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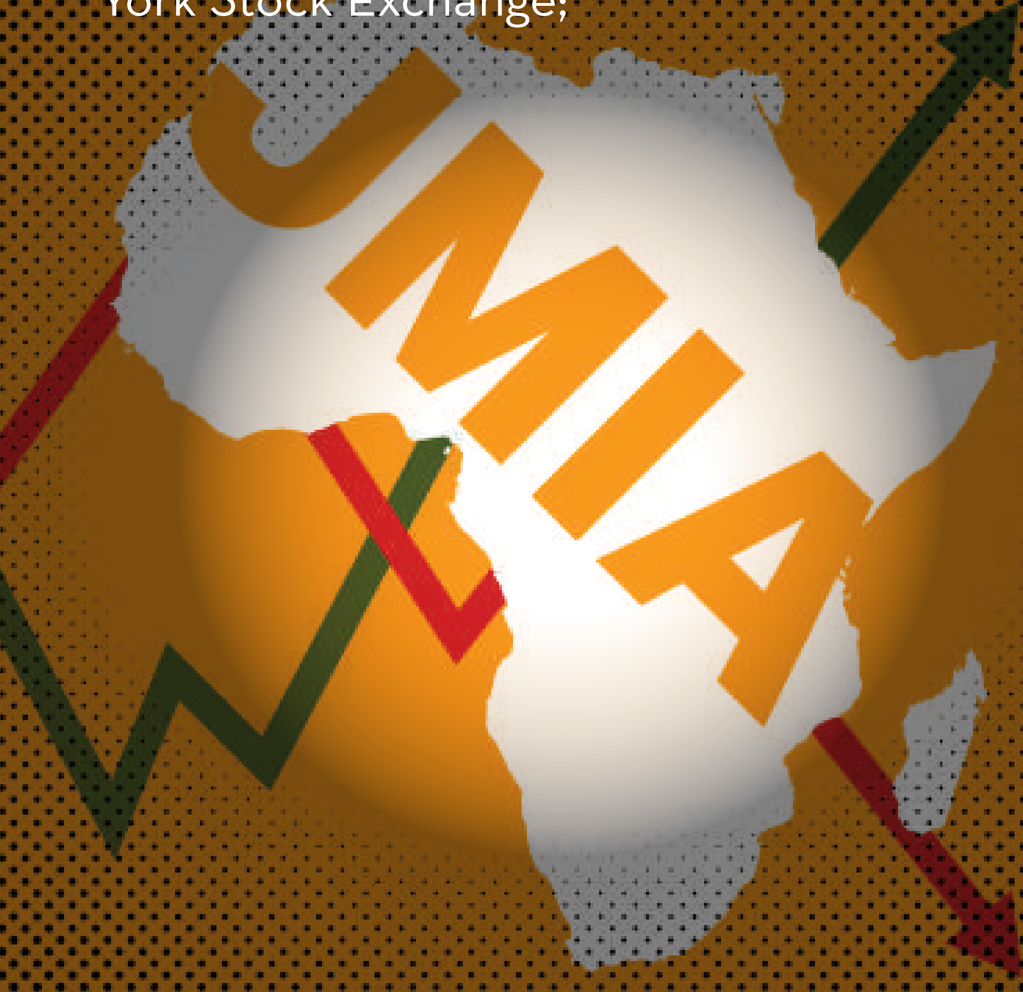
INNOVATE. GROW. DISCOVER

#2 EDITION

JUMIA

Listing on New York Stock Exchange;



A collective success for Africa.

A stock exchange

is a facility where stock brokers and traders can buy and sell securities, such as shares of stock and bonds and other financial instruments. Stock exchanges may also provide for facilities the issue and redemption of such securities and instruments and capital events including the payment of income and dividends Securities traded on a stock exchange include stock issued by listed companies. New York is one of the largest in the world.

To be able to trade a security on a certain stock exchange, the security must be listed there. Usually, there is a central location at least for record keeping, but trade is increasingly less linked to a physical place, as modern markets use electronic communication networks, which give them advantages of increased speed and reduced cost of transactions.
Jumia, is an online marketplace in Africa for electronics, and fashion among others. It has partnered with more than 50,000 local African companies and individuals Started in 2012 in Lagos, the company currently has a presence across 14 African countries, Uganda inclusive. Jumia was launched in Lagos in 2012 and it expanded to five other countries, Egypt, Morocco, Ivory Coast, Kenya and South Africa. In 2014, the company launched offices in Uganda, Tanzania, Ghana, Cameroon, Algeria and Tunisia and it was present in 14 African countries in 2018. This is definitely enhanced by the growth of internet penetration in Africa.
The African e-commerce company was listed on the New York Stock Exchange , with shares beginning trading at $14.50 under ticker symbol JMIA. With the public offering, Jumia becomes the first startup from Africa to list on a major global exchange.

Jumia's success should be collectively shared, it gives hope for other tech startups to have a position of influence on global markets, it also recognizes the impact of internet on commerce.

African countries like Uganda and many more already have a position in the Internet User rankings in Africa. The most recent survey done by Internet World Stats reveals that Uganda ranks 15th in Internet usage across Africa with Kenya leading the pack. The growth of internet usage despite the its high cost is visible, in 2000 the penetration percentage was 0.1 % and in 2016, the percentage was 31.1 % that is 11,924,927 million people out of 38,319,241 people in Uganda, with Kenya having 77.8% penetration.

Jumia is operating in emerging African markets that are still developing logistics, delivery and digital payment capabilities. Delivery can be too expensive or too time-consuming to compete with traditional retailers, and cashless payment is challenging, due to illiteracy related issues. In addition, some of its markets, such as Egypt, still experience periods of political instability.

Congratulations Jumia

Governments have a history of making dramatic policy changes, such as price controls, currency devaluations, or mandatory wage increases.
Many customers, including those that don't have a bank account or don't trust online payments, choose to pay upon delivery. The customer has to be home to accept the package. Failure to complete a delivery is a continuing problem, with 14.4% of GMV in 2018 either a failed delivery or return. Delivery verification is also a problem.

This means that for e-commerce to growth, the Government policy on the same should be modified to accommodate the integration of technology and commerce, this process of shifting from traditional overt markets to online market should come along with reducing internet costs across the internet, and tech companies getting tax incentives from Government. This will enable the price of good bought online cheaper, reducing unnecessary movements to shop, hence reducing money for fuel and doing other productive business.

For any African native company like Jumia to get to greater success, it must be supported by their own, this means that Africans must understand the advantages of using e-commerce than traditional shopping in any case, ICT's contribution to Uganda's GDP is increasing, The internet subscriber growth also explains the surge in the telecommunications sector's contribution to GDP a contribution that doubled from 3.1% to 6.2% between 2009 and 2010. This contribution of the ICT sector to GDP has also increased significantly and evidence that once tech startups like Jumia are supported by the native population, our collective growth would be secured.

14

The number of countries jumia is currently operating in.

JMIA

The ticker symbol under which Jumia trades

13.5%

The estimated number of the african population that has access to internet

Guest Article By

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Student of Intellectual property law, Uganda Christian university

INTELLECTUAL PROPERTY

Rewarding creativity in video games

We are surrounded by and constantly interacting with the subject matter of intellectual property. "Intellect" is construed as being that which is the product of the human mind and "property" is the grant of the exclusive right that exists in a manner similar to private property rights over tangibles. When an author exercises effort and produces work, they then merit protection from those that want to or would want to exploit that effort and unjustly enrich themselves. Video games are an intellectual creation. They are electronic games that involve an interaction with a user interface to generate visual feedback on a 2D or 3D dimensional mainly for entertainment. The purpose of the video game will depend on the audience, ranging from educational to those that are simply for game play.

In Uganda, video games are protected under the Copyright and Neighbouring Rights Act, 2006. Copyright is inherent in a work and arises automatically upon the creation of a work to last for a given period of time.
The statute provides for Copyright which subsists and protects author's rights such as in literary, artistic, dramatic, musical works among others and neighbouring rights that are related rights such as in broadcasting, sound recordings, rights of performers or directors. They are differentiated because they use or develop existing authorial works and are part of technical or organisational skill rather than authorial skill where the rights are initially given not to the human creator, but the body or person that was financially or organisationally responsible for the production of the material.

In uganda, video games are protected under the copyright and neighbouring rights act, 2006.

Intellectual property protects the commercial value of the video game through the exclusive rights that are granted to the author. These include the right to copy, sell, make related merchandise, license, distribute or display the video game. In addition, there is the right to create a derivative work off the original. Copyright extends to each "work" in the video game such as images, characters, music and sounds. It may be owned by the author or employer as a reward for the substantial investment they make to create the game.

In the world of video games, there are a lot of grand ideas, but copyright does not protect ideas; only actual expressions that come into being as some tangible expression. Henceforth, although creating specific characters and the words that comprise the game dialogue are protected by copyright; the basic game concept is not protected by copyright. The idea of a clan warrior attacking a nearby tribe is not within the protection of copyright. Game developers are free to design new games based on these plot concepts; the key difference being that it is substantially different from other games already protected.

Although the copyright exists in different works, if parts or components are substantially copied from the underlying work, then it is copyright infringement.

The concept and feel approach is one of the tests that has been applied in case law to elaborate on the substantiality of a work, and to explain whether the author of the subsequent work has exercised sufficient labour, skill or judgment to warrant copyright protection. Simply put, substantial taking in this approach is copying that is selective, calculating or altered and is sufficient enough to infringe copyright. With computer programming, derivation may be occurring while evolving new programmes and so the substantiality principle is important to aid in determining what is excusable for reasons of competition and what is simply leeching.

On that account, video games may not obtain one wholesome copyright but rather a combination of copyright in all its works. Each part of the video game is copyrightable and the underlying work is protected as a literary work while the art work and sound as an audio-visual work. Although copyright is inherent and one does not need to have the work registered to be covered by copyright, there are advantages that accrue to registering one's copyright such as enabling the rights holder to sustain an action for infringement, and enabling the copyright holder to establish a public record of ownership

Game designers should be cautious so as not to infringe on image or privacy rights.

A logo can have both copyright and a trademark hence warranting protection in both regimes. A game developer who has created the game and is firstly, able to explain the hardware that led to its existence and that it was an original work, secondly is able to show that the subsequent developer copied the game mechanics, even if they haven't copied the code, and thirdly it has caused or is likely to cause a loss then they are able to sustain a legal action.

On that account, trademark is an IP regime concerning itself with the branding and marketing aspects of a product to avoid confusion and protect the source of a product and for that reason video game developers should be careful not to pick a title or name that is confusingly similar. Another aspect of IP that affects video games is image rights. Game designers should be cautious so as not to infringe on image or privacy rights. This is the right of an individual to control the commercial use of his or her name, image, likeness or other unequivocal aspects of their identity. In Edward O'Bannon and others v NCAA and EA, college athletes were used to build a roster in the EA series. Although EA argued the avatars in the game didn't directly represent the players but evidence was adduced to show they matched to dozens of real students, to their real names, jersey numbers, positions on the pitch and so on and as it has been decided even here in Ugandan case law one does not need celebrity status to prove infringement of his or her image. As a result, game developers should be cautious to use image properly and according to the contract.

Consequently, rights and rewards that accrue to video game developers are deeply rooted in the creativity concept of intellectual property, game developers should be aware of the commercial value of their works and that their efforts are protected in our intellectual property regimes.

Article by
Ivan Allan Ojakol - Associate
Kta Advocates

highlights

May

Our Partner; Kenneth Muhangi was appointed by the Government of Uganda to join the 4IR Portfolio Communities of the Centre for the Fourth Indusrial Revolutoin of the World Economic Forum.

Ministry of Information & Computing Technology

May

JUSTICE TABARO

REPLACES MR GEORGE OMUNYOKOL

as the new chairperson of the Makerere University Staff Appeals Tribunal.

June

WILDLIFE FORUM

Our Partner, Justus Karuhanga represented Uganda at the Wildlife Forum that was held in Zimbabwe.

June

INDICATION GEOGRAPHICAL

Longhorned cattle, one of the most prestigious species of cattle in Uganda - Ankole.
On behalf of KTA Advocates, Our Managing Partner Edwin Tabaro announced his plan on working ongetting a Geographical Indication for the long horned cow.

June

SafeBoda YOUR CITY RIDE

Uganda's leading technology startup, Safeboda announced it's launched in Nigeria and Kenya.

June

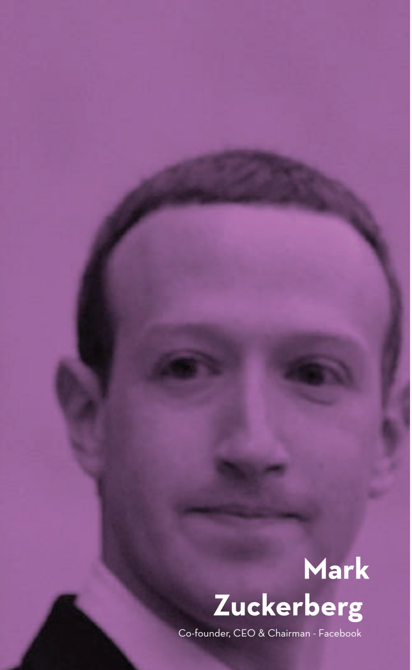
INTERNATIONAL **ARBITRATION TRAINING**

13 of June 2019, hosted by KTA Advocates in partnership with Young International Council for Commercial Arbitration (ICCA)

VIRTUAL CURRENCY

AND THE FOURTH INDUSTRIAL REVOLUTION:

One currency to rule them all



Mark Zuckerberg announced on Tuesday, 18th June, 2019 that Facebook and more than two dozen Founding Member companies, including Ebay, Uber, Lyft, Spotify, Visa, Mastercard, PayPal, Coinbase and venture capital firm Andreessen Horowitz are launching Libra, a simple low-volatility cryptocurrency running on a decentralized blockchain network. Although payments through social media are not a new creation, Libra has been dubbed a global currency and it is undeniable that this announcement is by far the biggest announcement in tech in this 4IR.

To understand the magnitude of the announcement, it is imperative we look at the concept of money. Noah Yuval, the author of Sapiens, postulates that Money isn't a material reality—it is a mental construct. Further that gold coins and dollar bills have value only in our common imagination. Their worth is not inherent in the chemical structure of the metal or paper, nor in their color or shape. It works by converting matter into mind.

Noah, further suggests that trust is the raw material from which all types of money are minted. People are willing to accept any form of money as a social construct that is a figment of their collective imagination. Before the invention of paper money, a trader could sell a loaf of bread in exchange for pieces of gold or silver.

Should the trader embark on a journey, he would travel with the coins trusting that upon reaching his destination other people would be willing to sell him rice, houses, and fields in exchange for the gold. Noah couldn't have put it more aptly, "Money is accordingly a system of mutual trust, and not just any system of mutual trust: Money is the most universal and most efficient system of mutual trust ever devised. Even people who do not believe in the same god or obey the same king are more than willing to use the same money. Osama bin-Laden, for all his hatred of American culture, American religion, and American politics, was very fond of American dollars."

Money has been evolving over the years; trust, versatility & acceptability have been the fuel for the success of money.

In the stone age (6000BC) and well into the 'civilized age', barter trade was the most widely accepted mode for 'buying & selling' or more aptly exchange of goods. It was accepted from the rich terrain of Africa (first recorded in Egypt in 9000 B.C.) to Mesopotamia (current Iraq, Syria, Turkey) & Phoenicia (Lebanon, northern Israel (controversially) & Syria). There've been resurgences of barter trade throughout history, famously in 1930 during great depression & even in 2019 in Zimbabwe where it was reported that schools were receiving animals as payment for school fees (tuition).

Actual money came to be during the agricultural revolution of 9000-6000BCE, where livestock and plants were used as money. This evolved to shekels and cowry shells that were used in countries like Uganda till the late 1960's. The shekel was the unit of weight and currency, first recorded circa 3000 BC, referring to a specific weight of barley, and equivalent amounts of silver, bronze, copper etc.
Coins were a product of the late Bronze Age, where standard-sized ingots, and tokens such as knife money, were used to store and transfer value. Indian coins were a kind of punched metal and Chinese were a casted bronze with holes in the center.
According to Aristotle (fr. 611,37, ed. V. Rose) and Pollux (Onamastikon IX.83) Hermodike of Kyme was the first perosn to issue coins.

Uganda, received coins In 1966, in denominations of 5, 10, 20 and 50 cents and 1 and 2 shillings. The 5-, 10- and 20-cent coins were struck in bronze, with the higher denominations struck in cupro-nickel. The 2-shilling was only issued that year. In 1972, cupro-nickel 5-shilling coins were issued but were withdrawn from circulation are now very rare.
In 1976, copper-plated steel replaced bronze in the 5- and 10-cent and cupro-nickel-plated steel replaced cupro-nickel in the 50-cent and 1-shilling. In 1986, nickel-plated-steel 50-cent and 1-shilling coins were issued, the last coins of the first shilling.
Paper money, is credited to 11th Century China, but was popularized in the 13th century by explorers like Marco Polo. Europe started printing bank issued, gold backed paper money in 1661. The Bank of England was granted sole rights to issue banknotes in England after 1694. In the USA, the Federal Reserve Bank was granted similar rights after its establishment in 1913. In 1966, the Bank of Uganda introduced notes in denominations of 5, 10, 20 and 100 shillings. In 1973, fifty-shilling notes were introduced, followed by 500 and 1,000 shillings in 1983 and 5,000 shillings in 1985.
The 21st Century saw banks experiment with cashless money (visa. Mastercard and the like) but although transactions are conducted online or through telecom networks (USSD), every digital note is backed by a physical banknote.
The 21st Century is also the harbinger of cryptocurrency that despite warnings from central banks, has become so popular that it is seen by many (including myself) as the future of money.

libra

Cryptocurrencies like Bitcoin use a system which is peer-to-peer, and where transactions take place between users directly, without any intermediary. These transactions are verified by network nodes and recorded in a public distributed ledger called a blockchain. Backed by smart-contracts, users can securely send money, sell and buy goods with unprecedented convenience.

It is this freedom from, "the man" that makes virtual currency so appealing. The adage goes, if you can't beat them, join them and this is why central banks and regulators have softened their stand on virtual currencies; as long as they're backed by some form of money they accept.

In Germany for example, the German Finance Department in 2013 recognized bitcoins as a financial instrument similar to an international currency, which can be used to carry out private transactions or exchanged for other currencies, without being legal tender. However, in Japan, Bitcoin is recognized as a virtual currency that is a store of value but not expressly recognized legal tender.

Although Uganda does not officially recognize Bitcoin as a form of currency, Section 3 of the Foreign Exchange act 2004 (the Act), defines "foreign currency" to mean a currency other than the legal tender of Uganda. It further defines "foreign exchange" to include banknotes, coins or electronic units of payment in any currency other than the currency of Uganda which are or have been legal tender outside Uganda.

Although Uganda does not officially recognize Bitcoin as a form of currency, Section 3 of the Foreign Exchange act 2004 (the Act), defines "foreign currency" to mean a currency other than the legal tender of Uganda.

There is still debate in Japan as to whether the Japan Payment Services Act, that was amended in 2016 to include virtual currencies, actually gives cryptocurrencies the status of a currency. However, the Cambridge dictionary defines legal tender as money that can officially be used in a country.

Section 3 of Uganda's Foreign Exchange Act, further defines a "foreign exchange bureau" to mean a person holding a license issued by the Bank of Uganda to engage foreign exchange business. "Foreign exchange business" is defined by the same Act to mean the business of buying, selling, borrowing or lending of foreign currency.
Consequently, any business that then intends to buy, sell, borrow or lend Bitcoin, may do so under a forex bureau license issued by Bank of Uganda.

The Electronic Transactions Act 2011(ETA), the Computer Misuse Act & the Electronic Signatures Act, 2011(ESA), also lend credence to virtual currency.
In Particular, The Electronic Transactions Act, 2011 essentially provides for the use, security, facilitation and regulation of electronic communications and online transactions.

The Act (together with the Electronic Signatures Act, 2011) also significantly provides for the legal recognition of electronic transactions, records & signatures; which guarantees effective enforcement of the rights of consumers, if infringed.
Section 2 of the ESA, defines a digital signature as ***a transformation*** of a message using an ***asymmetric cryptosystem*** such that a person having the initial message and the signer's public key can accurately determine:

(a)
whether the transformation was created using the private key that corresponds to the signer's public key; and

(b)
whether the message has been altered since the transformation was made. In simple terms, a digital signature is a way to ensure that an electronic communication is authentic. By authentic we mean you know who is originating the electronic communication and you know the electronic communication has not been altered since it was made.

Section 2 of the ETA, defines an "advanced electronic signature" to mean an electronic signature, which is—

1. uniquely linked to the signatory;
2. reliably capable of identifying the signatory;
3. created using secure signature creation device that the signatory can maintain under his sole control; and
4. linked to the data to which it relates in such a manner that any subsequent change of the data or the connections between the data and signature are detectable.

Section 2 also defines an "automated transaction" to mean an electronic transaction conducted or performed, in whole or in part, by means of a data message in which the conduct or data messages of one or both parties is not reviewed by a natural person in the ordinary course of the natural person's business or employment.

By plainly reading the clauses above, it would seem that Blockchain & even Cryptocurrency, are not excluded in the common parlance for electronic transactions.

The Draft National Payment Bill of 2018 that is yet to be enacted, will regulate the issuance of fiat money/electronic money and prescribes rules governing the oversight and protection of payment systems, instruments and other related matters. Fiat money is government-issued currency that is not backed by a physical commodity, such as gold or silver. The value of fiat money is derived from the relationship between supply and demand and the stability of the issuing government, rather than the worth of a commodity backing it.

Section 2 of the NPB defines 'electronic money' to mean monetary value which is stored electronically, including magnetically and which is issued on receipt of funds for the purpose of making payment transactions.

In defining a 'payment system' it says that it's a system to effect a transaction through the transfer of monetary value and includes technologies that make such an exchange possible. Although the bill doesn't expressly mention the terms blockchain or cryptocurrency, the definition of electronic money covers the two.

The NPB also defines a payment system to include payment systems operated by the private entities as electronic money issuers. PART III of the Bill provide for licenses and prohibits the operation of a payment system without a license issued by the central bank and provides parameters to be fulfilled to be granted a license to operate a payment system.

Sections 18 – 23 gives the Central Bank oversight over the operations of payment systems and shall from time to time issue directives in regards to the payment systems.

Fiat money is government-issued currency that is not backed by a physical commodity, such as gold or silver.

Part IV provides for electronic money and transfers and proposes that an electronic money issuer should have a separate account with a cash buffer equivalent to any electronic money going through the platform(s) of the issuer.
Laws like Uganda's NPB will be essential for central banks around the world to attempt to regulate virtual currencies.
Zuckerberg's confirmation that Libra will be unlike other cryptocurrencies, as it will be backed by "real" government-backed assets from central banks to give it stability in particular resonates with Part IV of the NPB. Libra will be made available to Messenger and WhatsApp users, who can cash in their local currency to buy Libra currency.
The Libra White Paper, explains that to withdraw funds, users will be able to convert their digital currency into legal tender based on an exchange rate. It won't be so dissimilar to when you exchange U.S. dollars for euros during a European vacation, for example. The currency can then be used to purchase goods and services.
Libra is currently not backed by a single currency. Its value will depend on the value of its underlying assets, which may fluctuate. Still, this will reportedly help it be less volatile than other cryptos.

Libra is currently not backed by a single currency. Its value will depend on the value of its underlying assets,

Most importantly, the fact that Facebook and What's app combined have a whooping 3 billion + active monthly users make trust and acceptability a certainty. Libra, couldn't have come at a better time where financial inclusion especially with the increasing poor-rich gap has been a dicey issue worldwide.

Africa Development Bank statistics indicate that financial penetration remains low in Africa with less than a quarter of sub-Saharan Africa's population having access to a formal bank account. In contrast, the International Finance Corporation estimates that In Kenya and Uganda, over half of the adult population uses digital financial services. This is mostly owed to the low transaction fees and ease of sending, receiving money and making payments.
Facebook follows Apple pay, WeChat Pay & Alipay launched by Alibaba in 2014. Alipay started as an escrow system and moved to seller accreditation, payments (backed by Chinese banks), and accounted for 200 e-wallet and 10 million app installs—no one raised a brow.

Facebook follows Apple pay, WeChat Pay & Alipay launched by Alibaba in 2014.

WeChat Pay on the other hand was developed by Tencent in 2013, as a n answer to Alibaba's Alipay. As of Q3 2018, WeChat Pay took 84.3% of the market shares in the third-party mobile payments sector in China, maintaining its spot at number one in the market. Within the estimated USD $16 trillion Chinese mobile payments market, they have nearly one billion users. Compare this to Apple Pay, which has only reached 127 million monthly active users, even with the advantage of having it come pre-installed on every Iphone already.

In October 2018, Safaricom Kenya's mobile money service M-Pesa made it possible for MPESA users to transfer cash and make payments through We Chat. It is only a matter of time before paper money is as rare as a cowrie shell. But, we look to 2020 with cautious optimism. Facebook hasn't had a good track record with data and privacy concerns surfacing more prominently in 2018.

By Kenneth Muhangi

Partner
KTA Advocates
Intellectual Property.
Technology. Media
Telecommunications

IGD

QUICK DIGEST

ISLAMIC PROJECT FINANCE 101

Project finance, is financing of a singled out economic unit in which a lender is satisfied to look initially to the cash flows and earnings of that economic unit as the source of funds from which a loan will be repaid and to the assets of the economic unit as collateral for the loan. The key element is "initial"; they must be satisfied that they will be paid back in the worst-case scenario by the initial cash flow. Banks lend, they do not invest. The financing is limited and or non- recourse to the sponsors. Project finance is all about identification and allocation of risk . The goal is to arrange a financing that will benefit the sponsor and at the same time be completely non-recourse; in no way affecting its credit standing or balance sheet (off balance sheet financing).

In our next issue of the IGN; Judith Kagere will be getting into depth with Islamic project Finance, Istisnaa- Ijara structures, the key Shari'a documents, the security Package and more on how Islamic finance is changing the business landscape.

IGD QUICK DIGEST

GOV'T APPROVES POLICY TO BOOST INTELLECTUAL PROPERTY RIGHTS

On May 28th 2019, Cabinet has approved the National Intellectual Property Policy 2019, according to the statement ready by government spokesperson on Ofwono Opondo who addressed journalists on Tuesday at the Uganda Media Centre in
Kampala.

It will also support establishment of comprehensive Public and Private institutional IP frame works for administration ,protection, commercialization and enforcement of IP rights , thus ensuring delivery of IP services to all stake holders; ensure effective IP rights enforcements: this will be achieved through building collaborations and strengthening linkages between different IP administrative and enforcement entities;

Further it will promote research and development; facilitate more active and comprehensive promotion of IP awareness through appropriate short training programs and generate effective and beneficial linkages between National and International IP systems as well as set a policy direction in Regional and International relations in respect of Intellectual Property.
The approval of the policy comes at the time when Uganda has no strict enforcement of the laws to protect (IPRs).

eagle.co.ug

https://eagle.co.ug/2019/05/28/govt-approves-policy-to-boost-intellectual-property-rights.html

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