

Brand investment rises in East Africa

East African economies have grown so rapidly in recent years that large brand-owners are not only making substantial investments in their brands, but are willing to go to court to protect them. Kenya in particular has seen a sharp increase in High Court litigation on intellectual property (IP) matters, and regional markets generally have become more complex and litigious as far as IP is concerned.



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This is according to John Syekei, head of Pan-African law firm Bowmans' newly-established East African Intellectual Property Practice. He heads a 20-strong team that spans Kenya, Uganda and Tanzania, and focuses on specialised IP matters such as disputes and brand migration for local and global players.

Syekei, with 13 years' experience as head of Bowmans' IP Practice in Kenya, has been witness to the far-reaching transformation of the IP landscape in East Africa in the past five to 10 years.

"Until relatively recently, the region's economies were not big enough to make it worthwhile for brand-owners to enforce their rights when these were infringed. They tended to either allow infringements to occur or to deal with them commercially. That has changed," Syekei says.

"Markets are growing, the middle class is expanding, and global companies are now investing in their East African brands, and spending substantially on advertising, promotion, sales and distribution networks. As a result, they have a stake in

protecting their brands that they did not necessarily have before.”

Another factor spurring big brand-owners to take steps against copycatting and passing off is the nature of the parties infringing IP rights. “The ones infringing are local companies, not individuals or small players,” Syekei says. “Big brand owners are willing to go to court against them because they can obtain damages awards that mean something.”

Brand migration

Apart from acting against trade mark infringements, brand-owners are also increasingly undertaking transactions involving major IP assets, Syekei says. “Brand migration – whether merging two brands or moving from one brand to another – can be highly complex, particularly with cross-border transactions. The parties need to be aware of the risks and uncertainties of brand migration, such as the possible existence of conflicting rights and the fact that certain clearances might be required. In addition, there are complex licensing arrangements that may arise from the process as well as potential IP carve outs and assignments, let alone the underlying tax and competition law issues.”

Commenting on the experience and capacity of Bowmans’ East African IP Practice, Syekei says: “This is not the standard IP Practice often found in parts of Africa where trade mark filing is a firm’s bread and butter. We have a vibrant East African practice focused on disputes, brand migration and other specialised commercial IP working for both global and local clients.”

Syekei’s 13-year track record advising clients on how best to protect and enhance their IP assets in Kenya, is recognised both regionally and globally. He has received top citations from international directories such as *Chambers Global*, *World Trademark Review*, *IP Stars* and *WIPR Leaders*. He is also a member of the Trademark Offices Practice Committee of the International Trade Association (INTA), where his responsibilities include expanding INTA’s reach in Africa.

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