

## **Committee on Development and Intellectual Property (CDIP)**

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SUMMARY OF A SCOPING STUDY ON AVAILABILITY AND USE OF INTELLECTUAL PROPERTY TOOLS TO PROTECT MOBILE APPLICATIONS IN THE THREE BENEFICIARY COUNTRIES NAMELY, KENYA, TRINIDAD AND TOBAGO AND THE PHILIPPINES

*prepared by the Secretariat*

1. The Annex to this document contains a summary of a Scoping Study on Availability and Use of Intellectual Property Tools to Protect Mobile Applications in the three Beneficiary Countries namely, Kenya, Trinidad and Tobago and the Philippines, undertaken in the context of the Project on Enhancing the Use of Intellectual Property in the Software Sector (CDIP/22/8). The Scoping Study has been prepared by Mr. Noam Shemtov, Deputy Head of the Centre for Commercial Law Studies, at Queen Mary, University of London. The full Scoping Study and the peer review are available at: [https://www.wipo.int/ip-development/en/agenda/work\\_undertaken.html](https://www.wipo.int/ip-development/en/agenda/work_undertaken.html).

2. *The CDIP is invited to take note of the information contained in the Annex to the present document.*

[Annex follows]

**Executive Summary: Scoping Study on Availability and Use of Intellectual Property Tools to Protect Mobile Applications in the three Beneficiary Countries namely, Kenya, Trinidad and Tobago and the Philippines**

This study primarily addresses a sector within the creative industries that has seen exponential growth in the last decade or so: the mobile application sector. It does so particularly in relation to the project's three participating countries: Kenya, Trinidad and Tobago, and the Philippines (hereinafter 'beneficiary countries').

The study surveys the size and characteristics of the mobile application sector in the three beneficiary countries and the intellectual property ecosystem as well as intellectual property-related legal and regulatory landscape within which this sector operates; it also examines some relevant key non – IP legal considerations in the present context. The study is conducted with the aim to assist in tailoring and fine tuning some of the project's deliverables to the specific circumstances of each beneficiary country.

This study addresses the issues below, providing as accurate as possible a picture, based, inter alia, on the information provided by the beneficiary countries. Where such information could not be obtained in full, the study clarifies that this is the case. We consider that on occasion, lack of available and accessible information may be an issue that the relevant beneficiary country may seek to address.

Part 1 canvasses the size and characteristics of the mobile application sector in the three beneficiary countries, inter alia, by reference to the sector's market size and volume as well as education opportunities and research initiatives available in the beneficiary countries in relation to this sector. It is established that the sector's general direction of travel suggests both actual growth and growth potential in all beneficiary countries.

Part 2 discusses in some detail the availability and use of intellectual property tools for protecting mobile applications in general, and in the beneficiary countries in particular. It establishes that the most common intellectual property vehicle for protection in the mobile app sector is copyright, with trade-marks, industrial designs, patents utility models and trade secrets also capable of providing valuable protection in various instances.

Part 3 does not focus on the mobile app sector, but instead examines the software industry as a whole in regard to the availability of intellectual property backed funding, particularly in relation to SMEs. This examination is not limited to the position in the beneficiary countries and is conducted on a global level. This part concludes by identifying what may be regarded as the present key barriers to a widely regarded suboptimal exploitation of IP assets as a basis for raising funding.

Part 4 surveys the software industry's collaborations with research institutions and ICT hubs in the beneficiary countries, and the role that intellectual property law plays in this context. It discusses some key initiatives in this context in regards to all beneficiary countries, some of

which might serve as role models to additional subsequent collaborations in the mobile app sector.

Part 5 seeks to expand on the areas discussed under Part 3, by examining the availability of local and foreign IP-based funding and collaboration mechanisms in this context for the software sector in the beneficiary countries. Somewhat surprisingly in light of the global picture in this context, it establishes that mechanisms that support IP-backed finance may benefit from further development in all beneficiary countries.

Part 6 canvasses recent and on-going studies and/or initiatives pertaining to the mobile application economy with a view to determine whether synergies with the project may be established. Relevant initiatives in all three regions were thus identified, in relation to which synergies with the present project may be sought and further developed.

Part 7 examines the IPR enforcement regime in the beneficiary countries, as providing workable mechanisms to ensure that IPRs are respected in an effective, timely, and accessible manner is seen as key to the success of a country's intellectual property system as a whole. The examination is conducted with a view to flesh out some of the local software sector's challenges and needs for enhancing the use of intellectual property in support of the mobile application sector.

Finally, Part 8 provides for recommended activities in order to implement the project and achieve expected results; these are stipulated below. The viability and utility of the activities enumerated below is to be confirmed in consultation with the beneficiary countries.

- Publication and translation of planned WIPO publication on IP and Mobile Applications;
- Typology of various IP rights relevant to protect mobile applications, including where applicable copyright, patent, utility model, trademark, design and trade secrets;
- Training module on the role of IP in the development and commercialization of mobile applications (including on accessing third party information and using third party protected subject matter, as well as on how IP can be used as a means to raise capital and secure investments);
- Training module on key contracts in the mobile applications sector, including End User License and App Developer Agreements;
- Training modules on mediation and arbitration in the software sector to be developed in cooperation with WIPO's Arbitration and Mediation Center (one for mobile applications developers and entrepreneurs and a more advanced course for lawyers and government officials);
- Interactive dialogue between software sector stakeholders and financial institutions, venture capitalists and other investors in the three beneficiary countries;
- Connecting ICT hubs in the three beneficiary countries by video conference to foster the exchange of knowledge and experience among software sector stakeholders on the use of IP, including collaborations with universities and other research institutions, commercial partnerships, IP success stories, challenges and solutions;

- Basic IP awareness material targeting computer science students at secondary schools, universities and other research institutions in beneficiary countries;
- Mentoring program connecting experienced business leaders and specialized lawyers volunteering to assist software start-ups in the beneficiary countries;
- Developing IP toolbox for use in the project beneficiary countries and to be replicated in other interested countries, including through a WIPO Academy distance learning course for software sector professionals;
- Online platform to foster international exchanges of IP knowledge and good practices in the software sector;
- Two workshops in each of the beneficiary countries (first workshop to launch the project with local stakeholders; second workshop to validate final deliverables);
- Two coordination meetings with national focal points from the three beneficiary countries at WIPO Headquarters in Geneva (first meeting following completion of the scoping study; second meeting to complete and validate final deliverables);
- Video conferences with project beneficiaries whenever requested to further the above activities and deliverables.
- Workshops on IP enforcement  
[Addressing, *inter alia*, developers, entrepreneurs as well as government officials]

[End of Annex and of document]