

Africa Intellectual Property Newsletter Vol. 84

Index

1. Important topics

- Africa:** **Remarks by Embassy ICHIP Attorney Advisor Tanya Hill – Judicial Colloquium Swakopmund, Namibia**
- The first WIPO project on Text and Data Mining**
- Africa progress in promoting intra African trade**
- Science, Technology and Innovation are keys to Africa’s development**
- The EUIPO begins the 2023 edition of lectures for the OAPI Master’s Training Programme**
- INTA daily news day 2, Feature: innovation in Africa**
- Report urges continent to ‘think strategically’ and develop ‘African AI’**
- Mr Yasuda, Director General of the Trial and Appeal Department of the JPO, expressed his expectations for the success of African woman entrepreneurs at the Intellectual Property Conference in Africa**
- Gambia:** **Prospects and challenges of first-to-file trademark applications in The Gambia**
- Libya:** **Trademark Office resumes ‘normal’ operations**
- Morocco:** **Women and Intellectual Property: Accelerating the Pace of Innovation and Creativity**
- Nigeria:** **NOTAP Strengthens Intellectual Property Rights Of Nigerian Inventors**
- South Africa:** **Diageo SA wins case to repossess its intellectual property held by advertising agency Twotone**
- DA rejects Copyright and Performers Protection Amendment Bills amid lack of empirical research into socioeconomic impact**
- After the Bell: SA’s new copyright law is neither copied nor right**
- Closing the gender gap in the IP and STEM professions**
- Uganda:** **Anti-Counterfeit Network Launches “Fight Against Fakes Campaign” Opens Fakes Desk in Elgon Region**

2. Additional topics

- Africa:** **4 Nigerian Startups Among 10 Shortlisted for the Inaugural ‘Qualcomm Make in Africa’ Mentorship Program**
- 5 ways to strengthen university-industry collaboration in Africa**
- AfCFTA and Africa’s economic transformation**
- Bilateral Meetings with Three IP Organizations in Africa**
- Africa Young Innovators For Health Award**
- The Importance of Intellectual Property for the African continent & why brands should be paying attention**
- ARIPO:** **ARIPO & Partners Host Inaugural Judges Colloquium in Swakopmund**
- ARIPO IP Activity**
- OAPI & ARIPO:** **Joint OAPI and ARIPO meeting at INTA**
- Morocco:** **Official visit of Mr. Antonio Campinos, President of the European Patent Office (EPO), and holding of the mixed commission**
- Signing of a partnership agreement on the occasion of the First National Forum of Civil Society on associative employment**
- Niger:** **AfrIPI study visit**
- Nigeria:** **NCC confiscates 3,377 copies of pirated materials**
- South Africa:** **A ground-breaking Intellectual Property Seminar to Support Small, Medium, and Micro Enterprises (SMMEs) in South Africa**
- Trade secrets in the restaurant business**
- Zambia:** **International Treaties And Conventions**
- Zimbabwe:** **Creatives plot surviving copyright wars**

1. Important topics

Africa: Remarks by Embassy ICHIP Attorney Advisor Tanya Hill – Judicial Colloquium Swakopmund, Namibia¹

At a judicial colloquium held in Swakopmund, Namibia, US Advisor Tanya Hill, announced the launch of the African Regional Intellectual Property Bench Book (IPBB).

The African Regional IPBB is a project that involves many parties. *The aim is to produce a ‘*bench book*’ to assist courts and judges in adjudicating IP disputes. The African Regional IPBB will be published as a volume

¹ [https://ng.usembassy.gov/remarks-by-embassy-ichip-attorney-advisor-tanya-hill-judicial-colloquium-swakopmund-namibia/\(2023.5.3.\)](https://ng.usembassy.gov/remarks-by-embassy-ichip-attorney-advisor-tanya-hill-judicial-colloquium-swakopmund-namibia/(2023.5.3.))

of WIPO's IP Bench Book series, which provides a set of condensed, practical manuals on IP law and procedure in different jurisdictions.

**The World Intellectual Property Organization (WIPO), the African Regional Intellectual Property Organization (ARIPO), the United States Department of Justice (USDOJ) Office of Overseas Prosecutorial Development Assistance and Training (OPDAT), International Computer Hacking and Intellectual Property (ICHIP) Africa program, and the Judiciaries of ARIPO member and observer States.*

Africa: The first WIPO project on Text and Data Mining ²

The Committee on Development and Intellectual Property (CDIP)³ has approved a pilot project on Text and Data Mining (TDM) used to support research and innovation in institutions in Africa. It is hoped that the project will increase knowledge awareness of TDM and enhance the capacity of African institutions to use it. The main stakeholders are, inter alia, research institutions, universities and TDM companies.

Africa: Africa progress in promoting intra African trade ⁴

The African Organization for Standardization (ARSO)⁵ an organization based in Kenya, and the International Trade Center (ITC), based in Geneva, have signed an agreement that will boost continent-wide efforts to establish a *Made in Africa* label, thereby promoting trade under the African Continental Free Trade Area (AfCFTA).

The vision is to accelerate standardization activities to increase the competitiveness of African businesses, strengthen regional value chains and pave the way for *Made in Africa* goods and services.

The thinking is that the establishment of a continental platform of quality associations will support the harmonization of standards and reduce barriers to trade within the AfCFTA.

The article makes the point that there is a growing global trend towards the use of sustainability standards.

Africa: Science, Technology and Innovation are keys to Africa's development ⁶

In an article, Michael Owusu, the Chief Operating Officer of KGL Group, argues that Science, Technology and Innovation (STI) can boost agricultural productivity, promote entrepreneurship, reduce the burden on the health sector, and increase competitiveness.

But there are challenges. One of these is a scarcity of STI professionals. Another is a lack of infrastructure in Africa. A third issue is intellectual property - there must be a strong IP system. All of these issues need to be addressed.

Africa: The EUIPO begins the 2023 edition of lectures for the OAPI Master's Training Programme⁷

A posting on the AfrIPI site tells us that on 10-11th of May 2023, four EUIPO experts delivered lectures to over 30 students from across the OAPI region as part of the Master's Program. Amongst the topics presented:

- A Presentation of the Madrid System and the Hague Agreement;
- A presentation of the TM class and TM view tools;
- Assessing the risks of confusion in opposition proceedings.

² <https://infojustice.org/archives/45260> (2023.5.6.)

³ <https://www.wipo.int/policy/en/cdip/>

⁴ <https://www.breakinglatest.news/business/africa-progress-in-promoting-intra-african-trade/> (2023.5.8.)

⁵ <https://www.arso-oran.org/#:~:text=ARSO%20was%20formed%20in%201977,enhance%20the%20industrialization%20of%20Africa.>

⁶ <https://www.modernghana.com/news/1229579/science-technology-and-innovation-are-keys-to.html> (2023.5.9.)

⁷ <https://afripi.org/news/euipo-begins-2023-edition-lectures-oapi-masters-training-programme> (2023.5.12)

Africa: INTA daily news day 2, Feature: innovation in Africa⁸

In a LinkedIn posting made during the INTA conference the following points are made:

- In Africa, innovation is on the rise especially in interesting fields like agri-tech, fintech and telemedicine.
- Entrepreneurs need to be creative to overcome issues in Africa such as poor transport, widely dispersed populations, and poor health and hygiene facilities. Mobile banking is a good example of such creativity.
- The importance of promoting research and innovation, especially amongst the young, is being recognized. Innovation hubs and research centres are playing an important role.
- The move towards innovation in Africa will be boosted by the African Continental Free Trade Area (AfCFTA), with its IP Protocol.
- Because manufacturing is relatively weak in Africa, African businesses often resort to 'soft' IP rights such as designs, copyright, trademarks and GIs rather than patents.
- The regional registration organization ARIPO and OAPI play an important role.
- To increase the understanding of, IP, ARIPO is working closely with universities in Ghana, Tanzania and Zambia in relation to a Masters program in IP.

Africa: Report urges continent to 'think strategically' and develop 'African AI'⁹

According to the *State of AI in Africa report 2023*, Africa needs to think strategically about what AI and innovation mean for the continent, encourage capacity-building, and provide adequate infrastructure and data collection avenues. The report was prepared by the Centre for Intellectual Property and Information Technology Law at Strathmore University in Kenya. Amongst the findings:

- Africa is embracing AI in ways unique to the continent.
- AI development is occurring in Africa particularly in the agriculture, health, financial services and education sectors.
- Africa has more than 2,400 AI organizations operating across various industries, including health, wellness and fitness, agriculture, legal and judicial services, skills development and insurance.

The report says that governments need to support the development of a responsible AI ecosystem. It suggests that national policies and regulatory frameworks need to ensure that emerging technologies benefit humanity.

Africa: Mr. Yasuda, Director General of the Trial and Appeal Department of the JPO, expressed his expectations for the success of African women entrepreneurs at the Intellectual Property Conference in Africa¹⁰

Mr. Yasuda attended the Regional Conference on Intellectual Property for Women in Agribusiness in Kigali, Rwanda, utilizing Funds-in-Trust Japan Industrial Property Global, a voluntary contribution made by the JPO to the World Intellectual Property Organization (WIPO).

The conference was attended by 109 African female entrepreneurs and representatives of the African Regional Intellectual Property Organization (ARIPO), the African Intellectual Property Organization (OAPI), WIPO, the Government of Rwanda, and JPO.

Mr. Yasuda said that the recognition and mobilization of women's potential is essential for sustainable economic growth in Africa. He also announced that the JPO will continue to actively engage in cooperation with African nations and organizations in the area of intellectual property.

⁸ <https://inta.foleon.com/inta-daily-news/day-2/feature-innovation-in-africa> (2023.5.17)

⁹ <https://itweb.africa/content/VgZeyvJlbEBMdjX9> (2023.5.24.)

¹⁰ <https://www.jpo.go.jp/e/news/ugoki/202305/2023052401.html> (2023.5.24.)

Gambia: Prospects and challenges of first-to-file trademark applications in The Gambia ¹¹

In a posting of 12 May 2023 on the ARIPO website there is mention of a recent (and rare) trademark judgment in The Gambia. The posting tells us that:

- The country follows a first-to-file policy for trademarks.
- There is, however, an exception to this rule in the case of well-known marks, for which no registration is required.
- There has been a recent trademark case in the High Court of The Gambia, *Avon Products Inc (Applicant) v Kaba Dialo (trading as United Business Trading) and Registrar General HC 381/22/MF/116/F1* (unreported).
- In this case, a US company sought a declaration that the local company was not entitled to register the trademark Far Away. The US company claimed that its Far Away fragrance is one of the best-selling fragrances in the world, and that the trademark and packaging are well known.
- The court upheld the claim and said that the Gambian company was not entitled to register the trademark. It ordered expungement of the registration.
- This judgment will send a clear message to companies who think that they can register the well-known trademarks of other companies. Such conduct constitutes passing off and unfair competition.

Libya: Trademark Office resumes 'normal' operations ¹²

With effect from 1 November 2022, the Libyan Trademark Office limited the service that it offers to trademark applications filed by Libyan national and companies – it is not entirely clear what the rationale for this step was, although it is our understanding that some internal changes were being introduced at this time.

Morocco: Women and Intellectual Property: Accelerating the Pace of Innovation and Creativity ¹³

In common with many other IP offices the registry of Morocco, OMPIC, celebrated World Intellectual Property Day on 26 April 2023, with a special emphasis on the role of women in IP.

An interesting feature of Morocco's celebration was a webinar that focused on the role of brand and design as essential tools for business development, aspects that are sometimes overlooked by innovators and entrepreneurs. OMPIC highlighted the services that it has developed, such as the IP Marketplace invention patent development service.

Nigeria: NOTAP Strengthens Intellectual Property Rights of Nigerian Inventors ¹⁴

In Nigeria, there is a National Office for Technology Acquisition and Promotion (Notap). ¹⁵Notap recently hosted a workshop entitled *Protecting and Commercializing R&D results for Nigeria's STI Growth* (STI stands for Science, Technology and Innovation). In a report on this workshop the following points are made:

- Worryingly '*more than 90 per cent of the technologies that power the Nigerian economy are imported technologies*'.
- There is a '*limited culture*' of IP rights in Nigeria and there is a need to persuade the country's researchers and inventors to '*exploit the invaluable benefits from IPRs*'.
- Research and development (R & D) in Nigeria is weak because of poor funding. Despite this there is still innovation in Nigeria and inventions are emerging.
- Notap is trying to regulate the flow of foreign technology into Nigeria, whilst encouraging and promoting locally-generated technology.

¹¹ <https://www.aripo.org/public/success-stories/prospects-and-challenges-of-first-to-file-trademark-application-in-the-gambia-8190> (2023.5.12.)

¹² <https://spoor.com/libya-trademark-office-resumes-normal-operations/> (2023.6.5.)

¹³ <http://www.ompic.ma/fr/actualites/celebration-de-la-journee-mondiale-de-la-propriete-intellectuelle-2023> (2023.4.28.)

¹⁴ <https://leadership.ng/notap-strengthens-intellectual-property-rights-of-nigerian-inventors/> (2023.5.23.)

¹⁵ https://notap.gov.ng/new_dev/

- Notap is trying to persuade Nigerian inventors to protect their IP – to do this it needs to get the message across that when IP is protected the technology behind it has the greater chance of being commercialised by the private sector.

South Africa: Diageo SA wins case to repossess its intellectual property held by advertising agency Twotone¹⁶

The global drinks company, Diageo, entered into a creative services agreement with a South African branding agency, Twotone. A dispute arose and Diageo terminated the agreement but refused to pay an amount that Twotone claimed was owing. In response, Twotone refused to hand over certain Diageo IP assets, claiming that it had a debtor-and-creditor lien, in other words a legal right to keep these assets until the debt was discharged.

Diageo went to court, arguing that it has contractual, intellectual property and constitutional rights to the assets under section 25 of the Constitution. The judge agreed and ordered Twotone to hand over the assets, saying that Diageo could suffer *'ongoing harm'* if Twotone were to retain control of these assets.

Diageo SA wins case to repossess its intellectual property held by advertising agency Twotone | Food Business Africa Magazine

South Africa: DA rejects Copyright and Performers Protection Amendment Bills amid lack of empirical research into socioeconomic impact¹⁷

Legislation that significantly reforms South African copyright law has been before parliament for some time. The main opposition party, the Democratic Alliance, has now made it clear that it opposes the legislation. The party argues that the legislation is poorly drafted, ambiguous, poses a risk of retrospective and arbitrary deprivations of property, and contravenes international treaties – issues that could be detrimental to international trade. One provision that is of great concern relates to the economic impact of the newly-created *'fair use'* exception.

South Africa: After the Bell: SA's new copyright law is neither copied nor right¹⁸

The proposed changes to the South African Copyright Act have received a great deal of publicity. In a recent newspaper article, the author, Tim Cohen, provides a practical rather than academic overview of some of the issues. He makes these points:

- Royalty rights: The proposed legislation prohibits local artists and actors from giving up royalty rights. This, Cohen argues, will not suit South African actors because they routinely forsake royalties in favour of upfront cash, a sensible option given that only 10% of films make money. Prohibiting local artists from giving up future royalties will, he argues, have the effect that film companies will simply stop making films in South Africa.
- Royalty rates: The legislation doesn't specify at what rate royalties will be granted, it simply grants the Minister of Trade and Industry the right to set the rates later. No-one knows how that determination will be made.
- Copyright terms: The legislation reduces terms in South Africa to 25 years. Yet many countries have 70-75 years.

Cohen argues that the legislation will make South Africa a *'global outlier and no one will want to work in or with South Africa.'*

¹⁶ <https://www.foodbusinessafrica.com/diageo-sa-wins-case-to-repossess-its-intellectual-property-held-by-advertising-agency-twotone/> (2023.5.4.)

¹⁷ <https://www.polity.org.za/article/da-rejects-copyright-and-performers-protection-amendment-bills-amid-lack-of-empirical-research-into-socioeconomic-impact-2023-05-11> (2023.5.11.)

¹⁸ <https://www.dailymaverick.co.za/article/2023-05-15-after-the-bell-sas-new-copyright-law-is-neither-copied-nor-right/> (2023.5.15.)

South Africa: Closing the gender gap in the IP and STEM professions¹⁹

An article written by a female South African patent attorney, Chyreene Truluck, a partner at Spoor & Fisher, deals with the fact that in South Africa gender equality is an issue in IP, as it is in many other disciplines. She makes a number of points:

- To practice as a patent attorney in South Africa it is necessary to have at least a three-year technical or scientific qualification.
- In South Africa, only 13% of graduates in science, technology, engineering and mathematics (the so-called STEM subjects) are women, compared to 30% globally.
- Only 22% of the patent attorneys practising in South Africa are women.
- Only 11.4% of the inventors cited in international patents filed by South Africans between 2019 and 2021 were women.
- The South African government and private sector are seeking to address these issues through various means, including awards targeted specifically at women.

Uganda: Anti-Counterfeit Network Launches “Fight Against Fakes Campaign” Opens Fakes Desk in Elgon Region²⁰

In Uganda, a body called the Anti-Counterfeit Network Africa (ACN²¹) has launched an initiative called the *Fight Against Fakes Campaign*, as well as an anti-counterfeiting whistle-blowing platform called *The Fakes desk*, where cases of counterfeiting can be reported. The body is working in conjunction with the Office of the Director of Public Prosecutions (ODPP) and various other enforcement bodies such as the Criminal Investigation Department (CID), Interpol and the National Drug Authority.

The article acknowledges some difficult issues.

- Piracy will never be totally eradicated.
- For many people in Uganda counterfeiting is an economic necessity and is therefore deemed to be acceptable.
- There is a great deal of ignorance about counterfeiting in Uganda.

2. Additional topics

Africa:

4 Nigerian Startups Among 10 Shortlisted for the Inaugural ‘Qualcomm Make in Africa’ Mentorship Program (2023.5.9.)

<https://howng.com/4-nigerian-startups-among-10-shortlisted-for-the-inaugural-qualcomm-make-in-africa-mentorship-program/>

5 ways to strengthen university-industry collaboration in Africa (2023.5.24)

<https://europeansting.com/2023/05/24/5-ways-to-strengthen-university-industry-collaboration-in-africa/>

AfCFTA and Africa’s economic transformation (2023.5.23)

<https://thebftonline.com/2023/05/23/afcfta-and-africas-economic-transformation/>

Bilateral Meetings with Three IP Organizations in Africa (2023.5.24)

<https://www.jpo.go.jp/e/news/ugoki/202305/2023052402.html>

Africa Young Innovators For Health Award (2023.5.22)

<https://www.africa.com/events-calendar/africa-young-innovators-for-health-award/>

¹⁹ <https://www.africanlawbusiness.com/news/18859-closing-the-gender-gap-in-the-ip-and-stem-professions> (2023.5.15.)

²⁰ <https://ugnews24.info/bobiwine-news/anti-counterfeit-network-launches-fight-against-fakes-campaign-opens-fakes-desk-in-elgon-region/> (2023.5.9.)

²¹ <https://acnafrica.org/>

The Importance of Intellectual Property for the African continent & why brands should be paying attention (2023.5.9)

<https://www.lexology.com/library/detail.aspx?q=5bcab6c0-212b-46ef-9f91-fa7128a35a0e>

ARIPO:

ARIPO & Partners Host Inaugural Judges Colloquium in Swakopmund (2023.5.15)

<https://www.aripo.org/aripo-partners-host-inaugural-judges-colloquium-in-swakopmund/>

ARIPO IP Activity (2023.5.25)

https://www.linkedin.com/posts/african-regional-intellectual-property-organization_intellectualproperty-ip-aripo-activity-7067039598559805440-bDBx/?utm_source=share&utm_medium=member_ios

OAPI & ARIPO:

Joint OAPI and ARIPO meeting at INTA (2023.5.17)

https://www.linkedin.com/posts/oapi-linked_in_the-african-intellectual-property-organization-activity-7062805329935290368-Rsn5?utm_source=share&utm_medium=member_ios

Morocco:

OFFICIAL VISIT OF MR. ANTONIO CAMPINOS PRESIDENT OF THE EUROPEAN PATENT OFFICE (EPO) AND HOLDING OF THE MIXED COMMISSION (2023.5.8)

<http://www.ompic.ma/fr/actualites/visite-officielle-de-monsieur-antonio-campinos-president-de-loffice-europeen-des-brevets>

SIGNING OF A PARTNERSHIP AGREEMENT ON THE OCCASION OF THE FIRST NATIONAL FORUM OF CIVIL SOCIETY ON ASSOCIATIVE EMPLOYMENT (2023.5.8)

<http://www.ompic.ma/fr/actualites/signature-dune-convention-de-partenariat-loccasion-du-premier-forum-national-de-la>

Niger:

AfriPI study visit (2023.5.15)

https://www.linkedin.com/posts/africaipr_afripi-study-visit-support-the-registration-activity-7063887684494049280-bJUy/?utm_source=share&utm_medium=member_ios

Nigeria:

NCC confiscates 3,377 copies of pirated materials (2023.5.17)

<https://thenationonlineng.net/ncc-confiscates-3377-copies-of-pirated-materials/>

South Africa:

A ground-breaking Intellectual Property Seminar to Support Small, Medium, and Micro Enterprises (SMMEs) in South Africa (2023.5.16)

<https://www.cipc.co.za/?p=19378>

Trade secrets in the restaurant business (2023.5.15)

https://www.linkedin.com/feed/update/urn:li:activity:7063734207037997056/?utm_source=share&utm_medium=member_ios

Zambia:

International Treaties And Conventions (2023.5.9)

<https://www.mondaq.com/international-trade-investment/1313714/international-treaties-and-conventions>

Zimbabwe:

Creatives plot surviving copyright wars (2023.5.9)

<https://www.herald.co.zw/creatives-plot-surviving-copyright-wars/>

[Commissioned by JPO]
Africa Intellectual Property Newsletter Vol. 84

[Author]
Spoor & Fisher
spoor • fisher
patents • trade marks • copyright

[Published by]
Japan External Trade Organization Dubai Office

JETRO
JAPAN EXTERNAL TRADE ORGANIZATION

Published in June 2023
All Rights Reserved

This newsletter was written by Spoor & Fisher and reviewed by JETRO Dubai. In addition, this newsletter is based on information available at the time of creation and may change due to subsequent revisions to laws. The information and comments posted are at the discretion of the author and our office, but we do not guarantee that the general information is correct. Unauthorized reprinting, redistribution, or posting on other websites of the content of this newsletter is prohibited.

Furthermore, JETRO strives to make the information provided as accurate as possible, but it is the reader's responsibility and judgment to confirm the accuracy of the information provided, etc.

JETRO is not responsible for any disadvantages caused using the information supplied through this document.