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## **WIPO INTERNATIONAL CONFERENCE ON INTELLECTUAL PROPERTY AND THE CREATIVE INDUSTRIES**

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**CONTRIBUTION OF INTELLECTUAL PROPERTY TO THE DEVELOPMENT AND  
EXPANSION OF AFRICAN CINEMA**

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Contribution of intellectual property  
to the development and expansion  
of African cinema

Paper given by:

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## INTRODUCTION

In its current meaning, the term *intellectual property* covers the rights of use of an “intellectual creation”: an invention, technical solution, literary or artistic work and so on. Intellectual property law is based on the willingness to promote technological progress and the emergence of new works.

On the African continent, the African Intellectual Property Organization (OAPI) was established on September 13, 1961 and, since 2000, the African Union has chosen September 13 each year to celebrate African Technology and Intellectual Property Day.

The aims of this day are to:

- encourage African creators to benefit from their work;
- encourage them to find the means to enhance African traditional knowledge;
- incorporate foreign technological progress in their work;
- disseminate knowledge of the potential of intellectual property in all sectors of the economy and thus help IP to contribute to the economy;
- stimulate foreign direct investment (FDI) in the sector of industry and culture.

Each anniversary is therefore an opportunity to recall the need to promote intellectual property as a:

- factor of economic growth,
- means to combat counterfeiting.

There also exists an African Invention and Technological Innovation Exhibition which is held every two years.

How has intellectual property contributed to the development and expansion of African cinema?

Since it recognizes the right to respect for a work, intellectual property has made a broad contribution to the recognition of African film-making. Through the years, despite the crises associated mainly with funding and its distribution, African cinemas have more or less managed to make headway.

For our countries, the existence of film-making is very often perceived as “a duty to resist” the challenge of being submerged on our screens by the tide of products from the foreign audiovisual industry (American, Chinese and Indian films, and Brazilian series and serials).

The existence of film-making is both a means of “reappropriating our own images” but also a means of sharing with other cultures our vision of the world. For this purpose, during the last edition of FESPACO in February 2007, we invited African film-makers to celebrate cultural diversity.

In our countries where everything is URGENT and VITAL, it is of course a matter of urgency to build roads, schools, clinics etc. But we also know that “man does not live by bread alone”. Theatre or cinema actors, writers, film-makers, painters, etc. therefore become development players, carriers for the transmission of messages, awareness raising, and transmission of new modes of thought and action. “Cinema is like an evening class”, said Sembène Ousmane, the doyen of African film-makers and, in this regard, cinema has played and continues to play its part.

Respect for intellectual property is important for the protection of consumers and inventors. In a highly competitive globalized environment, where power is built on an ever increasing level of inventiveness, industrial property is an economic and strategic asset of primary importance for firms but also for States which can gain significant benefits both in terms of profit and image value.

In the past few years, we have witnessed the emergence of small and medium-sized enterprises (SMEs) in the area of the cinema and audiovisual, which have made a significant contribution to local economies and job creation. Partners such as the European Union, the International Organization of La Francophonie (OIF) and many others work to enhance the emergence and establishment of such bodies working on the ground, in order to provide structural assistance.

However, this momentum must go hand in hand with the establishment of a legal framework favorable to competition and with the creation of a system of copyright in order to recognize the right of the creator to enjoy the fruits of his labor. For that reason, national and regional copyright management offices are also partners of primary importance for cinema and audiovisual professionals.

The development and expansion of the cinema on the African continent are therefore an undeniable fact together with its impact and the role which the seventh art plays within societies.

### CULTURAL IMPACT OF THE CINEMA ON AFRICAN SOCIETIES

Prior to the 1960s, apart from the countries of North Africa, African cinema was almost non-existent. The few films shot in Africa by foreign directors were strongly criticized by African intellectuals who considered that they did not (sufficiently) enhance the qualities, cultural practices and way of life of “the black man”.

African cinema was therefore born at the end of the 1950s in response to this need for an identity in “reappropriating our own image”, as Gaston KABORE put it.

He set himself the essential task of:

- enhancing African cultures;
- collecting and preserving riches of the oral tradition, in particular through documentaries and also the dramatization of tales, legends and epics;
- telling stories of Africa to an African public and later sharing them with the rest of the world;
- raising the awareness of young people not to give in to the attraction of the “illusion” which cinema very often sells to them, since the loss of cultural reference points for young people is largely attributed (rightly or wrongly) to the cinema which, by selling dreams with “blonde blue-eyed heroes” has largely contributed to the desertion of the countryside towards the towns, and from countries towards the Eldorado represented by the West.
- Etc.

Still today the image of Africans in the cinema and television is very negative in general (tribal wars, famines, epidemics, emigration, etc.), so much so that even in our own countries African films must fight to attract their own audience. On television, in many other countries, almost 80 per cent of programs are imported from Europe or America.

In addition to having been designated as having the main share of responsibility for the recent appearance of new types of behavior among young people (urban violence, deprivation of morals), cinema has without question a major cultural influence on young people, even to the extent that it changes their language and their expressions, fashions and, in a more anecdotal sense, their amorous behavior.

The dialogue generated by films still has a major impact on populations in Africa, as evidenced by the experiment which FESPACO has conducted for a number of years through the mobile cinema.

“An image is worth more than a thousand words”, as they say. Local development players such as authorities, NGOs and associations have understood this so well that audiovisual media are now used largely to transmit messages (as in the case of the fight against AIDS) or to promote new types of behavior (as in the field of human rights) etc.

Aware of the fact that the cinema has a very important impact on society, African film makers join forces through their associations at each edition of FESPACO to direct the role they play and target their audience more effectively.

### THE CONTRIBUTION OF THE SEVENTH ART TO THE AFRICAN CULTURAL HERITAGE.

For a very long time, documentary cinema has carried out valuable work researching, documenting and exhibiting various aspects of the African heritage.

In this way, it has helped to make known:

- peoples with age-old cultures (the example of the Dogons of Mali);
- numerous historical sites (the example of Gorée in Senegal);
- or finally objects of cultural importance (such as Bwaba masks);
- fiction cinema has itself largely used “natural historical settings” (this was the case for numerous African and non-African films shot in Benin or Ghana), thus helping to make these sites better known, but also to preserve the image which the effect of time changes on a daily basis.

The art of fashion, traditional music, objects and many other things have found in the cinema a forum for their promotion and dissemination.

African cinema has been inspired largely by the oral tradition in the form of its narratives and in the style of narration (this is one of the grievances raised against it in the reproaches made against its alleged heaviness and slowness). It has also been enriched through the adaptation for the big screen of tales and epics. In this regard, the work of Gaston KABORE, film-maker and historian by training, is replete with teachings.

THE CARTOON, THE POOR RELATION OF AFRICAN CINEMA FOR A LONGTIME, HAS ACQUIRED A HEALTHY LOOK IN THE PAST FEW YEARS, IN PARTICULAR BY MEANS OF NEW TECHNOLOGIES, WHICH HAS ENABLED SEVERAL AFRICAN TALES AND LEGENDS TO BE TURNED INTO FILMS FOR TEENAGERS AND CHILDREN.

To accompany the work of African film-makers for the benefit of the African cultural heritage, for a number of years FESPACO has undertaken work on the memory and archiving, by creating the Ouagadougou African Film Library which collects African films, restores them and organizes showings of them, where necessary.

Year by year, this Film Library, which is a member of the International Federation of Film Archives (FIAF) has imposed itself as a partner of reference in preserving the film-making heritage and the African audiovisual sector.

How does the AFRICAN INTERNATIONAL CINEMA AND TELEVISION MARKET (AICM) allow and facilitate transactions and sales between producers, purchasers and professional distributors, while taking into account the “negotiation of intellectual property rights” aspect?

African film-makers meeting in Niamey in 1982 for a colloquium expressed the desire for the establishment of a body which would offer them possibilities of meetings with purchasers and professional distributors. Thus, the AICM was founded in 1983 and meets regularly during FESPACO editions.

The AICM provides numerous possibilities for meetings both with purchasers and professional distributors.

This market represents a form of sponsorship for African audiovisual programs and for those on Africa, which can be viewed by all cinema professionals.

Around 2000 cassettes and DVDs are available to AICM. Apart from viewing stands, promotion stands are on offer to partner festivals, film production companies or film-making equipment sales companies, communication agencies, NGOs, etc.

23 years' experience have made AICM the most important international market for African television and cinema.

For the moment, FESPACO works through AICM to:

- strengthen the stock of existing data on films, film-makers, producers and distributors;
- produce and disseminate information or statistics on the path followed by films;
- create within AICM a focal point for dissemination and distribution of films on cassettes or DVDs,
- create a virtual African film market.

In collaboration with the Burkinabé Copyright Office (BBDA), AICM makes available to purchasers, producers and distributors a legal center responsible for providing advice on and monitoring transactions, and providing where necessary model contracts.

Apart from such legal and technical advice, the BBDA supports the efforts of FESPACO to determine the number of sales, contracts and undertakings made by partners in the market.

## PIRACY, A PHENOMENON WHICH HAMPERS THE DEVELOPMENT OF AFRICAN CINEMA

Television coverage, the varied and multiple offerings of satellites, the dilapidated nature of cinema halls and the ageing of equipment not replaced, as well as the expectations of an audience hungry for entertainment are all factors which have made a broad contribution to a very large reduction in the number of people going to the cinema in sub-Saharan Africa in particular.

In numerous countries, such cinemas are completely closed, leading to unemployment for thousands of people. At the same time, in order to satisfy the demands of an ever increasing urban population, parallel distribution circuits have begun to emerge, in particular in the poor districts of African capitals. This is the case in particular in Burkina Faso with what has become known as video clubs.

Three years ago, a study identified around 475 clubs of this kind. All kinds of films which are of course pirated are shown there, with no possibility of monitoring, without any reward for the authors or producers, and with no legislation.

Similarly, the streets are flooded on a daily basis with pirate copies of films which are released onto the market. Thus, producers who are in the process of showing their films in cinemas very often find VCD copies of these films on sale on the market at prices which defy all forms of competition.

In order to put a viable film-making industry back on track in Burkina Faso, the competent services have attached priority during the past few years to issues relating to the enforcement of intellectual property rights and the fight against counterfeiting and piracy.

It is well known that counterfeiting supplies parallel economies, while all our restructuring projects have been set up to allow the "cinema to finance the cinema, and to feed its people", which is far from being the case at the current time.

As regards technology transfer, audiovisual is one of the leading areas and in this sector the fraudulent use of licenses also exists for editing stations for example.

## CONCLUSION

In order to establish a film-making industry, in particular in sub-Saharan Africa, in addition to resolving problems of production, distribution and operation, vigorous intellectual property protection measures should be taken.

The search for home-made solutions for funding African cinema is also aimed in the same direction. Observance of copyright and above all the fight against piracy would help to make this not only a viable sector for professionals in the different trades, but also a leading sector in the economies of African countries.

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