

# WIPO



**ORIGINAL:** English

**DATE:** May 2009

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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

**INTELLECTUAL PROPERTY DEVELOPMENT PLAN**

**FOR THE REPUBLIC OF LIBERIA**

FINAL REPORT ON THE NEEDS EVALUATION

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## Background

In the framework of WIPO's technical assistance and capacity building program, developing countries are being encouraged to draw up IP development plans dedicated to establishing effective, efficient, development-oriented intellectual property systems to support the creation of IP assets and overall economic growth.

On October 4, 2007, the Director General of the World Intellectual Property Organization (WIPO) met with the delegation of Liberia, led by H.E. Mrs. Olubanke King-Akerele, Minister of Foreign Affairs of Liberia to discuss cooperation between WIPO and Liberia.

The delegation gave an overview of the current state of the copyright and industrial property systems in Liberia and handed over a booklet entitled "Mosaic of the Intellectual Property Systems (IPS)", which demonstrates that the current legal and administrative infrastructure in Liberia is in need of modernization and enhancement.

Various components were discussed, including the priority of adding value to Liberia's creative industries through intellectual property, considering its traditional textile weaving, film and music industries, arts and crafts, as well as traditional knowledge. The Liberian delegation was informed that Liberia featured among WIPO's top priority countries for technical assistance and capacity building and that within its purview, WIPO would support the Government's efforts to revamp the country's economy and social apparatus within the national post-conflict reconstruction program, following 14 years of civil war. H.E. the Minister underscored the need to include a component of intellectual property in the country's poverty reduction strategy<sup>1</sup> and to which other United Nations Organizations e.g. the International Trade Centre, have subscribed as donor institutions.

On that occasion, the Liberian delegation requested that a WIPO needs evaluation mission be dispatched to Liberia.

As a follow up, and with the view to designing a technical assistance program that responds to the country's development needs, in January 2008, a draft "Intellectual Property Development Plan for the Republic of Liberia" was sent to the Government of Liberia for consideration. The draft plan constitutes the first step of the technical assistance to be designed for Liberia. It aims at providing a general framework for the establishment of specific activity programs, with a focus on strategic and priority areas as would be defined, following further discussions and needs identification during the proposed mission. It was agreed that subsequent to the receipt of input or feedback to the draft IPDP from the Liberian Government a needs evaluation mission could be dispatched.

The findings of the needs evaluation are meant to guide the identification, designing and implementation of specific project-based activities to address the identified needs within the IPDP.

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<sup>1</sup> The Liberia Poverty Reduction Strategy Paper dated July 2008 can be accessed at <http://www.imf.org/external/pubs/ft/scr/2008/cr08219.pdf>

In light of the complexity of the exercise, considering the multi-sectoral and pluridisciplinary dimension of the exercise, WIPO engaged the services of External Consultants, Mr. Getachew Mengistie, IP Law Consultant and Attorney, Addis Ababa and Ms. Marisella Ouma, Executive Director, Copyright Board of Kenya, to undertake the assignment. The mission terms of reference are contained in Annex II.

In the same context a separate automation assessment and needs analysis of the IP Office was undertaken by WIPO with the aim to make concrete proposals for an automation project implementation, with time bounds and clearly defined roles and responsibilities of the IP office and WIPO. The following are the reports of the findings of the mission herein.

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PART I

REPORT ON THE FINDINGS OF THE NEEDS EVALUATION RELATING TO THE  
INTELLECTUAL PROPERTY INSTITUTIONS OF LIBERIA

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April 9, 2009

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List of Abbreviations

ÆDE	Agency for Development and Economic Empowerment
AGOA	African Growth Opportunity Act
ARIPO	African Intellectual Property Organization
CARI	Central Agricultural Research Institute
CISAC	International Confederation of Societies of Authors and Composers
DFID	Department for International Development
DG	Director General
GOL	Government of Liberia
IFPI	International Federation of the Phonographic Industry
IP	Intellectual Property
IPDP	Intellectual Property Development Plan
IPR	Intellectual Property Rights
ITC	International Trade Centre
LPRS	Liberia Poverty Reduction Strategy
NARS	National Agricultural Research Systems
PCT	Patent Cooperation Treaty
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

**ACKNOWLEDGEMENT**

The Consultant would like to thank WIPO for giving him the opportunity to take part in the mission as well as the support given in linking up with the relevant officials.

He would also like to thank

- a) Mr. Roland Morris, Intellectual Property Consultant, for the wonderful arrangements made to meet various policy makers, organizing the round table for the policy makers and the stake holders<sup>2</sup>, excellent treatment and providing information;
- b) Mr. Robert Mezzeh, Ag. Director General, Liberian Industrial Property Office and George Dunor Ag. Director General, Liberian Copyright Office, who have been with the mission and worked relentlessly in arranging meetings, visits, providing materials, answers to the questionnaires; and
- c) Top Government officials including Hon. Miata Beysolow, Minister for Commerce & Industry, Hon. Augustine K. Ngafuan, Minister for Finance, Hon. Olubanke King-Akerele, o.d.s, Minister for Foreign Affairs, Hon Deputy Minister for Commerce & Industry, Hon. Cllr. Sylvester S. Gbeintor, Deputy Minister for Justice, Hon Deputy Minister for Internal Affairs for taking time out of their busy schedule to meet with the Consultant and for the excellent guidance and support that they provided.

Finally yet equally important, the Consultant is extremely grateful to all the persons<sup>3</sup> that he met and contributed to making the mission a success. Had it not been for their generous support, the findings of the needs evaluation mission would not have taken the present shape.

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<sup>2</sup> Please see Annex I for the list and addresses of persons who attended these forums.

<sup>3</sup> Please see Annex II for the list and addresses of the contacted persons.

## Introduction

The Liberian Intellectual Property system evaluation and needs assessment mission, undertaken from March 14 to 28, 2009, was carried out in accordance with the terms of reference<sup>4</sup> provided by WIPO. The objectives of the mission were to:

- a. assess the current IP system, identify weaknesses, constraints and opportunities; and
- b. Make concrete proposals with the view to defining specific needs-oriented activities and projects for implementation within the IPDP<sup>5</sup> so as to enhance Liberia's capacity to create, protect and make strategic use of IPRs and assets as a power tool for economic growth and development.

During the mission, the Consultant:

- (a) Held meetings with Government officials, heads and staff of the IPS, IPO and copyright Office, chairpersons and members of the copyright and industrial property management boards, IP practitioners, lecturers, beneficiaries of the IP system.
- (b) Visited SMEs, Central Agricultural Research Institute (CARI) and Cutting ton University;
- (c) Collected data using questionnaires; and
- (d) Reviewed the old and the new IP laws, LPRS, relevant materials and reports produced by the IPS and copyright Office.

This report aims at providing the findings of the study and the way forward. The report consists of four chapters. The first chapter discusses the strengths and limitations of the existing intellectual property policy, legal and institutional framework as well as the needs that should be addressed in the short, medium and long term.<sup>6</sup> The Second Chapter deals with Membership of Liberia to the international IP treaties and list out potential international partners and the third chapter highlights the problems related to IP Awareness and Enforcement. The Fourth Chapter attempts to examine the existing situation related to the identification, protection and exploitation of IP assets taking specific examples and recommend an area that may be taken up in a pilot project. The last Chapter consists of a brief conclusion and recommendations. Detailed of the identified needs and the plan as well as other documents are attached as Annexes to the report.

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<sup>4</sup> Summary of the terms of reference is attached as Annex to this report

<sup>5</sup> The IPDP seeks to ensure that the IP Offices and potential users, and stakeholders, such as tertiary institutions, small and medium sized enterprises, chambers of commerce and industry, R&D Institutions and copyright owners' organizations have the technical capacity and know-how to use the IPRs system as a development tool in line with the Objectives set out in the LPRS.

<sup>6</sup> Short term is one year beginning from July, 2009. Medium term includes activities that should be executed within two years time beginning from the approval of this report by WIPO and long term refers to activities that may be undertaken post the expiry of the IPDP period.

## I. IP Policy, Legal and Institutional Framework

### 2.1 IP policy & strategy

The country has no IP policy. Nevertheless, there are laws that deal with elements of intellectual property and institutions that are involved in the protection and enforcement of IPR. The strengths and weaknesses of the existing legal and institutional framework are examined and needs are identified in the sections below.

### 2.2 IP Laws

Liberia has laws that protect industrial property and copyright. The laws were enacted in 2003 and 1997 respectively. There are also regulations that are issued to facilitate the implementation of the laws. These include the Joint administrative Regulations, number 8-2112-1 MOF/R/OF of October 2002 and number 10 and number 11. The regulations deal with the imposition of levy on audio blank cassettes, the payment of royalties for the use of authors of artistic works, the registration, licensing and certification of audio-visual materials for Government tax purposes.

The existence of legislation is a strength. However, the Intellectual property legal framework is not yet comprehensive. There are elements of intellectual property and areas that require putting in place the necessary laws to cater for the development efforts of Liberia and meet the needs to integrate into the globalized trading world. These include geographical indications, undisclosed information, plant variety protection, traditional knowledge and expressions of folklore.

Moreover, the existing laws suffer from a number of problems that require a revision and the issuing of implementing instruments. The problems related to the copyright law and institutions are addressed by the report of Mrs. Ouma relating to copyright. Attempt is only made to show the limitations of the Industrial Property Act below.

#### 2.2.1 Industrial Property Act

The law is poorly drafted and suffers from lack of clarity, inconsistency, gaps and non - implementability. Examples of these problems include the following:

- (a) Editorial errors and blanks that make it unclear.<sup>7</sup> Article 19 (1)(i) provides the insertion of the Name of the competent judicial or administrative bodies.<sup>8</sup> However, this is not done. As a result, it is not clear who may authorize the exploitation of a patented invention by the Government or persons authorized under the conditions of

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<sup>7</sup> The law looks more of a draft than a law. Attempt is not made to enumerate the editorial errors and the provisions that are unclear. Examples will only be cited to explain the problem. For example, the law includes alternative forms of formulation and brackets, which are commonly used when drafting a law. Such formulations, however, will be changed once a position is taken during the process of deliberation,

<sup>8</sup> For example Article 19 sub article (1) (ii) states that“ The ( name of the competent judicial or administrative body to be inserted) has determined that the manner of exploitation, by the owner of the patent or his licensee, is anti competitive, and the minister is satisfied that the exploitation of the invention, in accordance with this sub section would remedy such practice”

the Article 19 (1) (i). Moreover, there are terms in brackets and alternative versions that are common in draft laws but not enacted laws.<sup>9</sup>

- (b) There is no uniformity in defining terms or expressions and consistency in the usage of words. For example, Article 7 defines “Banjul Protocol” but not “Harare Protocol, which has been mentioned in the various provisions of the law. A Director General heads the Office, however, the term “Registrar General” or “Director” is used in a number of provisions.
- (c) The law has gaps. For example, it does not provide for the duration of a patent. The duration of registered designs and trademarks is well spelt out in the law. One does not know for how long patents are protected. Furthermore, the law does not incorporate utility model to protect minor inventions. As a result, Liberians’ works may not be protected for not meeting the stringent requirements for patent protection.
- (d) The law has provisions that may need revision taking into account the interest of the country and exploiting the available flexibilities in the international treaties. An example is Article 17 (4) (a) (i). This provision states that the rights of a patent shall not extend to “acts in respect of articles which have been put on the market in Liberia by the owner of the patent or with his consent”. This may affect the ability of the country to import a patented product or a product made using a patented process that has been lawfully put in the international market by the owner of the patent or a person authorized by him. The country may consider the flexibility regarding the principle of exhaustion under article 6 of the TRIPS Agreement and adopt the doctrine of international exhaustion. The article may be revised to restrict the rights of the patent to “acts in respect of articles which have been put on the international market by the owner or with his consent.” This may enable to import articles that were put by the owner or persons with his consent to Liberia without fear of infringement.
- (e) There are provisions of the law that are not yet implemented and which are affecting the operation of the Office. The law requires that the IP management Board issues regulations and the Director General issues administrative instructions. However, these implementation tools are not yet in place. As a result, the Office is facing difficulties in administering and processing applications such as requiring payment of fees. There are also provisions of the law that may not be implemented due to the absence of the envisaged instrument in place. Examples are the provisions that recognize the protection of patents and trademarks registered by ARIPO based on the Harare and Banjul Protocols governing patents and industrial designs as well as trademarks.<sup>10</sup> The country has not yet joined these Protocols and the Lusaka Agreement that established ARIPO, as a result, provisions dealing with ARIPO patent, industrial designs and trademarks have not yet been implemented.

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<sup>9</sup> See for example Article 21. The Director General and the court are put in brackets, for which a request for issuance of voluntary license will be made, and, which will decide to or not to grant the license. This will create confusion and should be addressed when the law is revised. Moreover, please see the provision of Article 21 (8), which is an alternative formulation to the provision of Article 21 (7). Such a technique is commonly used in drafting but one of the formulations should have been taken when the law was enacted.

<sup>10</sup> See Articles 17 & 43

## 2.2.2 Recommendations

The following are recommended to address the aforementioned problems:

- (a) Revise the Industrial Property Act to address the aforementioned problems, taking into account the:
  - i. development objectives of the Liberian Government<sup>11</sup>;
  - ii. the requirements of the various international IP treaties to which it is a party and envisages to be a party<sup>12</sup> as well as;
  - iii. the flexibilities available in the international intellectual property legal framework such as the TRIPS Agreement, which the country will be required to comply with when it joins the WTO once the accession process is completed.
- (b) Issue Regulations and administrative instructions as required under Article 2(8) to facilitate receipt and processing of industrial property applications by the Office. This should be done as soon as possible<sup>13</sup> as the LIPO is handicapped to operate under the law.
- (c) Steps should be taken to accede to Agreements and Protocols envisaged in the law to facilitate the implementation of the provisions that foresaw the same or enter into an agreement with ARIPO providing for the recognition and extension of titles protected by Liberia and ARIPO.
- (d) Initiate the development and enactment of new laws governing plant varieties, geographical indications and other elements, which the TRIPS Agreement requires. Putting in place such laws will help the country to protect some of its intellectual property assets as well as comply with the TRIPS Agreement, which it will be required to once the ongoing WTO accession process is completed.

Some of the above activities may be done immediately and others may take time. The timeline and the responsible bodies for implementing recommended measures are provided in the attached matrix<sup>14</sup>.

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<sup>11</sup> This may include incorporating a utility model scheme of protection to protect minor inventions made by Liberians and which may not meet the stringent requirements of patentability to be protected using patents

<sup>12</sup> This may include the ARIPO administered Protocols as well as the Madrid Protocol, the copyright law treaty and the patent law treaty to which the country is a signatory and other international instruments that will help the country to address the challenges faced in the field of copyright at this digital era.

<sup>13</sup> The Ag. Director General informed us that the draft instruments had already been prepared and that this task was of top priority

<sup>14</sup> See Annex-

## 2.3 IP Administration

### 2.3.1 General

There are different Government bodies handling intellectual property. These include mainly the:

- (a) Industrial Property (IPO);
- (b) Copyright Office; and
- (c) Office of the IP Consultant (Intellectual Property systems).

The Industrial Property Office (IPO), which is an autonomous Government body and accountable to the Industrial Property Board and through the Board to the President of the Republic of Liberia, was established by the Industrial Property Law in 2003.<sup>15</sup> IPO is responsible for the protection of industrial property and implementing the Industrial Property Law. The Office is also the receiving point for patent and trademark applications filed under the Patent Cooperation Treaty (PCT) and the Madrid Agreement respectively. A Director General, who is by a Presidential appointment, heads the IPO.<sup>16</sup>

The Copyright Office, which is an autonomous Government body and accountable to the Copyright Management Board and through the Board to the President of the Republic of Liberia, was established by the Copyright Law enacted in 1997. A Director General, who is appointed by the President of Liberia, heads the Office.<sup>17</sup> The copyright institution, entrusted with the implementation of the 1997 Copyright Law, has four main components; namely:

- i. The Copyright Management Board;
- ii. The Copyright Administration;
- iii. The Copyright Commission; and
- iv. The Copyright Society of Liberia.<sup>18</sup>

The President of the Republic of Liberia appoints chairpersons and members of the Industrial Property and the Copyright Management Boards for a period prescribed by law.<sup>19</sup>

The Office of the Intellectual Property Consultant, which is known as Intellectual Property Systems, was established in 1997. The Consultant and his Office have played a role in the establishment of the Industrial Property and Copyright Offices, liaising with WIPO, promoting the protection and enforcement of intellectual property in Liberia and advising the Government on intellectual property matters.

The Consultant was appointed by the President of Liberia in 1997 and has been reappointed by subsequent Presidents. The Consultant is hired for a specified period and the staff that he has at the Office are employed on a contractual basis.

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<sup>15</sup> See Article 2 (2) & (3) of the Industrial Property Act of Liberia. However, taking the decision took so long. It is only in February that IPO moved out of the Ministry of Foreign Affairs.

<sup>16</sup> At present the Office is being led by an Acting Director General.

<sup>17</sup> At present the Office is being led by an Acting Director General.

<sup>18</sup> Please note that both the copyright commission and the copyright societies are not yet put in place.

<sup>19</sup> Article 2(3), for example, provides that the term of members of the Board of Directors of Liberia is four years.

In addition to the above three major bodies, there are a number of Ministries which have a role in the administration, protection and enforcement of IP. These include:

- i. The Ministry of Commerce and Industry, which has a role in enhancing the exploitation of IP assets as well as negotiating the accession to the WTO;
- ii. The Ministry of Finance formulates fiscal policies to improve the IP industry and the Revenue Authority of the Ministry has a role in the enforcement of IPR at the border;
- iii. The Ministry of Internal Affairs deals with documentation of traditional knowledge;
- iv. The Ministry of Justice is responsible for the drafting of laws and involved in the enforcement of IPRs;
- v. The Ministry of Information, Culture and Tourism assures that the folklore heritage of Liberia is promoted; and
- vi. The Ministry of Foreign Affairs serves as a liaison between the GOL and WIPO, ratifies conventions in consultation with stake holders.

The existence of these institutions is very positive. However, there is little coordination between the IP Offices and relevant Government institutions. Stakeholders complain of not been given the opportunity to take part in the activities of the Offices. There is thus a need to streamline the administration of intellectual property as well as establish a coordinating mechanism between the IP Offices, relevant Government bodies and the stakeholders.

The major IP institutions have a number of limitations ranging from inadequate capacity to unreasonable mandates to deal with issues such as enforcement, which should be handled by other enforcement agencies. The problems related to the institutions engaged in the administration, promotion and enforcement of copyright is dealt with in a separate report. The problems and needs identified in this report are therefore limited to the Industrial Property Office, Office of the Consultant - IPS and other Government bodies such as the enforcement agencies.

### 2.3.2 Industrial Property Office

The IPO suffers from lack of capacity, inadequate financial resources, mandates that may over burden the Office and affect the performance of core functions and lead to failure to discharge some of its functions. These could be explained as follows:

- (1) The capacity problem may be looked at in light of the human resource capacity, infrastructure and system of operations of the Office<sup>20</sup>:
  - (a) The Office is understaffed and poorly composed. It has 11 staff members, two of which are professionals and the rest are support staff. There is no lawyer, engineer or professional with science background that such Offices

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<sup>20</sup> A more detailed assessment of the IT needs of the IPO is found on a separate report.

may need to deal with tasks, which may involve legal and technical issues.<sup>21</sup> The two professionals are accountants. Members of staff do not have adequate training<sup>22</sup> to discharge the tasks of the Office, assist potential users and play a role in the identification, protection and management of the intellectual property assets of the country;

- (b) It is poorly equipped. There are no computers, printers, scanners, fax, telephone apparatus, photocopier, air conditioning, electricity nor water facility, vehicle etc. The Office has no adequate furniture. Some members of staff have no desks or chairs. There is no visitors' space. The Office space is small and the location is not ideal. There is no car parking lot for staff and visitors; and
- (c) The Office has poor systems of operation that may affect its functions and users of its services. Examples are record handling, management as well as search. Records are filed manually. They are not systematically organized and classified. There are no statistics regarding the number of applications filed by and titles granted to residents and foreigners due to poor record keeping and management.<sup>23</sup> The records are not kept appropriately. All the Records are put in paper boxes and in a room where there is no air conditioning, which may affect the lifetime of the valuable documents through wear and tear damage. At present, not all records of IP are within the IPO. Most of the patent and trademark documents and records are in the Archives section of the Ministry of Foreign Affairs and have not been transferred to the Office when it was moved out of the Ministry and made into an autonomous Government body as required by the Industrial Property Act.<sup>24</sup> The law requires the Office to maintain separate registers for patents, industrial designs and marks.<sup>25</sup> However, Patents and marks are put in the same register. The non-availability of records in one place coupled with the lack of a recording system could not enable to obtain statistics on patents, trademark and design applications and titles.<sup>26</sup>
  - i. Search of documents that are not organized in a systematic manner is made manually. This may result in an oversight that may cause erroneous decisions such as registering a mark, which is identical or confusingly similar to an already registered mark in the name of other persons.
  - ii. The IPO does not have a system of notification of rights holders. The absence of such a system mainly affects local IP

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<sup>21</sup> The existing professionals are accountants. There is thus a need to look at the staffing requirement of the IPO and bring in professionals that the task of the Office requires.

<sup>22</sup> The only person who is exposed to IP is the Ag. DG, who had the opportunity of taking part in IP workshops and seminars organized by WIPO & ARIPO.

<sup>23</sup> The Acting Director General of the IPO stated that the majority of the users and beneficiaries of the IP system are foreigners.

<sup>24</sup> Steps had been taken to move the documents. There is a belief that the problem is solved when this report is submitted to WIPO.

<sup>25</sup> See article 3(1) (a)

<sup>26</sup> Because of this, we were unable to have data on the number of patents, trademark and design applications made by and titles granted to residents and foreigners.

owners, who do not have IP agents. In the course of the mission, the Consultant came across a local trademark owner who had lost his trademarks for failure to renew within the period prescribed by law<sup>27</sup>.

2. The IPO is autonomous but this does not include financial autonomy. It lacks adequate budget and does not have the authority to make use of the generated revenue. The amount of budget allotted is not commensurate to the revenue generated. In 2008-09 budget year, which will end in July, the Government allotted US\$23,000 of which 90% is earmarked to cover rent and salaries of employees. The remaining 10 % is for logistics and communications. The budget allocation needs to be reconsidered in light of the revenue that the Office generates and the potential that it may generate additional income. The annual revenue generated by the Office is estimated at US\$140,000.<sup>28</sup> The problem related to budget allotment may be linked to the absence of a linkage between the autonomous IPO and a Line Ministry that may justify the needs of the Office during budgetary hearings and decisions at the Cabinet of Ministers.

3. Some of the powers vested in the Office and the practice of handling complaints of infringement cases will unduly overburden it and may affect its core functions. Article 2 (2) grants the Director General the power to enforce the law in collaboration with the Ministries of Justice, Commerce & Finance as well as relevant agencies of the Government. Moreover, there is a practice of handling complaints involving infringement of IPRs and trying to resolve disputes through arbitration.<sup>29</sup> This is not a core function of an IP Office. Tracing infringement and bringing action is a responsibility of the right holders. The investigation of the complaints should be left to the Enforcement Agency. The Office should focus on its core function and activities that may strengthen enforcement of IPRs such as awareness creation and sensitization of members of the Enforcement Agencies, the right holders and the public on the importance of protecting IP and the adverse impact of infringement of such rights.

4. IPO fails to discharge its functions due to lack of capacity; an example is the requirement for examination of patent applications. The law requires that the DG make a decision on whether or not an application fulfils substantive requirements such as those relating to patentability and that he may call for examination to be made before granting patents.<sup>30</sup> Such a task can not be effectively handled by a small office, which does not have the necessary facilities such as patent documents and adequately qualified engineers and scientists to perform the task. This capacity may not be acquired in the near future. The Government may consider revising such provisions when amending the law. Meanwhile, the Office may take advantage of the country's membership to the PCT and make decisions based on the findings of the search and examination report of the international examination and searching authority. Another example relates to publications, Article 16 (1) (2) requires the Director General to publish a reference to the grant of a patent and registration of trademarks. However, no publication has ever been made since 1972. This publication also suffers from lack of clarity. It is not exclusively limited to industrial property and publishes a single trademark and patent number providing with the "Trademark" registered and the invention

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<sup>27</sup> The NICOM Beverage company owner thought that the duration of a trademark registration was fifteen years while the law provides for ten years. As a result, the company has thus lost some of its registered marks for lack of knowledge and awareness of the requirement of the law and taking the requisite step in time.

<sup>28</sup> This includes revenue generated locally and designation fees made under the PCT and the Madrid Agreement.

<sup>29</sup> See the attached case as an example.

<sup>30</sup> See Article 15 (4).

protected.<sup>31</sup> It is not clear whether the Office was handling applications for trademarks and patents in a single application. Such a practice is untenable as the requirements for patents and trademarks are different. There is thus a need to revisit the past practice and address shortcomings when the office begins such publications.

5. The office does not have an organizational structure or a system of checks and balances, the division of labour between staff is made on an ad hoc basis. This was mainly because the office recently moved to its own premises detaching from Archives, Patents and Trademark Department of the Ministry of Foreign Affairs. There is thus a need to put in place an appropriate organizational structure, with a clear staff structure and defined job descriptions. During this process, consideration should be given to have units that may enable the office to provide support services thereby contributing to the development effort of the country. This may include setting up the Intellectual Property Information and Advisory Unit.

### 2.3.3 Intellectual Property Systems

The Intellectual Property Systems (IPS) is the Office of the Consultant, who is hired by the Government on a contractual basis. The IPS has employees hired by the Consultant. The Consultant and his staff are responsible to advise the Government on intellectual property matters. The IPS is thus an ad hoc body. It is better equipped than the IPO. It has enough office space and infrastructure including computers and access to the internet. This is its strength. The ad hoc nature of the body however, should be addressed. Taking into account the need to streamline IP administration and coordinate the activities of the Offices involved in the administration of different areas of IP, it is desirable to centralize intellectual property administration within a permanent organ of the Ministry of Commerce & Industry.

### 2.3.4 Recommendations

The following have been recommended to address the aforementioned problems in line with the timeline shown in the Matrix attached to this report:

#### a. Streamlining IP administration

There is a need to streamline the fragmented administration of the different sectors of intellectual property, facilitate effective use of the limited resources, and enhance the quality of service of the IPO. This could be done in two phases.

- A study on how to streamline the fragmented IP administration should be made to develop a proposal based on international best practice as well as the needs of the country. This may take time and should be done at a later stage.
- Until a decision is made based on the study, the Government may consider establishing a transition coordination mechanism. This may require the centralization of IP administration in a body that will have oversight and coordination responsibility. The Government Authorities might wish to consider assigning this responsibility, *ad interim*, to the IPS, in light of the infrastructural capacity it already has. Such a step will not only help to address the existing problems but will also ensure effective use of limited resources, facilitate building up of core capacity and use of shared facilities and pursuing and promoting common cause. The transition period should be fixed

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<sup>31</sup> See Annex V The Liberia official Gazette, November & December, 1968 Vol. XCVII Nos. 11 & 12

within a period of 15 months. In light of the size of the country, for cost effectiveness and efficiency it is advisable for the country to consider creating a single entity for the overall administration of IPRs and which would also have an advisory role regarding IP policy in the country.

b. Linkage with line Ministry

There is a need to link the IP Offices with a line Ministry. The stakeholders and officials met indicated that the appropriate Government Ministry is the Ministry of Commerce and Industry. Decisions should thus be made by the Government to link the IPO and the Copyright Office with this Ministry. There is also need to enable the nomination of the heads of the IP Offices by a Ministerial Order rather than by a Presidential appointment as is the case at present.

c. Establishing a coordinating mechanism

There is need to set up a coordination mechanism or a network involving relevant Government bodies, research organizations, higher learning institutions, representatives of right holder societies and associations, the IPS, IPO, and copyright Office. This could be the Intellectual Property Policy or Coordination Forum that may meet three times a year.

d. Design & implement capacity building programs;

i. Human resource capacity building:

- Training of staff in and outside of Liberia. This may include on the job training, attachments and use of training opportunities offered by WIPO and other Partner Organizations such as ARIPO and the WTO.
- Organizing study tours and facilitating attendance to workshops and seminars.

ii. Strengthening the infrastructure of the IP Offices:

- Equipping IPO with at least basic facilities that will help to increase the quality of the service of the Office. The WIPO mission to assess the IT needs of the IPO is available in more details as an attachment to this report. It has identified the needs and made proposals on how to address those needs after the manual recording system is put in place.
- Strengthening the infrastructure of the IPS to enable it to discharge the additional function if a decision is made to transform it into *ad interim* body entrusted with coordination functions and more so in the event that it is retained as a permanent organ to oversee and monitor IPRs nationwide.

iii. Improve systems of operation

- Set up an orderly manual recording keeping and registering system. This may include having separate records for patents, trademarks

and industrial designs. Putting the files in a systematized manner, improving the classification and numbering system.<sup>32</sup>

- Define workflows
- Introduce a notification system to prevent the loss of right by titleholders for failing to take action in time as required by law.
- Automate the operation systems of the offices

e. Issue regulations and administrative instructions

The Board and the DG shall issue regulations and administrative instructions to enable the office to process the applications it has been receiving

f. Revising the mandates of the Office

- redefine the mandate of the IPO to enable it to focus on major and core functions
- Consider amending some of the tasks entrusted to the IPO such as performing substantive examination of patent applications

g. Develop an appropriate organizational structure & establish support services

The IPO needs to develop an appropriate organizational structure to discharge its functions and render quality service to its users. The IPO may play a role in supporting the efforts of researchers, inventors and SMEs by making available relevant technological information contained in patent documents. Such support may further be facilitated with the automation of the office, which may facilitate access to online patent information. The functions of the office need to be written down in a clear and structured manner, supported by an adequate staff structure with clearly defined job descriptions.

## II. IP Awareness & IPR Enforcement

### 3.1 IP Awareness

#### 3.1.1 Level of Awareness

The level of awareness about intellectual property and its benefits among politicians, researchers, higher learning institutions and R&D organizations is extremely low. Researchers and academics whom the Consultant met had very limited knowledge about intellectual property. Although some of the institutions such as CARI generate IP assets, the value of these assets and the need to protect them have not been recognized.<sup>33</sup> Some potential beneficiaries of the intellectual property system have lost their assets due to lack of awareness regarding their value and absence of a system to protect their rights in Liberia. Examples

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<sup>32</sup> At present the filing, number accorded to an application may be different from the recording number of granted titles.

<sup>33</sup> See Chapter V regarding the situation in CARI.

include the industrial designs and brands developed and used by Virtuous Women Multipurpose Cooperative,<sup>34</sup> Amazing Grace Inc.<sup>35</sup> and Minkon Business Centre.<sup>36</sup>

There were limited activities made to raise IP awareness. These include activities undertaken by the IPO, Copyright Office, Musicians and other unions to raise awareness by way of a few seminars organized in cooperation with WIPO at different times. The IP Offices have no outreach programs or strategies. The print and electronic media have also done very little.

### 3.1.2. Recommendation

To address the above problems and increase the use and benefits of the intellectual property system, there is a need to:

- (a) Develop and implement target-oriented IP popularization programs.
- (b) Organize or take part in programs such as exhibitions in cooperation with institutions such as the Chamber of Commerce to show the benefits of the IP system.
- (c) Assist research and academic institutions in developing institutional IP policies and establishment of IP management units.
- (d) Train journalists and encourage the use of mass media for IP awareness

## 3.2 IPR Enforcement

### 3.2.1 Infringement of IPR

Counterfeiting and piracy are rampant in Liberia. The size and volume of counterfeit and pirated goods in circulation is much higher than those protected and produced in Liberia. Stakeholders pointed out that most of these products are imported from abroad, mainly from neighbouring countries under the caption of general merchandise. The informal and illegal businesses have also contributed to wide spread piracy and counterfeit products in the Liberian market. It has been difficult to determine the source of origin of these goods, the manufacturers, date of manufacturing and expiry.

These have affected the local creative industry, consumers and the Government revenue. People are forced to close down their businesses. Creators are forced to keep their works from being published.<sup>37</sup> The Consumer Protection Society has complained about substandard counterfeit products, which have undesirable consequences such as affecting the health of the society and affect consumers. The IP Consultant and officials of the IPO and the Copyright

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<sup>34</sup> See Chapter V section.

<sup>35</sup> See Chapter V section.

<sup>36</sup> This company was established on 1 April 2000 and is involved in the manufacturing and sale of soap. The centre uses the brand name "MINIKOR" to market its products. However, it does not know the value of the brands and failed to protect its brands. The Consultant advised the CEO of the centre to trademark its brands and the centre agreed to take measure.

<sup>37</sup> One musician showed us CDs that he kept from releasing for fear of piracy.

Office believe that the Government of Liberia is losing millions of dollars in Government tax, on imported pirated and counterfeit goods.

Stakeholders pointed out that the penalties under the IP laws were not severe enough to deter infringement of rights. The absence of requirements to use the symbol (™ or ®) that shows a certain mark is protected, which is common in trademark laws and international practice, may also contribute to the wide spread trade in counterfeit products. There is no way to determine whether a mark is registered.<sup>38</sup> Such a practice will contribute to deter the potential infringer by conveying the message that the mark is protected.

### 3.2.2 Enforcement Agencies

Enforcement is a responsibility of the judiciary, Police force, Customs Department and IP Offices. However, little is done in enforcing IPRs. No trademark infringement case has been brought to the courts after the enactment of the 2003 IP law. This may be attributed to a number of factors including the erroneous thinking that there are no qualified lawyers. One business person who has registered more than 20 trademarks expressed that he failed to take action against infringers out of the belief that there were no lawyers who had specialized in IP.

The role of the Customs and Police in fighting piracy and counterfeiting has been very limited. There is no single case where the Customs officials tried to stop entry of infringing products into Liberia. This could be due to lack of awareness, incapacity and absence of a system that would allow Custom officers to know about registered and protected intellectual property rights in Liberia and identify infringing products. The Police force has also done very little to enforce IPRs. This may relate to the absence of complaints made to the Police or lack of awareness of IP and inadequate linkage with the IP Offices.

The IP Offices have been engaged in disposing of IPR infringement cases. The courts recognize the Copyright Office as the first entry of disposing cases.<sup>39</sup> The IPO is also involved in investigations of infringement cases and settling disputes through arbitration. Parties that are unhappy with the decision of the Offices may appeal to courts. However, such a practice needs to be reconsidered in light of the functions and duties that normally fall under the purview of IP Offices.

In addition to the above, Government bodies such as the National Security Advisory and the Division of Standards and Inspections may play a useful role in fighting piracy and counterfeiting. However, these Offices had done nothing for lack of awareness and capacity as well as the non-existence of a mechanism that may coordinate the efforts of these bodies.

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<sup>38</sup> Please see the attached registered marks as examples.

<sup>39</sup> George Dunor, Ag. Director General, Copyright Office.

### 3.2.3 Recommendations

The following measures may be taken to further strengthen enforcement of IPR and address the problem of wide spread piracy and counterfeiting:

1. Revising the industrial property law and legal framework to:
  - Provide penalties that may be commensurate to the damage done by the infringer and deter potential infringers.
  - Restrict the mandates of the IPOs to functions that may support enforcement of IPR such as creation and promotion of IP awareness, training of members of enforcement agencies etc.
  - Provide for the use of symbols when marketing a product using a registered trademark.
2. Design and implement capacity building programs to strengthen the enforcement agencies:
  - Train judges, Police and Customs officers in and outside the country.
  - Organize seminars and workshops.
  - Incorporate IP courses in the curriculum of the law faculty of the University of Liberia and train instructors.
  - Set up a system that will help the enforcement authorities such as Customs to have ready access to national IP laws and the official IP registries.
3. Set up a coordination mechanism:
  - Establish a coordinating mechanism between the IP Offices, stakeholders' societies/trade associations and enforcement agencies. This could include the establishment of a forum of IPR enforcement Bodies.
  - Need to have regional cooperation and a harmonized IPR enforcement strategy with neighbouring countries, such as in the context of the Economic Community of West African States (ECOWAS) of which Liberia is a member, to prevent importation of counterfeit and pirated products.<sup>40</sup>

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<sup>40</sup> It is worth noting that Copyright Offices/Societies within this regional grouping have made tremendous progress towards adopting a concerted regional framework to fight cross border piracy.

#### 4. Awareness Creation:

- Design and implement target oriented awareness programs to the judges, Police and Customs officials.
- Use mass media to create and strengthen IP awareness of potential users and the public.
- Organize workshops, exhibitions and other fora on a periodic basis.

### III. Membership of International IP Treaties & Existing & Potential Partners

#### 4.1 Membership of International IP Treaties

##### 4.1.1. Current Status

Liberia is a member of a number of international treaties administered by WIPO and UNESCO. The country joined WIPO on March 1989 and is a member of the following IP treaties:

- (a) Paris Convention for the Protection of Industrial Property in March 1994;
- (b) Berne Convention for the Protection of Literary and Artistic Works in March 1989;
- (c) The Patent Cooperation Treaty (PCT) in August 1994;
- (d) The Madrid Agreement Concerning the International Registration of Marks in December 1995;
- (e) Liberia is recorded to have ratified the Convention for the Protection of Phonograms Against Unauthorized Duplication of their Phonograms (Phonograms Convention) in December 2005;
- (f) Liberia is signatory to the Patent Law Treaty since June 2000; and
- (g) Liberia is a member Universal Copyright Convention administered by UNESCO since April 1956.

The Country has applied to accede to the WTO. The WTO General Council established a Working Party to examine the application of the Republic of Liberia on 18 December 2007. However, Liberia has not yet submitted a Memorandum on the Foreign Trade Regime (FTR). The Working Party has not yet met.

##### 4.1.2 Recommendations

The fact that the country is a member and signatory of several international IP conventions is a very positive sign. It would contribute to strengthen the National IP system. However, the country might wish to consider:

- (a) Acceding to the Madrid Protocol as the number of members of this Protocol has increased and the use and importance of the Madrid Agreement to which it is a party is decreasing,
- (b) Acceding to the ARIPO Protocols to implement the provisions of the industrial property law that envisaged membership to the organization and the Agreements administered by it.
- (c) Acceding to copyright law treaties in order to cope with the challenges but also make optimum use of the opportunities created by digital technologies to protected artistic and literary works.

#### 4.2 Existing & Potential Partners

The country has been receiving support from WIPO, ARIPO, and the IFPI. There are potential international partners that may render support in strengthening the efforts to consolidate the national IP system and ensure the use of IP as a tool for development. These include USAID, UNDP, UNCTAD, ITC and the WTO, among others.

### IV. Intangible values of Products and the Potential of Using IP as a Tool for Development

#### 5.1 General

There are products that are distinctive and with a potential for export and to enhance export income using appropriate intellectual property tools. Stakeholders that were consulted have identified the following as unique to Liberia:

- (a) Bush Apple, which grows wild in Liberia and which has a distinctive taste compared to the apple that is commonly known and used;
- (b) Lofa Cotton (Country cloth –Mende-lofa people);
- (c) Liberian Coffee;
- (d) Majugata pepper;
- (e) Palm oil;
- (f) V-ring; and

- (g) Various soap including liquid soap, laundry Soap-cakes and bars of soap, organic bath soap and tide soap.<sup>41</sup>

Each of the above products need to be studied to identify and verify their distinctiveness, the export potential and the contributions that they may have in realizing the objectives of the LPRS. This may take time and resources.

The Honourable Minister for Commerce and Trade is keen to include, in a pilot project, a study on the distinctive products and development of a program that would help the country protect and exploit the intangible values using appropriate IP and business tools. Such a need could be met by approaching other development partners such as the UK Department for International Development (DFID). This organization has supported a scoping study and a feasibility study on selected African distinctive products.

## 5.2 Intangible values (IP Assets) of Products for Pilot Project

### 5.2.1 Intellectual Property Assets

During the mission, efforts were made to look for identifiable intellectual property assets, that have the potential for domestic and export markets and which are contributing, and have the potential for increased contribution, to the realization of the objectives of the LPRS with a view to identifying a product that may be used in a pilot project to demonstrate the benefits of IP.

Based on the information collected during visits made in SMEs and Research organizations, the Consultant identified intellectual property assets that were generated but not protected, have a demand in the domestic and export market and are contributing to the development efforts of the country. These include intellectual property assets that were generated by the Central Agriculture Research Institutes and two private companies engaged in the handicraft and fabric production and marketing.

#### 5.2.1.1 Central Agricultural Research Institute

The Central Agricultural Experimental Station (CAES) was established in 1953 and transformed into the Central Agricultural Research Institute (CARI) as a semi-autonomous agency of the Ministry of Agriculture. The institute has the mandate to undertake applied and adaptive research for enhanced productivity of food, feed, fibre, and other agricultural products in Liberia for the attainment of food security, poverty alleviation, income generation and job creation. Prior to the outbreak of the war in 1990, CARI was recognized as a centre of excellence and highly rated among the National Agricultural Research Systems (NARS) in West Africa. The institute had undertaken research that resulted in improved varieties that are still being used locally and abroad. These include rice and Cassava varieties (Caricas 1, 2 & 3) that are high yield, have short growth duration and are disease-resistant. The improved varieties are IP assets. However, the assets were not protected for lack of awareness, non-existence of a plant variety protection law and absence of institutional intellectual property policy and management framework.

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<sup>41</sup> The CEO of Minikon Business Centre claimed that her soap products are unique from the imported soaps in that they are made of natural products and smoothening for the skin. She stated that customers are testifying about these qualities and the demand for the organic soap is increasing.

#### 5.2.1.2 Amazing Grace Inc.

Amazing Grace Inc. was established in 2007 and is being run by Mrs. Grace Scotland. The business started operation with the support of the Ministry of Commerce and Industry. The Company is engaged in the production and marketing of handicraft products such as straw baskets, beads jewellery, beads handbags, beads place mats, beads decorations, recycled glass beads, powder beads and designed beads using local and imported material. The Company had three employees and a start-up capital of US\$10,000 when it was established. At present, it has 18 employees and its capital increased to US\$23,000. In addition to offering employment opportunities, the Company is engaged in capacity building thereby contributing to the realization of the objectives of LPRS. It is offering training programs mainly to disadvantaged girls and encourages the trainees to start up their own businesses and work together with the Company.

The Company develops and uses its own designs to distinguish its products and increase their marketability. According to the Managing Director, there is a demand for their products in the local market and recently the Company received an order from the USA. Furthermore, the Company is now being assisted to access the US market through the African Growth Opportunity Act (AGOA). There are opportunities to enter in and expand the export market. The Company has been approached by some individuals with the intention to import the products into Europe. Although the company has valuable designs that could be protected as intellectual property and the products could be put into the market using brands, nothing has been done due to lack of awareness about IP and its benefits exacerbated by the absence of a functioning IP system in the country. The Consultant informed the Company about the value of its designs and the need to use the brands. The Managing Director is willing to take appropriate measures but needs to get guidance and support.

#### 5.2.1.3 Virtuous Women Multipurpose Cooperative

Virtuous Women is a registered tailoring and handicrafts Cooperative owned mainly by women from low-income communities in West Point and Bush Rod Island, Monrovia. It was officially registered in 2008 although its members had started to work together since 2006 under a World Bank-financed program to infuse cash in West Point, including the production of 1,400 school uniforms. The business is being incubated by the Agency for Development and Economy Empowerment (ÆDE) under a grant provided by Oxfam GB Liberia to economically empower women. The Cooperative is run by Tina J. Kpan, a fashion designer and entrepreneur with many years of experience in the local and international marketing of Afro-centric and traditional attire and fashion accessories.

The products of the Cooperative include:

- (a) Women, men and children clothes;
- (b) Handbags (using traditional and non-traditional materials);
- (c) Household items (bed spreads, quilts, aprons and gloves, table runners;
- (d) placemats, napkins, table cloth, towels, shower curtains, closet set and throw pillows);
- (e) Traditional Liberia woven fabric; and

- (f) Traditional Liberia hand made beads made of clay.

The Cooperative is engaged in training women and youth thereby contributing to poverty alleviation through capacity building and employment opportunity generation. It uses its own designs and has a plan to brand its products. However, the designs are not protected due to lack of awareness. Moreover, some of the designs had been copied and used in Ghana.

The Cooperative exports its products with different designs to meet the fashion trends of different social groups in the USA and has a plan to enter into the European and West African Markets. The current market position may be strengthened and the cooperative could place itself in the future markets and protect its intellectual property assets.

### 5.2.2 Recommendations

The terms of reference require the Consultant to identify one product in one of the key sectors that were identified in the LPRS, which may be used as a showcase in a pilot project that could be developed in the context of the IPDP to demonstrate the benefits of intellectual property.

The above two examples fall within the priority sectors identified by the LPRS. They also contribute to the realization of the LPRS through capacity building, employment generation and increased export earnings. The Consultant held discussions with the officials of the IP Offices and some of the stakeholders to make a choice between the two. There is a strong feeling on the part of the officials and the stakeholders that both establishments be considered under the pilot project. Top Government officials, such as the Hon. Minister for Foreign Affairs and the Minister for Commerce and Industry think that the single product approach should be changed and that the pilot project should be developed in such a way as to accommodate the need to study the distinctive products of Liberia as well as assisting the two SMEs in protecting, managing and facilitating the exploitation of identified intellectual property assets - brands and designs. The Government Officials think that the pilot project should be broad enough to showcase the role and importance of IP in business development. The Hon. Foreign Minister underlined that funding would not be a problem. There are a number of development partners that expressed interest<sup>42</sup> to support the country's small business establishments. These include ITC and the WTO. She also stated that funds were available in the Eco-Bank to support small-scale businesses and empower women.

The pilot project may therefore be developed:

- (a) To deal with the concerns expressed and address the needs of the Government. This would require the involvement of, and coordination with different partners as well as setting up a project management and follow up mechanism;
- (b) Take up a single product as envisaged in the terms of reference. This would require selecting one of the small businesses, which already have intellectual property assets. This may be manageable and involve less resources

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<sup>42</sup> This was strongly expressed during the International Colloquium on women's Empowerment, Leadership development, International Peace and Security, on March 7-8, 2009.

If a pilot project is to be developed, it is proposed that the Virtuous Women Multipurpose Cooperative be given first priority in light of the following:

- (a) The sector in which the Cooperative is engaged is identified as a priority sector under the LPRS; and
- (b) The Cooperative:
  - i. is contributing to addressing the problem of unemployment and lack of skills;
  - ii. has designs, which are intellectual property assets;
  - iii. is planning to use a brand and market its products; and
  - iv. has export market presence and the potential for expanding export market is significant.
- (c) The misappropriation of designs and the inability of getting returns from the intellectual property assets could be taken as a benchmark to compare the difference IP protection will make.

The pilot project may include technical and financial assistance in:

- (a) Preparing trademark and industrial design protection applications;
- (b) Paying application fees;
- (c) Capacity building in the management and exploitation of IP assets; and
- (d) Organizing forums to share the success story.

## V. Conclusion & Recommendations

Liberia has just emerged from the civil war that destroyed institutions and documents. The various problems identified in this report are in great part the result of the devastating fourteen years of civil war. The country is trying to address these challenges by fostering national development and raising the living standards of Liberians. The Motto is “Up lifting Liberia”. There is enthusiasm and commitment on the part of the Government to improve the existing IP system and use it as a tool for development. However, the problems are wide and complex. The list of needs is long. A lot remains to be done to make the IP system function and contribute to the ongoing development efforts of the country as well as the improvement of the living standards of Liberians.

We would thus like to:

- (a) Recommend that a phased approach be followed in meeting the needs; and
- (b) Customize the IPDP in line with the findings and recommendations of the mission as well as the timeline provided in the attached Identified Needs and Implementation Plan (matrix).<sup>43</sup>

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<sup>43</sup> See Annex I

## Annex-I

## Summary of the Recommended measures, responsible bodies and timeline (Matrix)

## Activities that should be undertaken in the short term(August 2009 – July 2010)

Goal/Need	Activities	Responsible body/bodies	Timeframe	Expected Outcome
Create an interim Administration for coordination	Develop a proposal & submit to the Government  Decision of the Government	IPS, IP Offices & Ministry of Commerce & Trade  Ministry of Commerce & Industry	August – October	Effective use of resources, enhanced coordinated efforts  Prepared groundwork to accommodate a permanent institution
Implementing the Industrial Property ACT	Preparing and issuing regulations & administrative Instructions	IPO & IPO Management Boards	August – October	Applications will be received and processed in accordance with the law
Revising the IP Law	Background study on the limitations of the law and international best practices  Drafting the revised law  Enacting the law	IPO, Ministry of Justice  Ministry of Justice & WIPO  Parliament	August – January 2010	Limitations of the existing law addressed  Ease of implementation  IPO will have a focused mandate
Implementing international instruments envisaged by the IP Act	Entering into Mutual Recognition Agreement  Accession proposal drafting & submission  Enacting accession law	IPO & ARIPO  IPO, Min. of Comm. & Ind., Min. of Justice & ARIPO  Parliament	July – September  December – February 2010  June 2010	Extension of titles granted by IPO & ARIPO  Benefits from linkages with the ARIPO System
Linkage with line Ministry	Develop & submit proposal to the Government	IPS & IP Offices	August – October	IP Offices linked with Line Ministry that may defend their interests
Training of IP Office core staff	Design a tailor made training program and submit names of trainees to WIPO  Implement training inside and outside Liberia	IPS, IP Offices, WIPO, ARIPO & potential Partners such as the WTO	July – May 2010	Increased quality of services provided

Equipping IP Offices with basic facilities	Identify and prioritize needs procurement and installation of equipment	IPS, IP Offices, Government of Liberia, WIPO	August – October	Increased effectiveness, efficiency and quality of service
Improve system of operation	Define work flows,  Develop a system of manual record keeping and classification  Introduce separate records to patents and Marks  Introduce a system of notification	IPS, IPO	September – January 2010	Statistics easily available  Enhanced quality of service  Loss of right prevented
Automation of IP Offices <sup>44</sup>	Consolidate data to facilitate entry in an automated system  Procure & install equipment	IPO, WIPO	January 2010 – March 2010	Enhanced quality of service
Increase awareness of Enforcement Agencies, Academia, Researchers & Business establishments	Staff training Organize workshops, seminars, colloquia	IPS, IPO, Copyright Office, WIPO, ARIPO & Other partners	August – June 2010	Officials of enforcement agencies, Academics, researchers and business persons exposed to the concept and importance of IP
Set up an appropriate organizational structure for a single IP Office	Study alternative structures and develop proposals based on international best practice & dev. needs/goals of Liberia Submit proposal & implement it when approved	IPS, Min. of Comm. & Ind., WIPO	October – January 2010	Suitable organizational structure that enables the new LIPO to discharge its functions & contribute to the development effort of Liberia
Establish a single IP Office	Study the feasibility of establishing a single office Review International experiences Draft a legislation for the establishment of the Office	IPO, Copyright Office, IPS, WIPO, Ministry of Commerce & Industry	January 2010 – July 2010	Single office established  Use of shared facility Enhanced quality of service

<sup>44</sup> Additional details are outlined in the automation needs assessment report contained in part III

Activities that should be undertaken in the medium term (**April 2010 – August 2011**)

<b>Goal/Need</b>	<b>Activities</b>	<b>Responsible body/bodies</b>	<b>Timeframe</b>	<b>Expected Outcome</b>
Enact Geographical Indications and Plant Varieties Laws	Background study on the limitations of the law and international best practices  Drafting the revised law	IPO, Ministry of Justice, WIPO, UPOV  Parliament	April – October 2010	IP assets of Liberian products will be protected
Establish an enforcement coordination mechanism	Enacting the law Review International best practices Develop proposals Implement proposals when approved	IPS, IP Offices, Ministry of Commerce & Industry, WIPO, Enforcement Agencies	May – August 2010	A forum of IPR enforcement established  Improved enforcement of IPR
Training of Staff of the IPO, members of the Judiciary, Police & Customs Authorities	Develop and design tailor made training programs Prepare training manuals and support materials conduct training	IP Offices, IPS, or the new Intellectual Property Office, WIPO, other partners such as WTO and ARIPO	April 2010 – February 2011	Qualified manpower Better service
Make accessible the national IP laws & the official registers to enforcement bodies	Establish networks	IP Offices IPS WIPO	December 2010 – April 2011	Enhanced enforcement of IPR
<b>Teaching of IP in Universities</b>	<b>Develop curriculum Train staff Acquire materials that may be used by professors and students</b>	<b>University of Liberia, IPS, WIPO Academy</b>	<b>January 2010 – April 2011</b>	<b>Increased IP qualified manpower Improved IP administration, use and enforcement of IPR</b>
Launch IP popularization and outreach programs	Design target oriented IP awareness programs Develop and use different tools	LIPO/IPS, Public and private Mass media organizations, Ministry of Information, Right holders societies, WIPO	April 2010 – continuous	Increase awareness of potential users, enforcement agencies and the general public
Regional cooperation & harmonization of IP enforcement strategies	Initiate discussions with neighbouring countries (ECOWAS) harmonize enforcement strategies	Neighbouring countries, ECOWAS, WIPO	February 2011 – June 2011	Decrease in movement of counterfeit and pirated goods

Annex-II

TERMS OF REFERENCE

Needs Evaluation and Technical Support Relating to the  
IP Development Plan Formulation for the Republic of Liberia

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March 9 to April 8, 2009

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Objective

The aim of the assignment is to assess the current IP system, identify weaknesses, constraints and opportunities and make concrete proposals on specific needs-oriented activities and projects for implementation within the IPDP so as to enhance Liberia's capacity to create, protect and make strategic use of IPRs and assets as a power tool for economic growth and development. The IPDP seeks to ensure that the IP offices and potential users and stakeholders, such as tertiary institutions, small and medium-sized enterprises (SMEs), chambers of commerce and industry, R&D Institutions and copyright owners' organizations have the technical capacity and know-how to use the IPRs system for development in line with the objectives set out in the LPRS.

In undertaking the assignment therefore and with the view to formulating a realistic, result-oriented IP Development Plan, it is important that the Consultant consider that Liberia is in a post-conflict reconstruction phase and that he focuses on priority sectors identified in the LPRS.

Principal Duties

The Consultant will be required to undertake a two-week visit to Monrovia, Liberia and carry out the following:

1. Collect data and information on:
  - (a) Existing legal, administrative and enforcement structures relating to IPRs in Liberia and identify weaknesses, if any, and measures to strengthen the institutions;
  - (b) Key priority areas identified in the LPRS for inclusion in the IPDP; in this respect the Consultant will identify, and if possible establish contacts with development partners/donor institutions that are being engaged in the LPRS implementation for the purpose of proper coordination;

- (c) Existing policies/strategies for the promotion of micro businesses and SMEs, and suggest a strategic approach to integrate IPRs in the process in particular in areas where Liberia has a competitive advantage such as textiles and traditional hand-loomed fabric making, ethnic printing and designs, film and music industries, arts and crafts, as well as traditional knowledge and folklore, among others; and
  - (d) Existing policies, mechanisms or strategies aimed at facilitating the use of the IPRs system and make suggestions to improve their effectiveness.
2. Assess Intellectual Property Offices' (IPOs – Industrial Property Office and the Copyright Office) human resources, technical capacity and recommend activities aimed at improving or enhancing their ability to provide quality service to creators and users of IPRs (business procedures and tools, automation, training of staff etc).
  3. Gauge the level of IPRs awareness of business communities, creative industries, micro businesses such as the textile, film and music business sectors, schools of arts and crafts, trade hubs, business incubators, R&D Institutions, traditional knowledge practitioners and users through their groups or associations, governmental and non-governmental SME support institutions (chambers of commerce, trade promotion offices, etc.) and/or any other area with a stake in intellectual property and identify concerns.
  4. Guide in the selection of the members of the National Steering Committee (bearing in mind the list under paragraph 3); advise and assist the national authority in organizing meetings of the committee and provide technical advice and support on all aspects relating to the implementation of the IPDP.
  5. Identify sectors from 1(b) that have a potential domestic and/or export market and which could be used in a pilot project to demonstrate the potential of IPRs in wealth creation.
  6. Prepare and send to WIPO, a report on the findings of the mission, including a realistic matrix and timeframe of activities for both short-term and long-term implementation.

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Annex III

List of Participants in the Policy Makers' Round-Table and Stakeholders' Forum

1. Counsellor Molley S. Gray, Chairman, Copyright Management Board
2. Henry S. Togoba, President, Cuntington College
3. Dr. Emmet Dennis, President, University of Liberia.
4. Honorable Augustine K. Ngafuan, Minister of Finance,
5. Honorable Philip Banks, Minister of Justice
6. Robert Mezzeh, Ag. Director General, Industrial Property Office
7. George S. Dunor, Ag. Director General, Copyright office

Stakeholders meeting at the Ministry of Commerce March 18, 2009

1. A -Sieh Thomas ----- Liberia Movie Union
2. Clifford B. Robinson ----- Liberia Movie union
3. Fayia F. Fallambu ----- President, Music Retails Association
4. Kekura M. Kamara----- Liberia National Culture Union
5. E. Tonieh Williams ----- Copyright Board
6. George S. Dunor ----- Director General Copyright
7. Atty. Freddie R Talor, Jr.----- Liberia Chamber of Commerce
8. Merenike Adepoji----- Liberia Chamber of commerce
9. Frederick B. Norkeh ----- MOCI
10. Miata Beysolow ----- MOCI
11. Ntchatcho Herman ----- Director , African Bureau, WIPO Geneva
12. Getachew Mengistie -----IP Consultant, Addis Ababa, Ethiopia
13. James V. Dwalu ----- Liberia Association of Writers
14. Ahod Keita ----- Village General Art and Craft
15. Albert S. Markeh ----- National Museum
16. Cecil B. Griffiths -----President, Musicians Union
17. Robert Y. Mezzeh ----- Liberia Industrial Property Office
18. Coleman Foster ----- MCI
19. G. Bennie Johnson ----- Collective society
20. Bella Diallo ----- L.C.C
21. James Y. Draper ----- Intellectual Property System
22. Steoc Flahn – Paye----- MOCI
23. Michael Weah.....President, Liberia Association of Writers

## Annex-IV . People Consulted, Contact Sheets

Date	Name	Designation	Institution	Contact details
14/3/09	Roland Morris	IP Consultant	Ministry of Commerce & Industry	Ashmun Street Monrovia, Liberia
15/3/09	Roland Morris Robert Mezzeh, George S.Dunor	Deputy Director, Trade Policy, International Trade Division, Ministry of Foreign Affairs, International Trade & Cooperation	Ministry of Commerce & Industry Industrial Property Office Liberia Copyright Office	
16/3/09	W. Coleman Foster II, Esq.	Senior Legal Council	Ministry of Commerce & Industry	Ashmun Street Monrovia, Liberia +2316494665 colemanfoster@hotmail.com
17/3/09	Miata Beysolow	Minister	Ministry of Commerce & Industry	P.O.Box 9041 Ashmun Street Monrovia, Liberia Tel.+231-6952142 E-mail- mbeyolow@yahoo.oc,
17/3/09		Meeting with Policy makers		See Annex. For the list
18/3/09		Meeting with stakeholders		See Annex. For the list
18/3/09	Emmet A.Denis	President	University of Liberia	Capitol Hill P.O.Box 10-9020,1000 Monrovia 10, Liberia W.A
19/3/09	James Draper	Administrative Consultant	Ministry of Commerce & Industry	Ashmun Street Monrovia, Liberia +2316593006 Drarts2007@yahoo.com
19/3/09	Tina J. Kpan	Project Manger	Virtuous Woman Multipurpose Cooperative	Via town, Bushrod Island VAMUCO Compound 06-698005, tkpan63@yahoo.com
19/3/09	Grace Scotland	Managing Director	Amazing Grace Inc. House of Production & Designs	Point 4 Bushrod Island Opposite Monoprix Supermarket, 231-6552264/231-77063061 Amazinggracelib1228@yahoo.com/scotlandgrace@yahoo.com
19/3/09	Robert	Ag. Director		-discussed on the questions

	Mezzeh and George Dunor	Generals		and agreed on submission of the answers on 20/3/9 - developed a visit program for tomorrow - shared the list of institutions to be visited
20/3/09	Meeting with the copyright management board, society leader, Industrial property office and TM Practitioners			See attached list
20/3/9	Mohammed M. Turay	Director of standards	Ministry of commerce & industry	<a href="mailto:e-mail-turaym@yahoo.com">e-mail-turaym@yahoo.com</a> Tel.231-6562620
20/3/9	George B. Nah		Liberia Consumer Protection Society incorporated	Tel.06-730-769/0777808110 e-mail:philgranus1955@yahoo.com
21/3/9	visit	Beads, strawbags, garments		
21/3/9	Errol Francis	CEO	Beverage Company (NICOM)	NICOM 104 Lynch St. Monrovia, Liberia, Tel.231-06-511863
23/3/9	Theodosia M.Clark-Wah	CEO	Minikon Soap Industry	c-363 New Georgai Estate-West Lower New Georgia, Montserrado County, Liberia. Tel:00231-06-554-383 e-mail:theodowah@yahoo.com
24/3/9	Cllr.Sylvester S.Gbeintor	Deputy Minister for codification	Ministry of Justice	Ashmun & Center Streets, P.o.box 9006, Monrovia, Liberia. Tel.06-567-495,e-mail:sylvester.gbeintor@yahoo.com
24/3/9	Olubanke King-Akerele,o.d.s.	Minister	Ministry of Foreign Affairs	p.o.box 10-9002, Monrovia, Liberia E-mail:olubanke.king-akerеле@hotmail.com
25/3/9	Gregoru Dunga	Program Officer,Aniaml Development	Central Agricultural Research Institute	Suakoko, Bong County, 10, Liberia P.o.box-3929 Tel. +231-77-795-678

				E-mail- siadunga@yahoo.com
25/3/9	Jobson A.Momo	Program Officer	Central Agricultural Research Institute	Suakoko, Bong County, 10, Liberia P.o.box-3929 Cell. +231-06-477081 E-mail- jobson.jobamo@gmail.com
25/3/9	Edward M.Amara	Lecturer	Cuttington University	Cell-+2316957918 e-mail- edwardamara@yahoo.com
26/3/9	Estelle K.Liberty	Deputy Minister for administration	Ministry of Internal Affairs	Tel-231-06-521-534, 231- 800-403
26/3/9	Levi J.Banney	Assistant Minister-Legal Affairs	Ministry of Internal Affairs	Cell-231-558-948
26/3/9	Joseph B.Jangar	Assistant Minister of Culture	Ministry of Internal Affairs	Cell-231-06-512055
26/3/9	Ishamel Bisiwalkor	Liason Officer	Ministry of Internal Affairs	Cell-231-06-951-888
27/3/9	Rep. Gebenimah B.slopadoe,I	Chairman, Committiee on State enterprises, autonomy Commission & Agencies	Parliament	Capital Building Monrovia, LiberiaCell- 06542-452 E-mail- libpaagency03@yahoo.com
27/3/9	N.Oswal Tweh	Counsellor-At- Law & chairamn of the IP Board	Pierre Tweh & Associates	Palm Hotel Building, Suite 201, Broad & Randall streets, P.o.box 10- 2536,1000Monrovia 10, Liberia Tel: (231) 06-512-925/(231) 77-512-925 Email: notweh@yahoo.com/p ierreweh@hotmail.com Web: www.pierretweh.com

Liberia Industrial Property Office (LIPO)  
 March 20, 2009, 12:00 to 2 pm  
 Participants

No.	Name	Title	Address
1.	Robert Y. Mezzeh	A/ Director General, LIPO	231-06-525562
2.	George S. Dunor	A/ Director General, Copyright office	231-06-537798
3.	Musue K. Gbandala	Comptroller (LIPO)	231-06-723503
4.	Eric G. Clinton	Chief Accountant (LIPO)	231-07-7065740
5.	Edmonf B. Johnson	Administrative Officer (LIPO)	
6.	Philip Z. Joh	Research Officer (LIPO)	
7.	Mietta K. Lassana	Field Officer (LIPO)	
8.	Linda M. Dindo	Field Clerk (LIPO)	
9.	Emmanuel Decker	Support Staff (LIPO)	
10.	John K. Marshall	Trade mark practioner	231-07-7997264
11.	Turban Alfred V.	Trade mark practioner	231- 06511204/06511204

Member of the copyright Management Board and some Heads of the Various National Collective Societies

1. Cllr. Molley N. Gray Sr. Chairman
2. Hon. E. Tonieh Williams Member
3. George S. Donor Director General/Secretary to the Board
4. Amb. Marron Cassell Member
5. Amb. Juli Endee Member
6. James V. Dwalu Member
7. Sylvanus M. Turay I Member
8. Kekura Kamara Cultural Union
9. Cecil B. Griffiths Musicians Union
10. Clifford B. Robinson, Jr. Liberia Movies Union

Staff of the Copyright Office

1. George S. Donor Director General/Secretary to the Board
2. Natalie T. Juwle Research & Registration
3. Gabriel B. Sheriff Enforcement Officer
4. Andrew N. Quaye Act. Comp./Finance Officer
5. Thomas Kaizolu Monitor
6. Piso Thompson Office Assistant
7. Joseph Johnson Driver



















PART II

REPORT ON THE FINDINGS OF THE NEEDS EVALUATION RELATING TO THE  
COPYRIGHT, RELATED RIGHTS, TRADITIONAL KNOWLEDGE & TRADITIONAL  
CULTURAL EXPRESSION (TCEs) INSTITUTIONS OF LIBERIA

Marisella Ouma, Executive Director,  
Copyright Board of Kenya,  
Nairobi  
Kenya

## 1.0 Introduction

The mission to Liberia was undertaken from March 23 to 27, 2009. The consultant had the opportunity to meet with several government officials from various ministries as well as rights holders through their representative organisations. These included the Minister for Foreign Affairs, the Minister for Commerce, the Deputy Minister, Information, Culture and tourism, the Deputy Minister For Internal Affairs, the Dean of the Faculty of Law, the Director General and Staff from the Copyright Office and the Intellectual Property Consultant.

### 1.1. Background

Liberia is a country currently going through the post war recovery phase. The main objective of the assignment was to assess the existing Intellectual Property system and identify weaknesses, constraints and opportunities and thereafter make concrete proposals on specific project-based needs oriented activities for implementation within the Intellectual Property Development Plan (IPDP). This is so as to enhance Liberia's capacity to create, protect and make strategic use of Intellectual Property Rights and assets as a tool for economic growth and development.

The Intellectual Property Development Plan seeks to ensure that the intellectual property offices and potential users and stakeholders, such as tertiary institutions, small and medium sized enterprises (SMEs), chambers of commerce and industry, research and development institutions and copyright owners' organisations have the technical know how and capacity to use the Intellectual Property (IP) System for the development in line with the objectives set out in the Liberia Poverty Reduction Strategy (LPRS).

## 2.0. Law, Administration and Enforcement of Copyright

This section examines the legal, administrative and enforcement framework of copyright in Liberia. Under the legal framework, the main instrument is the Copyright Act of 1997 as well as the implementing regulations. Under administration, the key institutions are the Copyright Office and the Copyright Society of Liberia. The role of the enforcement agencies will also be analysed.

### 2.1. Copyright Law and Policy

The Intellectual Property system is made up of laws and institutions that are largely influenced by the Anglo-American system. Copyright is governed by the Copyright Act of 1997. The copyright law grants exclusive rights to the copyright owner for a period of 50 years subject to exceptions and limitations that are clearly set out in the Act. The Act also makes provisions for the protection of performers, producers of sound recordings and broadcasting organizations.

The Copyright Act creates the following bodies for administration and enforcement of copyright in Liberia:

- (a) The Liberian Copyright Office;

- (b) The Copyright Management Board;
- (c) The Copyright Commission; and
- (d) The Copyright Society of Liberia.

Apart from copyright, there are no other laws in Liberia that deal directly with matters of copyright and related rights. Likewise, government policy on intellectual property does not exist.

## 2.2. Administration of Copyright

### 2.2.1. The Copyright Office

The Liberian Copyright Office is created under Section 2.44 of the Copyright Act. It is an autonomous non profit making agency responsible for copyright

The main objectives of the Liberian Copyright Office are:

- (a) To ensure the representation and defence of the economic, moral and other legitimate interests of authors of literary, dramatic and artistic works.
- (b) To implement the provisions of the Copyright Law as well as effectively manage the affairs of the Copyright Office.
- (c) To contribute to the promotion of national creativity by all appropriate means within its terms of reference.

The law also stipulates the functions of the copyright office, which include *inter alia*:

- (a) Encourage the creation of national collecting societies to protect the authors, performers, and producers and to supervise all their activities. The Copyright Office will also liaise with the collecting societies in respect to the broadcasting, communication to the public and mechanical rights as well as translation and adaptation. They will also set the standards for the organisation of collecting societies to do business in Liberia in relation to its members.
- (b) Formulate policies to empower the collecting societies to enforce the authors' rights.
- (c) Registration of copyright and collection of fees from compulsory licensing
- (d) Regulation of fees to be collected by collecting societies from users and distributed among the members.

- (e) Ensure that conditions laid down for the grant of compulsory licenses are followed.
- (f) Safeguard the rights in relation to the use of folklore and cultural heritage where those rights are protected by copyright.
- (g) Create model contracts and encourage the establishment and administration of a social and cultural fund by the collecting societies.
- (h) Provide competent authorities with the information or opinion on any legislative or practical issues in relation to copyright.
- (i) Promote better copyright relations at regional and international level.
- (j) Perform other lawful acts that are conducive to the attainment of the above functions.

The copyright office is headed by the Director General who is appointed by the President.

Under section 2.46, the Director General is a lawyer with at least five years experience in legal practice including knowledge of copyright practice. He is appointed after consultation with the Minister for Justice and the National Collecting society who may recommend an appointee to the president. The Director General, who is responsible for the administration of the Copyright Office, shall act under the supervision and direction of the Copyright Management Board.

The Director General shall be responsible for all the administrative functions and duties such as:

- (a) Administration of the copyright office in accordance with the provisions of the Copyright Act.
- (b) Be the legal representative for the Copyright Office in quasi judicial and judicial proceedings.
- (c) Advise on matters of copyright and related rights.
- (d) Assist in the establishment of the copyright collecting societies and monitor their operations.
- (e) Enlighten and awareness creation on matters of copyright and related rights.

The activities of the Board include seminars and workshops on copyright and related rights, registration of copyright as well as monitoring of copyright infringement within Liberia. The office is based in Monrovia.

The other staff members, including the Deputy Director General, are recruited in close consultation with the Copyright Management Board. Their salaries shall be commensurate with their qualifications. Currently, the copyright office has seven (7) members of staff.

- The Director General
- Copyright Registrar
- Two enforcement officers
- Finance Officer
- Office Assistant
- Driver

The Office has been carrying out the duties of the Copyright Commission which has not been established as provided for by the law. At the time of the visit, the Director General had a copyright infringement case that he had to attend to.

#### 2.2.2. The Copyright Management Board

The Copyright Management Board is established under section 2.45 of the Copyright Act. The Board consists of a chairman and five (5) members appointed by the President for a period of 3 years with the option of re appointment for another 3 years. The chairman must be a lawyer with at least five years experience in legal practice in copyright. The other five members are appointed from amongst authors, musicians and artists. The Director General of the Copyright Office serves as the secretary to the Board.

The Board is the policy arm of copyright administration and shall deliberate on and offer guidance on the following issues:

- (a) Income and expenditure forecasts of the Copyright Office.
- (b) Annual management and accounts reports.
- (c) Employment and social security matters within the Copyright office.
- (d) Staff regulations.
- (e) Creation of branch offices.
- (f) Establishment of committees.

- (g) Acquisition, sale, exchange or rental of premises which shall be implemented in consultation with the Ministry of Justice.

The Management Board is expected to keep accurate records of its deliberations and decisions. It also appoints the Director of the Copyright Society of Liberia (COSLIB)

### 2.3. Enforcement of Copyright

#### 2.3.1. The Copyright Commission

The Act makes provisions for the creation of a quasi judicial body known as the Copyright Commission. The Commission, like the other agencies created under the Act is appointed by the President for a term of five (5) years. The Chairman should be a lawyer with at least five (5) years experience in legal practice. The other members include a former judge of repute, a lawyer in private practice, an independent person with experience in intellectual property matters, an economist from the civil service.

The functions of the Commission include:

- (a) Adoption of regulations that govern the Commission.
- (b) Hear, investigate, and determine all violations and infringements of copyright law.
- (c) Issue, upon the request of a party, subpoenas and summons for appearance of witnesses before the Commission.
- (d) Order the issuance of writs of search or seizure, injunctions, and temporary restraining orders.
- (e) Initiate proceedings where they have sufficient evidence that an infringement has occurred.

So far, no Commission has been established under the Act and the infringement cases are currently determined by the Copyright Office.

#### 2.3.2. The Anti Piracy Committee

The Anti Piracy Committee is made up of representatives from both the Government and the private sector. The Government ministries and agencies on the committee include: the Liberia Copyright Office, The Ministry of Commerce and Industry, The Ministry of Finance, the Ministry of Justice, Ministry of Information and the Collecting Society of Liberia. From the private sector, members of the committee include one representative of the Musicians' Union of Liberia, producers and agents, wholesale distributors and retailers and the Film Producers' Association.

The terms of reference are:

- Supervise investigation on all infringement cases, and preside over all cases of piracy in sound recordings and on all copyright related matters.
- Approve all application forms for the hologram and processing of slips from the Internal Revenue Department or the Ministry of Finance.
- Supervise the procedure relating to the sale of the holograms.
- Supervise the negotiation for the procurement of the hologram.
- Liaise with a credible local bank for the storage of the hologram.

The guidelines further outline the duties of the Ministries of Commerce and Industry, Ministry of Justice and the Industry players.

The Ministry of Commerce and Industry is expected to ensure that the importers of pre recorded audio and audio- visual works obtain an import clearance permit after they have obtained a clearance from the Liberia Copyright Office. The Ministry of Justice is expected to second a Police officer to deal with the infringement cases and hand over the infringers to the Ministry for prosecution.

The distributors and retailers have a duty to ensure that all the musical works given to them for sale and distribution have the hologram affixed. The Musicians' Union, in addition to ensuring that all music sold has the hologram, have to report all infringement cases to the Copyright Office for their action. They are also expected to liaise with the Liberia Copyright Office on matters relating to the implementation of the hologram.

## 2.4. Collective Management

### 2.4.1. The Copyright Society of Liberia

The Copyright Society of Liberia (COSLIB) is established under Regulation No. 11 of 2006. COSLIB is expected to function under the supervision of the Liberia Copyright Management Board. Its functions include:

- (a) Provision of collective administration for the national collecting societies for efficient collection and distribution of royalties.
- (b) To carry efficient distribution of royalties to rights holders.
- (c) To sustain true creativity.

The society will be headed by a Director who shall be appointed by the Copyright Management Board. The Society is yet to be established.

### 3.0. Weaknesses

- The Act, in creating the four administrative bodies, provides for the administrative and enforcement framework of copyright and related rights in Liberia. However, there are certain weaknesses in the legal provisions and application of the law as discussed below:
- The Act makes provisions for an autonomous agency, the Copyright Office of Liberia under the supervision of the Copyright Management Board but does not provide for a line Ministry. It is notable that the Copyright Office depends on the Government for funding. It is thus difficult for the Office to operate as an independent body with no representation at the Cabinet level.
- Any collections made by the Copyright Office in terms of licence fees and royalty payment ought to be deposited with the Ministry of Finance. The office is not allowed to retain the money as appropriation in aid for its own use. This ensures that the Copyright Office is completely dependent on the Government for funding although it has capabilities of generating its own income. This will present a problem especially with the implementation of the Anti Piracy Security Device which is expected to not only fight unauthorised use of copyright works but also provide an income base for the copyright office.
- Reference to national collecting societies is quite confusing as the Act is not very clear as to what a collecting society is. For instance, the functions of the Copyright Office include the supervision of activities of collecting societies in relation to broadcasting and communication to the public as well as administration of mechanical rights. The creation of National Collecting Societies of Liberia, an umbrella organisation of the associations and trade unions within the creative industries illustrates the point. This has the potential of creating a conflict in operations between the trade unions, associations and the Collecting Society of Liberia.
- Regulation 11, which establishes the COSLIB compounds the problem as it makes COSLIB the collecting society for collecting societies. It only provides for licensing and remuneration in relation to public performance and no reference to broadcasting, narrowing the scope of royalty collection.
- Bodies that are currently known as collecting societies do not clearly understand their role as they are trade unions, and industry associations rolled into one with the potential of being collecting societies if the Act is to be followed.
- No legal provision exists for the implementation and administration of the anti piracy security device also known as the hologram. The structure that has been created is administrative consisting of an inter-ministerial committee. Their terms

of reference seem to be similar to those of the Copyright Commission such as the supervision of all infringement cases and presiding over all cases of piracy. (It is notable that piracy is not a legal term and as such is not defined in the Act.). This creates a conflicting role as the same has been assigned to the Copyright Commission under the Act. This could be attributed to the fact that the Commission has never been constituted. The administration of the hologram under the guidelines is a long and cumbersome process that may compromise efficiency of the hologram. The guidelines are not clear on the duties and mandate of the Committee as some of the duties overlap with those of the Copyright Commission.

- The provision for a separate body to deal with cases of copyright infringement although well intended is not appropriate as there is a legal system to deal with civil and criminal cases. Due to the limited expertise in matters of copyright and related rights, it would be advisable to let the matters be determined by the courts. The commission should only deal with matters of licensing like other tribunals established around the world.
- Since the Act was passed in 1997, the Copyright Commission has not been constituted. The Copyright Office has been executing the mandate of the Commission. Legally, this is not tenable as the Act does not make any provisions for the Copyright Office to Act where the Commission has not been established. The guidelines on the Anti Piracy Committee as mentioned above purport to give the committee powers to investigate and preside over copyright infringement cases. The guidelines cannot make provisions contrary to an existing legal instrument. Furthermore, the copyright office and the Anti Piracy Commission both lack the expertise to deal with the infringement cases as none of them has legal qualifications.
- The Copyright Management Board has in place a chairman and co chairman which is peculiar. Ordinarily, such bodies would have a chairman and vice chairman. The role of the co chairman has not been clearly defined and is not provided for in the Act. The Management Board was not clear on the said position.
- The Law has no specific provisions for copyright in the digital environment especially provisions of the WIPO Internet treaties.

#### 4.0. Constraints

##### 4.1. Human Resources

Qualified human resource is a major problem in the copyright office. The Office currently has 7 staff members namely:

- Director General

- Copyright Registrar
- Copyright Registrar
- 2 Enforcement officers
- Office assistant
- Driver

Among the seven staff members, it is only the Director General who has attended some of the WIPO training courses. The Registrar of copyright, who is an Accountant by profession, was a beneficiary of a one week study visit to the Copyright Office in Ghana. The enforcement officers have no training on administration and enforcement of copyright. This makes it difficult to run the office.

The Copyright Office and the Anti Piracy Committee do not have the human resource available to administer the anti piracy security device which is intended to be implemented during the course of the year. The hologram has already been ordered but the necessary structure has not yet been put in place to implement the programme. The successful implementation of the anti piracy security device requires a well established copyright office, a strong and defined union and an established collective management organisation, none of which currently exist in Liberia.

#### 4.2. Office and Communication Equipment

The office was initially housed at the Ministry of Foreign Affairs and recently moved to a building belonging to the Ministry of Finance. Electricity power, like in other Government buildings within the city is unreliable. The Director General informed us that most of the equipment that the office had such as computers including those that were donated by the World Intellectual Property Organisation, were destroyed during the war. The office currently has no computers, printers, scanners, photocopiers and other equipment that are essential to the efficient running of the office.

There is no internet access. The officers in the office rely on mobile telephones to communicate with each other even within the office as there are no landlines and inter office communication. All records are manual and it is not easy to locate data even with the small number of applications for registration of copyright. This also affects training as it is not possible to produce and replicate training material for the use of the various public awareness campaigns and workshops. It was difficult to get copies of the copyright law and regulations as well as other relevant documents as there was no photocopying machine available.

#### 4.3. Finance

Although the Copyright Office has been created as an autonomous agency, it relies wholly on the Government for finance. However, as indicated earlier, the Office does not fall under any Ministry. Funds have been allocated to for use by the Office but there are various Ministries that are laying claim to the funds for the use by the Copyright Office such as the Ministry of Commerce, the Ministry of Information and Broadcasting among others. This has been a major problem compounded by the fact that there is no Government policy on intellectual property.

The funds that get to the Copyright Office are barely enough to sustain existing staff establishment. The Director General noted that the funds are not enough to offer competitive salaries for the staff required such as lawyers to head the Office. It also affects the capacity to purchase adequate office equipment and furniture.

The other organisations such as the unions also have constraints in the administration of their duties such as limited resources as the members do not remit their dues. Lack of training and information sharing also affects their efficiency. The unions believe that the lack of a clear policy and line ministry to deal with matters of copyright negatively affects the copyright industries. They have lobbied for government over the years to support them. Apart from the administrative issues, unauthorised use of music especially from the international repertoire affects the livelihood of the rights holders.

#### 5.0. OPPORTUNITIES

The meetings with the Ministers of Commerce, Foreign Affairs and Internal Affairs indicated that the Government is committed to support intellectual property system in Liberia. There are various opportunities in the copyright industry.

The creative industries are already organised into Unions and Associations which are working towards improving the status of creative authors such as musicians, film producers, actors, authors, publishers, visual artists among others. These can be used to further organise the copyright industries.

The Government is keen to improve the Intellectual Property System and integrate intellectual property into the country's poverty reduction strategy. With the Government support and political will, it will be possible to implement the Intellectual Property Development Plan both in the short and long term.

#### 6.0. Key Priority Areas

### 6.1.1. Legislation

The Copyright Act of 1997 should be revised, taking into account international laws and treaties such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (WPPT) and ensure that it is clear and consistent. The digital platform creates more challenges in the administration and enforcement of copyright and related rights. The revised Act should thus provide for the administration of rights for instance to include a provision on the right of making available, compensatory schemes from private use, collective management of rights especially in light of emerging technologies such as the mobile telephony. The creation of the various administrative and enforcement bodies should be harmonised to ensure efficiency and their roles clearly defined.

### 6.1.2. Creative Industries

The Consultant met with various creative authors through their respective Unions. There are five Unions within the industry, namely the Union of Liberian Artists, the Music Union of Liberia, the Culture Union, Liberian Association of Writers and the Movie Union of Liberia. The National Collecting Societies of Liberia is an umbrella body for the above organisations. The collecting societies here refer to industry organisations and trade unions and not collective management organisations. Their mandate is to promote the interests of their members including copyright and related rights.

#### 6.1.2.1. Musicians Union

This Union represents composers, authors, producers of sound recordings, performers, dancers, vocalists, instrumentalists and any other within the music industry. It covers all areas of the music industry. It is registered under the Ministry of Labour as a Trade Union and under the Ministry of Information and Culture as a professional organisation. The Union is not yet a member of the International Federation of Musicians (FIM) but it is in the process of lodging an application. It has over 1000 members in Liberia.

Its mandate includes:

- The provision of legal services to its members
- Provide an insurance scheme
- Provide social welfare
- Seeking employment for members and securing performing contracts.
- Training and awareness creation among members

The Union also relies on the Copyright Office for training on matters related to copyright such as enforcement and determination of infringement cases.<sup>45</sup> It relies on the members' annual subscriptions and monthly contributions to fund their day to day activities. Each member is expected to pay an annual subscription fee of US\$ 20.

#### 6.1.2.2. Union of Liberian Artists

The Union of Liberian Artists is a Trade Union that represents the interests of the creative artists such as painters, sculptors, weavers, potters, quilters, printers among other visual artists. It currently has a membership of 40.

It provides:

- Training through workshops and seminars
- Help to sharpen skills
- Local and international exposure
- Legal services to the members

It has various sources of funding among them, dues from members, annual membership, royalties from works sold during exhibitions as well as support from well wishers and donors. The funds collected are used for the day to day operations of the union.

#### 6.1.2.3. Cultural Union

The establishment of the Cultural Union of Liberia may be traced back to the OAU summit of 1979. The Government of Liberia came up with the Culture Council to protect artists' rights including dancers, musicians who entertained the President and visitors. After 1989, the Union was established to deal with traditional dancers and entertainers. Currently, there are 35 groups each with 25 members made up of professional artists who can effectively communicate with any audience as well as entertain.

Under the copyright law, the Union expects the Government through the Copyright Office to help in educating their members so that they may benefit from the existing copyright protection. The Union has engaged in various activities to create awareness among the public especially on the Liberian Poverty Reduction Strategy.

#### 6.1.2.4. Liberia Movie Union

The Union was established on April 19, 2004. Its membership includes actors, producers, camera men, script writers and others involved in the movie industry from 9

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<sup>45</sup> However, the copyright office does not have the capacity to provide constant training and help in the awareness creation.

different counties in Liberia. There are close to 3000 active members. Membership is accredited on yearly basis. Since its establishment, there are 134 Liberian movies that have been produced.

Their activities include:

- Standardisation of the movies produced in Liberia
- Convening seminars and workshops for the members
- Provision of space for the movie industry
- Provision of editing suites
- Design posters for publicity
- Do the mass production of the movies
- Give legal protection
- Social welfare funeral cover for members and their immediate family

#### 6.1.2.5 Liberian Association of Writers

The Union was established in 1928 and deals with all matters that affect writers in Liberia. It covers fictional, non fictional as well as educational writers. The association is affiliated to regional and international writers' bodies. It has an active membership of 200, 60 of whom are in Liberia while the rest are in the *diaspora*. For one to be a member, they have to be active writers. They have a provision for associate members who are non writers but support the development of Liberian Authors. The Association seeks to develop and promote Liberian Literature and improve the welfare of the members through provision of training workshops and symposia. They also provide technical writing workshops to improve members' skills.

Notable achievements include the memorandum of understanding with the Ministry of Education of Liberia which requires that all the reading books within the schools be by Liberian authors.

The Unions were emphatic that their members, the creative authors have several challenges that need to be addressed by the Government. These include lack of Government support in terms of policy and finance. Apart from one group of visual artists that is supported by the Government, the creative authors have to look for their own means to survive. They also require training on how to manage, and improve the industry through seminars, workshops and exchange programmes which they believe should get support from the Government. Although they are aware of the copyright law and the existence of the Copyright Office, they believe that more needs to be done such as an intensified fight against piracy. They were of the considered opinion that the implementation of the anti piracy security device should go a long way in the eradication of piracy. They want the Government to give maximum support to the Copyright Office so that they may benefit from the copyright law.

The consultant had a one to one meeting with one of the visual artists, Mr. William Diggs. As an artist, he says that it is impossible to survive on his paintings alone as he sells on average of two to three paintings a month for between US\$ 40 and US\$ 150. He has on various occasions had the opportunity to travel out of the country and display and sell his work, which opportunities have become rare. He has another job to ensure his upkeep. One of the reasons for the dismal sales is the lack of premises such as a gallery to exhibit his works. This is a sentiment that is shared by other visual artists. Unfortunately for them they have two representative unions which need to be reconciled if they are to receive support from the Government and other interested parties. They would appreciate more support from the Government to nurture the industry to its full potential.

### 6.1.3. Copyright Collective Management

Regulation 11 of 2006 as earlier discussed establishes the Copyright Society of Liberia (COSLIB). However, this regulation simply compounds the problem that was created by the Act which does not clearly define what a collective management society is. From the reading of Regulation 11(2) (i), COSLIB is meant to provide collective administration for the existing collecting societies for efficient collection and remuneration of copyright fees to members for the use of their works. The Act should be amended to provide for the following:

- (a) The Government might wish to consider providing for a statutory collective management organization in the main Act, hence establishing, its functions, powers and mandate, rather than by regulations.
- (b) In support of (a) above, establish a multi-disciplinary collective management organisation for all works akin to the tradition embraced by countries such as Malawi, Mauritius, Tanzania, Madagascar and most of West African countries. This would be an ideal system as the country is small and the administration by one society would be efficient, practical and cost effective.
- (c) Due to limited resources the Copyright Office and COSLIB could be merged to maximise on the available resources, hence acquiring the functions of both a collective management organization and a copyright office. This is due to the fact that collective management societies are self sustaining and a certain percentage of the royalties collected may be used for administration, within the international standards prescribed by the International Confederation of Societies of Authors and Composers (CISAC), should COSLIB choose to become a member.

The existing Trade Unions should be educated on the role of collective management so that it is not confused with the Trade Unions. They may also be consulted from time to time over matters regarding COSLIB. The industry has organised itself into various unions as discussed in 2.5 above.

#### 6.1.4. Traditional Knowledge and Folklore

The Consultant had the opportunity of meeting with the Deputy Minister for Information, Culture and Tourism and the Deputy Secretary, Ministry for Internal Affairs. Both Ministries deal with some aspects of traditional knowledge. There is no law or clear policy on traditional knowledge, genetic resources and folklore. The Ministry of Information has a draft policy on Traditional Knowledge which has not been ratified. He noted that there was a duplication of works in relation to Traditional knowledge as cultural issues were dealt with under the Ministry of Internal Affairs. Commercialisation of traditional knowledge is not controlled as there are no instruments in place to do so. On Folklore, he was of the opinion that traditional expressions (TCEs) are dying as more people migrate to the city and discard their culture. Most of the TCEs are not recorded though there is limited documentation on the same. For instance, the Ministry has set up a cultural village and there is land that has been allocated for its expansion and growth.

The mandate of the Ministry of Internal Affairs was mainly in relation to culture as they are in charge of the traditional systems of governance as well as other cultural issues such as traditional medicine. Like the Ministry of Information, Tourism and Culture, there are no Government policies and laws or strategies in relation to traditional medicine and culture. The Ministry is trying to create a database and issue certificates for herbalists. However, the traditional system which is also recognised by the Government may be used to safeguard traditional knowledge.

It is notable that the two Ministries deal with different aspects of traditional knowledge. For instance, the Ministry of Information, culture and tourism deals with traditional cultural expressions such as music, dance and other creative works. The Ministry of Internal Affairs on the other hand deals with cultural practices as they relate to traditional medicine and genetic resources.

This is an area that needs support, taking into consideration that Liberia has between 30% and 40% of the forest cover in West Africa. These forests have many indigenous plants and trees which are exposed to bio piracy as there are no legal mechanisms and Government policies to safeguard them from unauthorised or undesired exploitation.

#### 6.1.5. Building IP Institutions and Human Capacity

The creation of a collective management organisation is important to help in the collection and distribution of royalties on behalf of the rights holders. Currently, users such as broadcasting stations, entertainment spots and others who either publicly perform and or broadcast works do not pay royalties. Although regulation 11 of 2006 provides for the establishment of the Copyright Society of Liberia (COSLIB), it is yet to be created. There is need to help in setting up COSLIB.

The existing institutions do not have staff with the necessary qualifications to effectively run them. During the visit, the Consultant had an opportunity to meet with the Dean of the Faculty of Law at the University. The Dean noted Intellectual Property was highly specialised and considered a new area of law practice in Liberia and that it was not offered at

the law school. He was however open to the idea of introducing it as a subject after he had been fully briefed and requested the Consultant to send a proposal. The University would offer an ideal framework for both short and long courses in intellectual property to boost the capacity. Currently, anyone who wishes to specialise in Intellectual Property has to do so outside Liberia.

The training of trainers is a short term strategy that may be used to build human capacity for copyright administration and enforcement. The trainers could then train and create awareness of copyright. The copyright office needs to be set on the right path which will require the identification of staff to undergo both long and short training. This may include study visits to more established copyright offices and collective management organisations within the region.

The areas of training include copyright administration, registration of copyright documentation, enforcement (investigation and prosecution) as well as collective management. There are officers from other institutions who may be trained such as staff members of the Office of the Solicitor General within the Ministry of Justice on prosecution of copyright cases. The Solicitor General stated that during his term in the office, he has not come across any criminal copyright infringement. Thus the training of Government prosecutors, police officers, judges and lawyers is imperative.

#### 6.1.6. Fight against Piracy

The Copyright Office and users have complained about the high levels of piracy although nobody has any idea as to the current levels of piracy in Liberia. The distributors and retailers noted that legitimate Music Cassettes and CD retail at L\$ 75 and L\$ 115 respectively. The pirated copy retails at L\$ 60. The problem is exacerbated by foreign pirated DVDs which go for approximately L\$180 -200 and would have more than 20 movies in one.

There have been no criminal cases against pirates although the Copyright Office has been determining copyright infringement cases. The rights holders, distributors and retailers, and the Copyright Office believes that the best way to deal with the matter is to implement the anti piracy security device in the form of a hologram. The Copyright Office has already sourced for funding for the hologram and is in the process of procuring the same. However, from the mission, it is clear, as discussed in 2.2 to 2.4 above, the institutional and human resource capacity to implement and run the programme is lacking.

For a successful implementation, the following will have to be addressed:

- (a) Setting up a proper registration system within the copyright office.
- (b) Training of the relevant officers to manage the process such as registration and vetting.
- (c) Establishment of the collective management organisation.
- (d) Review of the Copyright Act.
- (e) Secure sufficient funding to set up the systems and purchase the hologram.
- (f) Provide for a legal framework to regulate the anti piracy system

Once the Copyright Office has been properly established, the personnel properly trained and supporting regulations passed, then the hologram may be implemented but this will take a while. In the mean time, the Copyright Office and the rights holders should take other steps to deal with piracy such as the investigation and confiscation of pirated material which should be handed over to the Solicitor General for prosecution.

#### 7.0. Concrete proposals on specific needs oriented activities

From the foregoing it is evident that there are several activities that need to be undertaken within the framework of the Liberian Intellectual Property Development Plan. These include:

- The development and enhancement of capacity within the institutions and the setting up of institutions such as the collective management organisation. One is the setting up of COSLIB. The rights holders are not receiving any royalties for the public performance and broadcasting of their works. The Copyright Office in consultation with WIPO and the Government of Liberia should identify a strategic plan for the creation of COSLIB.
- The recruitment and training of staff at the Copyright Office. It is important to build the capacity if the office is to effectively discharge its mandate. This includes the implementation and administration of the anti piracy security device. The current situation cannot support the effective implementation of the anti piracy security device. The training and awareness creation is a pre requisite to implement the system. Coordination between the copyright office, the Musicians Union and COSLIB is imperative.
- The placement of the Copyright Office within the Government system. There is no clear indication as to where the copyright office falls as it does not fall under any line Ministry. As the office of the Intellectual Property Consultant

has been under the Ministry of Commerce, it would be advisable for the Copyright Office to be placed under the Ministry of Commerce as well. This will ensure adequate budget allocations and clear policy on copyright and related right in Liberia.

- The issue of the Copyright Commission. The Act should be amended to have the Commission as a tribunal that deals with issues arising from licensing. This is in light of limited expertise in matters of copyright. The criminal enforcement should be left to the Solicitor General and civil cases should also be determined in courts of law.

## 8.0 Projects for implementation

### Current strategies

The current strategies include:

#### Intellectual Property Awareness

Intellectual Property awareness is essential and should be carried out as a continuous process. This will include workshops and seminars for:

- The Cabinet
- Members of Parliament
- Rights Holders
- Users such as broadcasting organizations, entertainment spots, shops, hotels and restaurants

There is a need to formulate a program that will target the above within the shortest possible time.

#### Teaching of IP at the Tertiary level

The Faculty of Law may be used as an entry point for the teaching of intellectual property at the University of Liberia. The University could collaborate with WIPO to develop the appropriate programs for the faculty for both long term and short term.

Sectors that have potential domestic and or export market –IP as a tool for economic growth.

The Consultant identified the visual arts and the music sectors as having potential for domestic as well as the export market.

Matrix (attached)

## I. Awareness Creation and Capacity Building (Short Term)

Activity	Objective	Target Group	Time	Responsible body	Expected Outcome
National awareness raising workshops and seminars	Create Awareness and publicity on copyright and copyright collective management	Copyright owners (musicians, performers, film producers, actors, literary authors and publishers, visual artists, photographers), users, government departments, distributors and the public.	One week 3 <sup>rd</sup> quarter of 2009	Government of Liberia, Copyright Office & WIPO	Awareness raised on the importance of Copyright, copyright collective management & need to counter piracy.
	To create an understanding of copyright law and enforcement	Judges, Lawyers and other law enforcement agencies	2 days 2 <sup>nd</sup> quarter 2010	WIPO/Copyright Office/Ministry of Justice	Effective enforcement of copyright & related rights in Liberia.
Technical-advisory support on enforcement of copyright	Create a proper regulatory framework for the anti-piracy security device program	Law Enforcement Agencies, Copyright Office, Copyright owners (producers of sound and audiovisual recordings), Liberia Bureau of Standards	4 <sup>th</sup> quarter of 2009	Ministry of Industry and Commerce, WIPO & other interested parties	Proper regulations to enforce the anti piracy program, clear definition of roles between parties, well trained Copyright Officers, sensitized general public
Training programs for LEAs, Copyright Office	Improve skills on technical and legal requirements for the implementation of an anti-piracy security device	- same as above -	2 <sup>nd</sup> quarter of 2010	- same as above -	
Technical-advisory support to streamline Copyright Office business procedures	Establish a structured institution based on best practice, create an understanding of management, improve work procedures to ease copyright enforcement	Members of Staff of the Copyright office.	A Consultant for one week 3 <sup>rd</sup> quarter of 2009  One week Attachment to performing institutions 1 <sup>st</sup> quarter 2010	WIPO/Government of Liberia	A Copyright Office with a clearly defined organigram, appropriate staff structure and clear regulations, Improved registration of copyright, Effective implementation of the Copyright Act and regulations,
Advisory and technical support to review the Copyright Act	To have a clear and concise legal framework	Rights holders associations, Government (Ministry of Justice, Ministry of Industry and Commerce, Ministry of Foreign Affairs)	2 <sup>nd</sup> quarter of 2010	WIPO/Government of Liberia	Amendment of the Copyright Act and the Regulations

Consultative meetings on Traditional Knowledge	To create a strategy to address issues of traditional knowledge	Ministry of Information, Culture and Tourism, Ministry of Internal Affairs, Ministry of Commerce, Copyright Office, Industrial Property Office, Ministry of Justice.	One Week November 2009	WIPO/Government of Liberia	A government clear policy on traditional knowledge and strategy.
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## II. Building Institutional Capacity (Mid Term)

Activity	Objective	Target Group	Time	Responsible body	Expected Outcome
Technical-advisory support to CR Administration	A feasibility study for integrating copyright administration in a national IP Office  Create a single entity for copyright administration	Government, copyright Office and Stakeholders	4 <sup>th</sup> quarter of 2009 to 3 <sup>rd</sup> quarter of 2010	Copyright Office, WIPO Government	New Regulations  Establishment of an all Inclusive Copyright Office/Collective Management/Enforcement Office.  Creation of a tribunal to deal with matters of licensing.
Study visits	To provide for adoption of best practices	The staff at the Copyright Office	Two weeks September 2009	WIPO	Adoption of best Practices, administration, enforcement, training and awareness creation.
Short term training with WIPO and the WIPO Academy	To provide the relevant knowledge on copyright and related rights	Staff of the Copyright Office and COSLIB once established	As per the WIPO Academy /WIPO training Schedule	WIPO	A well informed copyright office and effective collective management Organization.
Teaching of Intellectual Property at the University	To train Lawyers and IP practitioners on Intellectual property	Lawyers, examiners, intellectual property administrators, users and rights holders.	2010/2011	University/WIPO/ Government of Liberia	Increased expertise and effective administration and enforcement of Intellectual Property, a critical mass of IP practitioners established

PART III

REPORT ON THE FINDINGS OF THE AUTOMATION NEEDS EVALUATION  
RELATING TO THE INDUSTRIAL PROPERTY OFFICE OF LIBERIA

WIPO Mission Report

Office Visited: Industrial Property Office of Liberia, Monrovia, Liberia

Dates: March 24 to 26, 2009

WIPO Officials: Joyce C. Banya, Counsellor Intellectual Property Office  
Modernization Division (IPOMD)

## 1. Introduction

The government of Liberia requested technical assistance from the World Intellectual Property Organization (WIPO) in re-building its IP systems. Following this, Liberia and WIPO are now engaged in the formulation of an Intellectual Property Development Plan (IPDP) for the country. The plan aims at providing a general framework for the establishment of specific activity programs to enhance Liberia's capacity to derive benefits from its IP Rights for wealth creation and development. As a first step in this, WIPO engaged Consultants to undertake a "Needs Assessment Mission for strengthening the Liberian IP System" from March 14 to 28, 2009.

As part of this, it was agreed that an automation needs assessment mission be undertaken and the findings would feed into the overall IPDP for Liberia. The needs assessment mission was undertaken by Joyce C. Banya, Counsellor IP Office Modernization Division (IPOMD).

The concurrent undertaking of "The Needs Assessment Mission for strengthening the Liberian IP System" and "The Automation Needs Assessment Mission" was useful and effective. The Consultants and the Counsellor were able to share findings and attend some meetings together which proved useful for coordination and addressing the needs of the receiving state. This approach was very much appreciated by the Liberian authorities.

## 2. Mission objectives

The principle mission objectives were:

- to carry out an automation assessment and needs analysis of the IP Office; and
- based on the mission findings and in discussion with the office, make concrete proposals for an automation project implementation, with time bounds and clearly defined roles and responsibilities of the IP office and WIPO.

### 3. Mission activities

To meet its objectives, the mission met and held discussions with key policy makers, the Director General and staff of the IP office, assessed the work environment, IT infrastructure and available equipment, available human resource, existing IP legislations. See annex for detailed mission tasks.

#### (a) Meetings:

Meeting with policy makers – The mission met with H.E. Mrs. Miata Beysolow, Minister of Commerce and Industry, H.E. Mrs. Olubanke King-Akerele, Minister of Foreign Affairs, and discussed at length the challenges and difficulties facing Liberia in its post war re-construction efforts. Both Ministers recognized the important role IP can play in its development efforts particularly in its poverty alleviation and reduction process. They expressed appreciation for WIPO's technical assistance and support and looked forward to the final report of the Needs Evaluation as well the Automation needs assessment mission.

The Director General and staff of the IP office – The mission made a presentation of WIPO's automation project, highlighting the nature and scope of the assistance and the expected role and contribution from the office. The IP office was appraised of the importance of having the right pre-conditions, i.e. internet connectivity, human and financial resource, efficient manual system, etc., conducive for automation to succeed. In discussions with the Director General and staff, the mission analyzed the office situation, the challenges and problems being faced and proposed possible solutions.

A list of the officials met is attached in the Annex.

### 4. Mission findings

#### (a) IP Legislation

The Liberia IP office has one of the oldest records of IP rights dating back to 1897. The office itself has been under the supervision of the Ministry of Foreign Affairs for many years until 2003, when it was established as an autonomous body under article 2 subsection (2) and (3) of the Industrial Property Act of 2003. Though, passed in 2003, it was only in February 2009, that the law was applied and the IP office re-located to the current building. At the time of the mission, although the staff had moved, the records and other documentations were still in the Ministry of Foreign Affairs archives.

Liberia is party to the following International IP Instruments:

- WIPO Convention (December 8, 1988)
- Washington Treaty (May 30, 1990)
- Paris Convention (May 27, 1994)
- Madrid Agreement (September 25, 1995)
- Berne Convention (December 25, 1995)
- PLT (June 1, 2001)
- Phonograms Convention (September 16, 2005)

(b) Human Resource

In the new structure, there is a Board of Directors, a Director General, professional and clerical support staff (see organigram). Currently the office is headed by an acting Director General, he is an administrator by training with limited knowledge and training on IP issues. The support staff, most of whom were recruited in February 2009, have no training on IP. Only one clerk is computer literate. The staff that had some knowledge on IP issues and were handling trademarks registration in the Ministry of Foreign Affairs remained in that ministry.

(c) IT Infrastructure and office premises

The new office premises are situated on the third floor of an old building where the staff occupies four offices plus a reception hall. The offices lack basic office furniture (chairs, desks, telephones, etc) and IT equipment. There are no shelves or storage facilities for records. There is no water or electricity facility. At the time of the mission the office was using a generator.

(d) Trademarks processing

The Liberian IP office is mandated to handle Trademarks, Patents and Industrial Designs. The mission was not able to undertake a thorough appraisal of the records because, at the time of the mission, arrangements were being made to transfer the records and archives from the Ministry of Foreign Affairs to the new office premises. The records and registries which were examined were tattered and in a very bad shape. Current applications and old files were mixed up. The whole manual system appears to be disorganized; nobody had a clear picture on the office business procedures. A random check found that there are a number of missing registries, files. All the IP Rights (Trademarks/Patents) are recorded in the same Registers. It was not possible to discuss the office procedures because all the staff members were new and had no knowledge of the office work flow and procedures.

Given the above, the office has major challenges ahead in changing the work environment, streamlining and reorganizing their archives and documentation

(e) Patents – *It was not possible to gather any information regarding the Patents.*

(f) Streamlining and re-organization of records

The mission advised and helped the office to put in place a program to streamline and re-organize the filing and documentation in the office.

5. Recommendations and follow up actions

Based on the mission findings and discussions with the office the following recommendations were made and agreed upon:

(a) Work environment: Purchase of office furniture and equipment, desks, filing cabinets for storage, fax machine, connecting the power supply, etc.

(b) Streamlining work procedures and organization of the records. The office to sort out all the records so that missing files and registers can be noted. Priority

to be given to sorting out files from 2003 to date. Then the earlier records should be sorted out.

- (c) Budgetary allocation. The IP office urgently needs budgetary allocation to purchase basic office equipment as well as PCs to enable them to operate.
- (d) Provision of IT equipment: WIPO will consider providing some IT equipment to the office. Exact type and number of IT equipment to be communicated at a later date.

## 6. Conclusion

In the wrap-up meeting, both sides noted the challenges the country is facing in its re-construction efforts, after fourteen years of civil war. It was agreed that the office needs to ensure that all the pre-conditions are met for automation. The Chairman of the IP Board of Directors reiterated the Liberian Government's commitment and support for the successful implementation of the project and expressed sincere appreciation to WIPO for its assistance to the Liberian Industrial Property Office and that they would endeavour to meet their responsibilities to put in place the pre-conditions for automation.

WIPO on its part would continue to provide both advisory and technical support to assist the office in establishing an enabling environment for automation.

The mission wishes to express its sincere appreciation to the Ministers of Commerce and Industry and Foreign Affairs for their time and the fruitful discussions for the way forward in the modernization of the IP office; the Director General and staff of the IP office and Mr. Roland Morris for their cooperation and diligent support which greatly contributed to the success of the mission.

[Annexes follow]