



Welcome to the latest issue of the IP & Technology Digest.

We hope that you will find the features in this Digest informative.

### **SNAPSHOT OF OUR PRACTICE**

Our IP & Technology Practice continues to be recognized by international directories as a leading practice in Intellectual Property, Telecommunications, Media and Technology. In 2020, we added to this list of accolades by being named Runner-up Intellectual Property Team of the Year for 2020 at the African Legal Awards.

In 2021, we added to this list of accolades by being listed by World Trademark Review's top trademark professionals' rankings, with a number of our IP & Tech department members featuring on the article. To read more, [click here](#).

The month was quite eventful as we handled an array of matters including; advice on online agreements, lawful interception of communication and how advertising rules apply to the digital arena. This was in addition to handling trademark applications, filing infringement claims, handling opposition matters and other Fintech and telecommunication matters. We continue to lead the front in advising on major telecommunication infrastructure projects, including extensive submarine cable projects, satellite projects and land infrastructure. Advice on regulatory compliance for telecommunications licensees, particularly on mandatory local equity investment requirements continues to be a key issue.

We are proud to continue to be your port of call for any legal assistance you require in IP & Technology matters. For assistance on any IP matter, please do not hesitate to contact [John Syekei](#).

### **UPDATES FROM REGULATORY BODIES**

#### **KIPI**

The Industrial Property Journal for February 2021 is available on the KIPI website. You can find it [here](#).

The Special Industrial Property Journal for February 2021 is also available on the KIPI website. You can find it [here](#).

#### **KECOBO**

The High Court has cleared the way for the Kenya Copyright Board to act on the forensic Audit conducted on three Collective Management Organizations (CMOs) last year, after dismissing a petition filed by a member of one of the CMOs.

To read more, [click here](#)

Source: KECOBO Website

## **ARIPO**

The ARIPO Director General (DG), Mr. Bemanya Twebaze, had a successful meeting with the WIPO Director General, Mr. Daren Tang, on Wednesday, 27 January 2021. The meeting's overall objective was for the two Director Generals to exchange on the ongoing cooperation activities and future plans.

To read more, [click here](#)

Source: ARIPO. Org

## **DEVELOPMENTS IN THE INTELLECTUAL PROPERTY ARENA**

### **COPYRIGHT**

#### **Kenya: How U.S. Copyright Law and Fake Gmail Accounts were used to Censor a Report on Gambling in Kenya**

On February 4, Emmanuel Dogbevi turned to Twitter with a plea for help. He tagged press freedom groups and colleagues in a series of tweets, lamenting how allegations that he violated U.S. copyright law had prompted his news website to be taken offline.

Dogbevi told CPJ via phone that Ghana Business News, the Ghana-based website he edits, was pulled down for roughly four hours by its web host, U.S.-based DigitalOcean, following two complaints it received in January. The complaints, which CPJ reviewed, alleged Ghana Business News had republished an investigative report about Kenya's gambling industry without permission.

To read more, [click here](#)

Source: All Africa.com

#### **Court Orders Telegram to Block Copyrighted Material**

An Israeli court has ordered instant messaging service Telegram to block the distribution of copyrighted media on its platform, following a lawsuit from anti-piracy group ZIRA. ZIRA took Telegram to court last year claiming that the company was not doing enough to combat piracy on its platform.

The group was joined by fellow plaintiffs and rights owners United King Films, YES, HOT and Reshet. They claimed that Telegram had "fallen short of expectations" in removing copyrighted material from its platform.

To read more, [click here](#)

Source: World IP Review

### **ISP Cox Appeals Record \$1bn Damages Award**

Internet service provider (ISP) Cox Communications has appealed a \$1 billion award of damages for copyright infringement, in its latest challenge to the landmark win secured by major record labels including Universal, Sony and Warner. The company lodged the appeal with the US Court of Appeals for the Fourth Circuit on February 10.

To read more, [click here](#)

Source: World IP Review

### **TRADEMARKS**

#### **Chanel Is Suing an Accessories Company over Jewelry Made From Authentic Logo-Bearing Buttons**

Taking Chanel buttons from the brand's garments and refashioning them into jewelry runs afoul of trademark law. That is what Chanel argues in a newly-filed complaint, in which it accuses accessories company Shriver + Duke of "misappropriating" its "world famous and federally registered" interlocking "C" monogram trademark and its "Chanel" word mark in order to "create and market costume jewelry that draws and relies on the selling power and fame of the Chanel marks."

To read more, [click here](#)

Source: the Fashion Law

#### **Olympic Committee Sues Puma over 'War' On TMS**

The US Olympic Committee (USOPC) has sued Puma for trademark infringement, alleging the sportswear company has 'declared war' on Olympic trademarks. The USOPC filed a complaint with the US District Court of Colorado on Tuesday, claiming that Puma is causing confusion among consumers surrounding sponsorship for the delayed Tokyo 2020 Olympic Games.

To read more, [click here](#)

Source: World IP Review

#### **Bezos Non-Profit Loses Trademark Case at EU Court**

The Bezos Family Foundation, a non-profit organization run by the family of Amazon.com founder and CEO Jeff Bezos, has lost its appeal against a trademark invalidation at the EU General Court.

The tenth chamber of the court delivered the judgment on February 24, affirming an earlier decision by the European Intellectual Property Office (EUIPO) and its boards of appeal. In doing so, it upheld the opposition of SNCF Mobilités, France's national state-owned railway company.

The dispute arose in December 2017, after the foundation filed an application for the registration of the word sign 'Vroom' as an EU trademark with the European Union Intellectual Property Office (EUIPO). The mark covered classes of computer software, specifically "a mobile application for providing information

and learning and educational activities and games in the field of early child development and early childhood education".

To read more, [click here](#)

Source: World IP Review

## **PATENTS**

### **AI Lacks 'Legal Personality' To Invent, Argues USPTO**

The US Patent and Trademark Office (USPTO) has urged a federal court to uphold its finding that patents cannot cover inventions by artificial intelligence (AI), and dismiss a suit challenging its position.

In August, physicist Stephen Thaler sued the USPTO in a challenge to the office's rejection of patent applications for inventions created by 'creativity machine' "Dabus". The office submitted the 24 page summary motion at the US District Court for the Eastern District of Virginia yesterday, 24 February, defending its April finding when it confirmed that an AI cannot be named as an inventor on a patent application.

To read more, [click here](#)

Source: World IP Review

### **Vodafone Appeal Loss Clarifies Government Use of IP**

The UK Court of Appeals has ruled against Vodafone in a trial to decide whether it infringed a standard-essential patent (SEP) relating to 4G, in a case that clarified the rules around state use of IP. Vodafone was accused of having infringed on a 4G/long-term evolution (LTE)-related SEP (European Patent (UK) 2,579,666) held by IP licensing company IPcom.

The patent covers the control of access to certain channels on the network. IPcom claimed that Vodafone had infringed on the patent prior to a redesign of its systems to avoid infringement shortly before trial. The UK telecoms company had argued before the High Court that the patent was invalid and disputed the infringement claims. It claimed a *de minimis defence*, arguing the infringement was insignificant.

To read more, [click here](#)

Source: World IP Review

### **Barclays Signals New Anti-Patent Troll Strategy**

Groups targeting patent assertion entities (PAEs) are aiming to enlist more members from the financial services sector, after recruiting Barclays. Barclays announced yesterday, February 16, that it had joined the LOT Network and Open Invention Network (OIN) Community—the first major European bank to do so. The news came just a day after Canada-based TD Bank also announced that it had joined the OIN Community. Both anti-PAE groups said they hoped the news would "inspire other financial institutions and service providers to join the efforts to protect against patent trolls".

To read more, [click here](#)

Source: World IP Review

### **USITC Joins Ongoing Ericsson V Samsung Dispute**

The US International Trade Commission (USITC) has launched an investigation into Samsung regarding alleged infringements of Swedish company Ericsson's wireless technology patents. Ericsson's complaint filed with the USITC seeks a limited exclusion order and cease and desist order targeting the South Korea-based Samsung, if it is found to have been importing and selling products infringing on Ericsson patents in the US. The notice was filed on February 2.

To read more, [click here](#)

Source: World IP Review

### **INDUSTRIAL DESIGNS**

#### **Protecting Designs: Considerations for the Fashion Industry Post-Brexit**

Fashion houses and clothing companies used to enjoy protection in both the United Kingdom and the 27 European Union member countries under Registered and Unregistered Community Designs. However, now the Brexit transition period is over, such registered and unregistered design rights no longer extend to the UK. With that in mind, here is a look at some of the changes to design protection that the fashion industry – including British fashion brands – may encounter now that the UK is outside the EU's designs regime.

To read more, [click here](#)

Source: the Fashion Law

### **TRADE SECRETS**

#### **Intellectual Property and COVID-19 Medicines: Why A WTO Waiver May Not Be Enough**

The COVID-19 pandemic, and the race to make vaccines and other useful technologies more accessible to people around the world, has once again highlighted the tension between intellectual property rights and the promotion of public health.

As a potential remedy, calls have been made for companies to voluntarily pledge to make their intellectual property available to fight the COVID-19 emergency. The World Health Organization has also launched a voluntary pool to collect patent and other rights, which could be shared for manufacturing vaccines, therapeutics and diagnostics to combat coronavirus.

South Africa and India, supported by many other developing countries, which face extra difficulties accessing affordable COVID-19 treatments, are pushing for a stronger measure. They have proposed a waiver of certain parts of the TRIPS Agreement, the WTO international treaty that protects intellectual property at global level.

To read more, [click here](#)

Source: The Conversation

## **TECHNOLOGY, MEDIA AND TELECOMMUNICATIONS**

### **Airtel fights jail push in SportPesa dispute**

Executives of telecoms company Airtel have launched a fight against contempt of court charges which put them at risk of fines or jail terms after the mobile operator was sucked into a dispute between the State and betting firm, SportPesa.

The mobile operator is seeking protection against a contempt suit filed by the betting firm which has accused it of failing to unblock gaming paybill accounts and short codes used by its partner Milestones Games Limited despite a court order to do so. The dispute kicked off last year after the State-run Betting Control and Licensing Board (BCLB) stopped Milestone from operating under the popular Sportpesa gaming brand, saying the trade name had been appropriated from its rightful owner Pevans East Africa Limited.

To read more, [click here](#)

Source: Business Daily

### **Privacy and Data Protection Practices of Digital Lending Apps in Kenya**

The Centre for Intellectual Property and Information Technology Law (CIPIT) has been studying the impact of digital identities on society. This has included policy research on the legal and technical aspects of the national digital ID system *Huduma Namba* under which the Government is integrating all its identification documents. The research shows that the national digital identity system also integrates with privately issued digital identities such as mobile phone numbers and social media accounts. CIPIT anticipates that as national digital ID uses increase, so will the linkage with private systems. This is already evident from e-government services, where payments for Government services, such as passport applications, drivers' licenses, national health insurance and hospital bills in public hospitals are made using mobile money platforms.

To read more, [click here](#)

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

### **Five Companies Win Sh1.6b Communication Authority Contract**

The Communications Authority of Kenya (CA) on February 11<sup>th</sup> 2021, awarded Sh1.57 billion to five companies to set up infrastructure in 101 marginalized sub-locations across the country. Safaricom, Airtel, American Towers Company (ATC), Seal Towers and Alan Dick & Company (East Africa) were awarded contracts to set up infrastructure and services under the Universal Service Fund (USF) that has since hit Sh10 billion.

To read more, [click here](#)

Source: The Standard

### **Airport robots give hi-tech boost to Kenya fight against pandemic**

Nairobi - Jasiri, Shujaa and Tumaini only landed in Kenya just over two weeks ago, but they're already playing an important role in curbing the spread of the country's coronavirus epidemic.

The three glossy white robots, made in China and donated by Japan and the United Nations Development Program, have been put to work at Nairobi's main international airport, keeping it disinfected and monitoring arrivals for signs of the virus. As Jasiri - a Swahili word meaning "brave" - does his rounds, he sprays fine jets of sanitizer from containers attached to his sides, and takes infrared pictures with a camera mounted on an extendable neck while scanning hundreds of passengers per minute.

To read more, click [here](#)

Source: Independent Online

### **Amazon Rainforest Plots Sold Via Facebook Marketplace Ads**

Parts of Brazil's Amazon rainforest are being illegally being sold on Facebook, the BBC has discovered. The protected areas include national forests and land reserved for indigenous peoples. Some of the plots listed via Facebook's classified ads service are as large as 1,000 football pitches. Facebook said it was "ready to work with local authorities", but indicated it would not take independent action of its own to halt the trade. "Our commerce policies require buyers and sellers to comply with laws and regulations," the Californian tech firm added.

To read more, [click here](#)

Source: BBC

### **Facebook Reverses Ban on News Pages in Australia**

Facebook has announced it will restore news content to its users in Australia. The tech giant has blocked news to Australians on its platform since last Thursday amid a dispute over a proposed law which would force it and Google to pay news publishers for content. Australian Treasurer Josh Frydenberg said Facebook chief Mark Zuckerberg had told him the ban would end "in the coming days", after the pair had talks. Mr Frydenberg said amendments would be made to the law. "Facebook has re-friended Australia," he told reporters in Canberra on Tuesday. The government has been debating the law - seen as a possible test case for regulation globally - in the Senate, after it was passed in the lower house last week.

To read more, [click here](#)

Source: BBC News

### **Twitter Is Considering Letting Users Pay Accounts They Like**

Twitter is exploring a way to allow users to become paid subscribers to twitter accounts they really like. The company teased the feature, which it's calling Super Follows, during its Analyst Day presentation on Thursday. If implemented, users would have the ability to pay creators for additional content within their Twitter feeds, including exclusive announcements and newsletters. "We're rethinking incentives and exploring solutions to provide monetary incentive models for creators and publishers to be directly

supported by their audience," Twitter said in its presentation. A company spokesperson told CNN Business that Super Follows are not available yet but Twitter will "have more to share in the coming months." The social media company has been exploring subscription options in recent months, in an attempt to make money from its users and diversify beyond its core advertising business. Last month, it announced the acquisition of newsletter company Revue.

To read more, [click here](#)

Source: CNN

### **WhatsApp to Switch off Messages for All Who Reject New Terms**

WhatsApp users who do not accept its updated terms and conditions by the 15 May deadline will be unable to receive or send messages until they do so. Their account will be listed as "inactive". And inactive accounts can be deleted after 120 days. Calls and notifications will still function for "a short while" but, TechCrunch reported, probably only a "few weeks". WhatsApp announced the update in January. There was a backlash among many users who thought it meant the company was planning to change the amount of data it shared with its parent company, Facebook. It later clarified this was not the case - the update is actually aimed at enabling payments to be made to businesses.

To read more, [click here](#)

Source: BBC

### **India Imposes New Rules on Facebook, Twitter and YouTube**

India issued strict new rules on Thursday for Facebook (FB), Twitter (TWTR) and other social media platforms weeks after the country's government attempted to pressure Twitter to take down accounts it deemed incendiary. The rules require any social media company to create three roles in India: a "compliance officer" who will ensure they follow local laws; a "grievance officer" who will address complaints from Indian users about their platforms; and a "contact person" available to Indian law enforcement 24/7. The companies will also have to publish a compliance report every month detailing how many complaints they received and what action they took. Social media platforms will also be required to remove some types of content, including posts that feature "full or partial nudity," a "sexual act" or "impersonation including morphed images." Large social networks, which India will define soon based on the number of users, will be given three months to comply with the policy changes, while smaller ones are expected to comply immediately, the government said.

To read more, [click here](#)

Source: CNN

### **Uber, Lyft, Facebook Sued Over GPS Tech**

Uber, Lyft and Facebook have been accused of infringing patents relating to GPS Technology by AGIS, a company that produces global positioning system (GPS) technology for military and law enforcement agencies. The suits were filed on Friday, January 29 at the US District Court for the Eastern District of Texas.

To read more, [click here](#)

Source: World IP Review

### **North Korea Accused of Hacking Pfizer for Covid-19 Vaccine Data**

North Korea attempted to steal Covid-19 vaccine technology from US pharmaceutical company Pfizer, according to South Korean intelligence officials. It is currently unclear as to what, if any, data was stolen. South Korea's National Intelligence Agency privately briefed lawmakers about the alleged attack, reported local news agency Yonhap. The BBC has asked Pfizer for a comment but it has yet to respond.

To read more, click [here](#)

Source: BBC News

### **TikTok Breaching Users' Rights - European Consumer Organization**

TikTok has been accused of breaching users' rights "on a massive scale" by a European consumer group. The European Consumer Organization (BEUC) says the platform "falls foul of multiple breaches of EU consumer rights". It also claims TikTok has failed to protect children from hidden advertising and inappropriate content. TikTok told the BBC that it has requested a meeting with the BEUC to discuss its concerns. The body has filed a complaint with the EU's network of consumer protection authorities.

To read more, click [here](#)

Source: BBC News