

**Study Program on Effective Development and Utilization of Intellectual Property  
Assets**

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**Papua New Guinea Country Report by:**

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**1. The Intellectual Property Situation in PNG**

The concept and development of intellectual property rights has never featured prominently in Papua New Guinea for a very long time. Even though, the trade marks legislation has been in force in PNG for the last 30 years or so, the idea of establishing a full intellectual property regime was not considered seriously by the government, in particular by our policy makers.

However, in the last 10 years, the situation has changed as we began to realize the importance of participating in the global economy and establishing trade relations with countries and relevant international organizations.

The Government of PNG has made a strong commitment by establishing the Intellectual Property Office of Papua New Guinea (IPOPNG) in 1999. It further established a National Intellectual Property Rights Committee with the purpose of deliberating important policy issues on intellectual property affecting the country. The committee is comprised of senior government officials and also representatives from the private sector, especially the Papua New Guinea Business Council.

**2. International Obligations**

The modern approach to intellectual property rights in the context of international agreements particularly in relation to the facilitation of trade and investment and the benefits derived from protection of intellectual creativity, has made it imperative for PNG to have its own national structure and legislation to facilitate those requirements.

The government of Papua New Guinea, being a signatory to WTO and APEC, has made a commitment to comply with its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS") including Trade in Counterfeit Goods.

### **3. Introduction of Intellectual Property Laws**

The international obligations and the domestic need for IPR protection made it imperative for the introduction and enactment of appropriate Intellectual Property Rights (IP) legislations and the establishment of adequate and effective administrative systems and procedures for granting of IP rights. To this end, the following intellectual property legislation were passed by parliament and currently administered by the Intellectual Property Office of Papua New Guinea (IPOPNG):

- (i) Patents and Industrial Designs Act 2000
- (ii) Copyright and Neighbouring Rights Act 2000
- (iii) Trade Marks Act (in force for the last 30 years)

### **4. Intellectual Property Office of Papua New Guinea and its functions**

The IPOPNG is responsible for administering the intellectual property laws. It plays a coordinating role in consultation with other relevant government agencies in the implementation of the TRIPS requirements and the overall administration and enforcement of IP laws.

The IPOPNG is headed by the Registrar and supported by 16 staff who are well trained and experienced in IP administration.

### **5. Systems and Procedures for Registration and Granting of IP Rights**

The current legal framework allows for appropriate systems and procedures to be put in place for the registration and granting of IP rights. During the last 10 years, the IPOPNG has committed itself in establishing systems and procedures for granting of IP rights.

The trade mark was first set up as part of the Companies Registration system which used to be called the CORE system in 1997. In 2006, the trade marks system was removed from the CORE system and a separate system called IPAS (Intellectual Property Automation System) was set up for the IPOPNG with assistance from the World Intellectual Property Organization. This IPAS system is compatible with international standards and allows for the following:

- (i) a fully automated system for processing and registering trademarks. Currently, there are more than 20,000 trade marks registered in the IPAS database.
- (ii) an administrative system for capturing details of patents and industrial designs applications. It also allows for conducting formality examination of patent applications. Search and substantive examination on patent applications are done by IP Australia through an existing cooperation arrangement with IPOPNG. There are total of 200 patents and 23 industrial designs applications so far. From these, 25 patents have been granted so far.

The IPOPNG is continuing to improve its systems and procedures in order to provide an efficient and effective IP system for both local and foreign IP owners.

## **6. Copyright & Neighboring Rights**

The Copyright and Neighboring Rights Act 2000 also came into force on 1 July 2002. Further amendments have just been completed to ensure that the law fully complies with TRIPS and also suits our local needs.

The current law allows for automatic protection of copyrights once created. Unlike patents and trade marks, it does not allow for a copyright registration system to give statutory rights to owners. This is normally the case in all common law countries.

In order to ensure that the rights of copyright owners are protected and managed well, the current law has been amended for Collective Management Organisations (CMOs) to be established. CMOs will be established to administer the rights of their members and ensure they obtain economic benefits for the use of their works.

## **7. Effective Utilization of Intellectual Property**

We have now begun to realize that the issue of Intellectual Property (IP) rights protection is not an abstract or remote one, but an immediate and practical issue that impacts on trade and investment. It goes to the heart of a country's economic well-being. The promotion of the IP component in a country's exports is integral to add value to trade and investment. Many successful countries have realised the importance and developed their IP assets and systems that assist in building the competitiveness in their export industries, and accelerate their transformation into well-developed countries.

Papua New Guinea is very rich in traditional art and folklore, which is the basis of interesting and unique creations of local craftsmanship, textile designing, and many other traditional creations and performances. Our traditional people have involved in creative activities for many years.

Even now, the situation is different from the 1960s and 70s with more local creativity, manufacturing activity, establishment of more research and universities, the emergence of more local artists and writers, recording studios, privately owned radio stations and so on. Cultural resources, including folklore, are also subject of exploitation by artists, authors and even statutory bodies without proper approval.

In the absence of appropriate laws, we have not been able to protect our intellectual property and obtain maximum benefits from our creations. Therefore, the great need to introduce and enact appropriate intellectual property laws has been existing for a long time to protect our creations.

**In brief, some current developments in creating, utilization and recognizing of IP rights in PNG include:**

- *Establishment of the National Intellectual Property Rights Committee by the government to discuss important IPR issues affecting the country*
- *Formulation of a National IP Development Plan – this plan is being developed in collaboration with WIPO and will provide the road map for the country in building the IP system*
- *Establishment of a Private Sector Informal Committee on IPR – the committee comprises of senior officials from leading companies in the country and focuses on sharing information and discussing IP issues concerning the private sector, for example IPR infringement problems related to piracy and counterfeiting currently impacting on the businesses and community at large*
- *Establishment of a Copyright Collective Management society to assist copyright owners and users for the effective management of copyright rights*
- *Teaching of Intellectual Property Law at the University of Papua New Guinea. IPONG is currently in discussions with WIPO through its Academy to further develop and strengthen the course through development course syllabus, materials and trainer the trainer programs*
- *Awareness Workshops and Seminars conducted by IPOPNG in collaboration with both local and international stakeholders in spreading information*
- *PNG Customs as the leading enforcement agency has began to strengthen its administrative procedures in screening and monitoring of importation of goods. It has also set up a system for IPR owners to provide details of their IP registration. Further, it has embarked on enhancing the capacity of capacity of customs officers by engaging them in customs training in collaboration with international organizations*
- *Approval by Trade Ministers of Pacific Islands Countries for IPOPNG to be the Regional Examining Body for Trade Marks in July 2009. IPOPNG is currently working closely with IP Australia, WIPO and the Pacific Island Secretariat in setting up the regional system*
- *Formulation of Intellectual Property Office of PNG Bill to give more powers and functions and ensure the Office's autonomous status*

**8. A case example of a successful management of IP by a company in PNG**

Like all developing countries, PNG is faced with a huge problem in dealing with counterfeit and pirated goods. In trade stores, supermarkets and on the streets, we are experiencing a drastic increase in the sale of counterfeit and pirated goods, mostly imported from Asian countries. This is proving detrimental to people's social well being and also economic loss for the private sector in terms of revenue. The

government is also losing out on massive tax revenue because those involved in these illegal activities do not pay tax to the government.

The Ramu Sugar Ltd is Papua New Guinea's sole sugar producing company. It serves the local market as well as exporting to the other Pacific Island Countries.

Early this year, its packaging designs and trade marks were being copied by a leading local retailer. The infringing company imported sugar and did the packaging in such a way that it nearly resembled the product from Ramu Sugar Ltd. Because Ramu Sugar is in high demand especially by local consumers, it made huge economic losses. Ramu Sugar when realizing this took the infringing company to court and the court decided in favour of Ramu Sugar, the original owner of the trademark and packaging design of the product.

The company also supplied information on its trademarks and packaging design to PNG Customs to be recorded in the IP Recordation system established by the organization. Further, media advertisements were taken out by Ramu Sugar limited alerting people about the counterfeit sugar.

As a result of these actions, the infringing company removed the counterfeit product from the market and paid damages to Ramu Sugar Ltd.

## **11. Conclusion**

PNG has put in place the basic legal and administrative framework for IPR protection. Our aim is to build on this foundation and establish an IP system that effectively serves the needs of the foreign investors as well the local IP owners. We are committed to this task and will continue to improve our laws and policies.

The way forward for us to develop a comprehensive National IP Development Plan that sets the direction for us to develop the IP system. The plan will provide a road map on how IP creation, protection and exploitation issues can be dealt as we progress as country. This task is already part of IPOPNG's workplan for the next two years and will work towards realizing it in collaboration with all stakeholders.

Furthermore, more awareness and educational programs need to be carried out to educate people on the importance and usefulness of IP in business and everyday life.

Thank you.

*PS:* More information on developments on intellectual property in Papua New Guinea can be obtained by visiting the IPOPNG website at [www.ipopng.gov.pg](http://www.ipopng.gov.pg)