

# AFRICA UPDATE

2012 January Edition

## Adams & Adams

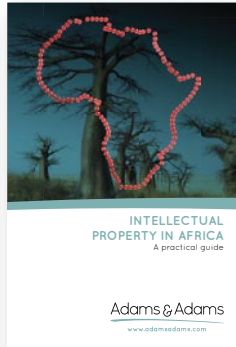
**African Wisdom:**  
Free up your hands, by  
using your head.



### NEWSFLASH

#### MERGER:

The Intellectual Property practice of Bowman Gilfillan will merge with that of Adams & Adams on 1 March 2012. This merger will reinforce Adams & Adams as the largest IP firm throughout Africa, and indeed the Southern Hemisphere.



#### IP IN AFRICA HANDBOOK:

We are delighted to advise that after many months of research, hard work and dedication, we will soon be launching our very own Handbook entitled "Intellectual Property in Africa - A practical guide". We believe this will be the definitive guide to African IP, and is only available upon request. For more information in this regard, contact [EDP@adamsadams.co.za](mailto:EDP@adamsadams.co.za)

### Algeria



**PATENT CLAIMS:** Previously, the Algerian patent office insisted that an Algerian PCT national phase application must be filed with the same number of claims as in the national phase i.e. as filed or as amended under Article 19 or 34. This ruling has since been altered and today national phase PCT applications in Algeria no longer have to be filed with the same number of claims as in the international phase

#### TRADEMARK SEARCHES:

The Registry has a fairly good website and it is possible to conduct trademark searches online.

### Angola



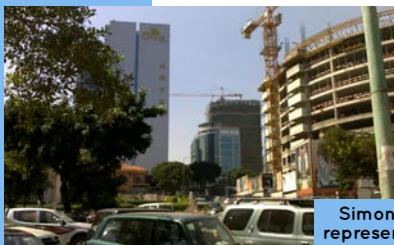
#### COMPLETION OF DOCUMENTARY REQUIREMENTS:

The Angola Industrial Property Office issued a notification in the May 2011 Volume of the Angola Journal advising all rights holders that the documentary requirements for all matters must be in order within 30 days of publication. Failure to comply with this deadline will lead to abandonment of the application. The effect of the notification is not clear and clarity is being sought from the Registry but clients are urged to ensure that any outstanding documents are submitted as soon as possible in Angola.

**PCT PATENT APPLICATIONS:** Angola became a member of the PCT in 2007 but its national laws have not yet been amended to cater for PCT filings. PCT national phase applications are however being accepted and processed in the usual fashion. Despite the absence of any specific provisions giving effect to PCT applications in Angola, Article 77 of the Angolan Industrial Property Act entitled "Application of International Conventions" does state that "the provisions of any international conventions concerning intellectual property to which the country is a contracting party shall ... be applicable in conjunction with the provisions of this Act." It is therefore possible that such a provision could give rise to enforceable rights in Angola obtained via a national phase PCT application. That said, this issue has not been tested by the courts and is unlikely to be tested any time in the near future.

**ADAMS & ADAMS OFFICE:** Adams & Adams opened its Angola office in May 2010. Angola is a complicated territory and the Registry is understaffed and lacking resources. We are working with local officials to try to improve the processing of trademark, patent and design applications and the services being offered by IAPI as a whole but there is still some way to go.

Angola's  
economy is  
booming



Simon & Nicky (both A&A) with the Angolan Registrar and a representative from the Angola office on their visit to Angola.



The Angolan Registrar was invited to attend our new building launch.

## Botswana



**TRADITIONAL KNOWLEDGE GETS PROTECTION?** A training session was held recently by the World Health Organization together with WIPO to understand and use the flexibilities afforded to intellectual property rights in the International Trade Marks Rules on IP. The Botswana government is developing a policy to protect, preserve and promote indigenous knowledge. The Ministry of Infrastructure, Science and Technology engaged the University of Botswana Centre for Science Research, Indigenous Knowledge and Innovation to assist with the formulation of the Botswana Indigenous Knowledge Systems (IKS) Policy which will guide various sectors on the current unregulated IKS issues. The knowledge and skills cover medicine, agriculture, art and food preservation techniques amongst other disciplines. The purpose is to protect holders of traditional knowledge from any infringement of their rights and the misappropriation, misuse or exploitation of their knowledge.

### INNOVATION HUB:

The Government of Botswana ran a competition for a winning design of a \$50million dollar centre for technological excellence. The Innovation Hub is a huge investment for the Botswana government in an attempt to diversify its economy which is primarily based upon diamond extraction to move toward a more “knowledge-based economy”.

Botswana's planned Innovation Hub



### LEGISLATION UPDATE:

The Industrial Property Act (No. 8 of 2010) is not yet in force. The date of commencement has not yet been published and supporting regulations have not yet been finalised.



## Burundi



### ASSOCIATED OFFICE:

Adams & Adams will shortly have an office in Burundi. This will assist us in ensuring that the best pricing and service levels are available to our clients in this jurisdiction.

### MAINTENANCE FEES FOR PATENT MATTERS:

The new Act introduced the requirement for payment of annual maintenance fees for patent matters. Renewal fees are calculated from the filing date and a 6 month grace period is allowed. That said, although annual renewal fees are now payable, the Regulations (which would prescribe the fees) have not yet been published. Until such time as this takes place, payment is not possible.

### NEW LEGISLATION:

Although a new Industrial Property Law regulating IP was enacted on 28 July 2009 no implementing regulations have been issued. However, it appears that the Registry is applying the new law thereby giving rise to practical difficulties. For instance, the new Trademark law makes provision for the publication of acceptance of an application for opposition purposes. However with no regulations or procedural infrastructures in place, the Registrar simply issues registration certificates without any prior publication.

The new Trademarks Act did include a number of important changes, including examination on relative grounds, 10 year renewal terms and six month grace periods for attending to renewal. Prior to the implementation of this Act trade mark registrations were granted in perpetuity.

## Comores



**STILL NO LAW:** The legal system of the Union of Comores is a hybrid system based on Islamic law and an inherited French legal code. Although a member of the Berne Convention, the Comores does not have any legal instruments in place by which to obtain registered trade mark rights. The exception being the Island of Mayotte, which is still an overseas department of France and French registrations extend automatically. It is still possible to arrange for the publication of Cautionary Notices in local newspapers and whilst the legal effect of such Notices remains untested in the courts, it does appear to have a deterrent effect on potential infringers. The content of the Notices is monitored by Government and can be restricted or rejected.

## Djibouti



**DEVELOPMENTS:** There is still uncertainty when the new Intellectual Property Law of 2009 will be implemented. In terms of a Decree dated 25 May 2011, the law was scheduled to come into force at the end of November 2011.

However, as a condition for the application of the new law, the law makes provision for the establishment of a new government office, the ODPIC. The ODPIC will be responsible for maintaining the registers of intellectual property in Djibouti. Our associate law firm has advised that the ODPIC has been constituted and a General Manager has been appointed together with staff. Training is ongoing; however, the ODPIC is unlikely to be in a position to apply the new law any time soon. For this reason, we are advised that the implementation of the new law is likely to be delayed for at least 6 months. In the meantime, in terms of Section 220 and 221 of the new law, old registrations will remain valid until their expiry.

## Egypt



**REGISTRY ACTIVITY:** After the ousting of President Hosni Mubarak in February 2011, Egypt was in a state of political turmoil but now appears to be under the control of the military which makes the situation in the country somewhat tense and it is unlikely to return to normal for some time to come. Although the IP Registry shut its doors for a period of time during the civil unrest, it has once again started functioning and appears, for the moment, to be fully operational.

### PATENT RENEWAL FEES:

With effect from June 2009, renewal fees for PCT national phase patents are payable from the International Filing Date and not the Egyptian filing date.

**LATE PCT NATIONAL PHASE ENTRY:** The Minister for Higher Education and State for Scientific Research published a notice in the Official Gazette on 31/1/2010, stating that applications could be submitted for national phase entry in Egypt up to 3 months after expiry of the 30 month PCT national phase filing deadline, subject to payment of additional fees. However several months later, the notice was repealed and it is at this stage, no longer possible to enter the national phase in Egypt after expiry of the 30 month deadline.

## Eritrea



**STATE STIFLES PUBLICATIONS:** The situation regarding intellectual property legislation remains unsatisfactory. There is no IP legislation in place and rights secured under Ethiopian legal practices are no longer recognised. The country is suffering a severe drought and food shortages which its government denies. There is no free press and no opposition parties and even U.N. agencies have been refused access to Eritrea. It was previously possible to obtain a modicum of protection by publishing Cautionary Notices but, and without notice, the Minister of Information placed a moratorium on such adverts appearing in the newspapers, all of which are state owned.

## Ethiopia



**PROGRESS IMMINENT?** When we last reported we advised that a new IP law had been approved. That law is still in limbo as no implementing regulations have been issued yet. Although the new law is being applied, in the absence of regulations one still has to rely on the Registry to guide procedural aspects, particularly when litigating in this country. Adams & Adams was the first to bring, on behalf of a large client, an application for invalidation under the new proclamation. The Registry had to be consulted on procedural aspects and we are pleased to advise that Adams & Adams was successful.

A further recent legislative development in Ethiopia is the Trade Practice and Consumers Protection Proclamation which, in summary, provides protection against unfair misleading acts by third parties. There is currently no implementing authority although we have been advised by our colleagues in Addis Ababa that proceedings can be instituted under the Proclamation at the Federal Courts.



Megan (A&A) with our local representative (centre) and the Manager of the E.I.P.O.

## Gambia



**GAMBIA AWAKENS:** Although the 1989 Industrial Property Act came into force on 2 April 2007, the authorities waited until January 2011 to publish the Industrial Property Regulations. These are now in force, and saw significant increases in official fees payable in respect of IP matters.

It is encouraging that there has recently been an edition of the IP Journal and it is hoped that with these changes, the enormous backlog of pending matters will steadily be worked off.



Simon (A&A) with the Gambian Registrar on his visit to Gambia

## Ghana



**ECONOMY BOOMING:** Ghana's economy is on an upward swing and it would seem that Ghana is generally seen as a good investment destination. Developments on the IP front are however slow and the Registry appears to be struggling to deal with technology issues and the increase in filings in that country.

### DEVELOPMENT OF IP CAPABILITIES:

Ghana has also realised the role that Intellectual Property can play in its economic development and recently launched its Intellectual Property Development Plan at WIPO's headquarters in Geneva. Ghana signed an agreement with WIPO whereby it will benefit from financial and technical assistance to develop its IP capabilities and improve its knowledge base.



Performers at Conference

**ARIPO ADMINISTRATIVE COUNCIL MEETING:** Ghana recently hosted the 35th Session of the ARIPO Administrative Council from 28-30 November 2011. Thereafter the Council of Ministers met in Accra from 1-2 December 2011, to make decisions and consider any recommendations made by the Administrative Council. Adams & Adams is a regular attendee at the ARIPO Annual Meeting which sees a coming together of officials from all ARIPO member states as well as observer states.

## Kenya



**LANDMARK RULING:** The Kenyan Industrial Property Tribunal recently issued a landmark ruling dealing with the issue of entitlement. The decision of the Tribunal results in a legal exception to the first to file rule prior to grant where issues regarding "rightful ownership" arise. In effect, a party filing for a patent in Kenya must be the rightfully entitled party and any dispute in this regard can now be settled prior to grant and not by way of revocation proceedings post grant.

## Liberia



**NEW IP LAW:** The Liberian registry has adopted the new Liberia Trade Marks Act providing for a 10 year registration period as opposed to the previous provisions which provided for a 15 year period. We are sceptical about the adoption of the new Act as no enabling regulations have been published providing for its implementation. We have raised these concerns with the Registry, but they are adamant that the new Act applies and will not amend the certificates. We, accordingly, are updating our records on this basis, and will hopefully have some clarity on the matter in the not too distant future.



The Liberian Registrar (left) with Simon (A&A) and our local representative (right)

**PRESIDENTIAL ELECTIONS:** Presidential elections were held recently in Liberia and according to an article that appeared in the New York Times, nine opposition parties expressed dissatisfaction and threatened to disavow the result when it was announced. International observers have expressed their views that they believe the vote was free and fair. Nobel Peace Prize winner and current president of Liberia, Ellen Johnson Sirleaf has promised to improve the situation in the country. This is her second term of office.

**ARIPO MEMBERSHIP:** Liberia became a member of ARIPO with effect from 24 March 2010 and can now be designated as a member state in an ARIPO patent or design application. Accordingly, patent or design protection in Liberia can now be obtained either by way of a national filing or by way of an ARIPO application, designating Liberia.

## Libya



**GADAFI GONE:** This country has been in a state of turmoil for the most part of a year and with the recent ousting of Muammar Gaddafi, it remains to be seen whether the country will return to some form of normality under the National Transitional Council. The Registry was closed for a large part of 2011 but has recently reopened and it is now possible once again to file patent and trade mark applications.

## Morocco

**ACTA:** Morocco recently signed the Anti-Counterfeiting Trade Agreement in Tokyo, with the participation of seven other countries. By signing this Agreement Morocco, which hosted the fifth round of negotiations in July 2009, is now one of the founding countries of this important international legal instrument on intellectual property. The Anti-Counterfeiting Trade Agreement or ACTA aims to establish a new international legal framework that countries can join in order to fight against counterfeiting of IPR's.

**BUDAPEST TREATY:** On April 20, 2011, the Government of the Kingdom of Morocco deposited its instrument of accession to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, the WIPO Copyright Treaty (WCT), and to the WIPO Performances and Phonograms Treaty. These treaties came into force in Morocco on July 20, 2011.

## Mozambique

**ADAMS & ADAMS:** We opened an office in Mozambique in October 2008. The Mozambique office offers both IP and Commercial services. The Mozambique office also acts as our ARIPO office, as Mozambique is a member of ARIPO.



Mariette (A&A) with representatives from our Angola and Mozambique offices and the Angola and Mozambique Registrars at our new building function



Dario (A&A) with the Angolan and Mozambican Registrars at our new building launch.

**WARNING REGARDING COUNTERFEITS:** The Mozambican government has issued a warning that the country needs to take measures to stop the circulation of counterfeit products particularly in the health sector. The African continent continues to face an enormous challenge in guaranteeing that children are vaccinated in their first year, against diseases which lead to high rates of infant mortality. Many African countries attended a meeting of the African Vaccine Regulatory Forum, set up by the World Health Organisation in September 2011.

## Namibia

### LEGISLATIVE DEVELOPMENTS:

- An Industrial Property Bill was passed by the National Council and it is hoped that the protection of intellectual property rights in Namibia will soon comply with international obligations under the various treaties and protocols that they have signed.
- To date the Namibian government has not yet passed into law the draft bill which provides for the filing of PCT and ARIPO applications. Be that as it may, there is an argument that there is no need for Namibia to domesticate the Harare Protocol as the Namibian constitution states that any international agreements signed by the Government are automatically binding. This issue has not been, and is unlikely to be tested by the courts, any time soon.

**OIL FIND:** It has been reported that an estimated 11 billion barrels of oil has been discovered around Namibia's southern coast. Production is expected to commence by 2015.

## Nigeria

**PCT STATUS:** The Nigerian Government has still not effected any amendments to its national laws to cater for PCT patent matters. That said, PCT national phase applications are being accepted and processed and applications based on PCT International Applications are proceeding to grant in the usual fashion.

**ADAMS & ADAMS:** We are on the verge of establishing an associated office in Lagos from which we should be better able to service our clients in this West African hub of activity.

**ECONOMIC OUTLOOK:** Over the past year Nigeria has seen substantial investment by China with trade volumes to reach US\$10 billion by the end of 2011. Such investment will surely improve investor confidence in the country and its economy.

## Nigeria

**OIL STRIKES:** 2012 did not start well for Nigerians. The Government withdrew fuel subsidies and the price of fuel doubled overnight. Nigerians reacted with civil unrest which lasted for several days. The situation now appears to be under control and the Government is reconsidering its position. We were advised that the period 9-16 January 2012 would be considered dies non for the purposes of calculating deadlines but no official notification seems to have been issued in this regard.

**PROPOSED AMENDMENTS:** There have been no drastic changes in the law governing the registration of trade marks. The Trade Marks Act of 1965 is still in force and though there have been proposed revisions in 1990, 2004 and 2007, new laws have not yet been enacted. The 2007 proposed changes introduced service marks and, following a Practice Directive issued by the Minister of Trade, service marks were taken on file. Despite the lack of enabling legislation, proprietors have sought protection for their service marks and it is hoped that the practice will be ratified by enabling legislation.

**NIGERIAN OFFICE WEBSITE:** There were, at one stage, talks of digitizing the operations of the Trade Marks Office and the Nigerian Commercial Law Department of the Federal Ministry of Commerce and Industry went as far as to launch the website, [www.iponig.com](http://www.iponig.com). The website was supposed to allow access to trade marks, patents and designs databases to enable users to search and file online. There have been no developments regarding this site and the Registry still operates manually. Unfortunately this manual system does affect the pace at which trade mark applications are processed in Nigeria, especially if the application should encounter any obstacles to registration.

## Rwanda



Nthabisheng (A&A) with a Delegate from Rwanda

### RECENT IP RELATED DEVELOPMENTS:

- Rwanda acceded to the PCT and Hague Agreement Concerning the International Deposit of Industrial Designs with effect from 31 August 2011.
- Rwanda joined ARIPO with effect from 24 September 2011 and can now be designated in an ARIPO Patent or Design application.
- The new Industrial Property Act came into force on 14 December 2009.
- The new Act does not make any provision for patents of importation which were allowed under the old Act.
- The New Industrial Property Act also introduces the requirement to pay annual renewal fees for patents.

**ACTIVITY:** In September 2011 Rwanda and the United States signed a Bi-lateral Investment Treaty. Investors from America are now protected in Rwanda which is encouraging and investment in this country seems to be developing at a rate faster than many other African states. Rwanda is now, according to recent statistics made available, one of the easiest countries in which to do business and to set up companies.

## Sierra Leone

### SLOW PROGRESS:

- The government of Sierra Leone is still in the process of finalising the following draft bills regarding the protection of intellectual property rights:
  - Trademarks Bill of 2008
  - Patent and Industrial designs Bill of 2008
  - Copyright Bill of 2008
  - Geographic Indication Bill
- The Patent and Design Bills provide for independent registration of intellectual property rights and does away with confirmation of UK granted patents or registered designs in Sierra Leone.

## Somalia

**ARIPO STATUS:** Although Somalia is a member of ARIPO, it has acceded to neither the Harare Protocol nor the Banjul Protocol. Accordingly it is not possible to designate Somalia in an ARIPO patent, design or trademark application at this stage

## South Africa

**AFRICA IP SUMMIT:** South Africa will be hosting the first Africa IP Forum which will be held in Cape Town from 3-5 April 2012. The forum is being organised by the US Department of Commerce. Adams & Adams is proud to be involved with this prestigious event which will see the coming together of parties from both the private and public sector who have an interest in developing IP on the African continent.

## South Africa

**LEGISLATIVE DEVELOPMENTS:** Draft amendments to the Intellectual Property Laws are in the process of being approved, and regulations will be formulated and enacted simultaneously. Until this has been done, the country will not accede to the Madrid Protocol as a result of which it is still necessary to seek protection at national level. In a move to recognise the need to protect traditional knowledge, a draft document is currently before parliament for consideration and should, once approved, make provision for a separate register to be maintained in which all such traditional knowledge is recorded.

**A NEW ERA:** In 2011 the South African Companies and Intellectual Property Registration Office (CIPRO) changed to a Commission (CIPC - Companies and Intellectual Property Commission). The Commission is required to be financially independent and is not eligible for subsidies from Government. As such, we expect an increase in official fees early next year.

## Sudan



**SUDAN:** On 9 July 2011, South Sudan became an independent state. Information is difficult to come by, but it appears that any IP rights obtained under Sudanese laws do not extend to South Sudan.

## South Sudan



**SOUTH SUDAN:** comprises land and air space that constituted the province Bahr el Ghazal, Equatoria and Upper Nile and the Abyei Area of the Republic of Sudan. It is bordered by Sudan in the North, Ethiopia in the West, Kenya and Uganda in the South, the DRC in the South West and the Central African Republic in the West. It is Africa's newest independent nation with its capital city based in Juba.

While the Transitional Constitution of the Republic of South Sudan states that all current laws of South Sudan shall remain in force and all current institutions shall continue to perform their functions and duties, unless new actions are taken in accordance with the provisions of this constitution, we must assume that such "new actions" probably envisage the promulgation of domestic intellectual property laws by the South Sudanese legislature.



Simon (A&A) with our Kenyan representative outside South Sudan Registry.

If our analysis of the situation is correct it would appear that intellectual property rights in South Sudan are regulated in terms of the Copyright and Neighbouring Rights Protection Act 1996, as well as the Trade Marks Act 1969, with accompanying Regulations, of Sudan.

While the Registry appears to be allowing the filing of trade mark applications, it is following a deposit system and it is not clear whether this is done under the auspices of a Sudanese Trade Marks Act or some other legislation. The process appears to be contrary to the requirements of the Sudanese Act but what is becoming increasingly clear is that registrations secured in Khartoum, Sudan are valid only in North Sudan and it is unlikely that there will be any priority given to owners of such North Sudanese rights when filing fresh applications in South Sudan. Currently, the Minister of Justice is considering whether to formally adopt the workings of the 1969 Sudan Trade Marks Act until such time as new law is brought into operation.



Simon (A&A) & our Kenyan representative with South Sudan Under Secretary for Justice Department.

Although Sudan is a member of ARIPO South Sudan is not. Until the government of South Sudan ratifies the Harare Protocol (which governs patent matters in ARIPO) an ARIPO application designating "Sudan" will only cover Sudan and will not extend to the territory of South Sudan.

Please note that Sudanese registrations do not extend to South Sudan and cover only the territory now known as Sudan.

## Swaziland



**LEGISLATIVE DEVELOPMENTS:** The Swaziland government has not yet passed regulations in order to implement the new Industrial Property Act. The proposed new Act will not provide for registration of South African granted and registered patents and designs. When the new law comes into force, UK granted patents and UK registered designs will no longer extend automatically into Swaziland.

## Tanzania (Tanganyika)



### ADAMS & ADAMS:

We are on the brink of opening an associated office in Dar es Salaam which will serve our clients in respect of both mainland Tanzania and the island of Zanzibar on all IP matters.

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### REGISTRY UPDATE:

Affairs at the Registry are not as they should be. The processing of straightforward trade mark applications has slowed down and the publication of accepted applications is, to say the least, erratic. The Registry is battling with power outages and a lack of resources.

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### LEGISLATIVE UPDATE:

Patent protection is no longer obtainable by way of confirmation of a UK patent as the new Patents Act provides for independent filing of patent applications.

- Similarly, United Kingdom designs no longer extend automatically to Tanzania

## Tanzania (Zanzibar)



**LEGISLATIVE UPDATE:** The new Zanzibar Industrial Property Act came into force on the 13th of September 2008, but without any implementing Regulations. However, the Registrar is applying the old regulations where possible. Some of the features of the new Act are that it is possible to claim priority, there is a 20 year term and annual annuities have been introduced. The new Act has also done away with the automatic extension of United Kingdom registered designs into Zanzibar.

In respect of trademarks, the introduction of service marks and a registration term of 10 years with a renewal term of 7 years are some of the important changes.

Currently, it is not possible to file design applications in Zanzibar as the regulations implementing the new Act which provides for independent registration of designs, is still pending.

## Tunisia



**POLITICAL UPHEAVAL:** In December 2010 a revolution commenced in Tunisia which ultimately resulted in the stepping down of long-time president Zine El-Abidine Ben Ali in January 2011. His prime minister then resigned in February 2011 and all forms of political advertising have been banned ahead of upcoming elections.

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**HAGUE AGREEMENT:** Tunisia recently joined the Hague Agreement concerning the international registration of industrial designs. As such, it is now possible to designate Tunisia as a designated state in an international design application.

## Uganda



**NEW ACT:** 3 September 2010 saw the coming into force of a new Trade Marks Act making provision for the registration of service marks. This was long overdue and has led to an increase in filings in this country.

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**LITIGATION UPDATE:** Colgate-Palmolive Company successfully obtained an interdict (injunction) against the importation and distribution of a lookalike toothpaste product by Kampala Stock Supermarkets Limited (Kampala) in Uganda. The Commercial High Court of Uganda found that Kampala's COLGAGE toothpaste product and packaging infringed Colgate-Palmolive Company's trade mark registrations, including registrations for the label of the COLGATE and COLGATE HERBAL products, and amounted to passing-off.

## Zimbabwe



### IP LEGISLATION:

In September 2010 the long awaited regulations pertaining to the new Trade Marks Amendment Act were brought into operation, giving full effect to ARIPO registrations and implementing the 9th Edition of the Nice Classification.



Manual records are still used in most African states due to a lack of resources



**MEMBER STATES:** With the recent accession of Rwanda and Liberia to ARIPO, ARIPO now has 18 member states, 17 of which can be designated in an ARIPO patent or design application. However, we point out that not all ARIPO member states have domesticated the provisions of the Harare Protocol into their national laws. Accordingly, we recommend that our advice on filing strategies be sought when deciding whether to file an application in the member states themselves or via ARIPO to ensure appropriate protection is obtained.

**TRADEMARK UPDATE:** The African Regional Intellectual Property Organisation (ARIPO) has been processing trade mark applications since the Banjul Protocol came into effect in 1997. The member states which have ratified Banjul are Botswana, Lesotho, Liberia, Malawi, Namibia, Swaziland, Tanzania, Uganda and Zimbabwe. Rwanda was the latest country to join ARIPO in June last year; however, it has yet to ratify the Banjul Protocol.

Nicky (A&A) with The ARIPO Director General at the 2010 Administrative Council Meeting in Harare



**SWAKOPMUND PROTOCOL:**

ARIPO member states recently adopted the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore.

The idea behind ARIPO was to allow applicants to file one application at the ARIPO office in Harare, designating the relevant member states, and eventually securing registration of the trade mark, effective in all the designated states. The system, however, faces obstacles, as not all member states have the necessary legislation in place to recognise the rights flowing from an ARIPO registration. Thus, although a proprietor may hold an ARIPO trade mark registration it may not necessarily be able to enforce such a registration in, say Lesotho, where there is no national legislation which recognises an ARIPO registration. This is a problem which ARIPO cannot solve itself and requires the co-operation of the relevant member states.



Nthabisheng (A&A) with the Burundi Registrar at the ARIPO meeting in Ghana.

We continue to advise clients that, given the uncertainty with regard to the efficacy of ARIPO registrations in various member states, to obtain national registrations, as the case may be. The A&A Mozambique Office acts as our Aripo Office.

The ARIPO Director General and other officials were invited to attend to our new building launch.



ARIPO Administrative Council 2011 Conference venue



Megan (A&A) with representatives from the Botswana and Ugandan registries.



**PAYMENT OF OFFICIAL FEES:** As a result of the high official fees, we have found that some agents are unable to finance the payment of official fees over to OAPI, especially in patent matters where the official fees can be very high. Accordingly, in October 2009 we established a deposit account with OAPI so that all official fees are automatically deducted from funds held by OAPI on our behalf.

**ACCESSION TO HAGUE AGREEMENT:** On 16 June 2008, OAPI deposited its instrument of accession to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs. The Geneva Act of 1999 came into force in OAPI on 16 September 2008. International designs deposited under the provisions of the Hague Agreement Concerning the International Registration of Industrial Designs, shall have the same effect within OAPI member states as if the design was deposited directly at OAPI. Accordingly, clients have the option of either filing a design application directly at by filing an International Application designating OAPI.

**GEOGRAPHICAL INDICATIONS:** As part of the move to support the implementation of geographical indications in its member states, OAPI plans to adopt a logo for products recognised as GI's in the territory of its member state. To this end the organisation launched a competition to create a single common logo to be displayed on the label or packaging of products whose name has been registered as a GI.

**POLITICAL UPDATE:** The OAPI Head office is situated in Yaounde, Cameroon. Cameroon recently held Presidential Elections in which the long standing incumbent president, Paul Biya retained power.

Nicky (A&A) with representatives from OAPI at their offices during a 2010 visit to Cameroon.



Dario & Nicky (both A&A) with representatives from OAPI during a visit to their offices.

**ADAMS & ADAMS:** We have excellent relations with OAPI and are planning on opening an office in Cameroon within the next few months.

