

# WIPO MAGAZINE

AUGUST 2016

No. 4



Making quality medicines affordable: an interview with CIPLA

p. 2



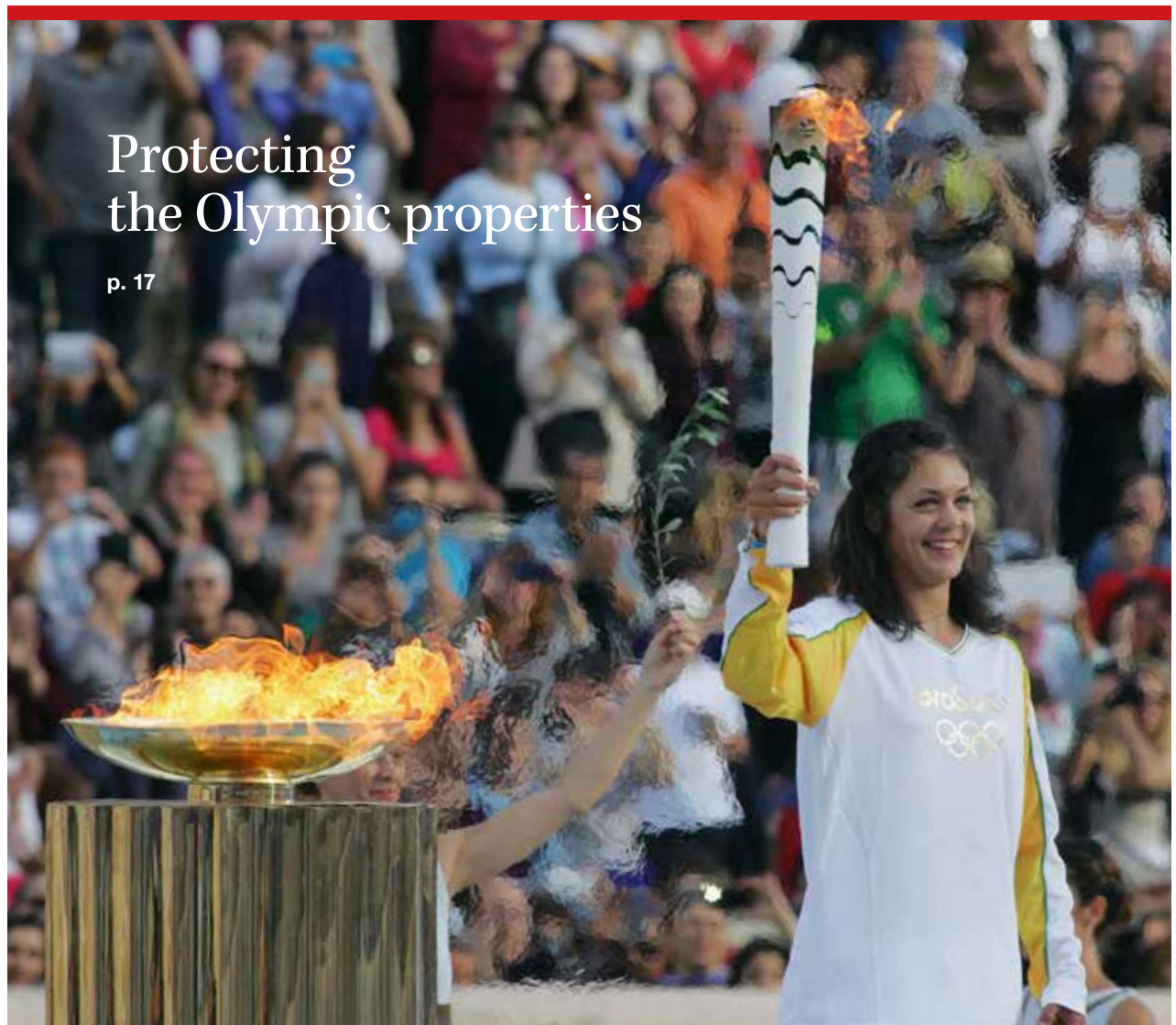
From milkmaids to multinational markets: Nestlé's branding story

p. 10



The Kectil program: a spotlight on young inventors in developing countries

p. 36



## Protecting the Olympic properties

p. 17



# Table of Contents

2	Making quality medicines affordable: an interview with CIPLA
7	The Madrid System turns 125
10	From milkmaids to multinational markets: Nestlé's branding story
17	Protecting the Olympic properties
22	Publishing in the digital market
26	WIPO Lex: building the world's IP law database
30	Strengthening Kenya's IP landscape
36	The Kectil program: a spotlight on young inventors in developing countries

Editor: **Catherine Jewell**  
Graphic Design: **Annick Demierre**

	<b>Acknowledgements:</b>
2	<b>Anatole Krattiger</b> and <b>Tom Bombelles</b> , Global Challenges Division, WIPO
10	<b>Tetyana Badoud</b> , Madrid Registry, WIPO
30	<b>Marc Séry-Koré</b> , Regional Bureau for Africa, WIPO

Cover images:  
Left to Right: CIPLA; CC-BY-NC-ND2.0  
Nestlé; iStock.com/Artush  
Main image: International  
Olympic Committee

© World Intellectual  
Property Organization

# Making quality medicines affordable: an interview with CIPLA

By **Catherine Jewell**, Communications  
Division, WIPO



Photo: CIPLA

“Healthcare cannot be reduced to a simple business: it is humanitarian in nature and none should be denied access because of high costs,” says Subhanu Saxena, CEO of CIPLA.

India’s CIPLA is a global pharmaceutical company and a champion of affordable medicines. As the first generic producer of antiretroviral products, it has played a pivotal role in expanding access to HIV/AIDS therapies in the past two decades. The company’s CEO, **Subhanu Saxena**, discusses how CIPLA innovates and uses intellectual property (IP) to help improve access to medicines worldwide.

## *What is CIPLA’s mission?*

True to our mantra “none shall be denied”, our mission is affordable access to medicines for every patient everywhere. We work with governments to bring affordable and sustainable access to all who need it.

## *What role does CIPLA play within the drug development cycle?*

We focus on developing generic medicines after patent expiry. In addition to plain “vanilla” generics, we also develop more complex generic products by investing in, for example, combination products and novel delivery methods (e.g., easier dosing regimens). We have a major presence in the area of respiratory health and after GlaxoSmithKline (GSK) probably have the widest range of drug devices in the world. CIPLA has formidable research and development (R&D) technology platforms to develop better, more effective versions of medicines that have already been on the market.

## *So what is the role of innovation in CIPLA’s business?*

Innovation is something that we take very seriously. It’s a myth that innovation only sits in Big Pharma. Innovation is central to everything we do – not just in R&D but also in our commercial models and the partnerships we establish to ensure affordable access to medicines.



***CIPLA produces generic drugs but also uses the intellectual property (IP) system. Is there not a contradiction in your approach?***

There is no contradiction at all. As a company with an important R&D budget and a large set of innovations, we file patents to recognize and systematize those innovations, and as a matter of course, we also make licensing available to other companies, and on reasonable terms. We respect science and fully support recognizing and rewarding innovation. We see no harm in paying royalties to innovators, but they have to be reasonable. Innovators also have to make their products available at prices that work for the countries in which they operate. Healthcare cannot be reduced to a simple business: it is humanitarian in nature, and none should be denied access because of high prices.

***Do you still consider CIPLA to be a generic pharma company?***

Given the amount of innovation we do today, we don't really see ourselves as a generics company. But we are dedicated to affordable access to high-quality medicines. We also have many programs in emerging markets to help doctors and governments develop the right treatment protocols which lead to the more effective use of these medicines. So we also bring science and education to the table.

***How do you see the debate about IP and access to medicines? Is IP an enabler or a barrier to access?***

If it is done right, IP is absolutely an enabler. Regardless of whether there is patent protection, the core issue is whether a monopoly has been abused. For example, the recent scandal surrounding the hike in the price of pyrimethamine (Daraprim) in the United States was related not to abusive use of IP – the drug is old and off-patent – but to abuse of monopoly. Abuse of monopoly is the main barrier to access for patients whether the product is patented or not. We are against monopolies that lead to abuse. Affordable access has to be central to pharmaceutical business strategies.

***Do you think that proprietary companies are doing enough to put access first?***

I think some are, but it really comes down to whether the company understands that beyond profit we are in a business with a humanitarian mission and that 80 percent of the world does not have access to reasonable healthcare. It is our collective duty to make these treatments available to everyone who needs them.

***You are a licensee of Gilead's HIV therapies through the Medicines Patent Pool. What factors influence your decision to enter into such agreements?***

First, we ask if CIPLA can add value and help reach more patients. Then we assess whether the partner is really serious about driving access. And then we check that the terms are fair, reasonable and commensurate with the ambition.

“If it is done right, IP is absolutely an enabler [of access].”

***Do you think it will be possible to achieve the same results in treating Hepatitis C as were achieved with HIV/AIDS?***

I think it is possible, but certain things need to happen. First, we need to focus on both price *and* quality. Funding also needs to be in place to incentivize companies to invest in building the required production capacity to assure reliability of supply. These funding mechanisms are in place for HIV/AIDS and need to continue if we are to meet the challenge of doubling the number of patients on treatment. But we also need put into place similar arrangements to ensure a reliable supply of high-quality medicines to treat Hepatitis C.

***How would you like to see the IP landscape evolve?***

In countries such as India, the IP framework is very clear that it will not reward frivolous patenting, evergreening, or inventions that do not add value for patients. We all need to learn to work with the current IP regime and must recognize the sovereign right of any country to determine the right IP regime to benefit its patients. Even high-income countries invoke emergency measures in health crises; this is not unique to developing countries. Where companies are unable to collaborate, governments must retain and use mechanisms such as compulsory licensing or automatic import licensing to ensure access to life-saving medicines.

***So you believe compulsory licensing may sometimes be necessary?***

Ideally, compulsory licensing should never have to be invoked because innovator companies take the responsibility of access seriously and are prepared to negotiate with generics companies to find a solution. But this does not always happen, so governments need to retain these measures as an incentive for companies to come up with a voluntary solution that ensures access to life-saving medicines.

***Do you think enough has been done in terms of voluntary licensing?***

There is not enough voluntary licensing. I would like to see more. Some companies like Gilead, ViiV and Janssen have taken a lead in this. I wish more would. But the reality of licensing negotiations is that their success and speed depend on the eagerness and trustworthiness of licensors. For many products, access can only be guaranteed if there is a voluntary license, but licensing is not a charity; it is a way of doing business and of contributing to better access. Royalties reward the science which is essential for sustainable pharmaceutical innovation, but they must be reasonable.

In fact, in the pharmaceutical world today, licensing is the rule, not the exception. Of the 50 top-selling drugs in 2015, 36 were commercialized under license from the inventor company.



Photo: CIPLA



Photo: CIPLA

As the first generic producer of antiretroviral products, CIPLA has played a pivotal role in expanding access to HIV/AIDS therapies over the past 20 years. Its goal is to ensure that no patient shall be denied access to high-quality, affordable medicines.

Innovation is central to everything CIPLA does. Every year, the company invests up to 6 percent of its turnover (approx. USD1.78 billion) on R&D which is focused on developing new products, improving existing products and drug delivery systems, and expanding product applications.



From our own experience, we see that there is still scope to improve the terms of voluntary licensing agreements, but if more companies applied them to more products, they would make a major contribution to ensuring quality generics were widely and rapidly available.

All pharmaceutical companies have a shared responsibility to reach out to the 80 percent of patients who do not have appropriate access. It is the duty of these companies to talk to one another and to reach agreements that will allow those in need to be served in an affordable way. Otherwise governments need to step in. If that happens solutions are usually far more constraining.

***Do you face problems of counterfeiting?***

We are acutely aware of this issue. Our quality systems are continuously evolving so we can monitor and track our own genuine products. We are prepared to work with regulators to eliminate counterfeit products. When governments focus exclusively on achieving low drug prices at all costs and ignore quality issues, they risk opening the door to counterfeiters. It is really important that governments have the right standards and enforcement mechanisms in place to address counterfeiting.

***What is CIPLA's long-term vision?***

Our long-term vision is that none should be denied affordable access to medicines and that CIPLA is able to deliver these drugs globally. Five years ago, 70 percent of CIPLA's business came from India, and in five years 70 percent will come from outside India. As we steadily expand our business across the globe, CIPLA will play an important role in providing affordable healthcare solutions for millions of patients. We are very happy to collaborate with governments to do that and to look at ways to transfer our technology and know-how to support and enable better access.

***Are strategic partnerships important to CIPLA?***

Yes they are. We are operating in a complex world and no one company can have all the strengths in any particular area. It's a good thing for companies to come together for the betterment of patients. Sometimes working with a partner like CIPLA can allow affordable access in places where it would not otherwise be possible because we trade where others often do not. In India, for example, with 70,000 marketing and sales associates we can probably reach more Indian patients than any other company. We also have a strong and expanding presence in Africa, which currently accounts for 25 percent of our business. So in partnering with us, innovator companies with new molecules and products can leverage our strengths to

achieve their access objectives. They can also take advantage of our formulation and delivery technology expertise to develop better product formulations. The trick is to leverage each other's strengths so that together we produce higher quality, more effective and affordable medicines for more patients.

***What lessons have you learned from operating in India's complex market?***

First, the need to focus on science and education. It's not only important to deliver the molecule and the product; medical education – how doctors use and administer a drug – is also important.

Second, you have to reach patients beyond urban areas. So you need infrastructure distribution systems that go deep into a country.

Third, your products have to be affordable. You have to understand the economics of a country and price your medicines accordingly. But you let the competition set the pricing. Effective competition can benefit patients. India is home to many generics companies and has the lowest pricing in the world.

Fourth, there are more patients out there than you realize. We are only scratching the surface in terms of the number of patients who need treatment. The journey is just beginning.

***How would you characterize CIPLA's contribution to global health over the last decade?***

CIPLA has helped build a new paradigm for access and through our dollar-a-day therapies for HIV we have helped to move from 8,000 patients in Africa on HIV therapies at USD12,000 per year to 12 million of them at a dollar or less a day. If we can do that for HIV/AIDS patients, we can do it for other diseases. Affordable access for all patients everywhere is going to be the issue of the decade, and CIPLA has a key role to play in achieving that goal.



# The Madrid System turns 125

By **Sara Amini**, Madrid Registry, WIPO



Photo: WIPO/Berrod

Well over a million marks have been registered under the Madrid System. Some 630,000 of these – many of them household names – are still active. The oldest internationally registered mark (above) that is still active is held by Swiss watchmaker Longines. It was first registered in 1893.

In April 2016, WIPO's Madrid System for the International Registration of Marks turned 125. Thanks to the vision of policymakers in the late 19th century, today it is relatively straightforward and cost-effective to register and protect trademarks in key markets around the world.

The growth of the Madrid System is a story of international cooperation and aspirations for cross-border trade expansion. As such, it is very much a story of our time. Companies 125 years ago sought to trade with their foreign partners, and the fortunes of businesses today largely hinge on their ability to tap new markets and stand out against their competitors confident that their trademarks can be protected.

The Madrid System is built around two treaties: the Madrid Agreement Concerning the International Registration of Marks of 1891 and the Protocol to that Agreement of 1989, which introduced new features and flexibilities that have enabled the System's global expansion.

The Madrid System makes trademark portfolio management simple. By filing one international application through their national trademark office in one language, and paying fees in one currency, applicants can obtain protection in multiple export markets. Subsequent management of trademark rights is also centralized and easy.

In response to growing demand for trademark rights – they are an indispensable business tool, inspiring customer loyalty and driving business value – the Madrid System has become a central pillar of the international trademark regime. Thousands of businesses large and small from across the commercial spectrum have used and continue to use the Madrid System to protect their marks in global markets. Well over a million marks have been registered under the System. Some 630,000 of these – many of them household names – are still active. In 2015, a record 49,273 new international trademark applications were filed under the System.

The oldest internationally registered mark that is still active is held by Swiss watchmaker Longines. It was first registered in 1893. Just last year, the 1.25 millionth international trademark registration, for Micromax, was filed by the Indian cell phone maker of the same name,





Leading Indian consumer electronics company, Micromax, registered the 1.25 millionth international trademark under the WIPO's Madrid System in July 2015.

highlighting the expanding global interest in international trademark protection.

By the end of July 2016, the System counted 97 members covering 113 territories. And with other countries set to take advantage of the System's streamlined, user-friendly and cost-effective procedures, it is on track to become truly global.

### CONSTANT EVOLUTION










Throughout its 125-year existence, the Madrid System has evolved. With each new development, the aim has been to adapt to the changing needs of an ever more connected global marketplace.

Beyond the adoption of the Madrid Protocol in 1989, noteworthy developments include the addition of English (1996) and Spanish (2004) as new working languages alongside French, its original working language since 1891.

The technology underpinning the System is under continuous development to support users throughout the lifecycle of their mark. Over the past decade various E-Services have been launched to enhance the System. These include E-Renewal (from 2006), Madrid Real-Time Status (from 2010), Madrid Portfolio Manager (from 2012), E-Subsequent Designation (from 2014) and the most recent addition, Madrid Monitor, which allows users to keep track of all activities and developments relating to the status of marks registered under the System.

The growth of the Madrid System is testament to the vision of its founding members who recognized the central importance of marks to global trade. Its success is also down to the thousands of companies around the world who come up with new brands of products day after day. And last but not least, it is also thanks to the hundreds of trademark examiners and policy-makers worldwide who work to ensure the System's integrity and continued evolution. Here's to the next 125 years!

# 125 YEARS OF THE MADRID SYSTEM: PROTECTING TRADEMARKS ABROAD

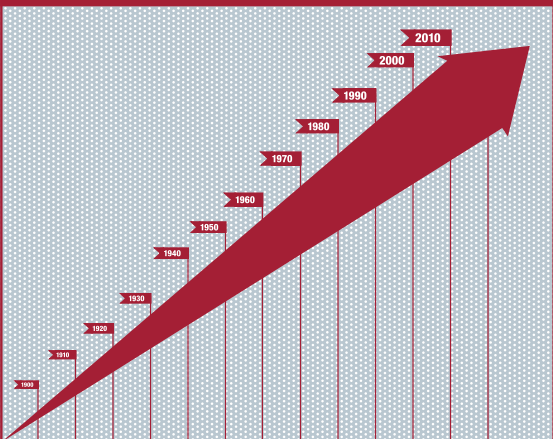
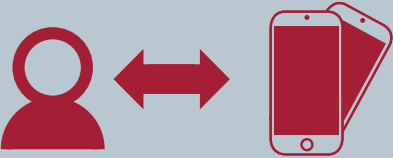
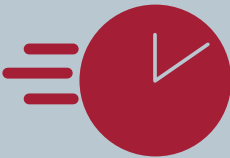

<p>The Madrid System is the convenient and cost-effective way to protect your brand internationally</p> <p>Register and manage your trademarks in multiple countries through one system</p> 	ONE-STOP SHOP			
	<p>One application</p> 	<p>One set of fees</p> 	<p>One filing language</p> 	<p>Centralized management</p> 
	GLOBAL REACH			
	<p>97 members</p> 	<p>113 countries covered</p> 	<p>Over 80% of world trade</p> 	<p>And growing</p> 

# THE MADRID SYSTEM: 125 YEARS OF GROWTH

GROWTH OF MEMBERSHIP	MILESTONES
<p>The Madrid System has helped businesses protect more than 1.25 million marks worldwide</p> <p><b>1891: 9 MEMBERS</b></p> <p><b>1996: 50 MEMBERS</b></p> <p><b>2016: 97 MEMBERS</b></p>	<p><b>1891</b> Madrid Agreement is concluded – The international trademark system is born</p> <p><b>1989</b> Madrid Protocol is adopted, improving the System and enabling geographical expansion</p> <p><b>1992</b> Digital version of the Madrid System Register is launched</p> <p><b>2004</b> Spanish becomes third filing language, after French and English</p> <p><b>2006</b> Online user services begin with E-Renewal</p>



# THE MADRID SYSTEM: STILL EVOLVING

PROJECTED TO REACH 1.5 MILLION REGISTRATIONS BY 2019	NEW ONLINE SERVICES WILL MAKE THE SYSTEM EVEN EASIER TO USE
	
FASTER PROCESSING TIMES	MORE COUNTRIES SET TO JOIN
	



# From milkmaids to multinational markets: Nestlé's branding story

By Catherine Jewell,  
Communications Division, WIPO





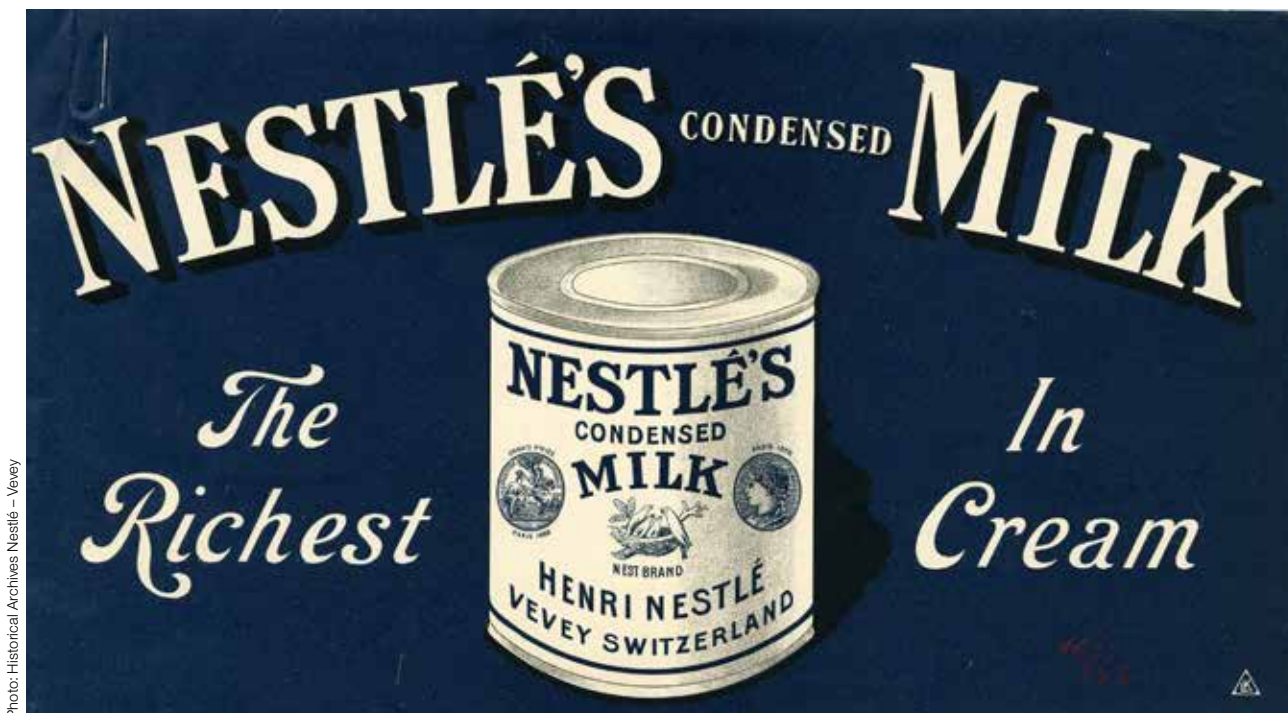


Photo: Historical Archives Nestlé – Vevey

The Nestlé Group was formed in 1905 with the merger of the Anglo-Swiss Milk Company and Farine Lactée Henri Nestlé. The company's product range rapidly expanded beyond its early condensed milk.

With operations in 150 countries, Nestlé is a world-leading food and drink company. Intellectual property (IP) has been in the company's DNA since its founder, Henri Nestlé, began producing his breakthrough infant formula – "*farine lactée*," a combination of cow's milk, wheat flour and sugar – in 1867. Today, the company owns over 2,000 brands, 30 of which generate more than a billion Swiss francs in annual sales.

As a major user of the WIPO's Madrid System for the International Registration of Marks, Nestlé's **Hubert Doléac**, Senior Legal IP Counsel at Nestlé Legal, explains the importance of trademarks to Nestlé's success.

#### ***How big is Nestlé's global footprint?***

Nestlé operates in over 150 countries and employs around 335,000 people. We have 436 factories in 85 countries. Nestlé is a market leader in most of the food and beverage categories in which it operates, but our ambition today is to enhance people's quality of life through nutrition health and wellness with science-based innovations. This goes far beyond the goals of a standard food and beverage company.

#### ***Why is IP protection important to Nestlé?***

As a marketing pioneer, Henri Nestlé was fully aware of the importance of brands and protecting them. From the outset he insisted on consistent use of "Nestlé" on all his products. He created the eye-catching bird's nest logo in 1868 to ensure that consumers could easily identify his products wherever they were sold. It was inspired by his family coat of arms. That logo has since become a "seal" guaranteeing the high quality of the products that bear it.

The Nestlé Group still believes in and is committed to developing strong brands around high-quality products that consumers can trust. Today, Nestlé owns more than 2,000 brands, protected in over 170 countries. Over 30 of these are what are known as billionaire brands, each generating at least one billion Swiss francs in annual sales.

### ***How does Nestlé manage its trademarks?***

Nestlé's trademark portfolio is managed centrally by our IP team at the company's Swiss headquarters in Vevey. The team comprises 12 IP counsels and around ten paralegal staff. We work closely with our businesses across the globe, providing legal advice and recommendations on how best to protect their ideas and creations to ensure their projects get off the ground smoothly. This involves identifying potential prior rights and eliminating any potential obstacles, securing ownership of relevant copyrights, and working with our businesses to define appropriate protection strategies in accordance with the importance, nature, scope and planned geographical extension of their project. Of course, we also monitor and defend the corresponding protections against any unauthorized use.

To ensure we have a coherent trademark protection strategy across all our businesses, we have created an IP network with "IP champions" in 48 countries.

### ***How does the company keep pace with changing consumer tastes?***

With over 10,000 different products – and over one billion of them sold every day – Nestlé has products for every moment of every day, morning to night, and for every age. To meet consumer expectations, we tailor our products to local tastes and needs. For example, Nestlé has over 200 different blends of Nescafé!

### ***You have both strategic and local brands. How does that work?***

If Nestlé's management and our business colleagues think a brand can become a major commercial asset for the company then it will be positioned as a strategic brand. We have worldwide and regional strategic brands, the latter serving a specific geographical zone or continent. All associated brand communication and positioning for strategic brands is defined by the business units

at headquarters and endorsed by management. All the local Nestlé companies that want to use the brand need to apply the associated brand guidelines.

Local brands, which are most relevant to specific markets and respond to local needs and tastes, vary in number from business to business. There is greater latitude in communicating about and using these brands. Some of them can be extremely valuable and are critically important for the market concerned.

We regularly review and make adjustments to our brand portfolio and eliminate those that are no longer commercially relevant. With the explosion of social media platforms, there is a clear tendency to rationalize, globalize and move to a "one-brand strategy". This not only simplifies the communication around our brands, but also makes it easier for us to connect with our consumers and helps build faster international awareness of them.

### ***What does it take to build a global brand?***

To develop a global brand you need a well-defined branding strategy – one that covers both brand positioning and IP protection – and consistent use and communication across markets. And you need to build up and maintain trust in the quality and image of your brand among consumers. That can take many years.

### ***When did Nestlé register its first trademark and what is its most recent trademark registration?***

Nestlé's oldest national trademark was registered in Hong Kong in 1874 and is still active. At that time, Switzerland did not have a national trademark law in place. The bird's nest logo was first registered with the court in Vevey in 1875. Only in 1890 was Henri Nestlé able to register it as a Swiss federal trademark.

We regularly file new trademark applications to cover our diverse projects. For example, in April 2016 we filed 137 new trademark applications ranging from new coffee varieties for our Nespresso business to nutrition, pet food and ice-cream brands. The nature of the applications varies in line with the geography and product categories. For example, we have a new brand called "Tyanouchka" for confectionery, and "Little Nightmares" for ice-cream in the Russian market and those of former members of the Commonwealth of Independent States (CIS), and "Arondio" for a new Nespresso variety globally.



1868



1938



1966



Nestlé

1988



Nestlé

1995



Nestlé

2015

The Nestlé brand has undergone six modifications since 1868 to keep the brand modern while remaining faithful to its original values and positioning.



Photo: Nestlé

20 billion KitKats are eaten every year! With over 10,000 different products – and over one billion of them sold every day – Nestlé has products for every moment of every day and for every age.



Photo: Historical Archives Nestlé – Vevey

Henri Nestlé was a marketing pioneer and fully recognized the power of brands. From the outset he insisted on consistent use of “Nestlé” on all his products.



Henri Nestlé began producing his breakthrough infant formula “farine lactée” in 1867. Around that time he started using the iconic bird’s nest logo.



Photo: Historical/Archives Nestlé – Vevey



Photo: CC BY-NC-ND 2.0 Nestlé

Nestlé’s trademark portfolio is managed centrally by its IP team at the company’s Swiss headquarters in Vevey.



### ***When did Nestlé start using the Madrid System for the International Registration of Marks?***

Nestlé started to rapidly internationalize its activities at a very early stage. The Nestlé Group was formed in 1905 with the merger of the Anglo-Swiss Milk Company, established in 1866 by brothers George and Charles Page, and Farine Lactée Henri Nestlé, founded in 1866 by Henri Nestlé. The company grew significantly in the first half of the 20<sup>th</sup> century, expanding its offerings beyond its early condensed milk (sold originally under the brand: “La Laitière”, “Milkmaid”, or “Milchmädchen”) and infant formula products. Nestlé’s oldest active international trademark registration issued in the name of Nestlé and Anglo-Swiss Condensed Milk Company (the name under which it traded at that time) dates back to 1895 and relates to the “Milkmaid” brand!

### ***What are the main advantages of using the Madrid System***

The Madrid System really does simplify the management of our trademark portfolio. It offers a number of advantages. For example:

- It means we can file a single international application with one office in one language (English, French or Spanish), and pay one set of fees in Swiss francs to seek international registration in multiple countries;
- We can designate the countries in which we want to protect our trademarks and as our business expands or new countries join, we can subsequently extend our rights if we need to;
- Fees are pre-established and known in advance, so there are no surprises in relation to costs; and
- Its centralized filing and management system means users like us can record changes of ownership in a single step.

### ***What opportunities and challenges do social media platforms pose to Nestlé?***

Social media platforms, and more generally e-commerce, are changing the landscape and the way companies like Nestlé are proposing and selling products. Nestlé has fully engaged and is very active today with sales of over CHF 4 billion on those platforms. They represent a huge opportunity to engage with consumers, and to better understand their needs and concerns.

### ***How do you tackle counterfeit or look-alike products?***

Counterfeiting affects Nestlé as much as any other consumer goods company. Given our uncompromising food and safety standards, we take all necessary measures to protect our brands,

in the interest of our consumers. This includes building strong relationships with enforcement authorities and local customs to raise their awareness of our trademark rights and to help spot counterfeits.

The monitoring and defense of our IP rights is a core part of our activities. We differentiate between counterfeits (exact replicas of our original brands) and look-alikes (imitations of some features of our original products and brands) and carefully assess the corrective measures we can take to safeguard our rights in the interest of our consumers and businesses.

### ***Last but not least, what is your favorite Nestlé brand?***

It’s hard to choose from among all of Nestlé’s excellent products but at the end of the day it has to be “Kit Kat”.

# Protecting the Olympic properties

By **Marianne Wüthrich**, Trademark Senior Legal Counsel, International Olympic Committee

For 17 days in August, all eyes will be on Brazil as athletes from across the globe come together to compete in the Olympic Games Rio 2016. During this, the world's largest and most complex sporting event, the icons of the Olympic movement – from the five interlocking rings to the Olympic mascot, Vinicius – will be central features of global media coverage. This article explores how the International Olympic Committee (IOC) protects these so-called Olympic properties, which are so familiar to us all.

Olympism is a philosophy of life that places sport at the service of humankind. The Olympic Movement encompasses concerted, organized, universal and permanent action carried out by many individuals and entities who are inspired by the values of Olympism under the overall umbrella of the IOC. It brings together athletes from every continent for one of the world's most well-known and celebrated sporting, cultural and entertainment events – the Olympic Games.

The Olympic properties are the visual ambassadors of Olympism. The Olympic symbol, in particular, is one of the world's most recognized brands. The five interlocking rings represent the coming together of five continents and symbolize the Olympic values: Excellence, Respect and Friendship. The Olympic properties have become iconic – they are more than just “logos”. People around the world associate them with the fundamental values of sport and of the Olympic Movement.

Because of their honored place on the world stage, the IOC needs to protect its Olympic properties at the international level. The IOC benefits from special legal means to do this but it also relies on standard means of trademark protection.

## THE OLYMPIC PROPERTIES DEFINED

The Olympic Charter is the codification of the Fundamental Principles of Olympism, Rules and Bye-Laws adopted by the IOC. According to Rule 7 of the Charter, the Olympic properties include the Olympic symbol as well as the Olympic flag, motto, anthem, identifications (such as “Olympic Games” and “Games of the Olympiad”), designations, emblems, the Olympic flame and torches.



Photo: Courtesy of Chelles & Hayashi Design

The Olympic torch for the Olympic Games Rio 2016 was designed by São Paulo-based design studio Chelles & Hayashi. When lit, the torch expands to reveal the colors of the Brazilian flag and the elements that give it a truly Brazilian flavor, namely, diversity, energy and nature. The colors of the extended torch evoke the sky, mountains, the sea and the earth.

Photo: International Olympic Committee



All rights to any and all Olympic properties belong exclusively to the IOC, including rights to their use in relation to profit-making, commercial or advertising purposes.

#### **FINANCING THE OLYMPIC GAMES**

The IOC and the organizations that make up the Olympic Movement are entirely privately funded.

Support from the business community is crucial to the holding of the Olympic Games, one of the most effective international marketing platforms in the world, reaching billions of people in more than 200 countries and territories across the globe. The IOC distributes more than 90 percent of its revenues to organizations throughout the Olympic Movement to support the staging of the Olympic Games and to promote the development of sport worldwide.

Broadcasting the Olympic Games is the most important means of communicating the Olympic ideals worldwide. The primary broadcasting objective is to ensure that the widest possible audience has an opportunity to experience the Olympic Games. As the owner of the global rights for the Olympic Games – including broadcasts on television, radio, mobile and Internet platforms – the IOC grants its partners exclusive broadcasting rights in their respective territories.

The Olympic properties are more than just logos. Because of their honored place on the world stage, the IOC benefits from special legal measures to protect them internationally.

The IOC's worldwide sponsorship program, the Olympic Partner (TOP) Programme, was established to enable long-term corporate partnerships of benefit to the Olympic Movement. The TOP Programme provides each worldwide partner with exclusive global marketing rights and opportunities within a designated product or service category.

Consequently, the IOC must be able to protect the exclusivity granted to its broadcast and marketing partners, and needs to have the necessary means to prevent third parties from making any unauthorized association with the Olympic Games.

### PROTECTING THE OLYMPIC PROPERTIES

Numerous countries have adopted permanent national legislation protecting the Olympic properties. Although the Olympic Movement's efforts have contributed to the implementation of legislation, the parliaments that have adopted such measures also understand the importance of sport and the Olympic Movement, as well as the need to protect the properties related to them.

Adopting specific legislation has also proved necessary in countries that host an edition of the Olympic Games. Such legislation not only concerns the protection of the Olympic properties, but also provides the means to fight against ambush marketing and to regulate advertising, in particular in and around Olympic venues. The first specific legislation related to an edition of the Olympic Games appeared in Canada prior to the Montreal 1976 Olympic Games. Since the Sydney 2000 Olympic Games, all host countries have adopted such legislation; this will also be the case for future editions of the Olympic Games, such as Pyeongchang 2018 and Tokyo 2020.

### THE RIO 2016 OLYMPIC GAMES

In relation to the Rio 2016 Olympic Games, Brazilian authorities have recourse to a number of laws to safeguard official Olympic symbols including:

- Brazil's Industrial Property Law (Law 9,279/96). This law prohibits the registration as trademarks of names, prizes or symbols of official sporting events as well as imitations likely to cause confusion, except when authorized by the competent authority or entity promoting the event.
- The Pele Law (Law 9,615/98), which grants the Brazilian Olympic Committee exclusive rights over the use of the flags, mottos, anthems and Olympic symbols as well as the names "jogos olímpicos", "olimpiadas", "jogos paraolímpicos" and "paraolimpiadas". It also includes arena rights whereby media rights to sporting events belong to the sport entity organizing or taking part in such an event, but allowing for up to three



Rio 2016™



Photo: International Olympic Committee

The Olympic symbol is one of the world's most recognized brands. The five interlocking rings represent the coming together of five continents and symbolize the Olympic values: Excellence, Respect and Friendship. All rights to any and all Olympic properties belong exclusively to the IOC, including rights to their use in relation to profit-making, commercial or advertising purposes.

percent of the event's duration to be transmitted by non-broadcasting title holders for journalistic, sporting or educational purposes.

- The Brazilian Copyright Law (Law No. 9,610/98), which protects symbols, designs and mascots as well as any other works related to the Olympic and Paralympic Games.
- The Brazilian Olympic Act (Law 12,035/09), which extends legal protection to all properties associated with the Rio 2016 Olympic and Paralympic Games. Federal authorities are responsible for monitoring, investigating and suppressing any unlawful acts that violate rights in the Olympic symbols. The Act also forbids any entity from associating itself or its products or services with the Olympic Games, whether or not for commercial use, without the express authorization of the Organizing Committee for the Olympic and Paralympic Games Rio 2016 or the IOC. The law also provides local authorities and the Organizing Committee for the Olympic and Paralympic Games Rio 2016 with the means to efficiently tackle ambush marketing practices (where goods are sufficiently similar to invoke an undue association with the Games), and to prevent unauthorized marketing activities, including sale of Olympic tickets at an Olympic venue or in the airspace surrounding it. These measures were further strengthened with the recent amendment of the law which took effect in May 2016.
- The Brazilian Olympic Law (Law 13,284/16), which defines and criminalizes ambush marketing by intrusion and association, among other provisions related to the Games. This law complements the Brazilian Olympic Act.
- Local Olympic Acts enacted by municipalities and states hosting the games:
  - Rio de Janeiro – State of Rio de Janeiro
  - São Paulo – State of São Paulo
  - Salvador – State of Bahia and State Olympic Law (Law 13,565/16)
  - Belo Horizonte – State of Minas Gerais and Municipal Olympic Law (Law 10.941/16)
  - State of Amazonas
  - Federal District
- The Nairobi Treaty: The IOC also benefits from an exceptional international legal instrument that protects the Olympic symbol. Adopted in 1981 and administered by the World Intellectual Property Organization (WIPO), the Nairobi Treaty on the Protection

of the Olympic Symbol obliges each state that has ratified it to refuse or invalidate the registration as a mark and to prohibit the use for commercial purposes of any sign consisting of or containing the Olympic symbol, except with the IOC's authorization.

- Trademark protection: The IOC is the worldwide owner of numerous trademarks protecting its Olympic properties. While this may seem logical, the IOC had to wait some 100 years before it could register trademarks in its own name. Prior to 1993, numerous national trademark laws (including in Switzerland, where the IOC is based) reserved the right to register trademarks only for commercial companies. As a non-profit association, the IOC had to wait for the harmonization of European law and the modification of Swiss law before it could register a trademark in its name.

The IOC registers trademarks, in particular through the WIPO Madrid System for the International Registration of Marks, relating to its permanent properties (which are common to each edition of the Olympic Games), such as the Olympic symbol and the words "Olympic", "Olympiad" and "Olympic Games". It also seeks protection for identifiers related to a specific edition of the Olympic Games, such as the official emblem of that edition of the Olympic Games and the City+Year word mark, for example "Rio 2016", "Pyeongchang 2018" and "Tokyo 2020".

#### IMPLEMENTING THE IOC'S RIGHTS

In the routine management of its intellectual property (IP) rights, the IOC encounters certain challenges, some of which are described below.

- Social media platforms are fantastic opportunities to engage new audiences, especially young people. The IOC is embracing these opportunities and has a presence on several major social media platforms. The IOC works closely with social media platforms to prevent unauthorized use of the Olympic properties.
- Ambush marketing. Some companies which are not official partners try to associate themselves with the unique and worldwide character of the Olympic Games free of charge. This is unfair *vis-à-vis* companies that financially support the Olympic Games as well as the participating athletes. The creativity of these ambushers makes it necessary to adopt specific national legislation to prevent ambush marketing. However, as these laws are in force only in the host territory, the IOC must invoke ordinary legal



Photo: International Olympic Committee

Vinicius is the mascot for the Olympic Games Rio 2016. Vinicius represents a mixture of all Brazilian animals and was created on October 2, 2009, following the announcement that Rio would host the Olympic Games in 2016.

means such as trademark registration or unfair competition law to fight ambush marketing in other territories. Ordinary laws sometimes do not go as far as the IOC would like.

### **PROTECTION OF THE CITY+YEAR WORD MARK**

In 1993, before Sydney was elected to host the 2000 Olympic Games, a third party sought to register all the names of the candidate cities for the 2000 Olympic Games in numerous countries and then threatened the IOC partners with legal action if they used “Sydney 2000”.

To prevent such abuses in future, the IOC subsequently took steps to protect the City+Year identifiers well before a city is selected to host an edition of the Olympic Games.

Some court decisions have called into question the distinctive character of a trademark composed of a city and a year.

Acquired distinctiveness as a remedy for an initial lack of distinctiveness usually requires very long use in the market. However, numerous trademark offices around the world (including the European Intellectual Property Office (EUIPO)) agreed that, in the specific case of the Olympic Games, distinctiveness can be acquired faster, and even instantly. Given the exceptional worldwide interest in, and media coverage of, a city’s election by the IOC, distinctiveness is acquired the moment the result is announced.

### **MANAGING THE OLYMPIC PROPERTIES FOR FUTURE GENERATIONS**

The Olympic Games are one of the most well-known sporting events in the world. Protecting the Olympic properties is therefore very important. The IOC benefits from a privileged situation thanks to the existence of the Nairobi Treaty, as well as national legislation to protect the Olympic properties and combat ambush marketing in certain territories. However, ordinary legal protection, such as trademark protection, remains essential. Like many other trademark owners, including sports governing bodies, the IOC faces a number of challenges in managing its IP, in particular in relation to social media platforms. While the IOC sees the advent of social media as an opportunity for sports bodies to engage new generations of fans and participants, it must ensure that the Olympic properties are still protected. Close collaboration with the providers of these services will undoubtedly go a long way in mitigating this risk.

Judicious management of the Olympic properties will help ensure that people of all ages and from all continents can continue to take part in the spectacle and celebrate the values that underpin the Olympic Games for generations to come.

# Publishing in the digital market

By **Catherine Jewell**,  
Communications Division, WIPO



Photo: iStock.com/Dan Dumitru Comaniciu

Penguin Random House (PRH) is the world's largest trade publisher. The company employs over 12,000 people globally, owns 250 imprints around the world and publishes 15,000 new titles every year for readers of all ages. Company chairman **John Makinson** shares his views on the impact that digital technologies are having on his industry.

## *Is the publisher's role changing in the digital context?*

The role of the publisher has not changed significantly; the means of distribution have changed. The impact of digital technology on our content has not been too significant. It does not greatly matter to publishers whether the work is produced digitally or physically, but the shift to digital channels of distribution – especially to Amazon – has been highly significant, as has the opportunity to improve publishing processes through the application of digital technology.

## *What new trends or opportunities are digital technologies creating?*

The emergence of self-publishing has been an interesting phenomenon and probably the biggest trend of note, giving many authors a non-traditional route to reach consumers. But it has not seriously disrupted the traditional publishing business. Penguin Random House is committed to serving readers with books curated by our

Penguin Random House Chairman, John Makinson, believes that the Internet has been a good thing for publishing. Social media in particular, he says, is boosting discoverability and allows readers to meet each other and authors to connect with their readers.



“Copyright is the foundation of publishing. Copyright allows our authors to own and protect their works.”

250 imprints and their experienced editors and marketers. The biggest opportunity of digital is reflected in our reader-centric approach and direct-to-consumer marketing. We monitor very closely new digital business models – such as subscription and sales of micro-content – but their impact has been much less pronounced in the case of books than with music or movies.

***And what impact are digital technologies having on creativity?***

Some people use new technologies in very creative, positive ways; some, unfortunately, use them to steal others’ work. So it’s a mix.

***You mentioned subscriptions. Is there a place for the subscription model in publishing?***

We are very open to all kinds of different publishing models and we are constantly exploring and evaluating a variety of models. Thus far, we haven’t seen a proposed subscription model that we believe can be viable for our constituencies.

***You also mentioned the growth of self-publishing. Does that not pose a threat to the industry?***

People are finding that it is not so easy to write, edit, publish, market and distribute a book on their own. Self-publishing, in this respect, reinforces the role and value of curated publishing. The market that the self-publishing industry serves is different from our market, so there is some overlap but we have not witnessed material cannibalization of curated content from self-publishing. The market has expanded to accommodate both models.

***And how about Amazon? How does the relationship work with them?***

We actively work with and foster our relationship with all booksellers of every size and stripe. We have a good working relationship with Amazon and they have done a lot to increase both print and e-book sales, and foster discoverability.

***Has the Internet generally been a good thing for the publishing industry?***

Yes, it has. People are engaged, people are reading. Social media allows for increased discoverability. The Internet, and social media in particular, also provides a platform for readers to meet each other and for authors to connect with readers.

***Is the paperback dead? Do you foresee e-books overtaking physical books any time soon?***

No, the trade paperback format is alive and well. Demand for physical books is strong, particularly for children’s and cookbook titles. The area of paperback publishing that has been most affected is what we call “mass-market” paperbacks – high-volume,

low-cost books in specific genres such as romance and science fiction – where the level of substitution of physical by digital books has been high. The adoption of e-books continues, though its growth in many markets has been stable or even declined. Physical books have recently staged something of a comeback in the US and UK markets.

***What about audiobooks? What effect are e-books having on them?***

We see a product mix. Readers are reading different books in different formats – it's not one or the other. But the audiobook market has benefited enormously from the transition from physical product (cassettes or CDs) to downloads.

***Are all physical books also available as e-books?***

The author, together with their publisher, determines the publishing formats for their work. Generally, all books we publish will be made available in an e-book format.

***Some publishers have said that discoverability is one of the key problems facing the publishing industry today. Do you agree?***

Some discoverability is definitely lost when most sales are done via the Internet rather than through browsing in a book store. On the other hand, many e-book sellers do create a different kind of discoverability based on previous buying history, and social media also allow for increased discoverability.

***Why is copyright important to the publishing industry?***

Copyright is the foundation of publishing. Copyright allows our authors to own and protect their works. In many ways, it enables publishers to support writers and give them the time and resources they need to create. Publishers help writers make writing a full-time job. One of the most important issues facing publishing is preventing piracy. And one of the most important responsibilities we have as publishers is to work assiduously on behalf of our authors to protect their copyrighted works.

***Is there a need to adapt the existing copyright system to the digital market?***

No, we should all be playing by the same rules that have long represented the balance necessary to encourage and support creation and creativity. As far as exceptions have been made to allow for e-commerce of various

sorts, the holes that those exceptions have created for pirates need to be plugged.

***What role does licensing play in PRH's business?***

Licensing is very important. Through the license we acquire the rights to publish our books. Beyond that, we have a thriving licensing business, in which we create books based on such world-class brands as Lego, Star Wars, Sesame Street, Disney, which are enjoyed by millions of readers of all ages, especially kids, and are a significant revenue stream for us and for the licensor.

***What is PRH's policy on accessible publishing?***

Penguin Random House is proud to partner with Bookshare, the world's largest accessible online library for people with print disabilities. Along with 500 other international publishers, we contribute to Bookshare's mission by donating our digital files so that content is made available to people with print disabilities around the world at the same time as it is for their sighted peers.

***Are you optimistic about the future of publishing? What is the next big thing in the industry?***

Yes! The next big thing is the next big book. Publishing continues to be all about the stories our authors write. Our job is to bring these stories to the widest audiences.

***Lastly, what are you currently reading?***

Books that are relevant to IP and copyright: *Free Ride* by Rob Levine, *Googled* by Ken Auletta and *The Circle* by Dave Eggers. All of these books touch on topics we addressed at the recent WIPO Conference on the Global Digital Content Market in April 2016, with *The Circle* providing a cautionary tale.

## About Bookshare

Penguin Random House is one of 500 international publishers that partner with Bookshare®, the world's largest accessible online library for people with print disabilities. Bookshare opens up the world of reading for people with print disabilities. It operates in the United States under a copyright exemption – the Chafee Amendment – which grants non-profit organizations the ability to make books available to people with print disabilities without publisher permission.

Bookshare receives permission from publishers to provide books to its members outside the United States. More than 500 US and international publishers are supporting Bookshare's work by donating their digital files, so that content is available to people with print disabilities at the same time as it is for their peers. Bookshare also benefits from significant cooperation from publishers in building its collection.

More than 360,000 people in nearly 50 countries have access to Bookshare's collection of over 350,000 titles.

Thanks to funding from the United States Department of Education, Office of Special Education Programs (OSEP), Bookshare is free for all qualifying US students. Qualifying individuals who are not students pay a nominal annual fee for their membership.

Bookshare provides books in the DAISY (Digital Accessible Information System) file format. Readers access texts on PC screens and other reading devices using special reading software that may be downloaded for free from Bookshare's website. Readers can also download files to a special reading device that turns the DAISY file into synthetic speech. Bookshare can supply digital Braille files to read on a digital Braille machine or which members can send to an embosser to have printed out.

Demand for physical books remains strong. "The role of the publisher has not changed significantly; the means of distribution have changed," says John Makinson.

# WIPO Lex: building the world's IP law database

By **Alexander Matveev**,  
Global Infrastructure Sector, WIPO

In just over five years, WIPO Lex, a unique global database of intellectual property (IP) laws and treaties of over 190 countries, has become a trusted and invaluable legal research tool. Attracting 1.8 million users annually, it is effectively the primary world reference source for IP legislation. So what is it that makes it stand out and what else lies in store for its future development?

## **A TRULY GLOBAL INFORMATION ASSET**

WIPO is committed to being the world reference source for IP information and analysis, and WIPO Lex is a key part of that strategic goal. The aim is to create a comprehensive, user-friendly and free-of-charge collection of all the IP laws and regulations covering the member states of WIPO, the United Nations (UN) and the World Trade Organization (WTO).

In addition to national laws, WIPO Lex includes international and regional treaties plus a growing number of bilateral agreements relating to IP. As well as current laws, it includes historical regulations that have been superseded or amended. All of these legal texts are enhanced through bibliographic notes and hyperlinked cross-references and it is all free-of-charge.

The result is a rich and extensive collection. WIPO Lex currently contains over 13,000 documents from over 190 countries, and coverage is set to grow as laws are updated and more information is added.

“WIPO LEX, for the first time, offers a complete picture of the different national and international approaches to intellectual property issues and, in the digital era, it will certainly become an essential tool for lawyers and legal scholars throughout the world,” says Dr. Aladar Sebeni, Executive Director of the Institute for International Business Law, Fribourg University Law School, a WIPO Lex partner.

## **ENSURING USER-FRIENDLY ACCESS**

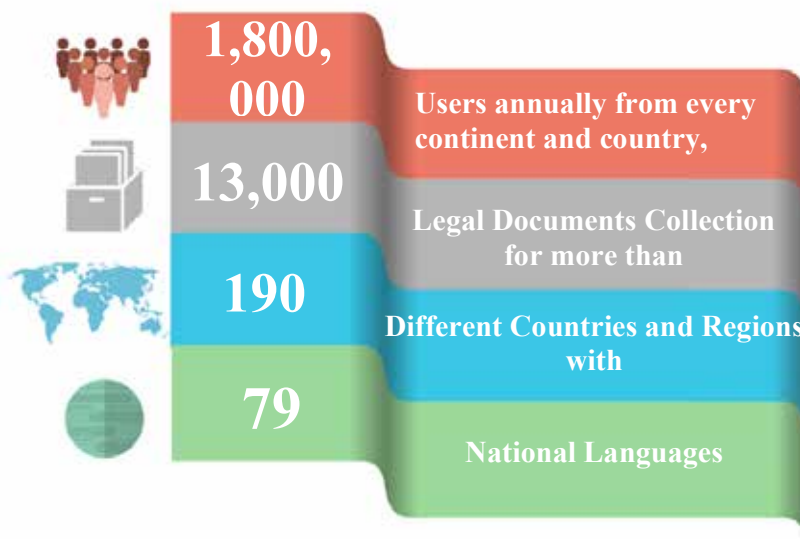
But sheer quantity of information is not enough to make a world-class information resource: the quality of the interface is also crucial. WIPO Lex is designed to help users find the material they need quickly and conveniently. Users can search by country and/or subject matter, or through a free-text search engine. Search results are then presented according to a standard hierarchical structure that makes it easy to understand each legal text in its wider context: from constitutional or basic law through to primary IP laws, IP-related laws and implementing rules and regulations, as well as information on participation in relevant treaties. Within each category of

## STRUCTURE AND CONTENT OF WIPO LEX



As of March 1, 2016

Photo: WIPO



WIPO Lex is designed to help users find the material they need quickly and conveniently. Users can search by country and/or subject matter, or through a free-text search engine. Search results are presented according to a standard hierarchical structure to make it easy to understand each legal text in its wider context.

Photo: WIPO



Top 10 Countries of Users (by Number of Sessions)															
/	2011			2012			2013			2014			2015		
1	US	53 190	☑	US	109 011	=	US	196 085	=	US	174 922	=	US	203 287	=
2	France	32 495	☑	Mexico	54 258	↑	Philippines	106 768	↑	Philippines	103 782	=	Philippines	140 983	=
3	Spain	22 379	☑	India	49 103	↑	Mexico	105 728	↓	Mexico	103 469	=	Mexico	134 232	=
4	Mexico	21 353	☑	France	48 790	↓	Colombia	89 742	↑	Colombia	102 543	=	Colombia	90 105	=
5	India	19 620	☑	Colombia	43 599	↑	France	70 359	↓	India	71 443	↑	India	87 462	=
6	UK	19 121	☑	Peru	40 667	↑	India	68 793	↓	France	66 148	↓	Morocco	84 042	↑
7	China	13 981	☑	Spain	40 473	↓	UK	53 567	↑	Spain	59 078	↑	France	80 255	↓
8	Peru	13 539	☑	China	35 491	↓	China	51 488	=	UK	56 279	↓	Costa Rica	73 293	☑
9	Colombia	13 486	☑	UK	33 876	↓	Peru	50 729	↓	Morocco	53 492	☑	Spain	65 753	↓
10	Germany	12 672	☑	Philippines	30 418	☑	Spain	50 353	↓	Peru	46 104	↓	UK	65 335	↓

Photo: WIPO

- ☑ - First time in the rating
- = - Same position as in the previous year
- ↑ - Moved up comparing to the previous year position
- ↓ - Moved down comparing to the previous year position
- ↻ - Returned to the rating

WIPO Lex is free of charge and anyone can use it. With fastest growth in developing countries, WIPO Lex is helping to bridge the IP-knowledge gap. Since its launch just over 5 years ago, it has become the primary world reference source for IP legislation.

that hierarchy, laws are shown in reverse chronological order, so that users can easily see the current law while also tracing its historical evolution if required.

The WIPO Lex interface is available in the six official languages of the UN – Arabic, Chinese, English, French, Russian and Spanish – while documents themselves are included in their original language with translated versions where available. At present, the collection comprises texts in 79 languages.

#### A DIVERSE WORLDWIDE USER COMMUNITY

Anyone can use WIPO Lex. It is free of charge and now attracts more than 1.8 million users annually, effectively making it the primary world reference source for IP legislation. Users come from many different backgrounds.

Along with legal professionals such as IP attorneys, IP law-makers and judges, they include students, researchers, inventors, investors, artists, entrepreneurs, policymakers, scientists and other sectors interested in

IP, starting with IP offices and international organizations around the world.

The geographical spread of the user community is also very broad, reaching every country and spanning every continent. Importantly, while it includes users from both developed and developing countries, its use is growing fastest in developing countries. The Philippines, for example, has shot up the rankings of most active WIPO Lex country users, rising from twenty-sixth position in 2010 to second in 2013, 2014 and 2015. This is encouraging because IP policy and education play a crucial role in the development of knowledge-based economies and in fostering innovation. By helping to bridge the IP-knowledge gap between developed and developing countries, WIPO Lex is proving to be a very useful development tool.

#### EVOLUTION THROUGH PARTNERSHIP

WIPO Lex is reviewed and updated by a multilingual team of specialists who receive information from national IP offices, academics and professionals from across the globe.

# “WIPO Lex is an efficient and indispensable education tool for research programs.”

Professor A. Bliznets,  
Rector of the Russian State Academy  
of Intellectual Property

The WIPO Lex team has also established partnerships with prestigious academic institutions, including Renmin University (China), East China University of Political Science and Law, the Hebrew University of Jerusalem (Israel), Meiji University (Japan), the Russian State Academy of Intellectual Property and the Russian Foreign Trade Academy, the Institute for International Business Law of the Fribourg University (Switzerland), and Vanderbilt University (USA). These partnerships are central to the success of WIPO Lex and its future growth.

Increased globalization and rapid technological advances have brought about rapid changes in IP legislation in many countries. In this context, WIPO Lex partners are an essential source of reliable guidance on the latest IP-related legislative developments and provide access to many talented researchers willing to analyze the increasingly dynamic and complex legal systems of countries around the world.

These partnerships also help to ensure that WIPO Lex is used by an expanding network of IP academics and practitioners alike.

“WIPO Lex is an efficient and indispensable education tool for research programs. That is why we have entered a partnership agreement with WIPO to contribute to further enhancing it,” notes Professor Ivan A. Bliznets, Rector of the Russian State Academy of Intellectual Property. “Over the last three years, the WIPO Lex database has become a valuable knowledge resource and has evolved into a comprehensive and reliable legal data collection of global significance, widening the scope for comparative studies,” he adds.

Partner universities have committed to further strengthen ties by recommending WIPO Lex-related research topics to their students and PhD candidates, and by hosting an increasing number of WIPO Lex information sessions and establishing dedicated WIPO Lex hubs providing free access to comprehensive and up-to-date legal resource.

“The opportunity to work on WIPO Lex and help develop it has provided Vanderbilt students with incredibly useful and rich insights into the tools and methods of international IP research and valuable skills of working in the intergovernmental context,” says Dr. Daniel J. Gervais, Professor of Law at Vanderbilt University Law School.

As IP laws continue to evolve, so WIPO Lex will expand and so too will WIPO bolster its position as a global provider of IP information.

WIPO Lex is available free-of-charge at: [www.wipo.int/wipolex](http://www.wipo.int/wipolex).

Sign up to WIPO Lex News at <https://www3.wipo.int/newsletters> for the latest IP legal developments.

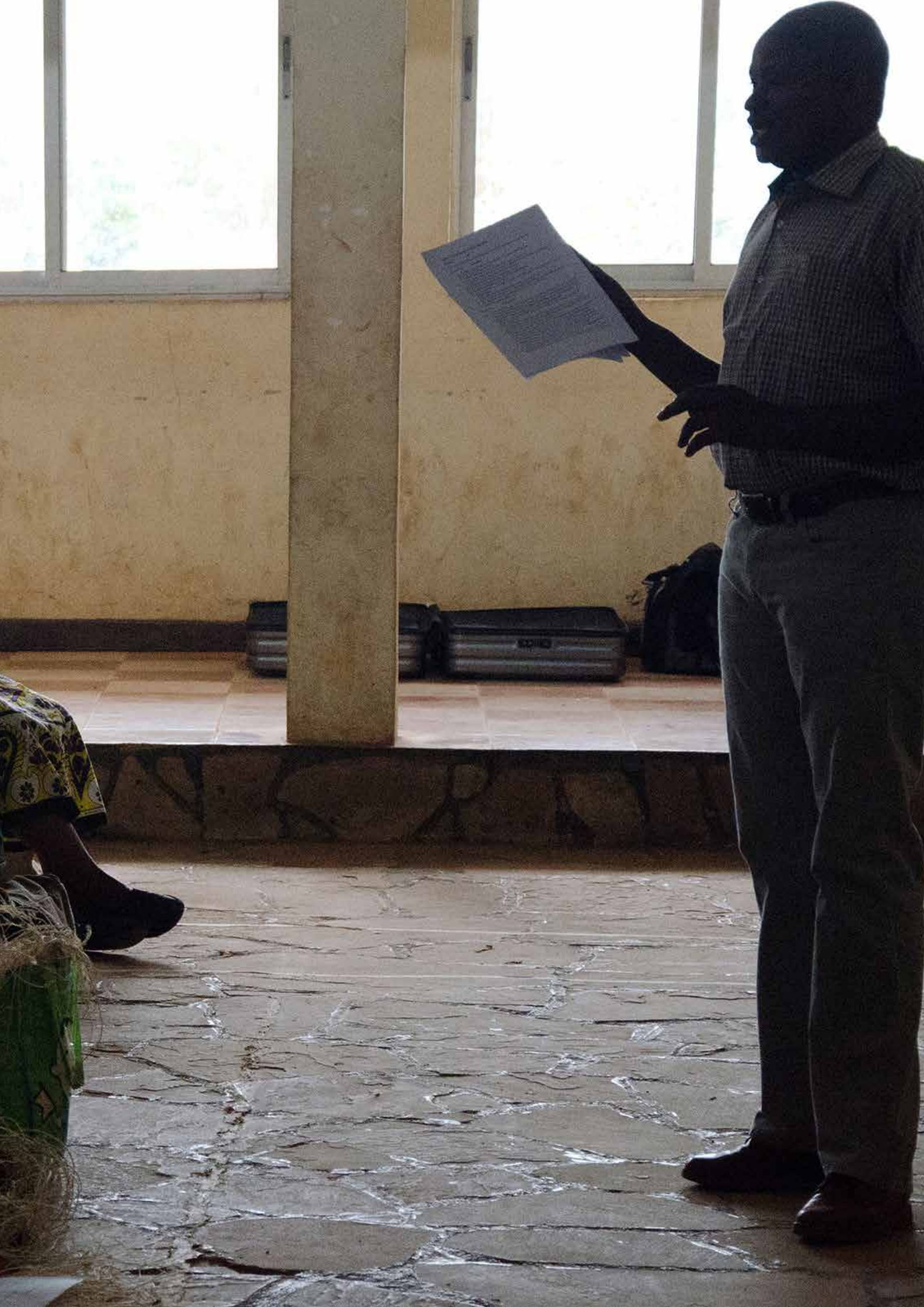


# Strengthening Kenya's IP landscape

By Festus Mbuimwe,  
freelance writer







**Sylvance Sange**, acting managing director of the Kenya Industrial Property Institute (KIPI), talks to *WIPO Magazine* about Kenya's intellectual property (IP) landscape, key priorities, challenges and opportunities.

### ***Can you explain KIPI's role?***

KIPI is a body corporate established by the Industrial Property Act No.3 of 2001, and is currently under the Ministry of Industry, Investment and Trade. It is mandated to promote inventive and innovative activities and to facilitate technology transfer through the regulation and protection of industrial property in Kenya.

It does this by receiving, processing and granting or registering patents, industrial designs, utility models, trade and service marks, and by screening technology transfer agreements and licenses. KIPI also promotes inventiveness and innovation through its IP public awareness initiatives and a range of training courses which it runs in collaboration with various institutions of higher learning.

### ***How has Kenya's IP landscape evolved in recent years?***

Much progress has been made in terms of pushing IP up the political agenda. In fact, with the adoption of the 2010 Constitution of Kenya, IP now has constitutional status. In its current form, I would say that Kenya's Constitution is one of the best in the world in terms of the attention it pays to IP. Thanks to this, the concept of IP in Kenya is now at the heart of a number of policy and legal frameworks in both the public and private sectors.

Kenya has modern IP laws which comply with international standards (including the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS)), and Parliament is currently preparing *sui generis* laws for the protection of traditional knowledge, genetic resources and traditional cultural expressions. So the national legal framework for IP has evolved quite considerably over the past 10 years.

### ***What are your future priorities?***

I want to ensure that Kenyans benefit from policies that balance the rights and obligations of producers and users of IP. I also want to further strengthen Kenya's IP regime and to ensure that it continues to support the nation's social and economic development ambitions.

One of KIPI's key priorities is to promote greater public understanding and awareness among Kenyans of the advantages that can flow from effective use of IP rights. IP education is extremely important, because only when people begin to understand the benefits of the IP system will they start using it and benefiting from it.

Another important priority is to improve patent drafting skills. Poor understanding of how to prepare patent applications in business circles is hampering growth in the number of applications filed and the number of patents KIPI is able to grant. So we have to invest more in building up these skills to turn this situation around. At present, because of the low number of applications filed in fields like engineering there is a high turnover of patent examiners. Only by ramping up filing activity will we be able to maintain the technical expertise and sustain the financial resources needed for the smooth operation of KIPI in an automated environment.

Building respect for IP among Kenyans remains a constant challenge. Many people still fall victim to outfits operating contrary to honest industrial or commercial practices. If we are to create the conditions necessary for Kenyan businesses to thrive, we need to continue to raise public awareness about the negative impact the illegal trade in counterfeit and pirated goods has on legitimate businesses and employment as well as consumer safety and the economy at large.

At KIPI, we are determined to ensure that Kenya's industrial property system keeps pace with the rapidly evolving global IP landscape and continues to support national social and economic development objectives.



Photo: KIPi

Students from Utafiti Primary School (above) in Nairobi take part in a KIPi outreach program. One of KIPi's key priorities is to promote greater public understanding and awareness among Kenyans, including schoolchildren, of the advantages that can flow from effective use of IP rights.



Photo: WIPO/Shingo Tsuda

In collaboration with WIPO, the Japan Patent Office, the Japan International Cooperation Agency and various other national partners, KIPi is working to build IP awareness among female basket weavers in rural areas and is supporting their efforts to protect, brand and promote their products.

### ***What is KIPi doing to raise awareness?***

With the invaluable support of the Ministry of Industrialization and Enterprise Development and KIPi's Board of Directors, we have secured funds to organize a range of training programs, exhibitions, conferences and workshops on IP across the country in collaboration with key IP stakeholders. For example, KIPi supports Kenyan secondary schools in organizing a range of student congresses on science and technology every year. KIPi also runs a number of award schemes to boost the profile of Kenya's best creators and innovators. We also actively engage with social, print and electronic media outlets to inform the public about the role of IP in supporting the country's social, cultural and economic development goals. Our colleagues regularly take part in talk shows like "The Professional View" and "Good Morning Kenya" aired by the Kenya Broadcasting Corporation (KBC). We are planning to launch a radio program very soon. Radio remains the most popular broadcast media in Kenya. So this will enable us to extend our IP awareness efforts to the more remote, rural regions.

None of this would be possible without the creativity and commitment of KIPi's amazing staff.



***What has been the impact of these activities?***

According to a survey we conducted in 2015 with an independent consultant, there was a 13.1 percent increase in the level of IP awareness of Kenyans. We have also seen an increase in the number of applications filed with KIPi. IP-related cases being heard by tribunals and courts are also on the rise.

***And what is KIPi doing to tackle IP theft?***

IP theft – the illegal trading of pirated and counterfeit goods – remains a significant challenge in Kenya. KIPi is working with Kenya's enforcement agencies to support national efforts to tackle the problem, for example, through our public IP awareness activities and training programs both for right holders, so they know what to do in the event their rights are infringed, and for various law enforcement agents, so they can do their work more effectively.

***You also mentioned promoting innovation as part of your mandate. What is KIPi doing to enhance Kenya's innovation performance?***

KIPi works with a range of institutions and government ministries to ensure that IP is incorporated into their strategic plans. In this way, we are helping to ensure that IP is at the forefront of policy considerations and that it supports the country's ambitions to promote innovation and creativity for sustained economic growth. It is a key responsibility of government to formulate balanced policies that create greater respect for IP rights and limit the trade in counterfeit and pirated goods and that support the expanded use of IP rights in support of technology transfer, indigenous research and development and trade.

KIPi, with its partners in government, has also played a key role in establishing the Kenya National Innovation Agency and the National Research Fund, both of which are designed to further strengthen Kenya's innovation ecosystem.

***Micro and small enterprises (MSEs) make up a significant proportion of Kenya's economy. What is KIPi doing to boost their use of the IP system?***

KIPi is working closely with the Micro and Small Enterprises Agency – under the Ministry of Industry, Investment and Trade – to encourage creativity and innovation in the sector. We have, for example, established a Technology and Innovation Support Center (TISC) at KIPi, to help these businesses access and use patent information in support of their business goals. We are also undertaking a program to digitize KIPi's registries. This will enable us to provide our clients with more efficient, timely and cost-effective

## **Kenya's leading IP institutions**

A member state of WIPO since 1971, Kenya has four intellectual property protection bodies: the Kenya Industrial Property Institute (KIPi), the Kenya Copyright Board (KECOBO), Kenya Plant Health Inspectorate Services (KEPHIS) and the Anti-Counterfeit Agency (ACA). Other bodies such as the Kenya National Innovation Agency (KENIA) and the National Research Fund support the broader development of Kenya's innovation landscape by, for example, strengthening linkages between academia and business.

Intellectual property is given high priority in Kenya. Section 40(5) of Kenya's 2010 Constitution obliges the government, among other things, to protect and enforce Kenyans' IP rights.

KIPi was established in 2002 following the enactment of the 2001 Industrial Property Act. Its vision is "to be a leader in the promotion of industrial property rights for wealth creation".

Sylvance Sange was appointed acting managing director of KIPi with effect from May 1, 2014. He joined the organization in 1994 when it was called the Kenya Industrial Property Office (KIPO), and previously served as its deputy managing director, technical services. He holds bachelor degrees in Physics and Laws from the University of Nairobi, Kenya and a master's degree in Intellectual Property from the Franklin Pierce Law Center in the USA.



Photo: KIPi

KIPi's CEO, Sylvance Sange, (right) meets with one of the inventors of the award-winning, innovative Kenyan Defense Forces mobile field kitchen DEFKITCH. The field kitchen uses an environmentally friendly diesel burner that reduces fuel costs and combats firewood consumption and deforestation. The DEFKITCH is protected with patent and trademark rights.

IP services. Our aim, of course, is to provide MSEs with the practical help they need to be able to add value to their products and to become more competitive through effective use of the IP system.

In the medium term, our plan is to ensure that KIPi's services are accessible across Kenya, as required under the country's Constitution.

### ***Why should Kenyan entrepreneurs take IP rights seriously?***

Kenyans are intellectually rich – as seen by the number of publications by Kenyan academics in leading science journals – but have yet to translate their know-how into commercially viable IP assets. All too often Kenyan academics fail to recognize that their research results are valuable IP assets which, once protected using the IP system, can be licensed to generate new income either for further research or business development. Researchers and entrepreneurs alike need to understand that identifying and protecting their valuable IP assets helps boost business growth, improves competitiveness in local and international markets, promotes employment and supports national economic growth.

### ***What needs to be done to ensure that Kenya becomes a truly knowledge-driven economy?***

In the knowledge economy, the capacity for ideas and information to generate value far outweighs that of traditional sectors, such as agriculture and manufacturing.

The government's recognition that information is a valuable commodity in the information age is a step in the right direction. IP is central to converting that raw material – knowledge, information and ideas – into tradeable intellectual property assets and to ensuring that the national economy continues to thrive.

### ***Lastly, what keeps you awake at night?***

As a person entrusted with the administration of industrial property rights in Kenya, it is my responsibility to ensure that KIPi is responsive to the needs of Kenya's business community and continues to improve the quality and range of IP services it provides to support innovative businesses.

I want to support Kenya's transition to a knowledge-based economy. I want to see the country thrive and become globally competitive. I want Kenya to be a place where inventors, businesses and universities can easily and adequately protect and enforce their IP rights. I often lose sleep thinking about how to turn that vision into reality.

# The Kectil program: a spotlight on young inventors in developing countries



Photo: iStock.com/jankovoy

The Kectil Program's Alumni Network ensures continuous mentoring, support and exchange among members.

A new non-profit venture aims to help bright young people in developing countries benefit from the wisdom of some leading innovators. Founder **Sherry Knowles**, an intellectual property attorney with 25 years of experience in global corporate and private practice, explains how.

When it comes to innovation and leadership, Kendall Square in Boston, USA, is among the most successful areas in the world. According to the Kendall Square Association, whose motto is “The Future Lives Here,” this small neighborhood in Cambridge houses companies in over 30 industry sectors. These include 9 of the top 10 global biopharmaceutical companies (and 13 of the top 20) as well as leading information technology and social media companies like Facebook, Google, Microsoft and Twitter. It is also home to two of the world’s most prestigious universities, Harvard University and the Massachusetts Institute of Technology.

#### **BRINGING CONTRASTING WORLDS TOGETHER**

The Kendall Square innovation centers are abuzz, teeming with brainstorm-cluttered whiteboards, spontaneous high-level conversations and introductions, crowded conference rooms, mentors, leaders, venture capital specialists, business development experts, lawyers, consultants and, yes, trainees quickly absorbing the environment. It is hard to imagine a better place for expedited learning and success.

Contrast Kendall Square with the environment available to young people in developing countries like Gabon, Ghana, Kenya, Nepal, Nigeria, Pakistan, Peru, Senegal and South Africa, and in regions such as Central Asia and the Middle East. The talented young people in these countries often have to go it alone, with no role models to inspire and direct them, and little or no funding or training. How, then, can they begin to plan their futures? How do they get out of the box? How many simply give up or turn to less constructive endeavors?

Throughout my career as an intellectual property (IP) attorney, I have travelled to many countries, including developing countries, to handle IP issues and speak about international IP policy. This has enabled me to observe first-hand the challenges confronting young people living in remote and disadvantaged areas. I have also had the good fortune to represent or work with some of the brightest and best minds in innovation. I wanted to find a way for these innovators to support the many talented young people living in developing countries.

That is why our Malmar-Knowles Family Foundation set about creating and recently launched a transformational initiative to support talented young people in developing and least developed



Photo: Sherry Knowles



Photo: iStock.com/Riccardo Lennart Nils Mayer

The Kectil Program is a non-profit venture that seeks to help talented young people in developing countries benefit from the wisdom and support of leading innovators. It encapsulates the wisdom of a famous African proverb: "If you want to go fast, go alone; if you want to go far, go together."

countries. Known as the Kectil (Knowles Educational and Charitable Trust for International Leadership) Program, the initiative seeks to identify and nurture highly talented people between the ages of 17 and 25 in developing countries, particularly those living in remote or disadvantaged areas, with the potential to make a positive difference to their communities and countries.

#### **FINDING TOMORROW'S LEADERS**

The aim is to reach young people at that critical time when they are deciding what to do with their lives and to connect them with global thought leaders and a guided support network of their peers in developing countries. The Program covers a range of themes including leadership, innovation and entrepreneurship. Full details are available at [www.Kectil.com](http://www.Kectil.com).

Young people are selected to join the Program on the basis of their academic grades, community service and past leadership roles, written submissions and recommendations. Life factors, such as significant economic, social or family challenges, are also taken into account. Candidates must speak English well enough to participate



## The Kectil Program's Expert Advisory Board

Members of the Program's Advisory Board provide vision and leadership in their respective developing country areas. They include:

**Professor Dr. Arshad Ali** (Pakistan), Executive Director of the Higher Education Commission for the Government of Pakistan. His prior leadership roles include Rector of the National Textile University in Faisalabad and founding Principal of the National University of Sciences and Technology (NUST) School of Electrical Engineering and Computer Science (SEECs).

**Dr. Snowy Joyce Khoza**, Group CEO of Bigen Africa, an African infrastructure development company specializing in engineering, management consulting and development finance. Dr. Khoza was recognized in 2016 by Women4Africa as one of the top African women leaders in her sector.

**Professor Stephen Sammut** (USA), Senior Fellow in Health Care Management and Lecturer in Entrepreneurship, Wharton School, University of Pennsylvania, and a visiting faculty member in the Indian School of Business Health Care Management Program. He also created and heads the Strathmore Business School (Nairobi) Health Care Management MBA Program.

**Mr. McLean Sibanda** (South Africa), Chief Executive Officer of The Innovation Hub, Africa's first accredited science park, a Blue IQ and Gauteng Provincial Government of South Africa initiative.

**Mr. Mactar Silla** (Senegal), CEO of MS Consulting, owner of the pan-African international media outlet Label TV and Label Radio (Libreville, Gabon) and CEO of Africa Communications & Conseil (ACC).

**Mr. Pawan Tuladhar** (Nepal), founder and owner of Dharma Adventures and founder of the Dharma Karma Society, which helps fund education for children from low-income families.

in and receive value from the Program, and must have access to a computer and the Internet.

The Kectil Program is underpinned by the conviction that:

- (i) Identifying, embracing and mentoring high-potential young people from developing countries can have a dramatic effect on their aspirations, service to others and life accomplishments.
- (ii) Creating an authentic, collaborative network of these talented individuals can break down prejudices, lead to cultural, religious and gender understanding and integrate young people into a mutually supportive youth network that aims to make a positive difference to their lives and communities.
- (iii) Nothing comes easy and there is “no free lunch”. Hard work, dedication and an open-mindedness to cultural understanding and compassion are key ingredients for achieving good results.

### HOW IT WORKS

The Program is divided into three parts. Part one is made up of 12 webinars spanning a year where global thought leaders – some of them from Kendall Square – speak to participants about leadership and innovation, and share their insights.

In part two, selected top applicants will participate in a Developing Youth Leadership Conference in Atlanta, USA, in August 2017. Applicants who are accepted for the Web-based Program but not the Developing Youth Leadership Conference may apply to attend the Conference the following year.

The third part of the Program involves the establishment of an Alumni Network. We believe this is critically important to the initiative’s success. The Alumni Network will ensure continued mentorship, support and exchange among members and will allow graduates of the Program to support newcomers. All those who participate in either the Web-based Program or the Leadership Conference are encouraged to actively participate in the Alumni Network.

Within one month of its launch on June 1, 2016, over 2,700 young people from 31 countries visited the

Kectil website ([www.kectil.com](http://www.kectil.com)) to learn more about the Program. More than 270 have already registered to apply.

### GET WITH THE PROGRAM!

The deadline for submission of applications is October 15, 2016. Our aim is that many more high-potential young people in developing countries will be able to take advantage of the Program and will encounter a life-enhancing experience.

You can support the Program by sharing information about it and reaching out to high-potential young people in developing countries and encouraging them to apply.

The Kectil Program embodies the wisdom encapsulated in a famous African proverb: “If you want to go fast, go alone; if you want to go far, go together.” So if you would like to support us in rolling out this important youth program, please contact us at [mail@kectil.com](mailto:mail@kectil.com).







34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

Tel: +41 22 338 91 11  
Fax: +41 22 733 54 28

For contact details of WIPO's External Offices  
visit: [www.wipo.int/about-wipo/en/offices/](http://www.wipo.int/about-wipo/en/offices/)

**WIPO Magazine** is published bimonthly and distributed free of charge by the World Intellectual Property Organization (WIPO), Geneva, Switzerland. It is intended to help broaden public understanding of intellectual property and of WIPO's work, and is not an official document of WIPO. Views expressed in articles and letters do not necessarily reflect those of WIPO.

For comments or questions, contact  
The Editor at [WipoMagazine@wipo.int](mailto:WipoMagazine@wipo.int). To order a print version of the  
WIPO Magazine, contact [publications.mail@wipo.int](mailto:publications.mail@wipo.int).

Copyright ©2016 World Intellectual Property Organization

All rights reserved. Articles contained herein may be reproduced for educational purposes. No part may, however, be reproduced for commercial purposes without the express written consent of the WIPO Communications Division at the above address.