



Dear Client,

The past few months in Kenya can only be described as a rollercoaster of activities. As we all try to keep up with the bustle of activity sweeping Kenya, we welcome you to this year's ninth issue of IP monthly, filled interesting articles and developments. We hope you enjoy this newsletter and find it informative.

Developments in the Intellectual Property arena

Trademark

Latest EU trademark reforms: what you need to know

On Sunday, October 1, the second batch of reforms to the EU trademark system will come into force. The first wave of changes took place in March last year, with the implementation of the new trademark regulation (2015/2424).

To read this story click [here](#)

Source: WIPR

New Balance wins record China trademark award

A Chinese court awarded the US sportswear firm more than 10 million yuan (GBP1.2m; USD1.5m). Lawyers believe it to be the highest award to a foreign company in a trademark dispute in China.

The country has been tightening its laws to tackle the widespread

Patents

Five ways that IP management systems have failed attorneys

Dealing with Intellectual Property management technology can be a high headache for attorneys. Most solutions have historically catered to the back office and provided primary support to paralegals, docketers, and administrative roles.

To read this story click [here](#)

Source: The Patent Lawyer Magazine

Gillette files lawsuit against Edgewell Personal Care for patent infringement

The Procter & Gamble company (NYSE:PG), through its wholly owned subsidiary The Gillette company, LLC, filed a patent infringement lawsuit today in the U.S. District court of Connecticut against

Tensions bubble over in lush bath bomb dispute

Connecticut-based Tower Laboratories, a manufacturer of effervescent products, has hit cosmetics company Lush with a patent infringement lawsuit. At the centre of the dispute is Tower's US patent number 6,121,215, called "Foaming effervescent bath product".

To read this story click [here](#)

Source: WIPR

Copyright

PGA will not 'putt up' with copyright infringement

The Professional Golfers' Association (PGA) has sued a California-based man running a YouTube account allegedly showing copyrighted golf tournament footage to help sell his book.

To read this story click [here](#)

Source : WIPR

problem of trademark abuse.

To read this story click [here](#)

Source: BBC News

Operations halt at South Sudan trademark Registry

South Sudan agents have confirmed that operations at the Trade Marks Office remain suspended. Sources indicate that a group of seven law firms handling matters were scheduled to meet the Minister under whom the Trade Marks Office falls but he cancelled the meeting and has not given them audience since. We remain hopeful that the issues will be promptly and amicably resolved.

Rubik's Cube owner looks to solve trademark problem

The company that owns the rights to the Rubik's Cube has sued Duncan Toys Company and Toys "R" Us for allegedly creating and selling knock-off versions of the famous puzzle.

To read this story click [here](#)

Source: WIPR

Nice classes: heading towards harmonisation

A cloud computing company called Uber has asked the US District Court for the Northern District of Florida to enjoin taxi-hailing company Uber (Uber Tech) from using the Uber name, claiming it infringes its trademark.

Edgewell Personal Care company and several subsidiaries.

To read this story click [here](#)

Source: P&G Website

Beware conditional limitations when drafting patent claims

Buried in the claim language, conditional limitations may be a vulnerability in an otherwise valuable claim. A conditional limitation is a claim feature that depends on a certain condition being present. For example, when or if condition X is present, feature Y is implemented or has effect.

To read this story click [here](#)

Source: IP watchdog

UPC: Summer recess update

Starting with the dreaded B-word, the Unified Patent court made it into a Brexit related press conference with Michel Barnier recently where the possibility of moving the London part of the central division of the UPC was raised.

To read this story click [here](#)

Source: IP Copy

Nasdaq takes on rival exchange over patents and trade secrets

Electronic stock exchange Nasdaq has taken on a rival over the alleged misappropriation of trade secrets and patent infringement.

Court bars MCSK from collecting music royalties

The court ruled the case in accordance with the Copyright Act as stipulated in the Constitution, which states that "no person or association of persons shall commence or carry on the business of a copyright collecting society except under or in accordance with a certificate of registration."

To read this story click [here](#)

Source : Capital News

Use of iPhone recording not fair, says judge in 'Dr Phil' case

A former employee from TV programme "Dr Phil" has been unsuccessful in her bid to claim that an iPhone recording of a clip from the show was fair use as she planned to use it in a lawsuit.

To read this story click [here](#)

Source : WIPR

Starbucks settles unicorn infringement charge with Brooklyn café

Multinational coffee company Starbucks has settled a dispute over the alleged infringement of a unicorn-themed drink. Back in May, a New York City café, The End Brooklyn, sued Starbucks at the US District Court for the Eastern District of New York, accusing the conglomerate of infringing The End's trademark for 'Unicorn Latte'.

To read this story click [here](#)

Source :WIPR

To read this story click [here](#)

Source: WIPR

Ruling states Cheerios cannot trademark the color yellow

In a ruling from the US trademark court office, Cheerios have been denied the trademark rights to the color yellow for breakfast cereals.

To read this story click [here](#)

Source: The Trademark Lawyer Magazine

Life after Tam: the impact on dilution

The US Supreme court's ruling in Matal v Tam may have consequences for trademarks of a scandalous nature, and there may also be implications for the area of tarnishment, says Roberta Jacobs-Meadway of Eckert Seamans.

To read this story click [here](#)

Source: WIPR

Harley-Davidson steps up fight against Chinese fakes with another suit

Motorcycle manufacturer Harley-Davidson has filed another trademark infringement lawsuit against a group of Chinese counterfeiters.

To read this story click [here](#)

Source: WIPR

Kodi in an ironic trademark infringement

To read this story click [here](#)

Source: WIPR

New CIPIT Research: Do Patents, utility models encourage Innovation in Kenya?

In the article, it is observed that traditional measure of innovation at the country level is the number of patents filed and granted. However it is argued that this may not be an appropriate method for measuring innovation in developing countries in Africa, particularly since many patent offices on the continent are ineffective or inactive.

To read this story click [here](#)

Source: Strathmore University Centre for Intellectual Property and Information Technology Law (CIPIT)

No more easy patents in South Africa

The new draft of the intellectual property (IP) policy, released by the department of trade and industry, paves the way to end the country's "extraordinarily and unjustly high" rate of granting patents. The policy was published in the Government Gazette two weeks ago for comment, and has been welcomed by activists and academic experts in the field.

To read this story click [here](#)

Source: fin24

Monkey selfie: warring parties reach settlement over court case

A settlement has been reached in a lawsuit over who owns the copyright of selfie photographs taken by a monkey. Under the deal, the photographer whose camera was used agreed to donate 25% of any future revenue from the images to charities dedicated to protecting crested macaques in Indonesia, lawyers for an animal rights group said.

To read this story click [here](#)

Source : the Guardian

Tattoo company claims NBA game images not fair use

The makers of a National Basketball Association (NBA) video game can't argue the use of NBA players' tattoos in the game is fair use, according to a tattoo company.

To read this story click [here](#)

Source: WIPR

'Grinch' parody play gets go ahead from court in copyright claim

Dr Seuss Company, the business which owns the rights to the book "How the Grinch Stole Christmas", has failed in its bid to prevent a play deemed as a "transformative" parody from going ahead.

To read this story click [here](#)

Source :WIPR

lawsuit

Kodi, a free and open-source media player software application that lets you stream anything on any device, has been the forefront of many table topics at IP conferences around the world this year. The problem being the copyright to the films and TV shows they are allowing users to stream.

To read this story click [here](#)

Netflix switches horror for humour in stranger things takedown letter

Many brands have faced negative publicity after sending a cease-and-desist letter which then goes viral, but it looks like Netflix is definitely doing something right. This week, Netflix hit the headlines for sending a themed cease-and-desist letter to an unauthorised "Stranger Things" bar

To read this story click [here](#)

Source : WIPR

Africa's percent and the digital future

Despite the compelling arguments why the statistics may be underreported, the statistics are still an indication that industry, both global and regional in Africa, have very thin IP portfolios covering the region when compared to other regions.

To read this story click [here](#)

Source: Mondaq

Interesting facts about September

- The month of September was the seventh month of the original Roman calendar which is where it got its name.
- It is the first month of the Autumn season.
- September is usually associated with fire because it was the month of the Roman god Vulcan who was the god of fire and the forge.
- September is the worst month for share prices which on average lose one per cent of their value.
- In 1752, September only had 19 days in the UK. The 3rd-13th were omitted in the change from Julian to Gregorian Calendar.

IMPORTANT DATES

- **1 September** : Eid-UI-Adha
- **11 September**: 9/11 Remembrance Day
- **13 September**: Fortune Cookie Day
- **16 September**: Mexican Independence Day
- **21 September**: International Peace Day
- **22 September**: Hobbit Day

Child development expert amends suit against Disney and Pixar.

A child development expert has amended her copyright complaint against entertainment companies Disney and Pixar over the 2015 animation film "Inside Out". Filed on Wednesday, September 20, at the US District Court for the Central District of California, the amended complaint alleged that Disney and Pixar had misappropriated the central concept and characters behind the movie.

To read this story click [here](#)

Source : WIPR

Counterfeits

Kering and Alibaba Join Forces in Battle Against Counterfeits

French luxury goods group Kering has dropped a lawsuit filed in New York against Alibaba and Alipay and agreed instead to co-operate with the two companies to safeguard intellectual property rights and fight counterfeiting.

To read this story click [here](#)

Source: BOF

Amazon to Expand Counterfeit Removal Program in Overture to Sellers

Amazon.com Inc is expanding a program to

Historical dates in September

- **1 September 1939:** Hitler's armies invaded Poland starting World War II in Europe.
- **2 September 1666:** Great Fire of London
- **3 September 1783:** The Treaty of Paris was signed by John Adams, Ben Franklin and John Jay, formally ending the American Revolutionary War between Britain and the United States
- **5 September 1997:** Mother Teresa died in Calcutta at age 87, after a life of good works spent aiding the sick and poor in India through her Missionaries of Charity order.
- **11 September 2001:** The worst terrorist attack in U.S. history occurred as four large passenger jets were hijacked then crashed into the twin towers of the World Trade Centre, killing nearly 3,000 persons
- **19 September 1893:** New Zealand became the first country to grant women the right to vote
- **22 September 1828:** Shaka, chief of the Zulus and founder of the Zulu empire, was killed by his two half-brothers.
- **24 September 1957:** President Dwight Eisenhower ordered the National Guard

remove counterfeit goods from its website this spring as part of a broader push to assure brand owners that the online retailer is an ally rather than a threat.

To read this story click [here](#)

Source: BOF

Our Work

In the month of September we have;

- Filed approximately 50 trademark applications across East Africa;
- Assisted with approximately 20 trademark renewals, records of mergers, changes of names and assignments of trademarks; and
- Filed five renewal of patent annuity.

to enforce racial integration of schools in Little Rock, Arkansas

- **25 September 25 1818:** First transfusion of human blood is performed at Guy's Hospital, London

Kenya: Historical Dates in September

- **3 September 1954:** Field Marshal Olekisiko, the leader and organiser of Mau Mau in the Rotin division of Maasailand and second-in-command to Dedan Kimathi since the arrest of General China, is killed in an ambush in Narok.
- **25 September 1963:** Kenya's National Anthem is finalised
- **26 September 1963:** The third and final Lancaster House constitutional Conference on Kenya starts
- **1 September 1964:** Lord Delamere becomes a Kenyan Citizen
- **14 September 1964:** Kenya's first national currency is issued and Central Bank of Kenya is opened
- **8 September 1971:** Mr Oginga Odinga former president of the defunct Opposition party, Kenya People's Union (KPU) and a former Vice-President of Kenya, re-joins Kanu
- **22 September 1982:** Raila Odinga charged with treason
- **1 September 2017:** Kenya Supreme Court declares Uhuru Kenyatta's victory in

the August presidential election as invalid and orders new vote to be held within 60 days

Companies (Amendment) ACT 2017 NO. 28 OF 2017

Company Names versus Trademarks

The Companies (Amendment) Act, 2017 has amended section 58 of the Companies Act, 2015 by adding new provisions to the effect that where a company does not comply with a notice issued under section 58 within fourteen days, the Registrar shall publish a notice in the Gazette to strike the name of the company off the Register of Companies (the Register).

The amendment to section 58 is also to the effect that as soon as the name of the company has been struck off the Register, the Registrar shall publish in the Gazette a notice indicating that the name of the company has been struck off the Register. Upon publication of the notice, the company is deemed to have been dissolved.

Please note that the striking off of a company from the Register does not affect the existing liabilities, if any, of every officer and member of the company. Such liabilities may be enforced as if the company had not been dissolved. Further, these provisions will not affect the powers of the court to liquidate a company whose name has been struck off the Register.

Amendments to Copyright law meant to tame infringement on ICT content

Managers of internet service providers (ISPs), who fail to expunge copyrighted content that has been illegally posted on their networks, could face up to five years in jail if Copyright (Amendment) Bill, 2017 which targets online intellectual property fraud is passed by parliament. Besides, ISP providers who continue transmitting such material 48 hours after its legal owner has informed them of the infringement through a formal takedown request, will be liable to a Sh500,000. Similarly, owners of blogs and websites that publish copyrighted literary content from newspapers or books without permission will also find themselves in trouble if the bill becomes law.

To read this story click [here](#)

Source: Business Daily

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