

Africa Intellectual Property Newsletter Vol. 91

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News

1. Important topics

Africa: INTA steps up activities on the continent¹

A posting by the International Trademark Association (INTA) discusses a number of its recent activities in Africa:

- INTA hosted a workshop at the Kenya Industrial Property Institute (KIPI);
- INTA presented a talk in Zimbabwe for trademark examiners - amongst the topics discussed were contemporary issues like non-fungible tokens (NFTs) and virtual goods.
- INTA presented a further workshop in Zimbabwe, at the Companies and Intellectual Property Office;
- Plans are underway for INTA to offer training in Tanzania;
- An INTA employee gave a lecture at the University of Lome in Togo (an OAPI member), where one of the issues discussed was the link between inventions and trademarks.
- INTA participated in a seminar on industrial designs presented by the Ugandan IP registry, URSB.

Africa: Diplomatic Conference on proposed treaty on intellectual property, genetic resources and associated traditional knowledge²

¹ <https://www.inta.org/news-and-press/inta-news/africa-update-inta-steps-up-activities-on-the-continent/> (2023.12.6)

² https://www.wipo.int/pressroom/en/articles/2023/article_0015.html?utm_source=WIPO+Newsletters&utm_campaign=f839f8ed3a-DIS_PressRelease_EN_131223&utm_medium=email&utm_term=0_-09deeff327-%5BLIST_EMAIL_ID%5D (2023.12.13)

A WIPO posting says that a conference will take place from 13-24 May 2024 at WIPO's headquarters in Geneva. The aim of the conference will be to reach a proposed treaty relating to IP, genetic resources and traditional knowledge. These issues are, of course, of great significance to many African states.

The WIPO posting makes the following points:

- *'Genetic resources include medicinal plants, agricultural crops, and animal breeds. While genetic resources themselves cannot be directly protected as intellectual property, inventions developed using them can, most often through a patent.*
- *Some genetic resources are also associated with traditional knowledge through their use and conservation by indigenous peoples as well as local communities, often over generations. This knowledge is sometimes used in scientific research and, as such, may contribute to the development of a protected invention.'*

ARIPO: Active cooperation with Africa expressed at the ARIPO Council of Ministers³

The Director-General of the JPO Patent Examination Department (Mechanical Technology), Mr. Morooka Kenichi, participated in the 19th session of Ministerial Council of the African Regional Intellectual Property Organization (ARIPO), held in Gaborone, Botswana on 24-25 November 2023. Mr. Morooka made a number of points at the meeting:

- New services applying cutting-edge technology are spreading in Africa.
- It is becoming increasingly important to create a business environment which is conducive to innovation.
- The JPO will continue to promote active cooperation with Africa in the area of IP.

ARIPO: JPO holds bilateral meetings with the African Regional Intellectual Property Organization (ARIPO) and Botswana Companies and Intellectual Property Authority (CIPA) ⁴

The Director-General of the Japan Patent Office (JPO)'s Patent Examination Department (Mechanical Technology), Mr Morooka Kenichi, held bilateral meetings with the African Regional Intellectual Property Organization (ARIPO) and Botswana's Companies and Intellectual Property Authority (CIPA), during the 19th Session of the ARIPO Council of Ministers in Gaborone, Botswana.

The parties confirmed that they will continue to promote cooperation in the field of IP through support utilizing the WIPO Funds-in-Trust Japan Industrial Property Global, which is a voluntary contribution made by the Japan Patent Office (JPO) to WIPO.

Gambia: Gambia joins TMclass⁵

The Gambia Industrial Property Office (GIPO) has announced that it will use and accept the terms from the harmonized database of goods and services (HDB) in TMclass with effect from 18 December 2023. This brings the total number of participating national and regional IP offices, including ARIPO, OAPI, WIPO and the EUIPO, to 96.

TMclass offers users the opportunity to search for and translate goods and services to and from any of the 44 languages available, as well as verifying the terms' correct classification under the Nice classification.

³ <https://www.jpo.go.jp/e/news/ugoki/202312/2023120702.html> (2023.12.7)

⁴ <https://www.jpo.go.jp/e/news/ugoki/202312/2023120703.html> (2023.12.7)

⁵ <https://afripi.org/en/news/gambia-joins-tmclass> (2023.12.18)

Morocco: 36th OMPIC Board of Directors, December 2023⁶

At an end-of-year meeting of the Board of Directors of OMPIC (the Moroccan IP office) certain facts were presented:

- The IP filing figures for Morocco for 2023 are up on those for 2022, with trademark filings up 5.5%, industrial designs up 7%, and patents of Moroccan origin up 7%.
- The Global Innovation Index puts Morocco at 28th place.

OAPI: Côte d'Ivoire will have an Intellectual Property Documentation Centre (CDPI)⁷

On 21 December 2023, it was announced that Côte d'Ivoire is going to have an Intellectual Property Documentation Centre (CDPI). Present at the ceremony were the Director General of OAPI, Denis L Bohoussou, members of Côte d'Ivoire's government, and heads of companies and groups of inventors and researchers.

The notification says that the plan is to build a CDPI in each OAPI Member State in order to promote the dissemination of scientific and technical information, and to extend OAPI's actions at the national level, in particular through the provision of local IP services to national users. It further says that the new building will also house the services of the Ivorian Intellectual Property Office (OIPI), and bring to 14 the number of CDPIs that are operational.

OAPI: At the administrative Council of OAPI, the JPO expressed willingness to actively cooperate with Africa⁸

The Director-General of the Patent Examination Department (Mechanical Technology) of the JPO, Mr Kenichi Morooka, recorded a video message that was shown at the 63rd session of the OAPI Administrative Council in Burkina Faso on 12 December 2023.

In his message the Director-General said that new services applying cutting edge technology are spreading within Africa, with the result that Africa is '*leapfrogging*' in a way that is attracting international attention. He said that it is critical to create a business environment that is conducive to innovation, and that the JPO will continue to actively co-operate with Africa in the field of IP.

Rwanda: Rwanda signs host agreement for African Pharmaceutical Foundation⁹

On 18 December 2023, the government of Rwanda signed an agreement in terms of which it agreed to host the African Pharmaceutical Technology Foundation (APTF), a Pan-African agency that promotes technological use in the medical ecosystem of the continent. The APTF was set up and approved by the African Development Bank (AfDB) Board of Directors in 2022.

A news article says that the APFT will negotiate access to IP-protected manufacturing processes and build an ecosystem support for revamping local pharmaceutical industrial sector in Africa.

⁶ <http://www.ompic.ma/fr/actualites/36eme-conseil-dadministration-de-lompic-18-decembre-2023> (2023.12.19)

⁷ <http://www.oapi.int/index.php/en/component/k2/item/839-!%E2%80%99oapi-s%E2%80%99implante-en-c%C3%B4te-d%E2%80%99ivoire> (2023.12.)

⁸ <https://www.jpo.go.jp/e/news/ugoki/202312/2023121802.html> (2023.12.18)

⁹ <https://www.newtimes.co.rw/article/13170/news/health/rwanda-signs-host-agreement-for-african-pharmaceutical-foundation> (2023.12.18)

South Africa: JPO holds a Bilateral meeting held with the Companies and Intellectual Property Commission (CIPC) of South Africa¹⁰

The Director General of the JPO Patent Examination Department (Mechanical Technology), Mr Morooka, visited the South African IP registry, the Companies and Intellectual Property Commission (CIPC), on November 23, 2023. The parties exchanged information regarding recent developments in both offices, as well as views regarding cooperation in the patent field.

The posting says that the *'JPO will continue to promote cooperation with African IP offices in order to develop an environment wherein the intellectual property may be swiftly and smoothly secured, as well as properly protected, throughout Africa.'*

South Africa: Questions over bill's property definition¹¹

The Expropriation Bill B23-2020 that allows for the expropriation of property has been presented to the South African parliament. But concerns have been raised that the term *'property'* has not been clearly defined, making it unclear whether it could include IP, and therefore allow for the expropriation of IP. The general consensus seems to be that it does not include IP, but it would clearly be preferable if this were made clear in the legislation.

South Africa: Takis Fuego infringes Takis Biltong¹²

In a Supreme Court of Appeal case, *Grupo Bimbo S.A.B. v Takis Biltong (293/2022) (2023) ZASCA 175, 14 December 2023*, the court ruled that the registered trademark Takis Fuego in class 30 for confectionery and bread-based products was likely to cause confusion with an earlier registration for the trademark Takis Biltong in class 29 covering meat-based products. The registration for Takis Fuego was, according to the court, an entry wrongly made, and it was therefore expunged.

South Africa: Unpacking the positive sides of fair use for society and creatives at large¹³

The issue of whether South Africa's copyright legislation (which has been in the process of amendment for a number of years) should make provision for a *'fair dealing'* defense (as it has in the past), or rather a broader US-style *'fair use'* defense rumbles on. In a recent article in the Daily Maverick newspaper one of the proponents of fair use, Professor Denise Nicholson made these points:

- Apart from the USA, more than 10 other countries have adopted fair use in their copyright laws, the most recent being Nigeria.
- Various parties have confirmed there was *'no evidence of catastrophic damage, loss of employment, or withdrawal of investments in the creative industries due to fair use'*. Instead respondents paint a positive picture of fair use as *'an enabler and the balancing tool between the interests of creators and the general public'*.

¹⁰ <https://www.jpo.go.jp/e/news/ugoki/202312/2023120701.html> (2023.12.7)

¹¹ <https://www.iol.co.za/mercury/news/questions-over-bills-property-definition-e1d48adc-72ac-4f0e-9031-3abd457060ab> (2023.12.11)

¹² <https://www.saflii.org/za/cases/ZASCA/2023/175.html> (2023.12.14)

¹³ <https://www.dailymaverick.co.za/article/2023-12-21-unpacking-the-positive-sides-of-fair-use-for-society-and-creatives-at-large/> (2023.12.21)

2. Additional topics

ARIPO:

Second communications training equips national IP communications officers with cutting- edge strategies to promote the ARIPO intellectual property system (2023.12.11)

<https://afripi.org/en/news/second-communications-training-equips-national-ip-communication-officers-cutting-edge>

Twebaze discusses the importance of GIs (2023.12)

https://www.linkedin.com/posts/bemanya-twebaze-922255192-last-week-i-led-a-three-day-inaugural-study-activity-7142767147054784513-mOd1/?utm_source=share&utm_medium=member_ios

Kenya:

Intellectual property in Kenya (2023.12.1)

<https://borgenproject.org/intellectual-property-in-kenya/>

Anti-Counterfeit Authority (ACA) and NACADA forge alliance to combat counterfeits and drug abuse (2023.12.4)

<https://www.aca.go.ke/media-center/news-and-events/467-anti-counterfeit-authority-aca-and-nacada-forge-alliance-to-combat-counterfeits-and-drug-abuse>

Share genuine gifts this holiday season (2023.12.23)

<https://www.aca.go.ke/media-center/news-and-events/470-op-ed-share-genuine-gifts-this-holiday-season>

Liberia:

The Impact of Intellectual Property Rights on African Consumers (2023.12.21)

<https://www.liberianobserver.com/impact-intellectual-property-rights-african-consumers-0>

Malawi:

Innovators dared to protect their work (2023.12.18)

<https://www.africannewsagency.com/times-group-malawi/innovators-dared-to-protect-their-work-89aa34d6-c479-5f4e-a6ca-8ad3cd45a8c0/>

OAPI:

Substantive examination of patents discussed by OAPI Director General for possible future implementation (2023.12.5)

[linkedin.com/posts/oapi-linkedln-introduction-de-lexamen-quant-au-fond-activity-7137935835278094336-cCOX/?utm_source=share&utm_medium=member_ios](https://www.linkedin.com/posts/oapi-linkedln-introduction-de-lexamen-quant-au-fond-activity-7137935835278094336-cCOX/?utm_source=share&utm_medium=member_ios)

A guide to customs recordal in OAPI (2023.12)

https://www.linkedin.com/posts/africaipr-africaipsmehelpdesk-activity-7138828035666931712-UhNc/?utm_source=share&utm_medium=member_ios

Master's Degree in Patent Engineering (2023.12.17)

https://www.linkedin.com/posts/oapi-linkedln-formation-hybride-technologique-activity-7142565448205733889-m1gP/?utm_source=share&utm_medium=member_ios

South Africa:

Experts scratch heads as Moroccan king files the most trademarks in South Africa (2023.12.5)

<https://www.2oceansvibe.com/2023/12/08/everyone-is-curious-why-the-moroccan-king-filed-more-trademarks-in-sa-in-2022-than-anyone-else-including-amazon/>

Hawks seize counterfeit Lego worth almost R1 million (2023.12.8)

<https://www.citizen.co.za/witness/news/hawks-seize-counterfeit-lego-worth-almost-r1-million/>

Karoo Lamb earns trademark protection (2023.12.13)

<https://www.africanfarming.com/news/karoo-lamb-earns-trademark-protection/>

Sun International shields its Sun City brand from impostors (2023.12.19)

<https://www.businesslive.co.za/bd/companies/transport-and-tourism/2023-12-19-sun-international-shields-its-sun-city-brand-from-imposters/>

Zimbabwe:

Zimura makes its point at Sino-African Copyright (2023.12.3)

https://www.newsday.co.zw/thestandard/standard-style/article/200020394/zimura-makes-its-point-at-sino-african-copyright#google_vignette

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