



POLICY DIALOGUE on the Role of IP for Economic, Social and Cultural Development: Innovation, IP and Value Addition for Business Competitiveness in Africa

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Youth Entrepreneurship Regional Forum on the “*Critical Role of Intellectual Property (IP) and Innovation for Youth Entrepreneurship and Start-ups*”

TOPIC 1: Intellectual Property (IP) Fundamentals and Principles

Barthelemy Nyasse
bnyasse@yahoo.com

WHAT IS IP

Intellectual Property – refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images.

Intellectual Property rights provide protection for creations and inventions, to enable creators and inventors to earn recognition and financial benefit from their work.

Intellectual property right is

1. A set of **principles** and **rules** that regulate
2. The acquisition, the use, the enforcement and the loss
3. Of rights and interests
4. **In differentiating tangible & intangible assets**
5. That are susceptible of being used (in commerce).

Intellectual property does not cover all intangible assets, but only those that serve as elements of **differentiation** between competitors.

Differentiating elements: novelty, inventiveness, creativity, originality and distinctiveness are so crucial for intellectual property.

IP protects society against **free riding** in all its forms (parasitism, counterfeiting, unfair competition) in order to ensure a more efficient use of scarce resources because its subject matter is **differences** and **uniqueness** in trade,.

- **to encourage investment in R&D on products that are on demand [the dynamic dimension of patents];**
- **to avoid redundancy and waste of resources in R&D on products already invented [the disclosure function of patents];**
- **to avoid redundancy in consumers' search [the dynamic dimension of marks, names, geographical indications]**

IP is an intrinsically pro-competitive legal mechanism because it **preserves** and **promotes differences**

Only rivals care about differentiating themselves from competitors.

Monopolists do not care about differences.

Because of its function of **differentiating** merchants, IP has emerged as a legal institution in every society where, consumers have been given the possibility of a choice and merchants have had something to gain from **appropriating those differences**

- **IP has emerged as a primarily social tool to prohibit parasitism and free riding**
- **IP rights is about honesty and human right**

Intellectual property is also about human rights/respect

Article 7 - The Universal Declaration of Human Rights 1948:

“Everyone has the right to freely participate in the cultural life of the community, to share scientific advances and its benefits, and to get credit for their own work”

IP is a very old legal institution:

Code of Hammurabi, c. 1750 b.C.

Law No. 188: “If an artisan has undertaken to rear a child and teaches him his craft, he cannot be demanded back.”

Law No. 189: “If he has not taught him his craft, this adopted son may return to his father’s house.”





On fairness in trade as an ethical value see... ..the Holy Bible



Proverbs 11 (King Solomon, 8th century b.C.)

1 The Lord abhors dishonest scales, but accurate weights are his delight

Proverbs 20

10 Differing weights and differing measures - the Lord detests them both.

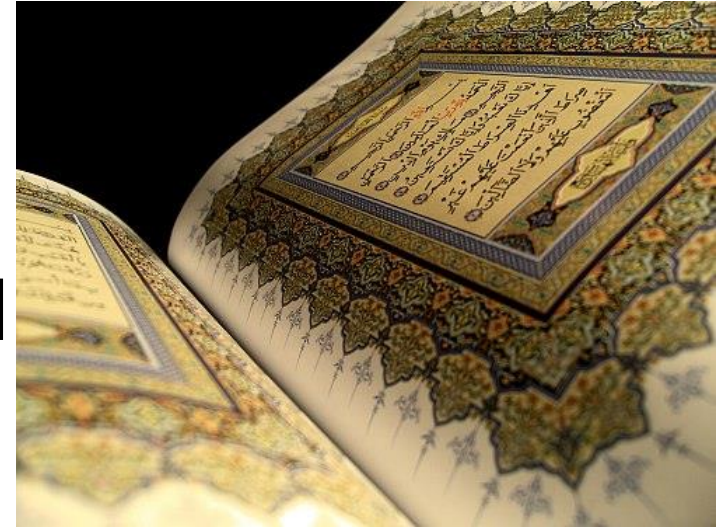
... Coran (7th century)

11.85. Ô my peole, do justify full measure and full weight, do not belittle people their values and do not sow corruption on earth

83.1. Woe to fraudsters

83.2. Who, when they measure for themselves demand full measure

83.3. and who when they themselves measure or weigh for others, cause (them) loss



... Charter of Kurukan Fuga – 1236

Article 24: Never wrong strangers

Article 34: There are five ways to acquire property: purchase, donation, exchange, work/labour, inheritance. Any other form without probative evidence is equivocal

Article 35: Any found object without an owner becomes common property only after four years



MODERN IP SYSTEM

- ❑ PARIS CONVENTION (1883)
- ❑ BERNE CONVENTION (1886)

WIPO (1967)

The IP System

Innovators

make significant investments in developing new solutions

Heavy pressure may drive the innovator out of business

Competitors

benefit from their efforts

Get a free ride on the back of the innovator's creativity and inventiveness

Can offer similar or identical products at a cheaper price

IP system

An institutional mechanism to provide incentives and rewards to risk-takers and entrepreneurs while society in turn benefits from new and improved products



Author or Owner's rights

- ❖ to use it in her/his own business
- ❖ to let others use it for a defined purpose for an agreed monetary or non-monetary consideration
- ❖ to sell it, otherwise transfer, gift, mortgage, license
- ❖ to lease or rent it,
- ❖ to abandon or to destroy it

“The protection and enforcement of IPRs should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to **the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations**”

(Article 7, TRIPS Agreement).

DIFFERENT TYPES OF IP

Different types of IP

Legal right

What for?

How?

Patents

New inventions

Application and
examination

Utility models

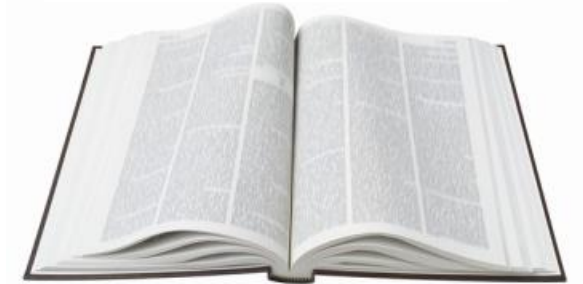
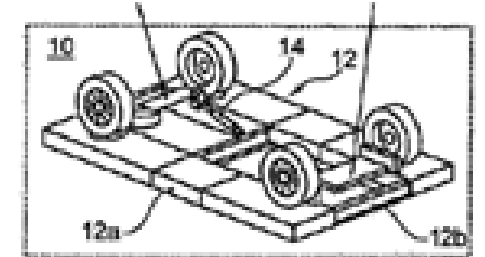
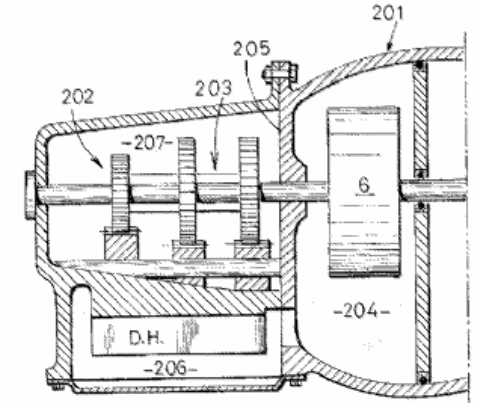
New inventions

Application and
registration

Copyright

Original creative or
artistic forms

Exists automatically



Different types of IP

Legal right

What for?

How?

Trade marks

Distinctive identification
of products or services

Use and/or
registration

The Google logo, consisting of the word "Google" in its multi-colored font.

Registered
designs

External appearance

Registration



Trade secrets

Valuable information not
known to the public

Reasonable efforts
to keep secret



Different types of IP

❖ Trade Mark

- Who made it
- How is it named

❖ Design

- How does it look like
(touch, taste, and smell)

❖ Patent

- How is it made

❖ Trade Secret

- ??????????

❖ Copyright

- *Sight*
- *Songs*

"functional" features of works of authorship

Visual "aesthetic" form of works of authorship

OVERVIEW OF IP: A MOBILE PHONE

❖ Trade Mark

- Made by « Apple » (Logo)
- Product «iPhone»
- Software «iOS», «Safari»

❖ Copyright

- Software code
- Instruction manual
- Ringtone

❖ Trade Secrets

- ??????????

❖ Design

- Form of overall phone
- Placement of buttons & Speakers
- Colour pattern of trim
- Surface finish

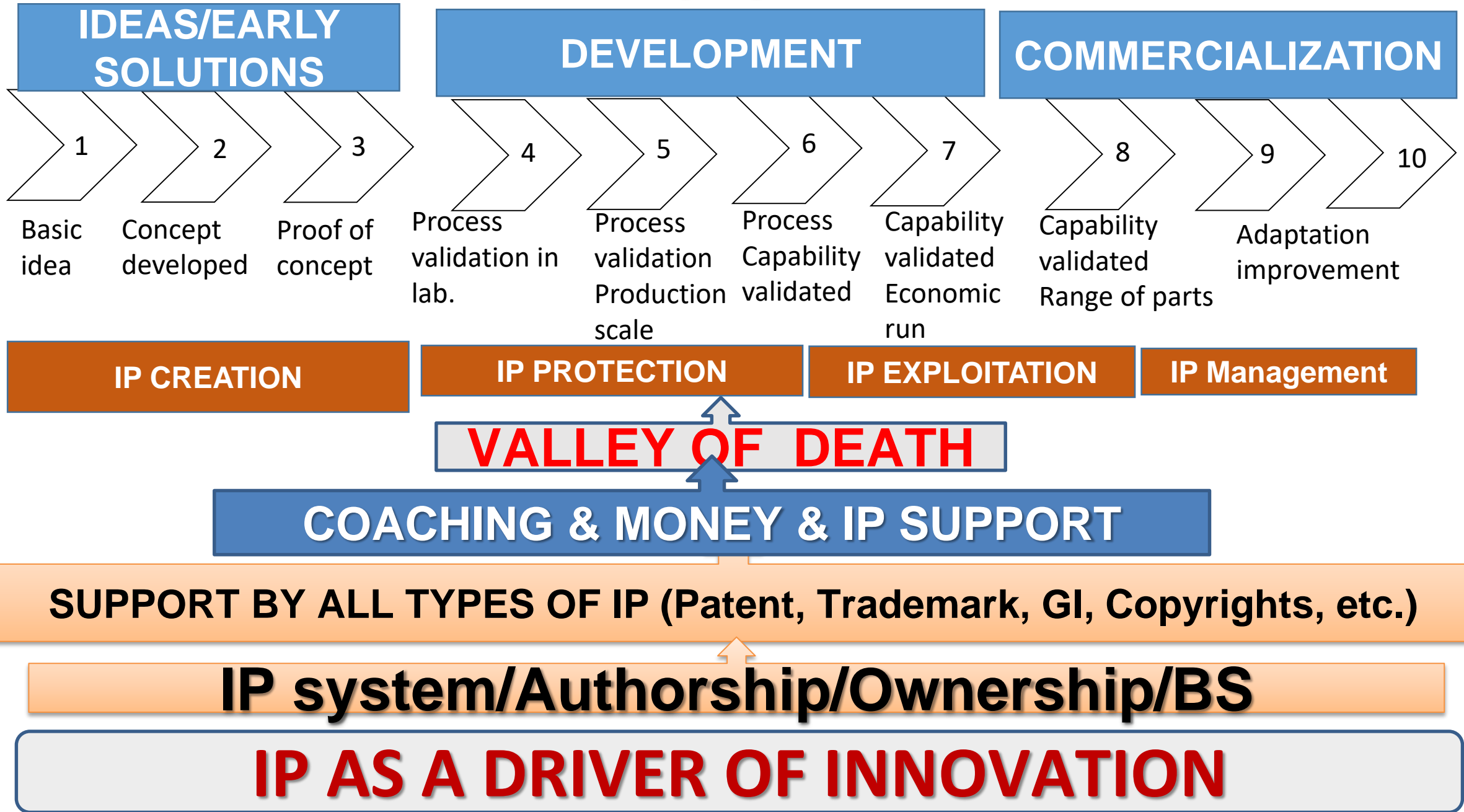
❖ Patents

- Semiconductor circuits
- Touch Screen
- Battery/power Control
- Antenna
- Speaker
- Device Housing



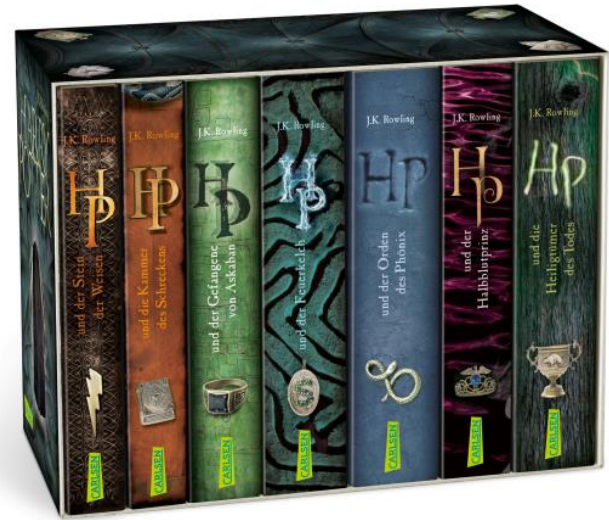
IP INTO THE BUSINESS

IP SYSTEM



EXAMPLES OF VALUABLE IP

HARRY POTTER



Harry Potter, J.K. Rowling – character that is used in both literary and cinematographic works:

- 07 books - 350 million Copies Sold worldwide
- 05 Hollywood film adaptations of the books that earned some US\$4 billion in ticket sales by Warner Bros
- TV broadcast (ABC) – 4.2 million US viewers
- Music soundtracks from the first four movies composed by John Williams sold over 1.1 million copies in US
- Harry Potter trademarks (Warner Bros): characters, themes, etc.(400 different products)

Coca-Cola ®

COCA-COLA.

1886

Coca-Cola

1887

Ꞥoca-Ꞥola

1890

Coca-Cola

1891

Coca-Cola

1941 - present

Coca-Cola

1987 - Redesigned



- It takes time and hard work to build a brand identity.
- The brand identity is what a company wants to portray about itself

- In May 1886, Dr John S Pemberton nailed the formula (**Secret**)
- His bookkeeper, Frank Mason Robinson, came up with the name 'Coca-Cola ®'. Frank M. Robinson suggested that 'the two Cs would look well in advertising and designed the now world famous Coca-Cola script logo (**Trademark**)

PENJA WHITE PEPPER



2013 - Geographic Indication (GI)

- 2008: 4 to 5 USD/kg
- 2015: 23 to 24 USD/kg
- 2022: 33 to 35 USD/kg

LITHIUM-ION BATTERIES



Lithium-ion batteries are commonly used for portable electronics and electric vehicles and are growing in popularity for military and aerospace applications

1987 - Akira Yoshino patented what would become the first commercial lithium-ion battery

1991, using Yoshino's design, Sony began producing and selling the world's first rechargeable lithium-ion batteries.

- Patents have helped to protect these solutions and today
- The worldwide market for lithium-ion batteries was estimated at EUR 26.5 billion in 2017 and projected to reach over EUR 80 billion by the year 2025.



POLYMERIC CHAIN REACTION

1987 - US Patent 4,683,202 "process for amplifying nucleic acid sequences" issued to **Kary Mullis**.

The **PCR** method would be used world wide to perform biotechnology experiments, clone genes, identify pathogens, and convict criminals

1990 - **Hoffman-La Roche**, a Swiss pharmaceutical giant recognized the commercial potential for PCR and purchased the family of PCR patents for \$300 million

PCR - A Patent That Revolutionized Biotechnology

Think of PCR Test for Covid-19!



Suggested readings

- 1. Inventing the Future:** An introduction to Patents for small and medium sized Enterprises; WIPO publication No. 917. URL: www.wipo.int/ebookshop
- 2. Looking Good:** An Introduction to Industrial Designs for Small and Medium sized Enterprises; WIPO publication No.498. URL: www.wipo.int/ebookshop
- 3. Creative Expression:** An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises; WIPO publication No. 918. URL: www.wipo.int/ebookshop
- 4. Making a Mark:** An Introduction to Trademarks for Small and Medium-sized Enterprises; WIPO publication No. 900. URL: www.wipo.int/ebookshop