



SAFEGUARDING MOBILE APPS IN KENYA: HOW TO PROTECT YOUR INTELLECTUAL PROPERTY RIGHTS

In today's fast-paced digital world, mobile applications ("mobile apps") are the heartbeat of Kenya's booming digital economy. From M-Pesa revolutionizing mobile money to Jumia transforming e-commerce, apps have become indispensable tools for businesses and consumers. However, with great innovation comes great risk. As mobile apps become more lucrative, cases of intellectual property infringement are on the rise.

To safeguard mobile apps from unauthorized use, copying or exploitation, it is crucial to understand and implement robust intellectual property protection. In this guide, we explore the various ways a proprietor can safeguard a mobile app using intellectual property rights, ensuring that innovations are secured.

THE INTELLECTUAL PROPERTY TOOLKIT FOR MOBILE APP PROTECTION IN KENYA

Kenyan law offers a range of intellectual property rights for the protection of mobile apps. Here are some key ways you can utilize these rights to safeguard mobile apps:

a) Trademarks

The sell point for a mobile app is its name and logo as they are its identity. They are what users recognize and trust. Under the Trademarks Act, Cap 506, you can register a distinguishing guise, slogan, device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof whether rendered in two-dimensional or three-dimensional form.

How to leverage trademark protection

- A proprietor may register your trademark with the Kenya Industrial Property Institute ("KIPI") to secure exclusive rights. Registration confers

protection for a term of ten (10) years which can be renewed consecutively upon application and payment of renewal fees.

- Trademark registration strengthens brand recognition and market positioning.

b) Copyrights

In Kenya, copyright protection is governed by the Copyright Act, Cap 130. A copyright is a right granted to the creator or author of original works.

In the case of a mobile app, a copyright protects the artistic elements of an app, including its source codes, graphic user interfaces and any original images, music, words or scripts that are part of the features of the app. Anyone exercising any of these exclusive rights without permission of the copyright owner is an infringer and subject to liability for damages or statutory fines.

How to Leverage copyright protection

- While copyright protection is automatic, registering it with Kenya Copyright Board ("KECOBO") strengthens legal enforcement. A more detailed explanation of the registration of copyrights is provided in our article [here](#).
- It is prudent to include copyright notices in your app and documentation to deter infringement.

c) Patents

In Kenya, patents are governed by the Industrial Property Act, Cap 509. A patent is defined as an exclusive right to a product or a process that generally provides a new way of doing something or offers a new technical solution to a problem.

The mobile app elements that can be protected by patents include the graphic user interfaces (functional elements), mobile app functionalities, software codes and software architecture. To qualify for patent protection, the proprietor of the mobile app must prove that the process or method it seeks to patent is new, involves an inventive step and is industrially applicable. A more detailed explanation of the requirements and procedures for registering patents in Kenya is provided in our article [here](#).

How to leverage patent protection

- A patent grants exclusive rights for twenty(20) years, preventing others from copying your innovation. As such, a proprietor may register a patent with KIPI to secure exclusive rights to new inventions.
- It is important to note that software patents have strict requirements and must demonstrate a technical effect beyond standard programming.

d) Industrial Design

In Kenya, industrial designs are governed by the Industrial Property Act, Cap 509. An industrial design protects the external appearance of a product resulting from visual features such as the shape, configuration, pattern, lines, color or the general ornamentation.

A mobile app proprietor may opt to register an industrial design to protect the general user interface

of the mobile application. The general user interface is the point at which a person interacts with a device through features such as icons, menus and scroll bars.

How to leverage industrial design protection

- An industrial design lasts for up to fifteen (15) years, preventing others from copying the visual aspects.
- If your mobile app has a distinctive user interface layout or aesthetic feature, a proprietor can register its design with KIPI.

e) Trade secrets

A trade secret is a secret device or technique used by a proprietor in manufacturing its products. Trade secrets, such as proprietary algorithms or development processes, are the backbone of many mobile apps. By having employees, contractors and partners sign Non-Disclosure Agreements (NDAs), a proprietor can ensure that a mobile app's confidential information stays under wraps.

How to leverage the protection of trade secrets

- Use NDAs when working with developers, partners and employees to protect confidential information.
- A proprietor may implement access controls and encryption to safeguard sensitive information.

CONCLUSION

Whether you are in the early stages of development or already launching your mobile app, securing your intellectual property should be a top priority. By proactively protecting your mobile app's unique features, branding and technology, you can prevent infringement, enhance your market position and maximize its commercial potential.

At **CM Advocates LLP**, we have a dynamic team of Intellectual Property Lawyers dedicated to helping secure all forms of Intellectual Property including trademarks, patents, copyrights, industrial designs and utility models. Our services also extend to the recordation of intellectual property rights with the Anti-Counterfeit Authority as well as monitoring and enforcement of intellectual property rights. If you would like to consult on this article or any other related matter, you may contact the contributor on the email below or the commercial team through commercial@cmadvocates.com.



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