

IP in Africa Newscast

Angola

The Industrial Property Office suffers from lack of modern resources. Records and documents are serviced manually - a predicament shared with other territories such as Zanzibar (q.v.). Angola joined PCT and the Paris Convention in 2007. No specific reference to them was contained in or imported into the national Industrial Property Act of 1992 but the Office is recognising those treaty obligations.

Flag:



Coat of Arms:



Capital: Luanda

Population: 12 million

Major languages: Portuguese (official), African languages

Major religion: Christianity

Form of government: Republic

Monetary unit: 1 Kwanza = 100 lwei

Main exports: Oil, diamonds, minerals, coffee, fish, timber

Internet domain: .ao

Time zone: GMT 1

International dialling code: 244

Motto: *Virtus Unita Fortior*, "Virtue is stronger when united."

Aripo

African Regional Intellectual Property Organization has historically provided better protection to patents and designs, under its Harare Protocol, than to trade marks under the Banjul agreement. The problem on the trade mark front has been the enforceability of ARIPO registrations, in countries with common-law heritages where treaties are normally thought to have no effect on national territory in the absence of enabling, national legislation. Moves are afoot to remedy these doubts, as shown during sessions of the Administrative and Ministers' Councils at Gaborone, Botswana in November 2009, when Spoor & Fisher attorneys Heather Donald and Craig Kahn learned of participating countries' and organisations' awareness of the issue. Meanwhile Liberia deposited its Instrument of Accession to ARIPO on 24 December 2009 for both protocols. With effect from 24 March 2010, Liberia becomes the 16th Harare member state and the 9th Banjul member. It is working on its national legislation as reported below.



Mac Spence



IP in Africa

Burundi

A new, consolidated IP code, based on the WIPO model was published in July 2009. However, there are no regulations, forms and fees yet. It seems the Director is being pragmatic and will ensure that they are in place before the Law is brought into force. At that time, existing registrations should be taken onto the new registers. New applications for all rights are intended to be examined and published, in contrast to the current, simple deposit systems.

Flag:



Coat of Arms:



Capital: Bujumbura

Population: 6 million

Major languages: Kirundi (official),
French (official), Swahili

Major religions: Christianity, indigenous beliefs

Form of government: Multiparty republic

Monetary unit: 1 Burundi franc = 100 centimes

Main exports: coffee, tea, sugar, cotton, hides

Internet domain: .bi

Time zone: GMT 2

International dialling code: 257

Motto: Ubumwe, Ibikorwa, Iterambere
(Kirundi, Unité, Travail, Progrès),
"Unity, Work, Progress"

Egypt

The Madrid Agreement having been applicable to Egypt since 1952, the Protocol became effective on 3 September 2009. The relationship between Egypt's national laws and treaties such as Madrid and PCT has been debatable. It is thought by some that 19th century British dominance created a common-law heritage with the result mentioned under ARIPO, above. On the other hand both Madrid and PCT provisions are recognised in practice without specific provisions in domestic law. Recently, the official PCT recognition was illustrated by a notification dated 6 June 2009 clarifying the base dates from which annuities are calculated.

Flag:



Coat of Arms:



Capital: Cairo

Population: 65 million

Major language: Arabic

Major religion: Islam

Form of government: Republic

Monetary unit: 1 Egyptian

Pound = 100 piastres

Main exports: Petroleum, Petroleum Products
and Cotton

Internet domain: .eg

Time zone: gmt 2hrs (3hrs
during summer time)

International dialling code: 20

Motto: Jumhuriyat Misr al-Arabiya



IP in Africa

Djibouti

There are major developments in this strategically important country which is a burgeoning Free Port and a gateway to east and central Africa. The current IP system is based on the French law in force at independence.

Systematically, subsidiary legislation is being made supplementary to the principal laws passed by Parliament in 2009 and mentioned in the last Newscast. These Decrees are supplying regulations, forms and fees but Government still has to allocate land to house the Industrial Property Office ODPIC, which will take over records from the Greffe (Registry) of the civil tribunal.

So no date can yet be predicted for the new system to be up and running but the methodical progression is impressive. The national Courts are already effective and a Djibouti registration may prove an effective weapon in tackling counterfeits destined for several other jurisdictions.

Flag:



Coat of Arms:



Capital: Djibouti

Population: 450,000

Major languages: French, Arabic, Somali, Afar

Major religion: Islam

Form of government: Multiparty republic

Monetary unit: 1 Djiboutian

franc = 100 centimes

Main exports: Re-exports, hides and skins,

coffee (re-exported from Ethiopia)

Internet domain: .dj

Time zone: GMT 3

International dialling code: 253

Motto: Unité, Égalité, Paix,

"Unity, Equality, Peace"

Ethiopia

Since the last Newscast, there has been no visible progress with the draft Regulations to supplement the principal trade mark law proclaimed back in 2006. Meanwhile the Industrial Property Office continues to function fairly effectively as it has, since the 1980s and before, without benefit of statute. Currently the Office staff are fewer than their full complement and recruiting and reshuffles are being made to compensate.

Separate from the trade mark law as such, the Trade Practice Proclamation 2003 is good news for trade mark owners. The Trade Practice Commission investigates complaints of unfair competition and can take administrative measures and/or give penalty decisions. The bad news is that appeals from the Commission to the Federal High Court delay final decisions. Meanwhile a Geographical Indications Bill is expected in Parliament shortly. This form of protection is particularly relevant to the world famous Ethiopian coffee industry; however, the product is more in need of protection outside than within the country.

Flag:



Coat of Arms:



IP in Africa

Capital: Addis Ababa
 Population: 64 million
 Major languages: Amharic, Tigrinya, Orominga
 Major religions: Christianity, Islam
 Form of government: Multiparty republic
 Monetary unit: 1 Birr = 100 cents
 Main exports: Coffee, hides, oilseeds, beeswax, sugarcane
 Internet domain: .et
 Time zone: GMT 3
 International dialling code: 251

Guinea - OAPI Relationship

A vexed situation, emerging since Guinea joined OAPI in 1990, may have been resolved. The status of Guinea national registrations was affected by a series of OAPI pronouncements whose intent was clearly to close down the registration facility operated by the Greffe (registry) of the civil tribunal. It has been uncertain how successful those measures were, vis-à-vis the national system. The quest for clarity was frustrated by loss of communication with those Guinea authorities. Discussion of the subject is available elsewhere on this site [OAPI – Acceding Countries – Extending OAPI Trade Mark Rights – Survival of National Rights (The Guinea Factor)] but the probable short answers are that the last national Guinea registration will expire by 3 December 2013, and all subsisting OAPI registrations extend to Guinea.

Flag:



Coat of Arms:



Capital: Conakry
 Population: 7.6 million
 Major languages: French, various tribal languages
 Major religions: Islam, Christianity, indigenous beliefs
 Form of government: Multiparty republic
 Monetary unit: 1 Guinean franc = 100 centimes
 Main exports: Bauxite, alumina, gold, diamond, coffee, fish, agricultural products
 Internet domain: .gn
 Time zone: GMT
 International dialling code: 224
 Motto: Travail, Justice, Solidarité, "Work, Justice, Solidarity"

Kenya

On the law reform front, progress continues towards implementing the Anti-Counterfeit Act. The Minister has appointed the chairman of the agency, but the executive director remains to be named. This law especially unfolds against a background of controversy. Business people target counterfeiting as an economic threat; and its obvious and immediate menace is against national wellbeing. Pharmaceuticals are especially sensitive targets because the constant need for affordable medicine against HIV/AIDS, malaria and their deadly sisters pits brand owners' legitimate returns on their investments in talent and money, against terrestrial pirates pushing inferior, worthless or lethal products at "bargain" prices. From a different viewpoint, pressure groups for access to essential medicines are challenging the Act in the Constitutional Court on the grounds that it violates the right to health by confusing fake and generic medicines.

Litigation is becoming faster. Decisions have been handed down by the Registrar of Trade Marks, Industrial Property Tribunal and the High Court. Reviews of such cases will be appearing on this site.



IP in Africa

Flag:



Coat of Arms:



Capital: Nairobi

Population: 30 million

Major languages: English,

Major religion: Christianity Swahili

Form of government: Multiparty republic

Monetary unit: 1 Kenya shilling = 100 cents

Main exports: Tea, coffee, horticultural

products, petroleum products

principally re-exported

Internet domain: .ke

Time zone: GMT 3

International dialling code: 254

Motto: Harambee, "Let us all pull together"

Liberia

Since 1972 IP matters were regulated under a codified law of that date. An Industrial Property "Act" was published in 2003 and from its text including various lacunae this was evidently still a draft. During 2009 the IP Office started to issue documents in terms of the 2003 law.

After discussion with the Director, we established that the Act had still not been through Parliament but had been brought into force, as an administrative measure. In common with other practitioners we have now concluded that the *fait accompli* must be accepted. Trade Mark certificates are accordingly being issued with terms regulated by the 2003 Act, i.e. ten instead of 15 years. The caveat must nevertheless be noted that without formal legislation, those terms may be challenged in future. Patent terms remain at

20 years and the annuity pattern is undisturbed in practice.

Productive meetings were held in Monrovia amongst representatives of the Government, WIPO and practitioners, on the future of Liberian IP law and interaction with IP treaties. Specialists have been appointed to propose detailed law reform and practical requirements. Developments in those directions will be reported as they develop. Meanwhile the country has joined ARIPO with effect from 24 March 2010 as reported above. The 2003 Act already provides for ARIPO rights.

Flag:



Coat of Arms:



Capital: Monrovia

Population: 3 million

Major languages: English,

various tribal languages

Major religions: Christianity,

Islam, indigenous beliefs

Form of government: Multiparty republic

Monetary unit: 1 Liberian

dollar (L\$) = 100 cents

Main exports: Diamonds, iron ore,

rubber, timber, coffee, cocoa

Internet domain: .lr

Time zone: GMT

International dialling code: 231

Motto: *The love of liberty brought us here*



IP in Africa

Mauritius

The IP Law of Mauritius was overhauled in 2002 - 2004 when laws dating from 1868 and 1875 gave way to a combined Patents, Industrial Designs and Trademarks Act with separate statutes for geographical indications, integrated circuit designs and protection against unfair practices. A draft consolidated Bill is now under review, embracing all those subjects plus plant varieties, with detailed provisions for enforcement including border measures. Our preliminary impression of an early draft is that there is great, perhaps undue attention to detail revealing reluctance to leave anything to discretion or interpretation. A fresh version is being circulated as this paragraph is written and we look forward to remaining involved.

Apart from law reform, an area ready for development is the Industrial Property Office where the systems are incongruously old fashioned for a nation at the cutting edge of technology.

Flag:



Coat of Arms:



Capital: Port Louis

Population: 1 million

Major languages: English (official), French, Creole, Indian languages

Major religions: Hinduism, Christianity, Islam

Form of government: Multiparty republic

Monetary unit: 1 Mauritian rupee=100 cents

Main exports: Sugar, clothing, tea, jewellery

Internet domain: .mu

Time zone: GMT 4

International dialling code: 230

Motto: *Stella Clavisque Maris Indici, "Star and Key of the Indian Ocean"*

Mozambique

A characteristic of Mozambique trade mark law is the requirement to file periodic Declarations of Intention to Use (DIUs). The feature was inherited from Portuguese law but remains applicable although repealed in Portugal. The Code requires a DIU to be filed for every trade mark registration every 5 years from the date of registration. A notice in the official bulletin of 15 October 2008 appeared to say that, when a DIU falls due in the same year as renewal of the trade mark registration, the DIU need not be filed. That advice was initially accepted but on further study we find the notice is inconsistent with the clear requirements of the Code.

The consequences of non-compliance are complex as is the connected question of filing evidence of actual use, where a DIU has been omitted. We are available for detailed discussion but our short advice is first, that DIUs must be filed at the five-year intervals required by law, whether or not the registrations fall due for renewal at the same time; and secondly that a DIU which has missed being filed on due date should be late-filed as soon as possible. Meanwhile the provisions of the Code relating to geographical indications and appellations of origin have been amended by Decree No. 20/2009. The new definitions focus on the characteristics of the products protected, rather than the place of origin and this is intended to be more TRIPS-compliant than the original wording.

Flag:



IP in Africa

Coat of Arms:



Capital: Maputo

Population: 18 million

Major languages: Portuguese (official), African languages

Major religions: Indigenous beliefs, Islam, Christianity

Form of government: Multiparty republic

Monetary unit: 1 metical (plural meticals) = 100 centavos

Main exports: Seafood, cotton

Internet domain: .mz

Time zone: GMT 2

International dialling code: 258

Nigeria

Substantive changes of legislation are difficult in Nigeria. Several competing Bills are trying to make their way to Parliament but none seems imminent. But there are practical moves afoot. Service marks reared their heads again in 2009. They were introduced in 2007, on the strength of a ministerial regulation and without amending the Act. Pragmatic people filed SM applications, subject to caveats about their validity. Numerous SMs have been registered although the Act remains unchanged.

Last year proposals were floated to challenge the 2007 regulation and SM applications/registrations thereunder, by various alternative proceedings. This firm respectfully agreed with the Intellectual Property Association of Nigeria that such actions would be unwise and we believe that none have in fact been started. IP litigation is common in Nigeria and is reserved for the jurisdiction of the Federal High Court. Such causes have been subject to unacceptable delays, often deliberately engineered. Now, radical changes are proposed

similar to those of Lord Woolf in the UK, under the Federal High Court (Civil Procedure) Rules 2009. If those procedures can be enforced, they should enable IP enforcement cases to be swifter and more predictable.

The Nigerian Office is moving from its former, inadequate accommodation into better quarters. In the short term this makes files very hard to access but hopefully the end result will be a better working environment. A by-product may be renewed delays with Journals; only four appeared in 2009 and none so far this year.

Flag:



Coat of Arms:



Capital: Abuja

Population: 115 million

Major languages: English (official), Yoruba, Ibo, Hausa

Major religions: Islam, Christianity, indigenous beliefs

Form of government: Multiparty republic

Monetary unit: 1 Nigerian naira = 100 kobo

Main exports: Petroleum, petroleum products, cocoa, rubber

Internet domain: .ng

Time zone: GMT 1

International dialling code: 234

Motto: "Unity and Faith, Peace and Progress"



IP in Africa

Rwanda

The new unified IP law, described in the last Newscast has not been brought into effect as this issue goes to press.

Flag:



Coat of Arms:



Capital: Kigali

Population: 7 million

Major languages: Kinyarwanda (official), French (official), English (official), Swahili

Major religions: Christianity, indigenous beliefs

Form of government: Republic

Monetary unit: 1 Rwandan

franc = 100 centimes

Main exports: Coffee, tea, hides, tin ore

Internet domain: .rw

Time zone: GMT 2

International dialling code: 250

Motto: Ubumwe, Umurimo, Gukunda

Igihugu - "Unity, Work, Patriotism"

Seychelles

The archipelago Republic of Seychelles has traditional, separate laws on trade marks, patents and designs, administered traditionally by the Registrar General having several other portfolios. The Supreme Court (superior court of first instance, equivalent to the High Courts of South Africa, England & Wales, etc.) and the legal profession are geared to swift enforcement of rights via interim and permanent interdicts (injunctions) and claims for damages and costs. Independently of the

court, assistance is available to rights owners through the Consumer Protection Board and Director, and National Consumers Forum (NATCOF).

Flag:



Coat of Arms:



Capital: Victoria

Population: 79,000

Major languages: English, French, Creole

Major religion: Christianity

Form of government: Multiparty republic

Monetary unit: 1 Seychelles rupee = 100 cents

Main exports: Fish, cinnamon bark, copra, petroleum products (re-exports)

Internet domain: .sc

Time zone: GMT 4

International dialling code: 248

Motto: Finis Coronat Opus, "The End Crowns the Work"



IP in Africa

Tanganyika (mainland territory of the United Republic of Tanzania)

This jurisdiction persevered with traditionally separate IP laws, having replaced the British-model Ordinances with the home-grown Trade and Service Marks Act 1986 and Patents Act 1987, administered by the Business Registrations and Licensing Agency (BRELA). The absence of specific anti-counterfeiting law has been overcome by amendments to the Merchandise Marks Act, under which counterfeiters are pursued in the magistrates' courts.

Recently however, the urging of WIPO, World Trade Organization and their allies has prevailed and a draft, consolidated IP Code is under consideration at Cabinet level.

Flag:



Coat of Arms:



Capital: Dar es Salaam

Population: 35 million

Major languages: English, Swahili (official)

Major religions: Christianity, Islam, indigenous beliefs

Form of government: Multiparty republic

Monetary unit: 1 Tanzanian shilling = 100 cents

Main exports: Sisal, cloves, coffee, cotton, cashew nuts, minerals, tobacco

Internet domain: .tz

Time zone: GMT 3

International dialling code: 255

Motto: Uhuru na Umoja, "Freedom and Unity"

Uganda

The September 2009 issue of Point described Uganda's adoption of the International (Nice) Classification 9th Edition and its work on a Trade Marks Bill.

The updated classification is found to be linked to the WIPO-sponsored Intellectual Property Administration System (IPAS) and to have produced some teething troubles. As currently presented, the program attempts to rewrite every specification of goods in a trade mark application, so as to reproduce the complete heading of the relevant class. We are in correspondence with the Registrar General and WIPO with a view to making the system compatible with applicants' needs.

The Trade Marks Bill is still on its way through Parliament, following observations received during the committee stage.

Flag:



Coat of Arms:



Capital: Kampala

Population: 23 million

Major languages: English (official), Swahili and other Bantu languages

Major religions: Christianity, Islam

Form of government: Republic

Monetary unit: 1 Ugandan shilling = 100 cents

Main exports: Coffee, fish and fish products, tea; tobacco, cotton, corn, beans, sesame

Internet domain: .ug

Time zone: GMT 3

International dialling code: 256

Motto: For God and My Country



IP in Africa

Zanzibar

The Zanzibar archipelago was historically, nominally ruled by Sultans of Omani origin and administered by Britain as a protectorate. Despite its inclusion since 1964 in the United Republic of Tanzania, it retains separate laws on IP amongst many other subjects. A composite IP Code, on the familiar model, was enacted by the legislature in 2008. The Registrar General's department were not ready for it, because there were no regulations, forms and fees and its full implementation has accordingly been delayed. We were privileged to offer draft subsidiary legislation and the author of this Newscast was able to visit the principal island, Zanzibar alias Unguja in January 2010. Friendly and constructive discussions were held with the Registrar General Mr. Abdullah Waziri and his Deputy Mr Mohamed Ahmed and we hope that the outstanding issues may be resolved soon.

The Department, with the rest of the community were found managing valiantly to conduct something approaching "business as usual" despite a prolonged absence of mains electricity. The shortage, due to failure of the cable from the mainland, was partly compensated for by use of private generators. Most commercial operations (including the tourist attractions which are so important to the island economy) were able to generate their own supply without much delay, albeit at great expense. The wheels of government necessarily ground more slowly.

The Registrar General's department has been particularly vulnerable, housed in a waterfront building of great character and antiquity named Mambo Msiige or "Do not imitate me" because its architecture was so modern and striking in 1850. The electrical system may have been less state-of-the-art when added 80 or so years ago and when a generator was

finally connected to it after some weeks' disuse there were fine snaps, crackles and pops. Fortunately neither people nor computers were harmed but in the powerless interim the staff were not ashamed to be among those offices dotted around the region, which still wield manual records and typewriters.

Plans are being made to house the Department in bespoke, modern premises so that the historic building may be restored as such.

Flag:



Seal:



Capital: Zanzibar

Population: 1 million

Major languages: English, Swahili and Arabic

Major religions: Islam, Christianity and Hinduism

Form of government: Multiparty republic

Monetary unit: 1 Tanzanian shilling = 100 cents

Main exports: Sisal, cloves, coffee, cotton, cashew nuts, minerals and tobacco

Internet domain: .tz

Time zone: GMT 3

International dialling code: 255

