MINISTRY OF SCIENCE, TECHNOLOGY AND INNOVATION-UGANDA

KEY ISSUES RAISED - THE AI/IP EXPERT MEETING

HELD ON 23RD JUNE 2020 TO DISCUSS THE WIPO REVISED ISSUES PAPER ON INTELLECTUAL PROPERTY POLICY AND ARTIFICIAL INTELLIGENCE.

JUNE 2020

Key Issues Raised

1.1 Glossary

i. The meeting noted the need to have a similar definition of AI as other countries as AI has a global perspective to it.

ii. It was also noted that the society in Uganda hadn't fully appreciated AI and its attendant benefits.

1.2 Patents

i. There's need to revise the Industrial Property Act to allow software and computer programs to be patentable.

ii. Members were also cognizant of the fact that should AI evolve to attain consciousness, attain ability to make choices and discernment, there might be need to revise the IP legal framework.

1.3 Copyright and Related Rights

i. Members also noted the need to either develop a sui generis system for protection of AI or to make amendments to the existing copyright law.

ii. The existing law doesn't provide for infringement on copyrighted computer programs and software

1.4 Data

i. There is need to sensitize the users and creators of AI systems about their rights.

ii. There's need to advocate for a contractual approach to sharing data, consent is always key for AI system developers. The question is whether the contractual obligation is on the AI or the developer?

1.5 Designs

i. The Question is to whether AI can be assigned rights pertaining to a particular design of which the current law does not provide for such a scenario.

ii. AI relies on large data sets of already existing logos and designs, which calls for protection in case of AI generated works that infringe on protected designs

1.6 Trademarks

i. The meeting identified the need for a robust Trademark law to cater for the growing issues arising out of increased application of AI in generating Trademarks.

ii. A key question arising was the ownership of a trademark in cases where logos and signs have been generated by AI. The data sets used by AI, which are usually preexisting logos were also identified to be a case for infringement in case there are similarities between the signs generated and already existing logos.

1.7 Trade Secrets

i. Data aspects or aspects of AI applications that may need not disclosure can exploit the trade secret option as long as it satisfies the requirements.

1.8 Technology Gap and Capacity Building

i. The meeting noted that there's very limited capacity in Uganda especially as regards to the financial capacity and human capital in the country to facilitate the development of AI.

ii. The members also noted that the National IP policy 2019 has glaring gaps especially in areas regarding technology in which AI is key.

iii. Awareness on IP and AI relationship among various stakeholders is very low, thus a limiting factor.

2.0 Conclusion

The Ministry of Science, Technology and Innovation and all other stake holders will keep the discussions in synergy with what is happening at the World Intellectual Property Organization.

Uganda, has a key role to play in the global arena as relates to IP and AI, and we are committed to contribute in every forum as pertains the subject matter.

3.0 Contact

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MINISTRY OF SCIENCE, TECHNOLOGY AND INNOVATION-UGANDA

A REPORT FOR THE EXPERT MEETING HELD ON 23RD JUNE 2020 TO DISCUSS THE WIPO REVISED ISSUES PAPER ON INTELLECTUAL PROPERTY POLICY AND ARTIFICIAL INTELLIGENCE.

23rd JUNE 2020

1   Introduction

The Ministry of Science, Technology and Innovation convened a team of Intellectual Property experts and Artificial Intelligence practitioners on 23rd June 2020 to discuss the **World Intellectual Property Office Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence**. The virtual meeting was attended by a cross section of IP & AI practitioners from the academia, private and public sectors.

2   Opening Remarks

2.1   Director of Science, Research and Innovation

The Director of Science, Research and Innovation who represented the Permanent Secretary identified ST&I as key instruments for socio economic transformation of any society. He informed participants that the Ministry of Science, Technology and Innovation was created in 2016 to provide policy guidance and coordination on matters of Scientific Research, Development and the entire National Innovation System in Uganda. He emphasized the need to harness commercialization of Intellectual Property for wealth creation and social wellbeing among others as key in MOSTI'S efforts. He further went on to highlight MoSTI's role in the implementation of the National IP Policy especially in exploring and promoting IP generation for emerging technologies.

Finally, he informed the participants of the critical role they are playing supporting the Ministry to establish a sector position in relation to AI and Intellectual Property.

2.2   Mr. Kenneth Muhangi, Managing Partner KTA Advocates

Mr. Muhangi informed the meeting that this discussion was aimed coming up with a comprehensive position from Uganda's perspective about the role of AI in IP. He further went on to inform the participants that the meeting would do a comparative analysis of Uganda's legal system with respect to our East African and African counterparts especially in regards to AI and IP. He informed the meeting that WIPO has a department for AI headed by a director and it is at the fore front of global endeavors to facilitate the development of the right IP policies for AI

3   Discussion

3.1   Glossary

  i.   The meeting noted the need to have a similar definition of AI as other countries as AI has a global perspective to it.
 ii.   It was also noted that AI is still an evolving field of technology and it might be premature to give a comprehensive definition at this point.
iii.   It was also noted that the society in Uganda hadn't fully appreciated AI and its attendant benefits.

3.2 Patents

i. Members noted that there's a legal framework that governs the grant of patents in Uganda, the Industrial Property Act of 2014.

ii. Members also noted that computer programs are not patentable under the current Industrial Property Act of 2014.

iii. The Industrial Property Act of 2014 lays out novelty, non-obviousness and industrial applicability as the requirements for patentability.

iv. Members also noted that patent rights provide the owner of the rights with numerous exclusive rights because, the law only recognizes an inventor as a natural person. In the case of AI, a machine taking up the Inventorship status will be deemed unethical.

v. Patent rights also necessitate the owner to be liable and responsible for anything arising out of the scope of the patented subject matter. It is therefore difficult in this case to grant AI ownership.

vi. Members also noted that AI is created out of human endeavor. It would therefore be wrong to assign ownership rights to AI when there's a developer of the AI. It would also serve as a disincentive to AI creators. Members cited different cases in different jurisdictions that have rejected the notion to grant ownership rights to AI.

vii. There's need to revise the Industrial Property Act to allow software and computer programs to be patentable.

viii. Members are also cognizant of the fact that should AI evolve to attain consciousness, attain ability to make choices and discernment, there might be need to revise the IP legal framework.

ix. The proposition to develop a Sui generis especially to deal with deep learning, a key technique of some artificial intelligence applications.

3.3 Copyright and Related Rights

i. Copyright and neighboring rights are protected under the Copyright and Neighboring Rights Act of 2006.

ii. Computer programs and software are copyrightable under the copyright and neighboring rights Act of 2006

iii. Copyright assigns economic and moral rights to the owner of the copyright which brings the question whether AI is eligible for these rights.

iv. In case of Related Rights the law does not provide for grant of rights to AI and for AI to enter into valid contracts.

v. Under the current law, computer generated works have a shorter protection period compared to the other works protectable under the copyright law.

vi. Members also noted the need to either develop a sui generis system for protection of AI or to make amendments to the existing copyright law.

vii. The existing law doesn't provide for infringement on copyrighted computer programs and software

3.4 Data
i. Data is a key component of AI systems because of its role as a raw input that affects functionality of any AI system.
ii. Data is protected under the Data Protection and Privacy Act of 2019 in addition to the Copyright and Neighboring Rights Act of 2006
iii. There's a body of case law that would provide basis for any infringement on image rights as and when used in data sets and databases.
iv. Members also noted the need to sensitize the users and creators of AI systems about their rights.
v. A key question is whether the sharing of data by one AI developer to another is right
vi. There's need to advocate for a contractual approach to sharing data, consent is always key for AI system developers. The question is whether the contractual obligation is on the AI or the developer?

3.5 Designs
i. Designs in Uganda are protected under the Industrial Property Act of 2014
ii. The key requirements for Industrial Designs are novelty and industrial applicability.
iii. The Question is to whether AI can be assigned rights pertaining to a particular design of which the current law does not provide for such a scenario.
iv. Members also note that AI relies on large data sets of already existing logos, copyrights and designs, which calls for protection in case of AI generated works that infringe on protected designs.
v. Members acquiesce to the growing numbers of AI applications on the internet capable of generating designs for users.
vi. Members also noted the concern regarding designer's rights if AI become conscious enough to design a product with assistance from a designer.
vii. Members also raised the concern regarding liability of AI generated designs in the event of defective products/designs or infringement.

3.6 Trademarks and Trade secrets
i. Trademarks in Uganda are protected under the Trademarks Act of 2010.

ii. The meeting identified the need for a robust Trademark law to cater for the growing issues arising out of increased application of AI in generating Trademarks.

iii. A key question arising was the ownership of a trademark in cases where logos and signs have been generated by AI. The data sets used by AI, which are usually preexisting logos were also identified to be a case for infringement in case there are similarities between the signs generated and already existing logos.

iv. The trade secret Act, 2009 can well be used to provide an option for protecting some aspects of AI-generated and AI-assisted especially where some data aspects are deemed of potential commercial value

3.7 Technology Gap and Capacity Building

i. The meeting noted that there's very limited capacity in Uganda especially as regards to the financial capacity and human capital in the country to facilitate the development of AI.

ii. The members also noted that the National IP policy 2019 has glaring gaps especially in areas regarding technology in which AI is key.

iii. It was also highlighted that UNESCO is currently undertaking an evaluation of Uganda's capacity, financial and any other related capacity supporting the growth and uptake of AI. The study will also look to make recommendations as regards ethics in Artificial Intelligence.

iv. The knowledge gap among AI innovation cluster practioners and how IP may affect the innovation value chain remains apparent.

4.0 Conclusion

The Ministry of Science, Technology and Innovation through the Department of Innovation and Intellectual Property Management, will continue to engage more stakeholders and any new development will be updated in the current working document.

We wish to acknowledge that the field of AI is still evolving but we are cognizant that we must work to align its benefits towards national priority needs in all aspects.

We wish to express our commitment to the entire global IP landscape that we will work to make our contribution in coming up with initiatives that can advance the subject matter further.

5.0 Annex

Attendance List/Participating Entities

S/N	Name	Organization
1.	Maxwell Otim Onapa	Ministry of Science, Technology and Innovation
2.	Mercy Kainobwisho	Uganda Registration Services Bureau-National Intellectual Property Office
3.	Ofwono Willy Osinde	Ministry of Science, Technology and Innovation
4.	Mugisha Joram Patrick	Ministry of Science, Technology and Innovation
5.	Monica Nyakaisiki	Ministry of Science, Technology and Innovation
6.	Dr. Kakungulu Mayambala	Makerere University
7.	Alice Namuli Blazevic	Katende Ssempebwa Advocates
8.	Kenneth Muhangi	KTA Advocates
9.	Domini Mondrugo-Ogo Lali	National Commission for UNESCO
10.	Ssekitoleko Simon Peter	Ministry of Science, Technology and Innovation
11.	Fred Isabirye	Ministry of Science, Technology and Innovation
12.	Shirley Gladys Nakyejjwe	Ministry of Science, Technology and Innovation
13.	Raymond Natukunda	Ministry of Science, Technology and Innovation
14.	Daisy Nakandi	Ministry of Science, Technology and Innovation
15.	Ezabo Baron	IEEE Uganda
16.	Jamina Apio	ABM Advocates
17.	John Kagga	Andela Uganda
18.	John Paul Seremba	Andela Uganda
19.	Ahishakiye Emmanuel	Mbarara University of Science and Technology
20.	Alfred J Asumogi	
21.	Cosmas Mwikirize	Makerere University
22.	Asega Peter	King Ceasor University
23.	David Tusubira	Innovex
24.	Engineer Bainomugisha	Makerere University, CoCIS
25.	Richard Kimera	Mbarara University of Science and Technology

26.	Rukundo Solomon	Uganda Revenue Authority
27.	Margaret Mbabazi	
28.	Victor Ssemaganda	Andela Uganda
29.	Dr. William Wasswa	NEPAD
30.	Francis Kamanzi Musasizi	AI Labs Makerere University
31.	Korstiaan Wapenaar	Genesis Analytics

Annex 2: Correspondence

For any correspondence, contact the following key person

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