

The second 'Scramble for Africa' reveals need for IP rights protection

For the second time in history, the African continent has become a focal point for global expansion. As a result, valuable goods, services and intellectual property are being exported into Africa. With this expansion comes the reality of increased demand, and competition and the risk of imitation. It is therefore crucial that intellectual property rights are adequately protected before embarking on any expansion strategy.

By [Carla Collett](#) 25 Aug 2017



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Any intellectual property expansion strategy must be structured to optimally protect intellectual property rights and brand value. Some of the factors to be taken into account are:

- Trade mark, design and patent registrations. These rights are territorial and must therefore be separately applied for in each jurisdiction in which an organisation trades or plans to trade in the future. It is important to note that many African territories do not protect common law rights, which essentially means that without the registration of trade marks in these territories, brands cannot be protected from infringement by third parties. There are two regional intellectual property offices operating in Africa, being the African Regional Intellectual Property Organisation (ARIPO) and the African Intellectual Property Organisation (OAPI). An ARIPO registration facilitates the central filing of trade marks, designs or patents in any or all of the designated member states. Although a single application is filed to cover more than one designated member state, the registration which results is essentially a national registration in each designated member state. An OAPI trade mark, design or patent registration extends automatically to all 17 member states. The protection of trade marks in strategic territories and territories which form part of retail distribution routes is also a useful mechanism in the fight against counterfeiting, which is an ever present reality when trading on the African continent.
- Domain name registrations. As a defensive brand strategy, a separate country code or generic top level domain name should be obtained in each jurisdiction of interest. Domain names are granted on a first come first serve basis and the registration process is relatively quick and inexpensive.
- Licencing or distribution arrangements. There are numerous ways in which to distribute products or

services throughout Africa. An important element which is often overlooked is the manner in which intellectual property ownership, use and enforcement is governed between the relevant parties. It is therefore prudent to secure licencing and/or distribution arrangements prior to conducting a full scale roll out of an African expansion strategy.

There are many considerations to be borne in mind in relation to the protection and exploitation of intellectual property rights in Africa. Therefore, in order to successfully compete in the African market, it is advisable to consider a holistic expansion strategy before scrambling into Africa.

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