Enforcement of Intellectual Property Rights in Africa: Book Promotion in the Time of COVID

By:

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As we put the finishing touches to our manuscript in August 2019, little did we know that the release of our book and the activities planned around it would be derailed by a tiny coronavirus. Initially scheduled to be launched in March 2020, the book came out in May 2020. Book launches which were already arranged in South Africa and Mauritius and planned all around Europe had to be cancelled or, as we prefer to think, postponed until better times.

The coronavirus thus forced us into an all-virtual book promotion, which in the end allowed us to touch a much larger public. Having written the first and only up-to-date and systematic study of the law and practice of intellectual property rights enforcement in all 54 African countries, it was only apt that we would set up the first ever six-part live webinar series on “Enforcement of IP Rights in Africa” in collaboration with the International Trademark Association (INTA). We

had the pleasure of presenting the introductory seminar in February 2021 and thereafter of moderating the five later sessions in the series. Joined by more than 20 government officials, practitioners, and brand owner representatives, we covered all four regions of the continent, highlighting the practical status of intellectual property rights enforcement in the key countries of each region. The last seminar was focused on local and international initiatives helping to increase capacity building and awareness as to the importance and benefits of IP rights in Africa.

Over the past year, we have organized numerous free webinars for right holders and their legal representatives (UNIFAB, German Anticounterfeiting Association, USPTO) including one in collaboration with Sarah Harris from Oxford University Press (Recording, available). We were also invited on the AFRO-IP's podcast *AFRO-LIVE* to talk about our book.

Far from suffering from writer's fatigue, we published 'The real problem of fakes in Africa: enabling factors and advice to rights holders' in the Journal of Intellectual Property Law and Practice (JIPLP) in April 2020 (with Nora Ho Tu Nam). We shared '10 tips and tricks for rights holders and their lawyers interested in doing business in Africa' in the GRUR Newsletter and discussed how text messages are being used in an innovative manner in Africa to fight counterfeit medicine on the *OUPblog*.

At every single event and following each publication, we were pleased by the response from the audience and readers. We found that there was a true interest in Africa and its economic potential by right holders and their representatives. At the same time, we were often confronted with the idea that counterfeiting is an unsolvable problem in Africa, a situation which – according to many – must simply be accepted. This idea (and one might even say this myth) is one of the reasons, which motivated the writing of our book. We wrote the book to disseminate knowledge to colleagues and right holders and to give companies confidence to grow and to preserve their intellectual property in the African markets. Counterfeiting undoubtedly is an issue in Africa, but far from being an unsolvable one. There are numerous avenues on the continent through which right holders and their representatives may protect themselves and the African consumer from the dangers of counterfeiting. There is always a remedy in every country that right holders and practitioners can choose to

defend and enforce their rights. All African countries, to the exception of Burundi, criminalize copyright and trade mark infringement. In Algeria, Egypt, Ivory Coast, Kenya, Mauritius, Morocco, Senegal, Tunisia and South Africa, formal customs recordals exist and counterfeit goods may be seized by customs upon importation into the country. In Ghana, Mozambique, Nigeria, and Tanzania, there are no formal recordal, but customs will act upon notification by right holders.

We will however be the first to admit that the situation regarding enforcement of IP rights in Africa is far from perfect. There are numerous lacunas including the fact that in practice the enforcement of IP rights may be burdensome and costly. In some countries, modern laws have been adopted without the necessary accompanying regulations to ensure their smooth and effective application. The police and the judiciary who are at the frontline of the fight against counterfeiting often complain of a lack of adequate information to deal with the challenge of counterfeiting. This book is our contribution to the debate: we wish to facilitate the sharing of information amongst governments, judges, practitioners, and law enforcement authorities and subsequently foster best practices. We hope that by providing in one volume and in a comprehensive and clear manner the various enforcement mechanisms in all 54 African countries as well as in the two main regional IP organizations, ARIPO and OAPI, we will make it easier to promote best practices. We hope African governments and law enforcement authorities will be inspired by mechanisms set up in other African countries and will in turn adopt such mechanisms in their own country.

As we approach the one-year anniversary of the launch of our book, we look back at an incredible year. The past year upended our plans, but in doing so challenged us to think out-of-the-box. Ultimately, this has allowed us to touch of wider audience on various continents through our webinars and publications. We have also e-met practitioners and government officials from all around the continent and have had fruitful discussions about the future of IP enforcement in Africa.

Enforcement of intellectual property rights in Africa is not always a straightforward task. Plans crafted with reference only to enforcement in developed countries will not be a perfect fit to the African situation. Still, there are possible solutions to the issue of counterfeiting and piracy in Africa. Protective mechanisms are a reality. Passionate professionals both within the

government and among law practitioners are eager to learn and for the current system to evolve into one which is efficient, and which adequately protect the African consumer from the dangers of counterfeiting. Our final word of advice to right holders would therefore be to surround yourself with professionals who know the continent and who will be able to craft the best possible strategy aligned with expectations and budget.

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