**Intellectual Property in Uganda**

concept, nature and meaning

**Introduction**

Intellectual property and the rights that accrue to it were a strange phenomenon to the pre-independence era; the reason was not because there were no intellectual property rights anywhere else in the world. The major reason is simply because as part of the pangs of colonialism, our colonial masters could not permit the development of a law that in their opinion was irrelevant and later on detrimental to their own cause.

This explains why the very first traces of Intellectual property rights back in the early 50s (Trademarks Act 1953)1 were largely unknown and not used at all. Perhaps, one should also argue that the law was indeed unnecessary at that moment considering the level of industrialisation, political instability and low education among others.

However, in the post independence era and more specifically after 1986 during the NRM regime, the intention of having the Intellectual property rights in our laws was very clear. Intellectual property laws are undoubtedly very instrumental for any country’s economic progress.

**Intellectual Property**

The World Intellectual Property Organisation (WIPO) defines Intellectual Property (IP) as creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

**There are 2 categories of Intellectual Property (IP)**

* **Copyright and Neighbouring** Rights - literary and artistic works such as novels, poems and plays, movies, musical works, photographs, architectural designs, computer programmes and electronic databases.
* **Industrial Property** - inventions (patents), trademarks, industrial designs, and geographic indications

It can be presented from two perspectives: industrial property on the one hand, consisting of inventions (patents), brands, industrial drawings and designs, and geographic indications; and copyright on the other hand, comprising of literary and artistic works such as novels, poems and plays, films, musical compositions and art works composed of drawings, paintings, photographs and sculptures, as well as architectural creations.

Intellectual Property rights grant one exclusive rights to exploit and benefit from one's creation.

**The most Common Forms of Intellectual Property (IP) include; —**

* **Copyright -** Copyright law grants authors, artists and other creators’ protection or their literary and artistic creations - generally referred to as 'works'. Copyright - literary and artistic works (novels, poems, plays, newspapers, adverts, films, musical compositions, choreography, paintings, drawings, photographs, sculptures, architecture, maps, technical drawings, computer software, programmes, and databases) Neighbouring Rights - works of performing artists, producers, and those involved in broadcasting, or works derived from existing works
* **Trademark -** This is a distinctive sign that differentiates goods/services produced by individuals/organisations from others. It may consist of any word, symbol, design, slogan, logo, sound, smell, colour, label, name, signature, letter, numeral or any combination of them. It should also be distinctive, non-descriptive, likely not to cause confusion as well as capable of being represented geographically. The Trademark owner has the exclusive right to prevent other from using the same/confusingly similar mark.
* **Patent -** This is an exclusive right granted for an invention, either a product/process, that provides a new way of doing something/new technical solution to a problem. The invention must be new, non-obvious to a person not skilled in that field and useful. It gives the owner the right to prevent others from using the invention for 20 years.
* **Utility Model -** Similar to a Patent, it is granted for a new technical solution to a problem, or a product/process that is new and industrially applicable. It protects innovations for 10 years and has fewer requirements than a Patent.
* **Industrial Design -** This relates to the appearance of a product and aspects that can be seen/felt - ornamental or aesthetic. It must be a new and original design that may consist of 3-dimensional features (shape/surface) or 2-dimensional (patterns, lines or colour). Protection lasts 5 years and can be renewed for 2 or more consecutive 5 year terms.
* **Geographical Indication -** This is a sign that identifies goods as originating from a particular country, region or locality. In this instance, a given quality, reputation, characteristic is attributable to that region. This can be used as a tool to market goods that have special characteristics due to their region.

**The State of Intellectual Property in Uganda**

Uganda has various domestic laws providing for protection of different types of Intellectual property such as the Industrial Property Act 2014. Uganda has also ratified and is a signatory of both regional and international Intellectual Property instruments in order to harmonize enforcement with the systems of other jurisdictions.

Uganda has also ratified and is a signatory of both regional and international Intellectual Property instruments in order to harmonize enforcement with the systems of other jurisdictions. Uganda is a member of African Regional intellectual Property Organisation (ARIPO), the World Intellectual Property Organisation (WIPO), as well as World Trade Organisation (WTO).

As Uganda's technological and social-economic development improves, the country’s innovation strategies continue to depend on the level of technology and economic development, nature of goods and services the country produces, plus the kind of innovations it creates. The sources of innovation can be external, internal to the economy, or firm. These may include; activities which are science and technology-based such as R&D, human capital development (education & training), and external technology.

Despite Uganda’s milestone however, there is still need to establish strong infrastructure (e.g. in education), enhancing skills and learning abilities, increasing capacity at the firm level to utilize existing technologies in ways which are innovative, and strengthening the existing IP rules through protection and enforcement so as to support government efforts to increase local innovation.

IPRs are mostly effective in the presence of skills, information, capital and markets. With Uganda adopting an IPRs system, strong enough to stimulate domestic innovations and also permit exploitation of foreign technology, IP rules can be regulated to suit the level of development in Uganda, in order to support innovation and creativity, which is relevant to the social and economic needs of the country.

**Intellectual Property Rights**

The more commonly applied and used forms of intellectual property rights include: patents, trademarks and copyrights. As of the period 2011 to 2016, the number of applications for intellectual property rights stood at 47 for patents, 15,048 for trademarks, and 353 for copyright.

It is also interesting to note that according to the Global Innovation Index (GII) 2016, all patent applications made in 2011 and 2012 in Uganda were foreign while no patents of Ugandan origin were filed abroad in 2013, and over 70% of trademark applications were foreign.

The level of registration of intellectual property rights in Uganda remains low. By way of comparison, only eight patents were granted in 2015 compared to 207 in Kenya and 7,552 in South Africa in the same year.

Similarly, only 2,666 trademark rights were granted in Uganda in 2015, compared to 4,620 in Kenya; 35,418 in South Africa. No utility model and industrial design IP rights were granted in Uganda in 2015.

IPRs can hence spur innovation and creativity by giving creators a chance to profit from their works, and in return, the creative work can be made available to the public so that others can make use of it.

IPRs facilitate the transfer of knowledge and now many companies globally treat IP as central to their businesses and manage it strategically as a tool to increase firm productivity, market value, and securing returns on Research & Development (R&D) investment. Patents (and copyrights) for example allow employers to appreciate the fruits of creativity and skill of their prospective and current employees. So if rights are weak then workers have trouble measuring their value.

In addition, patents are often used as security for bank loans by patent holders and as investment by financial institutions. In this case, IPRs would help reduce the credit deficit prevalent in Uganda, and probably reduce the overly high interest rate (Prime lending rates have averaged to 20 percent in 2019). Trademarks and industrial designs also enable consumers to identify products and services of specific firms, as well as distinguish particular products from similar products or services.

Moreover, the protection of IPRs may perhaps be important in protecting market share and revenues. Weak protection of patents for example makes it more costly to protect inventions, so firms often look internally to resolve problems, which could be fixed easily by way of inter-firm partnerships.

Notable also is the fact that IPRs require continuous monitoring, which is the obligation of the rights owner. For example, there is need to monitor the market to identify any third party copying or imitating a product. This can be done at trade fairs, or enforced at the border points by the customs authorities to stop infringing goods from entering the local market.

IPRs widen the scope of investment by diversifying the economy to venture into non tangible aspects of property. Such will certainly provide an alternative into different ways of investment

Intellectual Property (IP) being an important part of day-to-day business decisions and new products, brands and designs consistently coming onto the market because of constant creativity and innovation, the need to protect the inventions and creative works of individuals now more than every is very important.

IPRs can also provide a viable incentive to inventors to invest more in exploring new fields which will eventually provide solutions to the world’s problems. Intellectual property rights create incentives for individuals and firms to invest in research and development, and to commercialize inventions and other creations by allowing individuals and firms to profit from their creative activities.3 It is stated, in this regard, that the grant of a IPRs confers great value on any business that has developed the idea, thus creating incentives for innovation and attracting financial investments

IPRs are key for a robust economic development; they have the power to frog leap any economy from a take off stage to a self reliant and independent economy. They influence industrial development and promote research but they are not so fundamental to be embedded in the Constitution, the present law is sufficient to acknowledge their relevance. Besides, they have been enforced by courts before and certainly, the courts have already taken notice of them through the famous doctrine of precedent.

**Importance of protection of intellectual property**

* innovators are able to benefit from their work
* legal protection of inventions encourages further spending on innovations
* further spending leads to economic growth by creating jobs thus improving livelihoods.
* IP significantly contributes to enhancing innovation and creativity by creating streams of revenue through fees collected from purchasing of the invention, licensing and this will lead to new cash streams for Ugandan businesses.
* Prospects for accessing public financing for applied research and development are also strongly tied to end-user utilization of research results, often within time frames that are far too short to facilitate comprehensive protection and commercialization of the associated intellectual property assets that are produced in these processes. Some higher education and research and development institutions are proactively establishing stronger end-user industry linkages, to facilitate more effective commercialization of their IP assets.

**Protection of intellectual property in Uganda**

Respect of Intellectual Property is important if IP rights holders are to benefit from protection granted by law.

Besides the international obligations, Uganda has set up some structures to effectively see the implementation of TRIP and in Uganda,it is only the High court which has jurisdiction to hear cases on patents, copyrights and Trade Marks.

On the other hand, The Uganda Registration Services Bureau, is responsible for administering Intellectual property rights, namely patents, trademarks, industrial designs and copyrights. It is also responsible for the registration of births, deaths, marriages and businesses.

In principle, the Ugandan law protects intellectual property rights. Uganda is a member of the World Intellectual Property Organization, a global specialised UN body responsible for encouraging creative activity and to promote the protection of intellectual property.

At the Domestic Level, the Uganda Registration Services Bureau (URSB) provides a standardized process for registering each type of intellectual property and allows investors to enforce their rights through the court system, but enforcement remains weak.

Other Agencies include, **the Uganda's Commercial Court** responsible for hearing intellectual property and trademark cases, **The Uganda National Bureau of Standards (UNBS)** standards regulation, the **Uganda Revenue Authority (URA)** and the **Uganda Police Force (UPF)** among others.

URSB in collaboration with the Uganda Police established an Enforcement Unit to facilitate enforcement against counterfeit and piracy. The URSB Enforcement Unit

**Technology and Innovation Support Centers (TISCs)**

The WIPO Technology and Innovation Support Center (TISC) program provides innovators in developing countries with access to locally based, high quality technology information and related services, helping them to exploit their innovative potential and to create, protect, and manage their intellectual property (IP) rights.

**Note:**

* The term of protection for a patent in Uganda in 20 years, and to remain in force, a patent holder is required to pay annual maintenance fees.
* The term of protection for a utility model is 10 years.

**You can file for IP Protection;**

* At the national level through **Uganda Registration Services Bureau (URSB),** the national IP office.
* At a Regional level through the **African Regional Intellectual Property Organisation (ARIPO**)
* at the international level through the **World Intellectual Property Organisation (WIPO)**

**Why the need for protecting and promoting Intellectual Property in Uganda?**

* It is both just and appropriate that a person putting in work and effort into an intellectual property creation has some benefit as a result of his/her endeavours.
* By giving protection to intellectual property many such endeavours are encouraged and industries based on such work can grow, as people realise that such work brings financial return.
* Intellectual property rights may also help to extend protection to such things as the unwritten and unrecorded cultural expression of many developing countries, generally known as folklore. With such protection they may be exploited to the benefit of the country and cultures of origin.
* Intellectual property rights provide incentive towards various creative endeavours of the mind by offering protection.
* Intellectual property rights give such creators official recognition.
* Intellectual property rights facilitate the growth of both domestic industry or culture, and international trade, and economic development.

**Ways of protecting intellectual property rights in Uganda**

* Ugandan businesses should use copyright to protect contemporary traditional cultural expressions of music, paintings and sculptures against any form of unauthorized usage such as reproduction, adaptation, distribution, broadcasting and other forms of communication to the public.
* businesses should register distinctive indigenous words, names, and symbols such as “Kazire” as trademarks; this combined with an appropriate marketing strategy, can increase consumer recognition of authentic and quality goods which will increase commercial benefits for indigenous enterprises.
* Registration of trade secrets will enable businesses to protect secret and commercially valuable information such as traditional manufacturing processes and recipes, preventing that information from being disclosed, acquired, or used by others without consent.
* Industrial designs (known as design patents in some jurisdictions) can be used to protect the aesthetic or ornamental aspects of a product rather than its functional aspects; that is, how it looks and feels rather than how it works or what it does. Industrial design rights can be relevant to a wide variety of products, ranging from handicrafts such as jewellery to textile (bark cloth) and fabric designs.
* Beyond its traditional use, intellectual property is now an asset through which companies can access financing. Uganda recently passed the Security Interest in Moveable Property Act, and the main purpose of this law is to provide for the use of movable property as collateral for credit. And Businesses that do not have fixed assets but assets that are created through IP will be used by businesses so as to get loans. IP enhances economic competitiveness because the value of IP is founded in its contribution towards the development and sustainable exploitation of human ingenuity and creativity.
* Utilisation of local IP rights’ protection can help boost the confidence of suppliers of proprietary technologies to avail and exploit their innovations in Uganda. With IP rights secured, suppliers can directly transfer and exploit their innovations through FDI and joint ventures. They may also exercise the option to grant local users the privileges to exploit their innovations, through licensing agreements, thereby contributing to accelerated industrial and socioeconomic development.
* There is also need to create new streams of financing that can support long-term creation of highly-quality products without making succumbing to pressures of short-term loans. Uganda is ready for its indigenous angel investors that shall support businesses in the private sector to carry out research and develop world-class products.

In order for the above to work, Ugandans have to work with enforcement agencies and institutions such as the Uganda Registration Services Bureau (URSB) which has various departments for the purpose of protection of intellectual property rights in Uganda.

There must be deliberate attempt by both private and public institutions so as to exploit and utilize this area of the law for the development of businesses.

**Intellectual property law**

Just as the law protects ownership of personal property and real estate, so too does it protect the exclusive control of intangible assets. The rationale of I.P laws is to give an incentive for people to develop creative works that benefit society, by ensuring they can profit from their works without fear of misappropriation by others.

Intellectual property in a broader sense refers to creations of the mind, which among others include inventions, literary and artistic works, designs, and symbols, names and images used in commerce. However, in my own understanding.

Intellectual Property (IP) is well thought-out a concept that describes the application of the mind to develop something new or original. This thus means that Intellectual property law is interested in protecting the product of human mind or product of creation.

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Hence Intellectual property rights are important since they protect the right of the owners of intellectual property to earn money from the created property, thus stimulating others to come up with intellectual property of their own.

Therefore, Intellectual property law is classified into different types of I.P rights which among others include Copyrights, Patent law, Trade Secrets and Trademarks with a copyright law as a law intended to protect and to reward original expressions embodied in tangible material or fixed form.

**The laws pertaining IP protection in Uganda.**

Ugandan law protects intellectual property rights, but the government rarely enforces laws aimed at preventing piracy and the distribution of counterfeit goods.  While the URSB provides a standardized process for registering each type of intellectual property and allows investors to enforce their rights through the court system, enforcement remains weak.  Uganda signed the World Intellectual Property Organization’s (WIPO) Patent Law Treaty in 2000 but has yet to ratify it.  Uganda is not listed on the United States Trade Representative Special 301 report or on the notorious market report.  In August 2021, Uganda did adopt the African Regional Intellectual Property Organization (ARIPO)’s draft protocol on regional voluntary registration of Copyright and Related Rights.  The Protocol was adopted by ARIPO member countries with the aim of ensuring African creators benefit from their creative works.

Currently, Uganda’s principal legislation includes the Industrial Property Act 2014, the Trademarks Act 2010, the Copyright Act 2006, the Trade Secrets Act and the Geographical Indications Act. Related policies include the Science Technology and Innovation policy, the Industrialization Policy as well as the Trade Policy of Uganda.

Laws pertaining IP protection in Uganda link http://www.wipo.int/wipolex/en/profile.jsp?code=UG various

**Way forward**

Effective enjoyment and management of Intellectual Property Rights stands on strong enforcement mechanisms. Without such mechanisms, there can never be any orderly IP system not only within specific local jurisdictions but also globally in terms of harmonization.[19](https://www.blogger.com/blogger.g?blogID=369647190647832919" \l "sdfootnote19sym)

**Appreciating IP in our local perspective**

The state of affairs concerning IP and Patents in Uganda and Africa in general has not been fully studied, and there is a need for more comprehensive work to identify trends, gaps, successes and challenges with a view to making informed decisions in the future. Extending the period of TRIPS implementation is just one step in addressing the unique challenges of LDCs in Africa. Above all, there is a need to address the underlying issues beyond the extension, such as helping LDCs to build their technological base and better integrate IP and development, rather than focusing exclusively on mere implementation and compliance issues under TRIPS.

**Sensitization of the law.**

Many innovators in Uganda, think that the existing laws are not favorable and some are not aware of them. Despite a wave of technological innovation washing over the continent, many inventors are working in secret, doing without peer feedback for fear of having their ideas pinched by copycats. For this reason, some are waiting for the revised laws to assert their rights.[20](https://www.blogger.com/blogger.g?blogID=369647190647832919" \l "sdfootnote20sym) Consequently, the responsible bodies should carry out a robust sensitization job to make IP right owners aware of the opportunities arising out of innovation especially Uganda which is still a developing country.

**Getting enough IP experts**

A number of provisions in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) encourage the establishment of such a technological base and commitment of developed countries to provide incentive to institution, firms to promote transfer of technology to Low Developed Countries (LDCs).

However, the discussions on LDCs in general and their conformity with TRIPS has several gaps, one of which is the lack of information on the practical situation on the ground, as well as the precise legal status of countries concerning TRIPS.

Therefore, Financing of university education on Intellectual property and technology and provision of IT facilities to aid learning culture, research and application of technical know-how. This Intensive and regular training of these IP personnel and practitioners, will work to keep abreast of current developments in contemporary IPRs.

Further more, There is still an inadequate number of specialized lawyers to teach Intellectual Property law, as a result of which, it is a hardly appreciated field of law in practice. Neither has it brought out enough fully knowledgeable persons to join the requisite institutions where such manpower is needed. Poor funding of LP related institutions has also slowed down the process of updating the IP- related legislation and general operation of such institutions, thus slowing down further the road map to full implementation of the TRIPS Agreement in Uganda and more significantly, the establishment of an LP Policy framework in Uganda.[21](https://www.blogger.com/blogger.g?blogID=369647190647832919" \l "sdfootnote21sym)

The missing ingredients are;

Formulate an Integrated-IP policy: The fragmented IP laws and policies need strategic in-depth analysis and analysis to inform design of an Integrated IP policy. For instance, the tourism sector for Uganda has various IP components embedded especially such as Traditional Knowledge, Traditional Cultural Expressions and Eco-tourism.

Stakeholder Alliances: Often, IP rights concerns arise amongst actors in the private sector, it is paramount that actors in the private sector supported by the Government form alliances. One such example is the interaction between traditional herbalists and contemporary medicine by THETA Uganda. The alliances, help generate momentum and increased bargaining power to advocate and shape public policy.

Lastly embrace protection of IP first by appreciating that its purpose is not the exclusive benefit or advantage of individuals or corporations, but of the public or community at large through the activities of inventors and creators.