

Africa Growth and Opportunity Act (AGOA) Should Do More to Strengthen Intellectual Property in Africa's Creative Sectors

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Article By
[Election & Political Law at Covington & Burling
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It is a welcome development that the ***African Growth and Opportunity Act (AGOA)*** [has moved closer](#) to reauthorization. However, much more can and should be done through AGOA to strengthen intellectual property (IP) rights in Africa, particularly in the continent's creative sectors. Africa's creative sectors [have the potential](#) to be key economic drivers and IP protections are critical to ensuring that both artists and countries can enjoy not only the cultural but also the economic benefits of these sectors.

By definition, the creation of protectable intellectual property assets is at the core of an artist's or artisan's work. Guaranteeing IP rights over that work accrues various benefits to the creator and the larger community. First, in the absence of IP rights, creative professionals cannot make a fair return from their creativity and therefore struggle to make a livelihood out of their craft. Second, by allowing artists

to transform their creativity from a passion to a commercial enterprise, IP rights increase the contribution that the creative sector makes to a country's GDP. This type of economic diversification is important for many African countries, particularly those that are highly resource-dependent and seeking to diversify their economic base. Finally, a strong IP regime attracts foreign investment whereas a weak regime is regarded as a risk factor.

Although most African countries are members of the World Intellectual Property Organization and have signed the Agreement on Trade-Related Aspects of Intellectual Property Rights, IP infringement has been detrimental—to the tune of billions of dollars—to the continent's creative sectors, including the Nigerian film industry and the West African textile industry. A key reason for this problem is that the IP regimes of many African countries are outdated (often having been rolled over from colonial era laws) and not comprehensive. Although some countries have made significant progress in developing coherent and modern IP laws and regulations, many who would benefit from such protection are not aware of, neglect to use, or are unable to afford the protection nor its enforcement. At the governmental level, there often is a lack of capacity to register or enforce IP rights.

It is time for protection of IP rights to be more than just a condition for AGOA eligibility. The U.S. government should provide technical and capacity-building assistance to AGOA-eligible countries in order to help their governments create IP policy frameworks, modernize IP laws, and enforce these regimes. In the interests of promoting regional integration, the U.S. government also should work with the [African Regional Intellectual Property Organization](#) and the [Organisation Africaine de la Propriété Intellectuelle](#) to develop regional agreements (such as [the Swakopmund Protocol](#) and [the Banjul Protocol](#)) and address issues that are of a cross-border nature. An added benefit to acting at the regional level is that it facilitates a coordinated approach to dealing with creative works that stem from traditional knowledge or traditional cultural expressions.

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