cleaning services, service providers’ personnel, users pursuing their applications and other related procedures, delegates attending ARIPO governing bodies meetings, officers from partner organizations and the general public.

As a first step, the Office issued a notification to all member states advising them on the suspension of all activities that involved traveling from or to ARIPO.

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Office until such time that the travel restrictions would be eased. This was done to avoid exposing officers or delegates to infections during travel and further spreading the disease during the meetings or on return in their places of origin. The measure was also taken to avoid the risk of having those officers or delegates stranded in some countries in case abrupt decisions were taken impeding people to proceed on their journeys. Such a situation could have constituted a serious risk and a huge burden both in terms of logistics to repatriate the affected people and costs to be borne for the said operation.

Secondly, the Office adopted health and environment measures to reduce risk of contagion in the office premises as recommended by WHO and National Health Authorities such as: increasing the frequency of cleaning of the reception hall, offices, meeting rooms, conference rooms, cafeteria and toilets; undertaking regular cleaning and disinfection of the most frequently touched surfaces such as handrails, door handles, doorframes, desks, light switches and; making available alcohol-based rub or soap at the entrance of the building and throughout the premises. The Office also used emails and WhatsApp platforms to educate staff to limit risk of exposure by practicing social distancing measures and avoiding unnecessary reciprocal visits to colleagues’ offices, handshakes and other greetings that were previously part of the normal social interaction in the office.

The Office issued another notice to users discouraging walk in enquires and handing over or collection of documents. Instead, the Office encouraged users to direct their queries by email or telephone. An automated system was installed to facilitate users’ calls redirection to assigned ARIPO officers who could attend to the public enquiries throughout the day. As a result of these initiatives, flow of people and physical documents were drastically reduced if not eliminated at all in the office. Although there were sporadic cases of users who required physical documents such as certificates, same were dealt with on case-by-case basis and in full observance of relevant protocols to prevent the spread of COVID-19.

Noteworthy is the fact that WHO and the Government of the host country also issued directives urging employers to reduce the presence of staff in workplaces and encourage remote working. With the view to comply with those directives, the ARIPO Office made some internal adjustments to keep the services running. Therefore, the office enforced remote working primarily with regard to people with health conditions that were vulnerable to infections, officers above 60 years and those undertaking non-essential duties in the Office. Subsequently, the Office extended the remote working regime to all officers who could discharge their duties from home without affecting business operations and establishing a rotational schedule for physical presence in the office. When the Government declared the total lockdown to be in force from March 30 for initial 21 days, the ARIPO Office had already activated all the necessary tools to enforce the directive without undermining business operations. The lockdown, although partially eased for some sectors such as mining, industry and trade, it was extended indefinitely on May 17 and the ARIPO Office is successfully implementing remote working without causing disruptions to the services offered to users.

**Managing operational issues**

The major concern was keeping the services provided to users running without major disruptions. The Office therefore has resorted to remote working in order to provide the quality services that the users were accustomed to. The backbone of the remote working is the use of Information, Communications and Technology (ICT) tools. This required the upscaling of the use of personal gadgets such as mobile phones and personal computers; the use
of communication tools such as WhatsApp for personal communication and Zoom, WebEx and skype to facilitate virtual meetings and conferences. Noteworthy is the holding of departmental, divisional and management meetings on regular basis to coordinate activities. In some cases, it required Office support to enable officers to access gadgets and Internet in order to discharge their duties uninterrupted. Of relevance was also the customization of the remote access to ARIPO servers and especially to ‘Polite+’ by the examiners, to enable them to receive, process and examine applications and communicate with the users. Although, security concerns regarding remote access of office systems were initially raised, they were slowly overcome by resorting to the use of Virtual Private Network (VPN).

With regard to filing of applications, users were encouraged to take advantage of the 24 hour online services on the ARIPO e-services platform. The ARIPO online services, also known as ‘Polite System’ were timely introduced thanks to the ARIPO-KOICA-WIPO Joint Project that enabled the Organization to become one of the few offices in Africa that provide e-filing system. The ‘Polite+ System’ is the platform used by the ARIPO Office to facilitate the filing of applications and searching of technological information on-line that has been operational since 2015. At the beginning of the year 2019, 80% of all applications for the protection of intellectual property rights were filed through the online system. The overall uptake of online filing for all applications rose to 87% in January 2020 and reached a peak of 97% in April 2020. In the case of patents, already 95% of applications were filed online in 2019 and this percentage recorded a spike in 2020 with a monthly uptake between 98 to 100%. Further, more than 95% of the payments related to ARIPO services are processed online. These developments are evidence enough of the tremendous uptake of the system by the users. The online services provided by ARIPO remain the secret weapon behind the business continuity in ARIPO operations during the COVID-19 crisis. ARIPO operations and services offered by the Organization to users have remained largely unaffected by the crisis and the uptake of the online system has catapulted to 100% due to the impossibility of lodging physical applications during the period of lockdown instituted to counter the spread of the virus.
One common concern of users worldwide was the challenge to comply with the deadlines related to processing and maintenance of IP rights. The response globally, varied from office to office.9 A significant number of offices decided to provide a blanket extension of the time limits in any procedure related to IP applications; some opened the possibility of doing it on a case by case basis, although some offices did not take any action at all. Some other offices further provided fees relief as far as the crisis remained. ARIPO’s approach was to acknowledge the challenges that users may encounter and to concede that the office may evaluate requests and grant extension of deadlines on a case-by-case basis for applicants who may face challenges in complying with the statutory time limits for submitting documents or paying fees during the prevailing circumstances.10

The measures taken by ARIPO appear to have paid off as evidenced by the fact that the number of applications received did not record much fluctuation, except for the plunge in trademark applications in the month of April as per the graph below.

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The ARIPO Office responded to this challenge by mobilizing and linking its departments and officers through continued interaction using ICTs. To that end, regular meetings through the Zoom platform were established; the departments coordinated their activities through zoom meetings and WhatsApp; staff members were gathered together digitally through regular training activities delivered on webinar and zoom meeting platforms once every two weeks. The training programmes included continued sensitization on the importance of conducting health style life in the context of the COVID-19 pandemic.

The ARIPO Office also conducted an internal survey with a view to interrogating employee experiences during the lockdown, identify how employees have adjusted given the lockdown environment and solicit their inputs regarding future working arrangements. The survey revealed that a significant number of officers were rarely idle and kept working hard from home, spending between 6 to 8 hours daily undertaking official duties. The survey revealed however that working from home has some social, psychological and operational implications as some respondents indicated that they missed social support and collaboration with colleagues whereas lack of access to physical documents hindered the effectiveness of their work. The major challenges were related to difficulties of access to some digital tools pertinent to their work, poor internet connectivity and lack of preparedness to deal with the new normal. Finally, ARIPO officers advised that they could consider favorably working from home permanently after the COVID-19 pandemic.

The Office has also kept users and partners fully engaged by keeping regular interaction through email, phone and meeting and conference using online platforms. In that context, ARIPO officers attended regularly, webinars organized by partner organizations such as the World Trade Organization (WTO), World Intellectual Property Organization (WIPO), International Federation of Intellectual Property Attorneys (FICPI) and International Trademark Association (INTA). The participation in the INTA event was particularly relevant because it included an opportunity to exhibit in a virtual booth therefore maintaining the office approach of promoting its visibility worldwide.

The ARIPO Office values particularly the relationships with its main constituency – the member states. The Office has endeavoured to keep member states abreast with the latest developments both with regard to the Office operations, implementation of ARIPO’s mandate and the well-functioning of the Governance structures. This is being done through sending official communications via email. The Office also ensured that the regular meetings of the Governing bodies of the Organization (technical and administrative committees) were held amid the COVID-19 pandemic, by facilitating online meetings and sharing digital documents.

In general, the Office has maintained a high level of interaction and engagement with its stakeholders, namely: users, partners and member
states, thereby remaining relevant to them and assuring them of continuity and provision of the required services.

**Future scenarios**

In designing scenarios for the future, some had already identified the ICTs as one of the drivers of change and a disruptive force that could assist less privileged countries to challenge the status quo, leapfrog the current systems with the view to accelerate economic and technological development. However, considering the current levels of scientific development and the achievements in the health systems, few could have ever imagined that a health related pandemic could have been the main driver of the quick uptake of ICTs in the continent.

A scenario building today, will certainly put the ICTs at the center of any planning process for the future. All activities envisaged for the future shall certainly prioritize a wireless engagement as part of the new normal. Based on those premises, future strategies for the development of the ARIPO System shall put at the center stage the use of ICTs.

In this context, the organization’s operations shall leverage on the existing e-services to avoid disruptions in case, other pandemics or other unpredictable situations occur. The use of e-services has assisted the organization to provide quality and timely services with streamlined procedures for the acquisition and maintenance of IP rights for the great satisfaction of users. Upgrading the technologies that enable those services to be rendered shall continue to be a priority of the organization. In all communications and exchange of information and documentation with member states, users and partners, the use of ICTs related tools will mitigate risks of disruptions and will reduce costs and save time for the organization. In capacity building and awareness creation, the use of webinars and other e-learning services shall certainly be prioritized. This has also the advantage of reaching-out more people while reducing costs for the organization. Participation of ARIPO officers in international forums and trainings shall be limited and instead prioritize distance learning and virtual conferences in order to remain updated on the fast-evolving IP

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related matters. Finally, the governance systems of ARIPO shall migrate to virtual engagement and develop mechanisms that ensure an oversight of the organizations’ activities without reliance on physical presence. This scenario is also necessitated by the need to reduce costs of traveling by members of the committees that hold meetings at the organizations’ premises. The traveling restrictions imposed by COVID-19 demonstrated that physical interaction maybe a challenge in the future but that should not impede governance systems to operate.

Scenarios are not stable and are always evolving. Therefore, it is important that the organization establishes rapid-response mechanisms in order to adapt to the new circumstances that will materialize throughout the time and take the necessary steps to address them.

Conclusion
Far from being a threat, the COVID-19 pandemic constituted an opportunity for ARIPO to review its business operations and re-engineer them in order to become an IP Office of the future. Firstly, the abrupt halt of the physical interaction as a result of the enforcement of the social distancing requirements tested the capacity of the Office to react and its ability to ensure business continuity by adjusting to new modalities of work and communication. Secondly, the need to resort to remote working accelerated the uptake of the online services that could have taken two to three years to reach the 100%. Thirdly, users were challenged by the circumstances to experiment full migration to online communication, exchange of documents and certification that they were still reluctant to embrace. Although, there are still a few cases of users who require physical interaction and documentation, the lockdown situation will ignite the need to integrate them fully and possibly many may no longer flip-back and insist in using them. The lockdown also demonstrated the need to adopt e-learning approaches that in future may provide better results and reduce costs. Finally, COVID-19 unearthed the absolute relevance of the organization’s services to the stakeholders and helped both parts to develop new ways of communication and collaboration that was never explored before. Social distancing requirements imposed by the COVID-19 pandemic may have changed the world forever and created a new normal. The concept of office work, communication and meetings may no longer remain the same. ARIPO has been in the middle of this transformative process and navigated well the storm and is set to embrace the new normal without any fear.
The African Regional Intellectual Property Organization (ARIPO) was created, inter alia, to promote the development of intellectual property laws appropriate to the needs of its members, establish common services and training schemes, and assist its members in the acquisition and advancement of technology and the advancement of common views on Intellectual Property (IP) matters. This mandate was further expanded to include Copyright and Related Rights.

ARIPO received the mandate on Copyright and Related Rights during the Eighth Session of the Council of Ministers held from 29 to 30 August 2002 in Mangochi, Malawi. Since then the Organization is implementing strategies to facilitate copyright exploitation and protection in the region and make the Copyright systems compatible with international standards for the benefit of the member States. The strategies included the revision of the founding charter of ARIPO – the Lusaka Agreement.

The revised Lusaka Agreement introduced new provisions dealing with broader policy matters in respect of Copyright and Related Rights, such as emerging trends at the international level in the field of Copyright and Related Rights management and identification of policy options to address them.

Implementation of the New Mandate
With the new mandate put in place, there was need for the restructuring of the Organization, which included the establishment of a Copyright and Related Rights Department, formerly Copyright and Related Rights Directorate. In January 2011, a Copyright and Related Rights Officer was recruited. This was followed by a decision of the 37th Session of the Administrative Council held in Kampala, Uganda in November 2013, to establish the Technical Committee on Copyright and Related Rights (TCCR). The Committee’s overall objective is to address technical issues on copyright and related rights; to provide guidance and recommendations to the Administrative Council; to consider or approve activities or initiatives of the secretariat that will ensure that creativity contributes to the socio-economic and cultural development and growth of the Member States.

Policy and Legislation Development
The new mandate was geared towards assisting Member States amongst others: in the formulation and development of policy, coordination and harmonization of the copyright and collective management systems and protection of IPRs. The Organization has so far assisted the Member States in developing policies and instituting of legislative reforms.

The comparative study1 of 18 out of 19 ARIPO Member States’ Copyright and Related Rights Laws was undertaken in 2016 and 2017. The study was then consolidated in 2018. It was aimed at informing the ARIPO office, its

\[1\] The Comparative Studies on ARIPO Member States Copyright Laws 2016, 2017 and Consolidated in 2018 are assessable online at: https://www.aripo.org/copyright-publications/
Member States and the general public on the status of national laws and their adherence to international copyright and related rights instruments. Such information will contribute towards advising Member States on policy issues, harmonising the laws and also improving the national legislations for the benefit of all stakeholders nationally and internationally so as to ensure growth and development in the Copyright and Related Rights arena.

In 2018, the Legal Framework on Voluntary Registrations and Notifications of Copyrights and Related Rights systems was considered and approved by the Administrative Council of ARIPO. The development of the legal framework was based on, among other things the policy framework derived from the feasibility study report on voluntary registration and notification system that was undertaken in 6 ARIPO Member States: Ghana, the Gambia, Malawi, Namibia, Kenya and Zambia.

Considering that a good number of ARIPO Member States do have provisions for the voluntary registration of copyright and related rights, it was deemed necessary to develop a regional framework which will serve not only as a means of registration of copyrighted works, but also as a source of information on the works generated within the continent as a whole. In 2019, the Council of Ministers approved the reformulation of the legal framework on the establishment of a regional voluntary copyright registration and notification system into a Draft Protocol for possible adoption at a Diplomatic Conference to be held in Kampala, Uganda in 2020.

In preparation for the future operationalization of the protocol, the secretariat was directed by the Finance and Audit Committees to develop a Business Case to show the monetary and non-monetary benefits that Member States can derive from the establishment of a regional voluntary copyright registration and notification system. The Business Case was developed. It includes the investments required, projected revenue and a 5-year plan for the implementation of the Protocol on Voluntary Copyright Registration and Notification System.

Furthermore, the secretariat has developed a Model Law on Copyright and Related Rights (2019), which was approved by the Administrative Council in 2017 and was published in October 2019. It seeks to harmonise Member States laws to ensure the effective and adequate administration of the Copyright systems across the ARIPO region. However, the ARIPO Model Law is a minimum standard guidance on what Member States may take on board in their legislation’s. This means they can go beyond what the Model has provided. ARIPO will continue to review the law as and when necessary.

Also, in 2016, ARIPO developed Guidelines for the Ratification or Accession to the Marrakesh Treaty. The guide is to persuade governments to expedite the process of either ratifying or acceding to the Marrakesh Treaty and domesticating the Treaty in their national laws for the benefit of persons.

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who are blind, visually impaired or print disabled. This has proven to be successful, as 9 ARIPO Member States namely: Botswana, Ghana, Kenya, Lesotho, Liberia, Malawi, Uganda, Tanzania and Zimbabwe have joined the Marrakesh Treaty.

In addition to that, the secretariat developed the *ARIPO Guidelines for Ratification or Accession and Domestication of International Instruments on Copyrights and Related Rights* implementation, securing the value chain-economic environment, enhancing capacity & awareness creation.

**Development of common African position at the ongoing SCCR discussions- ARIPO Perspective**

ARIPO has over the years participated actively in the norm setting processes of WIPO and provided expert advice to champion the positions of Africa in the various WIPO Standing Committees. It is within this context that ARIPO was requested by the African Group during a meeting organised by the African Union in Geneva, Switzerland in 2018 to develop a situational analysis document. In February to March 2019, the Secretariat developed and submitted the document to the African Group, which provides critical situational analysis within the ARIPO Member States and Observer States regarding the following issues: protection of broadcasting organizations, limitations and exceptions for libraries, archives, educational and research institutions and for persons with other disabilities, proposal for analysis of copyright and related rights to the digital environment and proposal from Senegal and Congo to include the resale right (droit de suite) in the agenda of future work by the Standing Committee on Copyright and Related Rights of the WIPO.

**Capacity building and awareness creation**

Over the years, ARIPO has embarked on developing both human and institutional capacity to increase awareness on Copyright and Related Rights issues in order to enhance the effective implementation of the mandate on copyright and related rights. On that note, ARIPO has so far trained more than 2,500 participants across Member and Observer States. This has been achieved by conducting approximately over 50 seminars since the inception of the mandate in 2002 to date. These included: training seminars, workshops for copyright offices, collective management organizations and enforcement agencies. ARIPO has continued to build capacity and increase awareness in various copyright areas. Key amongst them are the Annual Copyright Symposium (ACS), which brings together heads of copyright and related rights and collective management organizations to engage and discuss on issues related to the development of copyright and related rights and the regional training on collective management of copyright and related rights, which has been undertaken in partnership with the Norwegian Copyright Development Association (NORCODE).

**Awareness Raising**

The Secretariat has developed copyright publications that are geared towards increasing awareness on a number of aspects related to copyright and related rights. Please follow the link to access ARIPO copyright publications: https://www.aripo.org/copyright-publications/. Currently, twelve (12) Copyright and Related Rights publications have been published from 2016 to 2020, which includes amongst others the *Awareness Raising guide*, which was published in 2016.
The main objective of the Awareness Raising Guide was to assist countries to be systematic when developing and implementing awareness initiatives, thus enabling ARIPO to play a key role in information gathering, facilitating exchange and evaluating the effectiveness of awareness raising programs across Member States. The Guide contains various approaches that could be used to develop awareness raising programs that are relevant to target groups in the Member States. The most recent publications are the Cultural Festivals and Events in ARIPO Member States, which was published online in 2020 and distributed electronically to Member States as well as the Guidelines to Audio visual Contracts.

ARIPO in cooperation with WIPO and Japan Patent Office collaborated with Hatcliffe 2 Council Primary School in Harare, Zimbabwe, Zuvva Fashion, Dereck Mpofu IP Ambassador for Zimbabwe, Monolio Studio and Chosen Media Africa to produce and published online a song on trademark counterfeit and piracy and a short video to promote respect for IP targeting young people.

**Institutional Framework**

In November 2018, the output of the copyright department was increased from one to two personnel, with the recruitment of a Copyright and Related Rights Officer to assist the Head of Copyright and Related Rights in the implementation of the IP Ecosystem for Growth and Work Program and to also assist in the provision of technical and policy advice, information and analysis to key stakeholders.

Over the years there has been improvement in the oversight role played by the Copyright Offices (COs) and significant developments in the management and administration as well as increase in the number of CMOs from 10 since inception of the new mandate in 2002 to 22 operating CMOs across 14 ARIPO Member States. This can be attributed to the significant technical and financial support provided by ARIPO and its partners.

In 2016, a CMO survey was conducted in partnership with the Norwegian Copyright Development Association to evaluate and analyse the level of CMOs across ARIPO Member States. This survey preceded the ongoing development of the Regional Copyright Database, through support from the

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Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia, (DGIP). A second CMO survey was conducted in the first quarter of 2020 and will be shared before end of the year.

Over the years, the secretariat has been actively involved in the establishment of CMOs in Member States, such as The Gambia, Liberia and Lesotho and the secretariat is looking forward to establish CMOs in the remaining Member States, which includes: Eswatini, Sierra Leone, São Tomé and Príncipe and Sudan. Most recently, upon request, the Secretariat developed a proposal for the establishment of a CMO in the Kingdom of Eswatini as a result of needs assessment carried out with support from WIPO. The Secretariat assisted in the development of regulations for the Copyright Society of Liberia (COSOL) and in drafting the Constitution of the Lesotho Copyright Society of Authors and Artists (LESCOSAA), which was duly registered at the Registrar Generals Office in Lesotho.

**Partnerships**

Since inception of the mandate on copyright and related rights the Secretariat has signed MOUs with the following: International Federation of Reproduction Rights (IFRRO) 2006, the Norwegian Copyright Development Association (NORCODE) 2014, International Confederation of Societies of Authors and Composers (CISAC) 2017, International Federation of the Phonographic Industry (IFPI) 2017, FUNDACION AISGE (2018) and Arterial Network (2018). Other organizations that the Copyright and Related Rights Department is working closely with are the World Intellectual Property Organization, United States Department of Justice, United States Patents and Trade Marks Office and the Copyright Department of OAPI.

These partner organizations have significantly contributed and supported ARIPO both technically and financially for the implementation of the mandate on copyright and related rights. However, similar support has also been provided directly to ARIPO Member and Observer States.

**Conclusion**

The copyright and related rights mandate has so far proven to be very useful as significant achievements have been made since inception in 2002. This includes the adoption of the African Copyright and Related Rights Agenda in 2017, which was complemented by the Nairobi Strategic Plan in 2019, to name but a few. There is also a steady growth in capacity and awareness and the development of copyright and collective management organizations across the ARIPO region. ARIPO is looking forward to continuing playing its key role in the development of copyright and related in its Member States and Africa at large.
The need to build intellectual property (IP) capacity to harness African innovation and creativity has been felt across Africa in recent years. This is because many African countries have become more aware of the IP system and its role in driving business competitiveness and bring about structural socio-economic transformation. To enable Africa to make full use of the IP system requires sustained efforts in developing the critical mass of IP professionals to support the development of the IP system and how it can be used to promote the socio-cultural and techno-economic development of the continent.

It is against this backdrop that ARIPO has since its establishment striven to build such capacity in its Member States in particular, and in Africa as a whole. In 2008, the World Intellectual Property Organization (WIPO), the African Regional Intellectual Property Organization (ARIPO) and Africa University (AU), established a Masters in IP program at Africa University to develop the corps of IP professionals. The program would also respect “Africa’s complex contextual backgrounds and answer the need to formulate policies and frameworks that supported continentally and globally ratified agreements and treaties for sustainable development” (10 Years of MIP, 2018). Further, the program constituted an action plan to address the critical shortage of intellectual property technical expertise in the continent.

Successes of the Africa University MIP Program
The MIP program at Africa University has progressed steadily since its maiden intakes leading to the first graduation of Cohorts 1 and Cohort 2 in 2010. The program has turned out to be relevant and highly impactful in light of the fact that a number of African countries have joined the current continental wave of improving their national IP systems.

The MIP program has so far produced 324 graduates from 26 countries from across Africa as detailed in Figure 1 below. This is from the first to eleventh cohorts, representing an overall graduation rate of approximately 91%.
After graduation, the MIP graduates mostly go directly to work, which is always well cut out for them. A tracer study that was conducted by ARIPO in 2016 is more instructive. It followed the progress of the MIP graduates since graduation. As newfound experts teeming with fresh knowledge and a gaping market, the MIP graduates engaged in the institutional framework that had been set up in their respective countries as well as being absorbed into the new and existing IP firms established for IP law and practice. The findings of the study revealed that most of the graduates are being used as resource persons on IP awareness matters (47.2%) followed by those who are involved in lecturing or teaching of IP (28.3%) in institutions of higher learning either on fulltime or part-time basis. Some have been writing/publishing articles on IP (15.1%) while others have been involved in the development of Institutional IP Policies (11.3%) as well as National IP Policies (13.2%). The results are summarized in Figure 2 below:

![Fig 2. IP-related activities MIP graduates have been involved in since graduation](image)

To a remarkable degree, the above tracer report findings are modest. IP work involves extensive international engagement both within and outside Africa. In a continent that has briskly come alive to the realities of intellectual property, leading to numerous and continuous policy interventions at national, regional and global levels, the MIP graduates are central to intellectual property knowledge creation and provision. A case in point is the IP Framework and Guidelines spearheaded by SADC and other IP issues in Africa’s RECs; the IP discussions at the African Union and the WIPO meetings such as the IGC. A sizeable number of MIP graduates from Africa University always play leading roles in the deliberations whose sole purpose is to make IP work not only for Africa but also for the whole world. This is not no mention those in the diplomatic corps, from ambassador to second secretaries, who represent their respective countries in the foreign service.

In no small measure, ARIPO Secretariat as an office also employs a number of MIP graduates. Being a member state organization, these graduates are drawn from all over Africa. But one thing binds them – their alma mater is Africa University.

**Establishment of the African Journal of Intellectual Property (AJIP)**

The triumphs of the MIP program go beyond just the churning out of IP graduates. The roles of these graduates further transcend the mainstream functions and responsibilities as evidenced by the aforementioned tracer report. The report also highlighted the role played by the graduates in the academic arena. In this case it goes without saying that there is more to academics than just classroom interaction with learners.

Academia by its nature traditionally rests on the three legs of teaching, research and community service in order for it to uphold commitment to excellence. Owing to the Prussian philosopher Alexander von Humboldt’s academic revolution in the mid-19th century, scientific research became the second main function of higher institutions and academic enquiry. Teaching and research are actively linked together, one informing and energizing the other (Ghannan, 2007).

It is in that spirit that ARIPO and Africa University again came together to launch a journal whose chief mandate was to promote African IP scholarship. The journal is called
African Journal of Intellectual Property (AJIP). The first of its kind, AJIP was launched on the eve of the 10th Anniversary of the MIP program during the 40th anniversary celebrations of ARIPO. This historic milestone demonstrated that the MIP program has attained great and formidable academic heights.

Since its establishment, the peer reviewed journal continues to be published bi-annually. Currently a number of reputable libraries have shown interest in, and are subscribing to the Journal including the Library of Congress of the United States, the British Library and WIPO. The journal is indeed a platform for all the actors in the IP ecosystem including MIP graduates, IP experts, administrators and professionals in IP practice to share their research output and experience for the benefit of the general public.

With little advertisement, AJIP’s readership is growing. Plans to migrate it to an online platform replete with an online payment system have been completed. This addition will further widen the readership of AJIP and allow sourcing of content either by article or whole journal. By and large AJIP will surely live to its role to serve as a permanent record for the presentation, scrutiny and discussion of intellectual property research. Conley (2012) avers that the purpose of an academic journal like AJIP is to foster communication amongst scholars, to provide a proving ground for practical and theoretical ideas, and to document emerging scientific knowledge. With this, the importance of AJIP cannot be over-emphasized.

Development of Textbook and Reading Materials
Africa University and ARIPO have documented the first 10 years of the MIP program, dubbed MIP@10. This milestone culminated in a ceremony that coincided with the launch of the MIP 11th Cohort at Africa University on August 20, 2018. The 10 Years of MIP document focused on the background of the MIP program, its objectives, development, launch, administration, management and impact.
The MIP@10 celebration also marked the launch of the MIP Textbook, *Intellectual Property Law, Practice and Management: Perspectives from Africa* – a collective effort of the lecturers of the MIP program at Africa University. The book will henceforth be used as the main textbook for the MIP programs. The book publishing and printing were financed by Japan Funds-in-Trust at WIPO.

The textbook has been lauded as being testimony to African scholarship having come of age in the IP field and pushing the frontiers of IP pedagogy. The book of this magnitude and impact is an epitome of the steadfast commitment by the contributors to turn around and uplift the fortunes of Africa in IP uptake. Pertinently, some of the contributors of the textbook are former MIP students.

**Growth and Special Focus Areas**
The MIP program has undergone organic growth by leaps and bounds since it was established. This growth was occasioned by the relevance that IP proved to have across more spheres of life. It is almost cliché that intellectual property cuts across all areas of life. In that connection intellectual property education especially in areas of intellectual property such as patents, copyright, trademarks and industrial designs, finds fertile ground with entities in the Member States such as academic and research institutions, SMEs and other government departments.

The vibrant music and cultural industry that has come to be associated with Africa have also found an ally in IP. It is the same MIP graduates in ARIPO and national copyright offices who are at the coalface changing the copyright narrative for wealth creation in Africa. Strengthening human and institutional capacity in the national copyright offices as well as improving the policy and legal framework for a functional copyright system informs ARIPO’s interventions in the Member States. The aim is to achieve well-coordinated strategic enforcement plan to root out piracy and put in place effective schemes for better rights management and regulation.

SMEs in particular are increasingly becoming pleasantly aware that they could harness intellectual property to multiply their fortunes. The SMEs could use trademarks and industrial designs as tools for adding value to their products and services, which would in turn help them achieve the very goal they seek to attain – increasing their bottom-line, creating more employment opportunities and contributing to national economies.

The relevance of intellectual property in Africa is further stressed by its incidence in creativity and cultural lives of even those living in the hinterlands of Africa – where life begins and ends. African countries also share some common problems which find IP as a possible way-out. These include misappropriation of their traditional knowledge, fighting counterfeit products and protecting investment in innovation and technology transfer. These among other practical IP existential realities, have contributed to the growing relevance of the discipline. And they have kept the MIP graduates quite busy.

During the 39th session of the Administrative Council that took place in Lusaka, Zambia the Council approved the Value and Growth Transformation Strategic Plan (2016-2020), which includes various initiatives of the ARIPO Academy. The initiatives under this strategy include development of more academic programs with universities in ARIPO Member States. This expansion was informed by the growing demand of the MIP program. In consistence with this strategic plan and in order to meet the demand for the Masters in IP program in Africa, ARIPO has further partnered with two more Universities in West and East Africa. These are Kwame Nkrumah University of Science and Technology (KNUST) in Ghana and the University of Dar es Salaam (UDSM) in Tanzania, respectively, to expand the program. The KNUST program, a Master of Philosophy in Intellectual Property was launched in August 2018 while UDSM’s MIP program commenced in August 2019.

This growth is not without basis. Africa University on its own was already cracking under the avalanche of high number of MIP applications annually. It could no longer absorb them all. Table 2 below summarizes the numbers of applications and admissions for the period 2017-2019. The vast majority of admissible students were left in the lurch due to shortage of places at AU. The two new IP training institutions would then come to the rescue.

**Table 1: MIP applications and admissions for 2017-2019**
The advent of the new training centers will ultimately allay what have been the underlying challenges in improving access to IP rights and services. KNUST and UDSM also bring with them the need to diversify IP training. On that note the idea to make the three MIP programs specialize is being mooted as a way to enhance expertise in Africa. This will be done by categorizing the partner universities KNUST, AU and UDSM as centers of IP innovation and creativity development; IP management and entrepreneurship; and IP law respectively.

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<td>176</td>
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African IP Agenda

In his article titled ‘IP in Africa: Who Controls the Agenda’, Jeremy Phillips (2012) laments the commandeering of the African IP agenda by foreign entities, completely sidelining the Africans themselves. Considering the competitive advantage that Africans wield in terms of a renowned music and cultural industry as well as other protectable IP, Phillips asserts that they needed to be adequately in full charge to determine what is in their best interests in terms of IP. As if to prove him wrong, it wouldn’t be long before the answer to Phillips’ question surfaced. The narrative has since changed.

This is in part because from February 26 to 27, 2013, an Africa IP Forum was held in Johannesburg, South Africa that brought African experts together to chart the IP way forward. It was a monumental event. From that milestone it has all been downhill. The continent was transitioning from a ragtag approach to one bearing unity and organization. Notably this is the period when more and more IP experts were being graduated from the MIP program. The MIP graduates from some African countries were instrumental in the South Africa event to discuss broader policy issues. The event was also attended by ARIPO. The ARIPO-WIPO-AU MIP graduates’ contribution manifests in reshaping national, regional and international policy and strategy. This is inevitable considering that IP rights are the centerpiece of major debate sparked by globalization. Therefore, of late African countries have been actively using the MIP graduates to help them advance their interests in bilateral and international IP discussions. Those in foreign service secondment play critical roles in this regard, right at the coalface.

The African Free Trade Agreement (AfCFTA) at African Union entered into force in May 30, 2019. Coupled with the envisaged adoption of regional integration by the different regional economic blocs in Africa, these developments are potentially poised to help surmount the challenges of globalization by enhancing negotiating capacities and synergies. Such initiatives have thrust

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the MIP graduates to the fore in terms of influencing the African IP agenda on behalf of their countries. Granted, an optimum, efficient and effective IP system stimulates innovation. The input by these experts then presupposes that the development objectives of the country concerned are reflected in the IP standards of the country to ensure that the system serves the interests of the country (WIPO, 2004).

As the IP discipline gains momentum, it is becoming clear that most graduates do not opt to stop at Masters level. With 28% of the graduates working in institutions of higher learning as tutors and lecturers of IP, this means that the Masters degree glass ceiling had to be broken. On that score, Africa University has commenced discussion to launch a PhD program in intellectual property. It is thus important to note that when the plan comes to fruition, this important step will further register and reinforce the success of the MIP program. It also illustrates that while the graduate program came at the right time to produce IP trainers, it would not continue to be a standalone intervention. It has to develop back and forth academic linkages. With this in mind the next inevitable move would be to introduce IP in the undergraduate curriculum and ultimately cascade it down to high schools and primary schools in Africa.

Conclusion

The introduction of the Masters degree in Intellectual Property program at Africa University could not have come at a better time. The expertise produced by the MIP is making waves throughout the African continent. The graduates are shaping policy in their bid to put Africa at par with the rest of the world. Although the African Union’s Agenda 2063 and the United Nations Sustainable Development Goals were not in place when the MIP program was conceived, the MIP ideals would evolve to speak directly to what the continental and global instruments stand for in the IP space. It is thus hoped that the phenomenal achievements of the MIP program will enable Africa to take full advantage of the IP system for the socio-economic transformation of the continent. If nothing else, the successes of the MIP program underscore and translate into the important role intellectual property protection, enforcement and creativity play in promoting a strong national and global economy. The encouragement of investment in innovation, fostering of an entrepreneurial spirit and the creation of the jobs necessary for long term sustainable growth, as well as protecting the public and consumers from risks and threats to public health and safety remain some of the spin-offs that go with the success of MIP.

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Using Intellectual Property Assets to Grow Institutional Revenue

By Luxmore Chiwuta, Master’s in IP Graduate, Africa University, Zimbabwe

The continuous global shift towards a knowledge-based and innovation-driven economy has brought to the fore the issue of how intellectual property rights (IPR) are created, disseminated, retained and used to obtain economic returns (OECD, 2006). Institutions are now focusing on innovation to nurture creative entrepreneurial intellect among its staff. It is from innovative activities of institutional staff that intellectual property assets are created, which can grow the intangible asset portfolio and revenue.

Assets in an organisation can be broadly divided into two categories, which are physical assets and intangible assets. Physical assets include buildings, machinery, financial assets and infrastructure while intangible assets “intellectual property (IP) assets” range from human capital and know-how to ideas, brands, designs and other intangible fruits of a company’s creative and innovative capacity (Business Assets, n.d). Physical assets were traditionally considered critical in determining a company’s competitive position in the market place. However, this has changed as a result of the information technologies and growth of the service economy where intangible assets are often becoming more valuable than physical assets. The increasing importance of intangible assets demands more ways of revenue generation to be identified. Intellectual capital is recognized as the most important asset in many of the world’s largest and most powerful companies. It is the
A foundation for the market dominance and continuing profitability of leading corporations.

According to the World Trademark Review, in 2019, Manchester United had the most valuable footballing brand “trademarks” in the world valued over $1.89 billion a feat which is attributed to a strong IP protection culture at the club. In 2018 the club had over 413 marks in their IP portfolio while 2019 they had 479 marks. These statistics demonstrate how valuable the IP portfolio is to an organisation. This article looks at some of the ways of increasing revenue generation riding on the institutional intellectual property assets.

For more revenue to be generated, portfolio strengthening must come from internal development, strategic patenting and product line acquisition. A strategic IP minded company focuses on ‘inventing’ around its core capabilities and looking to acquire necessary assets from others operating within their core competencies. The effective combination of these elements can establish a deep thicket around core IP-driven products. Strategic patenting “IP Fencing” to protect a core idea starts with building a patent portfolio around the core technology that covers not only what you do, but also the product, service or market alternatives that could allow a competitor to operate in a parallel technology plane or work directly in your plane by skirting around your patents (Business Assets, n.d.). It is often the follower and not the first to market that is most successful in revenue generation when this kind of effective patent thicket is not developed.

The rewards from successful IP management can be enormous and the consequences of failure can be costly, even disastrous. When it comes to IP management, the institution must invest in the tools, people and processes to improve and maximise IP management, revenue generation activities and increase the IP value within the organisation. Capacity building in terms of people skills and tools is critical to successful revenue generation from IP assets. The following skills and tools are critical for any organisation that is serious about generating revenue from its IP assets, technology search (state of the art, prior art and freedom to operate), IP audit, IP assets valuation, IP licensing negotiations, software tools, databases, IP monitoring and IP enforcement. All these skills and tools have a bearing on your ability to generate revenue. The processes and systems have to be regularly updated reflecting evolving corporate needs and resources, new legislation, recent court decisions and other IP related environmental factors.

Companies and inventors should file for IPRs at a rapid pace anticipating where their markets and products will be going. The institution should build a strong IP rights to protect products and emerging markets. Some of the major IP rights categories that a company can use include patents, utility models, industrial designs, trademarks, copyrights and geographical indications. There is usually no one size fit all when it comes to the forms of IP protection that a company can choose to file in any market. However, the major determining factors are legislative provisions, knowledge, filing and maintenance cost. If IPR are not protected in these emerging markets or in any market the institution will end up losing a lot of revenue from these markets. Africa is one huge, raw and untapped emerging IPR market that is waiting to be exploited by any
willing entrepreneur.

Regular analysis of the potential value of various IPR in the portfolio can help improve the bottom line by elimination of unnecessary IPRs annual maintenance and renewal costs. A company with 20,000 patents can save about $40 million in annual maintenance fees by cutting out 10,000 patents that are not being commercially exploited. Disposing these 10,000 patents by selling or licensing them to possible users can generate revenue to the company. For example IBM is said to be generating revenue in the region of $2 billion a year from licensing its non-core patent which is a very high profit margin by any standard (R O’Haver, n.d.). So organisations should be very careful not to maintain trademarks and patents portfolio which are not being exploited.

An important aspect of IP protection is the ability to use aggressive legal prosecutions against businesses that infringe on your IP. Aggressive and frequent use of litigation can be a lucrative method of monetizing your IP, even if you are just starting your business. Litigation can turn your IP into very large source of profits if successful, though using this approach is not always profitable. The strategic goal is not to block competitors but rather to charge competitors a hefty access fee (Monetize IP Assets, n.d.) as enforcement of IP rights also promotes revenue generation for the institution. It is interesting to note that prosecution relating to IP matters are not used that much in most African markets as compared to American, European and Asian markets.

Direct use is core to the competitiveness of a company’s products or services. This entails individual exploitation of IP assets in one of the many ways to generate revenue and maintain competitiveness. In direct exploitation companies spend their valuable resources turning their intellectual property (IP) into products, valuing the results, and then marketing them to customers. The industry’s mantra when it comes to IPRs, “invent it, develop it, manufacture it, market it, and sell it”, has created some of most successful companies (pubs.acs.org, n.d). In direct exploitation the company has direct control over how the IP assets are exploited and protected or leased out for indirect exploitation.

Indirect use is the exploitation of IP Assets by third parties based on contractual agreements with the IP owner. One of the key factors affecting a company’s success or failure is the degree to which it effectively exploits intellectual capital and values risk. Management should know the value of their IPR and risks for the same reason that they need to know the value of their tangible assets (Business Assets, n.d.). IP assets revenue generation through indirect exploitation is usually through third parties using options that include licencing, selling, merchandising and /or franchising. This can be done for IP rights that include trademarks, patents, industrial designs, copyright, and know-how. Indirect exploitation requires low investment and offers low risks with potentially high returns. Its major drawback is the lack of control in the exploitation process by the IP owner. Forms of indirect use include licencing, franchising and merchandising.

Revenue can be generated by granting the right to use the IPRs to a third party under contractually agreed conditions. Licencing also enables you to access new markets and your business to enter into new product categories or in new geographical areas in a relatively risk-free and cost-effective way thus increase the business’ exposure
and recognition. Various types of licenses are available which include unilateral licensing, cross-licensing and patent pools, all of which involve an agreement by the owner of a patent (licensor) to allow another party (licensee) to make, sell and use the patented invention on an exclusive or non-exclusive basis, without transferring ownership of the patent (STI Working Paper, 2006). The licensor receives financial rewards in exchange for the licence, typically in the form of royalty payments.

Another revenue generation stream worth exploring for any successful business venture is franchising. This revenue generation approach provides a specialized license where the franchisee is allowed by the franchisor in return for a fee to use a particular business model and is licensed a **bundle of IP rights** which may include trademarks, service marks, patents, trade secrets and copyrighted works among others. Alternatively it can be defined as granting of a licence by one person or business, (the franchisor) to another (the franchisee) which enables the franchisee to operate its business under the brand of the franchisor (McGuire, 2015). The franchisee has access to the franchisor’s brand reputation, reducing time and resources the business would otherwise spend in order to be successful. **An important point on note is that franchising is mostly applicable or useful for revenue generation in institutions that have an established reputation for success.** This is because IPR bundle
that is granted by the franchising licensing is usually supported by training, technical support and mentoring provided by the franchising firm. IPRs are an essential part of all franchise agreements, hence, before commencing a franchising relationship, a prospective franchisor must ensure that all the relevant intellectual property associated with the business is adequately protected (Kariyawasam, 2018).

In franchising the company gets two streams of income which are the Franchise Fee, which is a one time, upfront payment to join the franchise and the royalty, which is an ongoing payment made in return for continued support over the length of the franchise relationship.

Character merchandising is defined as creating a merchantable product around a famous character, whether real or fictional (Sambhar, 2019). Character merchandising is a supplementary exploitation of existing intellectual property rights which broadens the reach of an institution’s IP and generate a separate profit domain. The profit generating capacity of character merchandising should never be underestimated as merchandises can be created from any form of IPR ranging literary work, artistic works, films characters, celebrity personality, places and institutional names among others (Mathew and Shashikant, 2019). The merchandise can be a t-shirt, key holder, cap, cup, bottle, toy, poster etc. Merchandising can be done by either the owner of the IP or it can be done by another company which is licensed to use the IP. In the case of a company, it then gives the owners of the IP a share of the profits or royalties.

The valuation process and the choice of which approach to use to determine the value of an IP asset must be acceptable by person interested in using or acquiring your IP. The evaluation method must be objective and credible to other interested parties (OECD, 2006). The success of using strategies of monetising your IP identified in this article are heavily dependent on the ability of an institution to correctly predict and value its IP. The value of IP assets is never constant as it is affected by a lot of environmental factors. The factors include for example term of patent, that is patents at the begin of their 20 year life span tend to have more value but this is subject to sudden change in customer preferences, regulatory changes, new alternative technologies, counterfeit among a host of other factors. Hence valuation of IP should be done regularly and every time before committing to a business transaction. Companies should take steps to identify and monitor the IP assets owned and used, to assess risks, to overcome problems and to assess their commercial value, these actions are known as IP due diligence. IP due diligence is intended as an exercise to gather as much information as possible on the value and the risks of a company’s intangible assets, with a view to acquiring IP, raising capital and seeking financial assistance (EU IPR Desk, 2015).

It must be noted that most accounting systems in use world over don’t measure or record IP assets in their books of accounts. Investments “budgets” in IP assets generation “R&D” are actually treated as expenses not asset acquisitions. Hence it’s even not in the scheme of strategic planning to work out the long term anticipated exploitation of these investments “expenses”. This can be largely attributed to the fact that IP assets investments are risky and have high depreciation rates. Though empirical research suggests that capital markets
already incorporate intellectual assets in companies’ valuation to some degree, this may not apply equally to all markets and to all segments, and especially to small listed companies (OECD, 2006).

All the ways of increasing revenue for an institution mentioned above can be adopted for use after an IP Audit has been conducted to evaluate the existing IP Assets. The evaluation of the IP assets will help identify the most suitable way to exploit them as there is no one size fit all approach when it comes to generating revenue from IP assets. All this is possible riding on a sound intellectual property policy for the institution. It’s high time all institutions in developing countries must have institutional intellectual property policies and implementation strategies (Rodrigues, 2018) as the ability to create economic value from intellectual assets is highly contingent on the management capabilities of individual firms and the implementation of appropriate business strategies (OECD, 2006).

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| BOTSWANA         | Registrar’s Office: Mr. Pola Maseka  
Registrar General  
Companies and Intellectual Property Authority  
Plot 181, (9951/2/0) Old Ministry of Trade and Industry  
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Ministry of Justice  
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| TANZANIA         | Registrar’s Office: Mr. Godfrey Simango Nyaiya  
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| UGANDA           | Registrar General’s Office: Mr. Twabaze Bemanyi  
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| ZAMBIA           | Registrar’s Office:  
Mr Anthony Bwembya  
Registrar & Chief Executive Officer  
Patents and Companies Registration Agency (PACRA)  
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| ZIMBABWE         | Registrar’s Office: Mr. Willie Mushayi  
Ag. Chief Registrar of Deeds, Companies & Controller of Patents, Trademarks and Industrial Designs  
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