

Committee on Development and Intellectual Property (CDIP)

Thirtieth Session
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PROJECT PROPOSAL SUBMITTED BY KENYA ON DEVELOPMENT OF
STRATEGIES AND TOOLS TO ADDRESS ONLINE COPYRIGHT PIRACY IN THE
AFRICAN DIGITAL MARKET

prepared by the Secretariat

1. By means of a communication dated November 9, 2022, the Kenya Copyright Board (KECOBO) submitted a project proposal on “Development of Strategies and Tools to Address Online Copyright Piracy in the African Digital Market”, for consideration of the 30th session of the CDIP.

2. The Annexes to this document contain the said proposal, developed with the support of the WIPO Secretariat.

3. *The Committee is invited to consider the Annexes hereto.*

[Annexes follow]

1. Project Code
[DA_4_10_11_45_01]
1.2 Project Title
Development of Strategies and Tools to Address Online Copyright Piracy in the African Digital Market – Project Proposal by Kenya
1.3 DA Recommendations
<p><i>Recommendation 4:</i> Place particular emphasis on the needs of small and medium-sized enterprises (SMEs) and institutions dealing with scientific research and cultural industries and assist Member States, at their request, in setting-up appropriate national strategies in the field of intellectual property.</p> <p><i>Recommendation 10:</i> To assist Member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with intellectual property.</p> <p><i>Recommendation 11:</i> To assist Member States to strengthen national capacity for protection of domestic creations, innovations and inventions and to support development of national scientific and technological infrastructure, where appropriate, in accordance with WIPO’s mandate.</p> <p><i>Recommendation 45:</i> To approach intellectual property enforcement in the context of broader societal interests and especially development-oriented concerns, with a view that “the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations”, in accordance with Article 7 of the TRIPS Agreement.</p>
1.4 Project Duration
36 months
1.5 Project Budget
501,200 Swiss francs, allocated for non-personnel resources.
2. Description of the Project
<p>The opportunities offered by digital markets have accelerated in African economies and opened new perspectives of growth to regional and national trade and the creative and manufacturing industries. According to the US International Trade Commission, “Africa is forecast to surpass half a billion ecommerce users by 2025, which will have shown a steady 17% compound annual growth rate (CAGR) of online consumers for the market.” New business models and consumer behavior are adapting to the digital ecosystem, affecting various stakeholders, including IP right holders and telecommunications operators.</p> <p>However, the vibrant creative industries of the continent, especially music, film and television, face a high level of copyright infringement, preventing them from fully benefiting from the possibilities of the digital economy. In such a dynamic economic situation, protecting IPRs in the digital environment represents an important policy objective and a practical challenge. Recognizing the importance of the digital economy, the African Union in 2020 adopted a “Digital Transformation Strategy for Africa (2020-2030)”, including the objective of strengthening the protection of intellectual property rights.</p>

The Project has the scope of assisting the beneficiary countries in effectively addressing online copyright infringement by examining potential enhancements of the regulatory framework, exchanging good practices, adopting cost-effective technical tools, conducting capacity-building activities, and providing customized technical assistance.

2.1 Project Concept

This Project will be implemented in Kenya, and three other African Countries.

It will consist of the following phases:

- Phase Zero: Preparation:
 - i. In-house stocktaking (i.e., budget provision plan, risk evaluation per beneficiary country, identification of partners, national authorities, telecommunications operators, IGOs, NGOs, trade and consumer associations);
 - ii. Consultation meetings with different stakeholder groups;
 - iii. Identify and secure experts/consultants;
 - iv. Development of country-level implementation plans.
- Phase One: Implementation

Part I:

i) "Mapping"

Conduct a study to assess the state of copyright enforcement and the nature and impact of online IP infringements in the beneficiary countries. The study will also cover the regulatory framework of telecommunications, the role of ISPs and payment service processors, and consumer behavior regarding online piracy.

ii) "Information-sharing and collaboration"

Using the study as a starting point, organize round-tables, conferences, and workshops at the national level to discuss the study's findings and further identify needs and shortcomings, facilitate dialogue among the stakeholders, share experiences and good practices on building respect for copyright, and identify the needs of participating countries for capacity building and technical assistance to enhance online enforcement of copyright.

iii) "Capacity-building and technical assistance implementation"

Organize and conduct customized capacity-building activities and target technical assistance according to the needs of stakeholders and within the legislative frameworks of the beneficiary countries; support the creation of technical tools; facilitate, where consensus exists, the conclusion of voluntary agreements of cooperation among the parties.

Part II:

The second stage of project implementation will aim at enabling the beneficiary countries to introduce or enhance enforcement mechanisms, as appropriate, to improve copyright enforcement online, and to equip officials responsible for copyright enforcement with the skills and understanding needed to achieve their objective, with a focus on the following proposed actions:

- i) Identification of appropriate online anti-piracy tools and infrastructure and the adoption of technical guidelines;
 - ii) Adoption of voluntary measures and site-blocking initiatives;
 - iii) Creation of training material, guidelines, and toolkits for officials and operators;
 - iv) Ongoing provision of capacity building for relevant officials.
- Phase Two: Project conclusion and evaluation

The main identified stakeholders relevant to the project are the following:

- IP Offices (Industrial and Copyright Offices)
- Telecommunications institutions
- National customs authorities
- National enforcement authorities
- Creative industries
- Legal professionals
- International Telecommunication Union (ITU)
- Advertising industries

2.2 Project Objective, Outcome and Outputs

The Project's **overall objective** is to assist the beneficiary countries in effectively addressing online copyright infringement.

The Project's expected **outcomes** are: (i) to enhance the legislative or infrastructural frameworks to better address online copyright infringement, and (ii) to improve the skills and knowledge of IP Offices, telecommunications agencies, law enforcement and other officials in relation to the protection of copyright in the digital environment.

To achieve that, the Project will aim to deliver the following **outputs**:

- a Study on the state of IPR enforcement and the impact of online IP infringement in the national digital economies of the participating countries.
- a compilation of potential enhancements of the legal and regulatory frameworks in the beneficiary countries, including the national domain name system (DNS), and potential voluntary arrangements between the beneficiary country governments and stakeholders to address online copyright infringement.
- technical guidelines to enable regulators in the telecommunications sector to take better account of copyright issues, including the possibility of site blocking and other technical measures to prevent copyright infringement online.
- training material and enhanced capacity among telecommunications and IP Office officials, as well as other relevant stakeholders, to tackle online copyright infringement and increased understanding and knowledge of the digital ecosystem and the importance of building respect for IP in the digital environment.

2.3 Project Implementation Strategy

The Project will be implemented based on the following **activities**:

Development of a Study to assess the state of IPR enforcement and the impact of online IP infringement in the national digital economies of the beneficiary countries. It will provide a thorough mapping of the digital ecosystem with a focus on:

- Assessment of the national IP legal systems, services, and infrastructures;
- Regulatory frameworks for telecommunications (including the role of Internet Service Providers (ISPs) and Payment Processors);
- Identification of the priority areas to be considered in the implementation of the Project.

Once the Study is finalized, the Project will put into action the following activities:

- a) Organize a consultation meeting with the beneficiary countries to kick off a public/private cross-sectoral dialogue. The meeting will seek to establish a needs assessment in light of the Study. It will establish a roadmap and schedule for future consultation meetings to assess the progress of the Project. Periodic meetings with stakeholders will be held.
- b) Facilitate a dialogue among the relevant stakeholders, with a view to identifying gaps in existing technical and legal provisions and possible voluntary measures to reduce online copyright infringements.
- c) In dialogue with stakeholders, develop specifications for legal and technical arrangements that would facilitate the implementation of site blocking and other technical measures to prevent copyright infringement online.
- d) Develop and deliver a number of capacity-building activities to provide information and expert guidance on the nature of digital piracy, business models of illegal operators, and effective methods to disrupt and prevent online copyright infringement.
- e) At the end of the project implementation, some awareness raising material (such as videos or brochures) of projects results will be developed with the aim to better disseminate the successful project outputs.

While delivering the above mentioned strategy, WIPO will liaise and cooperate with the International Telecommunication Union (ITU) if and where possible. In particular, cooperation will be sought with ITU's Study Group 11: Signaling requirements, protocols, test specifications and combating counterfeit telecommunication/ICT devices.

2.4 Project Indicators

<u>Project objective</u>	<u>Objective indicator</u>
Effectively addressing online copyright infringement.	A 30% increase in numbers of enforcement actions undertaken by public authorities in the beneficiary countries. ¹

¹ The 30% increase in the number of enforcement actions undertaken by the public authorities in the beneficiary countries will be measured by Member States' reporting over the 12 months following the implementation of the project.

<u>Project outcomes</u>	<u>Outcome indicators</u>
Enhanced legislative or infrastructural frameworks to better address online copyright infringement.	Legislative or infrastructural provisions deemed appropriate to enhance respect for copyright online – identified; and suggested amendments to their legislation, provided accordingly.
Improved skills and knowledge of IP Offices, telecommunications agencies, law enforcement and other officials in relation to the protection of copyright in the digital environment.	At least 50% of the relevant stakeholders (IP Offices, telecommunications agencies, law enforcement and other officials) in the beneficiary countries demonstrated improved skills and knowledge on copyright protection in the digital environment. ²
<u>Project outputs</u>	<u>Output indicators</u>
A Study on the state of IPR enforcement and the impact of online IP infringement in the national digital economies of the participating countries.	Study delivered within the agreed timeframe.
A compilation of potential enhancements of the legal and regulatory frameworks in each of the beneficiary countries, including the national domain name system (DNS), and potential voluntary arrangements between the beneficiary country governments and stakeholders to address online copyright infringement.	4 compilations (one in each beneficiary country) of potential enhancements to the legal and regulatory frameworks and of potential voluntary arrangements between the beneficiary country governments and stakeholders to address online copyright infringement, delivered within the agreed timeframe.
Technical guidelines to enable regulators in the telecommunications sector to take better account of copyright issues, including the possibility of site blocking and other technical measures to prevent copyright infringement online.	A toolkit providing technical guidelines for telecommunications regulators developed and published within the agreed timeline.
Training material and enhanced capacity among telecommunications and IP Office officials, the creative industries and legal professionals to tackle online copyright infringement and increased understanding and knowledge of the digital ecosystem and the importance of building respect for IP in the digital environment.	Training material developed, and trainings for the identified stakeholders held in each of the beneficiary countries, within the agreed timeline.
2.5 Sustainability Strategy	
<p>To ensure the sustainability of the project outputs all the relevant material and tools developed in the context of the project will be made available online. In addition, they will be presented to other Member States in the context of the CDIP and other information events.</p> <p>Beneficiary Member States will also be strongly encouraged to make those outputs available for broader use by the interested public, and to expand the collaboration network established. The training material prepared and used in the capacity building activities will be shared with the relevant stakeholders, to allow them to customize the material as needed, and use it in the future.</p>	

² The improved knowledge of at least 50% of relevant stakeholders will be measured by means of before-and-after surveys.

Updates to the sustainability strategy will be provided in the course of the project implementation.

2.6 Selection Criteria for Pilot/Beneficiary Countries

The project will be implemented in Kenya and in three other African countries. The selection of the countries will be based on the following criteria:

- An expression of interest from the relevant IP authorities;
- A stated willingness on the part of the government to enhance the effectiveness of online enforcement of copyright;
- Ratification of the WIPO Copyright Treaty (1996); and
- Commitment of the country to allocate the necessary organizational and human resources for the effective implementation of the project.

Member States wishing to participate in the project must submit their statement of interest by submitting the form contained in the Annex II to this document. In that statement, they must indicate the institution in charge of managing the project and appoint a person responsible for monitoring the project implementation in their respective countries (i.e., a National Focal Point).

2.7 Implementing Organizational Entity

Building Respect For IP Division (BRIP), Global Challenges and Partnerships Sector

2.8 Links to other Organizational Entities

Copyright and Creative Industries Sector
Regional and National Development Sector

2.9 Links to other DA Projects

Project on Cooperation on Development and Intellectual Property Rights Education and Professional Training with Judicial Training Institutions in Developing and Least Developed Countries (DA_3_10_45_01); and

Project on Copyright and the Distribution of Content in the Digital Environment (DA_1_3_4_10_11_16_25_35_01).

2.10 Contribution to Expected Results in WIPO's Program and Budget

The Project contributes to achieving the following expected results:

- 2.3 International dialogue and cooperation on Building Respect for IP.
- 4.2 Development of balanced and effective IP, innovation and creative ecosystems in Member States.
- 4.3 Increased IP knowledge and skills in all Member States.

2.11 Risk and Mitigation

Risk 1: The success of the project relies on the effective cooperation amongst stakeholders that may potentially have divergent views and positions with regard to the subject matter.

Mitigation 1: Undertake extensive consultations with all the relevant stakeholders starting from the early stage of the project implementation. Conduct sharing sessions and ensure that everyone's positions are taken on board in the project implementation process.

Risk 2: Conditions in a selected country may impede the project implementation due to the lack of data on the state of IPR enforcement and the impact of online IP infringement in the national digital economies of the participating countries.

Mitigation 2: Seek the collaboration and stronger involvement of local governments and key stakeholders in order to retrieve relevant information.

Risk 3: Different levels of technical IP knowledge among stakeholders on the digital ecosystem and the importance of building respect for IP in the digital environment.

Mitigation 3: Conduct an assessment of the level of understanding and needs of all stakeholders, and customize the training material and content accordingly.

3. TENTATIVE IMPLEMENTATION TIMELINE

Deliverables	Quarters											
	2024				2025				2026			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4th
Pre-implementation activities: - Selection of beneficiary countries ³ - Appointment of national coordinators - Hiring of a Fellow												
Assessment of the national IP legal systems, services, and infrastructures; regulatory frameworks of telecommunications (including the role of Internet Service Providers (ISPs) and Payment Processors); and identify the priority areas to be considered in the implementation of the Project	X	X										
Approval of country-level project plans		X	X									
Development of the Study			X	X	X							
Organize consultation meetings with the beneficiary countries to kick off a public/private cross-sectoral dialogue		X		X								
Delivery of 4 compilations (one in each country) of potential enhancements of the legal and regulatory frameworks in each of the beneficiary countries						X	X					
Delivery of a toolkit with technical guidelines to enable regulators in the telecommunications sector to take better account of copyright issues							X	X	X			
Development and delivery of trainings and capacity building activities									X	X	X	
Awareness raising material and dissemination of projects results										X	X	X
Project Evaluation												X

³ Implementation will start once the pre-implementation activities have been delivered, that is: (i) all beneficiary countries of the projects have been selected, (ii) focal points have been appointed in each country, and (iii) the project implementation team is established.

4. PROJECT BUDGET BY OUTPUT

<i>(in Swiss francs)</i>	2024		2025		2026		Total
	Personnel	Non-Personnel	Personnel	Non-Personnel	Personnel	Non-Personnel	
Project coordination and implementation support	-	-	-	77,100	-	77,100	154,200
A Study on the state of IPR enforcement and the impact of online IP infringement in the national digital economies in beneficiary countries	-	24,000	-	-	-	-	24,000
Organize consultation meetings with the beneficiary countries to kick off a public/private cross-sectoral dialogue	-	40,000	-	-	-	-	40,000
4 compilations (one in each country) of potential enhancements of the legal and regulatory frameworks	-	-	-	84,000	-	-	84,000
A toolkit providing technical guidelines for telecommunications regulators developed and published within the agreed timeline	-	-	-	22,000	-	10,000	32,000
Development and delivery of trainings in each of the beneficiary countries of the digital ecosystem and the importance of building respect for IP in the digital environment	-	-	-	-	-	112,000	112,000
Awareness raising material and dissemination of projects results	-	-	-	-	-	40,000	40,000
Project evaluation	-	-	-	-	-	15,000	15,000
Total	-	64,000	-	183,100	-	254,100	501,200

5. PROJECT BUDGET BY COST CATEGORY

<i>(in Swiss francs)</i>	Travel, Training and Grants			Contractual Services					Total
	Staff Missions	Third-party Travel	Training and related travel grants	Conferences	Publishing	Individual Contractual Services	WIPO Fellowships	Other Contractual Services	
Activities									
Project coordination and implementation support	-	-	-	-	-	-	154,200	-	154,200
A Study on the state of IPR enforcement and the impact of online IP infringement in the national digital economies in beneficiary countries	-	-	-	-	4,000	20,000	-	-	24,000
Organize consultation meetings with the beneficiary countries to kick off a public/private cross-sectoral dialogue	20,000	20,000	-	-	-	-	-	-	40,000
4 compilations (one in each country) of potential enhancements of the legal and regulatory frameworks	-	40,000	-	-	4,000	40,000	-	-	84,000
A toolkit providing technical guidelines for telecommunications regulators developed and published within the agreed timeline	-	-	-	-	6,000	26,000	-	-	32,000
Development and delivery of trainings in each of the beneficiary countries of the digital ecosystem and the importance of building respect for IP in the digital environment	30,000	40,000	-	12,000	-	30,000	-	-	112,000
Awareness raising material and dissemination of projects results	-	-	-	-	-	20,000	-	20,000	40,000
Project evaluation	-	-	-	-	-	15,000	-	-	15,000
Total	50,000	100,000	-	12,000	14,000	151,000	154,200	20,000	501,200

[Annex II follows]

6. REQUEST TO PARTICIPATE AS A PILOT/BENEFICIARY COUNTRY

TEMPLATE FOR THE SUBMISSION OF REQUESTS TO PARTICIPATE AS A PILOT / BENEFICIARY COUNTRY	
Selection criteria	Brief description
1. Expression of interest	Confirmation that the intellectual property bodies of the requesting African country are interested in participating in the project.
2. Institutions and legal framework	Please indicate the national body or institution that oversees the subject matter of IP the project addresses (copyright) Links to the institution website and the legal texts should be provided, where possible.
3. Criteria as per DA project document	<ul style="list-style-type: none"> • Ratification of the WIPO Copyright Treaty (1996)
4. Need of support	Brief justification of the actual need for the support that will be provided by the project.
5. Commitment	Confirmation that the requesting country is committed to devoting the necessary resources and logistical support as needed for the effective implementation of the project and its sustainability.
6. National Coordinator/ National Focal Point	The requesting country should propose a person, along with the person's position and organization, to act as national coordinator for the duration of the project and as the country's institutional representative.
7. Comments	Any other information the requesting country wishes to provide.

[End of Annex II and of document]