

# LOSS OF KIKOI TO THE UK: AN INTELLECTUAL PROPERTY DRAMA

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## INTRODUCTION

### The Question to Answer

Is the word 'KIKOY' registrable in the UK, as a trade mark for textile goods...?

After a long time of agony caused by a myth on the loss of kiondo idea to Japan, KIPI was at it again in 2006, when a firm called Kikoy UK Company<sup>2</sup> applied on 26 August 2006<sup>3</sup> to register the word 'KIKOY' as a trade mark for textile goods made from kikoi, in the United Kingdom. The application was, however, not registered due to applicant's non-compliance with the requirements of the UK Patent Office, following its publication and subsequent opposition. Just like the kiondo purported loss, Kenyans were provoked again in believing that kikoi also got its escape route, this time, to the UK and expected KIPI to stop the application from registration. This was quite an uphill task, particularly in regard to the role of KIPI.<sup>4</sup> If registered, the Company was to become the owner of the word kikoy as a trade mark in the UK and by extension, phonetically, to the word kikoi, a subject of the protest drama that was then witnessed in Kenya. At the time, a lot of arguments were made to the effect that it was immoral for the UK Patent Office to accept the application for registration of the word KIKOY for clothing in the UK. But despite the ultimate outcome of the drama, the issue to date still remains whether the word KIKOY was available for registration in the UK as a trade mark for textile goods made from kikoi. This makes the basis of both the factual and thought analyses given below.

### A Description of Kikoi

Kikoi is a Swahili word meaning a kind of cloth used as wrappers mostly by females. More definitions of the word kikoi exist, such as: "a piece of cotton cloth with coloured bands, worn or wrapped around the body" or "a piece of colored cloth used as clothing and wrapped around the waist and legs or shoulders." The word kikoi has a similar meaning in a number of countries where, in some, it is associated with the term 'serong'.<sup>5</sup> Kikoi is mainly found in Kenya and Tanzania, among the East African countries<sup>6</sup>. It has no specific claim of ownership to the original idea behind its weaving by any individual or community. In Kenya for example, it is woven by different communities working under the auspices of micro, small and medium enterprises (MSMEs).<sup>7</sup>

### Kikoi as Object of Intellectual Property

At the inception of the idea behind weaving kikoi, it had numerous aspects that could qualify for protection as objects of intellectual property, right from patent through to copyright. When considering a new industrial means of making kikoi, one would derive the likely presence of a

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<sup>1</sup> Includes input on the new outline from Professor James Otieno-Odek, Managing Director, Kenya Industrial Property Institute.

<sup>2</sup> <http://www.kikoy.com/contact/> The Kikoy Co UK Ltd, UK Office, Tatu Buildings, Sulby Covert, Welford Road, Sibbertoft Leicestershire, LE16 9UJ. (accessed on 16 December 2009)

<sup>3</sup> Sihanya, B., JSD (Stanford), *Kikoi and the commercial exploitation of geographical indications and traditional knowledge in Kenya*

<sup>4</sup> KIPI administers the industrial property Acts in Kenya and maintains national industrial property Registers. It does not deal with sorting out cross boarder industrial property rights issues affecting individuals on behalf of the Kenyan government.

<sup>5</sup> <http://sarong.askdefine.com/> (accessed on 15 December 2009)

<sup>6</sup> Sihanya, B., JSD (Stanford), *Kikoi and the commercial exploitation of geographical indications and traditional knowledge in Kenya*

<sup>7</sup> A few examples are like those enterprises that are members of Handloom Weavers Association (HAWESA).

process patent, or even, a utility model according to Kenya's industrial property Act. From its beauty aspect as displayed by its aesthetic or ornamental nature, one would derive the likely presence of an industrial design and to some extent, copyright if creatively done. On maintenance of quality and consistency of the kikoi goods, one would derive the likely need for a distinctive business symbol, in this case, a trade mark. The word 'kikoi' as such cannot independently serve as trade mark in Kenya, since it is known as a generic term for the product itself. In some cases kikoi, when hand woven, can also be viewed as an object of traditional knowledge, although this looks a bit remote when considering the variety of people who are in the business of producing it in different countries.

### Protection of Kikoi in Kenya

From the aforementioned intellectual property aspects of kikoi, it appears that at the time of its conception some possibilities of its legislative protection existed. However, due to lapse of time as well as absence of a definite originator of its weaving idea, all but two, of those possibilities outlived their relevance. As intellectual property arises from the human mental intellect or mind, it must have a specific owner. Some of the characteristics of an intellectual property, among other things, are being new and original. Trade mark and industrial design aspects are what have ever since remained available as means of protecting either the quality and consistency and aesthetic or ornamental nature of kikoi that is produced by one weaver, compared to those by others. It is a fact that the quality and appearance of kikois woven by different weavers bear different design, and quality and consistency, hence the need to uniquely distinguish them in the market by consumer.

### Trade Marks Protection in Kenya

A trade mark is basically a symbol that is used on or in connection with identifying and distinguishing goods or services of one person from those of others. A person in this case can be a natural person or a legal entity. The same definition applies to a service mark with only a replacement of goods with services. A trade mark identifies goods akin to the way fingerprints identify a person. It is generally used as a means of capturing or reserving a market territory. Territoriality is therefore basic to trade mark law. This concept is derived from the fact that protection of intellectual property, the world-over, is territorial. Meaning that a trade mark registration takes legal effect only within the national borders in question.

Accrued rights protected by a registered trade mark certificate is the perception established by use of a symbol in business and stored in the mind of relevant consumer, created through promotion, marketing and advertisement by the proprietor or the holder. It is the perception of the consumer, as oppose to the intention of the owner, that earns a trade mark its protectable rights. Rights in a trade mark are therefore fluctuating and depends on the depth of consumer perception. This calls for the owners to effectively police their trade mark rights against any missappropriation by others as well as to make them become immune to the doctrine of estoppel by acquiescence or laches.

The main purposes for protecting a trade mark in a given territory are: to create a pro-competitive and transparent market in an economic system where consumers are protected, on the one hand, and to allow businesses to enter market freely and compete fairly, on the other hand. The roles of a trade mark therefore are mainly to: identify and distinguish the goods or services of one person from those of others; serve as symbol of quality and consistency of the goods or services; indicate the source of the goods or services; and be used for promotion, advertisement and marketing of the goods or services.

Kenya has had the necessary legislations for registration of trade marks, since 1913. In fact, the first trade mark was registered in Kenya on 02<sup>nd</sup> of January 1913.<sup>8</sup> Currently, trade marks are registered under the Trade Marks Act Cap 506 of the laws of Kenya, as amended several times, the latest

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<sup>8</sup> According to the Register of Trade Marks constituted in 1913 under the then Trade Marks Ordinance

being in year 2002. The Act is administered at KIPI by the Registrar of Trade Marks, who is also the Managing Director of the Institute.

Section 6 of the Act, provides that registration of trade marks must be done in respect of particular goods or services. Such goods and services are internationally classified in a booklet entitled the 'Nice Agreement on International Classification of Goods and Services.' Kenya is not a member to the Agreement but is a user of the international classification. The Act goes on to say in section 12, that the mark has to be 'distinctive.' Meaning that it must be capable of identifying and distinguishing goods or services of one business from those of others. This condition dictates that a mark should not have a direct link to goods or services in terms of quality, nature, purpose, characteristics or ingredients. For registration, a mark should therefore bear distinctiveness characteristics in respect of the particular goods or services in which it is or to be applied.

## FACTUAL ANALYSIS

### Protection of Kikoi as a Trade Mark in Kenya

The quality and consistency of kikoi products can get protected in Kenya through registration of distinctive trade marks at KIPI. The word KIKOI alone cannot be registered for textile goods, as it is generic to those products when considering its meaning in Kiswahili language. Kiswahili is recognised in Kenya as a national language. A generic term can not at all cost make a distinctive trade mark. In Kenya, this is provided for in Section 12(d) of the Trade Marks Act, which reads as follows: "*a word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname;...*" Otherwise, in case the word is crafted together with other distinctive elements forming a composite mark for textile goods, then the Act requires the applicant to enter a disclaimer to the exclusive use of the word 'kikoi' separately and apart from the mark as a whole. Meaning that the term is then allowed to silently exist as part of the label, and anybody else is allowed to use it for the same goods when coined differently. Generic words are generally made available for use by anybody freely. However, the word kikoi is available for protection in other non-deceptive category of goods or services.<sup>9</sup>

### Protection of Kikoi as a Trade Mark in the UK

From the foregoing discussions, it has been shown that for a mark to qualify for registration as a trade mark, it has to be distinctive and this requirement is the same even in the UK.<sup>10</sup> The UK Trade Marks Act 1994 in Section 3, reads in part that:

*"The following shall not be registered -...*

*(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,*

*(d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade:*

*Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it."*

<sup>9</sup> Registration No. TMA 14454 on "KIKOI SOAP" for soap and soap products, by Debois Oil Mill & Factory Ltd, Kenya, filed on 18<sup>th</sup> October 1966.

<sup>10</sup> <http://www.ipo.gov.uk/tmact94.pdf> (accessed on 15th December 2009)

It means that if the meaning of the word kikoi as understood in Kenya were the same as in the UK, then the law is clear that it cannot be protected there. But wait a minute! Europeans are not Kiswahili speakers! In paragraph (d) above of the UK Act talks about '*the current language.*' I do believe that the language referred to in the UK, is none other than English, for which the word kikoi, to say the least, has no same generic meaning as in Kenya. Word marks have been found to bear different meaning in different countries.<sup>11</sup>

The availability of a word as a trade mark in relation to others is guided by considering what it portrays in terms of sight or appearance, sound or phonetic and meaning. To start with the meaning aspect of the word kikoy or even kikoi in the UK, absolutely speaking, there is none. As kikoi is a Kiswahili word with a generic meaning only among the Kiswahili speakers. The word Kikoy has no meaning in Kenya as well. Even here in Kenya, there is a clear difference in meaning between, for example, Kiswahili words 'GARI' and 'GARY,' irrespective of the phonetic identity. It is also indicated in one of the foregoing paragraphs that trade markness is created out of consumers' perception, as opposed to the owner's intention. This implies that if the intended owner markets, promotes and advertises the word kikoi in the UK to the extent that the targeted consumer, which is largely European associates the word with certain quality of those products, the word would definitely qualify as a registrable trade mark there, as in the proviso. The said qualification would exist in the UK in the context of territoriality, irrespective of whether the word is generic in Kenya.<sup>12</sup> In any case, the word 'SAFARI' is comfortably protected severally in the USA as registered trade marks for clothings.<sup>13</sup> 'MAASAI-GRASS' is also registered in the US for jewelry.<sup>14</sup>

Considering the sound aspect, one needs to compare the word 'kikoy' with the word 'kikoi,' in which they are phonetically identical. However, this would only hold in case there was a strong factor in issue, particularly against a claim of likelihood of confusion based on some relative grounds. But this was not the case in the UK, as the contest rested on the absolute ground of immorality, and not relative as of a conflict in the trade mark register.

On the aspect of appearance, the two words need to be put side-by-side for one to depict visual difference in terms of letters. In this case, the difference is viewed in respect of what would be the visual judgement of an average consumer, also taking into account what some times is referred to as consumer sophistication. In the UK, an average consumer is defined as one who is reasonably well informed, reasonably observant and circumspect. This measure is a bit tricky, as it depends on the reader's standpoint. An average consumer in Kenya is not the same as in the UK. It also depends on the consumer chain, whether intermediary or end consumer. As in some cases consumer sophistication diminishes from intermediary to end level. Literaly, the two words are different in appearance brought about by replacement of 'i' by 'y,' but the effect of that difference is essentially measured before the eyes of the targetted consumer. The consumer could either be sufficiently careful or fall a victim of a mistake or confusion arising from the closeness of the two words.

Reflecting on the likely confusion or mistake caused in failure to differentiate the two words in the UK market, the labelling of kikois by kikoy may not disadvantage consumers a great deal, as in whichever case, one would still land on a kikoi product anyway. In any case, it is the owner of the trade mark that would be more likely at risk, since any product from competitors identified by the word 'kikoi' would appear in the market as if it was his trade marked kikoy brand and consumers would go ahead and buy.

<sup>11</sup> "Ford had a similar problem in Brazil when the Pinto flopped. The company found out that Pinto was Brazilian slang for "tiny male genitals." William O. Hennessey, *International Intellectual Property Law and Policy*, LexisNexis 2001. 115.

<sup>12</sup> <http://www.ipo.gov.uk/tm/t-find/t-find-text/tmtsearch-default.aspx> Two registrations with KIKOY Nos. E2829992 and E2831691 exist.

<sup>13</sup> <http://tess2.uspto.gov/> Several registrations exist i.e. Registration No. 3684486, filed on July 6, 2005.

<sup>14</sup> <http://tess2.uspto.gov/> A registration under Registration No. 3362030, filed on April 19, 2007.

From the arguments made above, it is therefore in order to deduce that there was no legal hindrance, whatsoever, before the UK Patent Office in registering the word kikoy as a trade mark for textiles in the UK. That means, if kikois were manufactured in the UK and sold within her territory, as opposed to getting them imported from elsewhere, the applicant was absolutely in order to register the word kikoy as a trade mark for textiles and legally use it there. Any protest from another country against that application could not be much of an issue, particularly if it was meant to legally compel the UK Patent Office to refuse registration in her territory, against the interest of the UK applicant. In the absence of local manufacturing, the only difficulty facing that registration, if existed, was on the part of the holder concerning enforcement of his entitled exclusive rights in the UK.

#### Enforcement of a Kikoy Trade Mark Rights in the UK

A trade mark rights holder is given powers to exclude anybody else without his consent from using or importing goods or services having the registered trade mark. Existence of such exclusive rights in the UK, meant that the market was put under the control of the UK Company, in respect of kikoi and its products. In case that happened, then there could have been a serious problem affecting the free-flow of kikois in the UK. There has been an on-going trade between Kenyans and the UK citizens in the area of textiles, including kikois. Undoubtedly the trade translates into creation of wealth and employment to the citizens of both countries. This fact makes it clear that the UK market should be pro-competitive and transparent enough to protect consumers as well as allowing businesses to enter the market freely and compete fairly. In essence, only acts of competition that are in accordance with honest practices in industrial or commercial matters ought to be cherished and sustained in the UK market, as signs of promoting fair competition. The fact that the kikois are not manufactured or made in the UK, raised some genuine issues of material fact that made it relatively difficult for the the word kikoy to subsist under a registration as trade mark and the resulting rights be enforceable for textile, and goods made thereof in that market. Even though it is not as a result of those issues that made the intended registration fall off, if raised, they could have provided persuasive arguments against that application.

The cited issues of material fact, are the following: Firstly, is that the word kikoy was phonetically identical to the generic term kikoi, which was actually the known common name of the textiles and products thereof from their source countries. Meaning, that in whatever trade mark the textiles were branded, the word kikoi would remain the common name of those goods. Secondly, is that the UK market relied on the goods imported from the source countries that were situated outside its territory and where the goods were only known as kikois. Thirdly, is that the protection meant that if kikoi goods accessed the UK market subsequently without the trade mark holder's consent, such goods, irrespective of the claims of their generic entitlement of the word kikoi, would infringe the owner's exclusive rights conferred to him by the registration of the word kikoy, which was phonetically identical to the word kikoi. Meaning that the goods could only survive in their aspects of appearance and meaning, not phonetic. As, whoever attempted to pronounce the word kikoi in reference to goods of another person, would provoke the likelihood of being termed an infringer.

It appeared interesting as a result to imagine how the goods would then be transported from various sources in their known common name, kikoi, until the entry point in the UK where the same would be compelled to change their name to something else, due to the then existing force of exclusion vide the registration of the word 'kikoy' enforceable by or on behalf of one person against others. Clearly that scenario could have made it relatively difficult to do business in those goods between the two countries.

#### Kenya's Protection of the Word Kikoi Abroad

Lack of clear individual ownership of kikoi has left it a property that looks more general, although in its source countries, it belongs to MSMEs. Even if it were protectable abroad against

misappropriation, Kenya's move to seek protection singly would open another chapter all together where other countries who manufactured kikois could raise an act of aggression against them over what they also claimed a stake. It is already mentioned above that a number of African countries manufacture kikoi products for export abroad.

The only strong option that remained at the disposal of the source countries, just in case the trade mark got registered, was that of imposing collective sanctions on the export of kikoi and its products to the UK. Since the goods were not manufactured there, the sanction could have halted the trade between the two countries, something that could have impacted negatively both to those who were trading in kikois and to the continued creation of wealth and employment to in the two countries.

## THOUGHT ANALYSIS

In doing some thought analysis to weigh the probable impact of the protest drama behind kikoi loss to the UK among Kenyan people, a number of both positive and negative perspectives come to fore again. The positive ones, range from imparting seriousness among the elite and political class in coming to the understanding of the proper place intellectual property and rights thereto occupy in this country's social, political, economic and cultural (spec) dimentions, besides its cost and benefits to Kenyans..., to the public's ego in understanding exactly what intellectual property is, its rights, protection and enforcement. While the negative ones, range from creation of a cancerous panic to Kenyans of the loss of their riches pertinent to this country's natural heritage and identity..., to loss of hope that Kenya todate is a country that still has no necessary capacity for a sound understanding and perception of the whole concept of intellectual property and rights thereto. At this stage it is necessary to analyse a few already existing thoughts and interpret them in terms of how the messages they convey impact on Kenyans' interests and concerns, as opposed to the otherwise factual positions.

Starting with the caption below, posted on the Internet:

“Kenya: ACTIVISTS FIGHT U.K. PATENT OF EAST AFRICAN FABRIC”<sup>15</sup>

The common mix-up of words in reference to protection of ideas and symbols was at display in the above title where registration of kikoy as a trade mark got referred to as patenting. A useful idea that offers solution to a technical problem is protected by a patent. A business symbol is protected by a registration. Keeping in mind the difference in usage of the two forms of protection is very crucial. Just like it wrongly appeared one day on the headlines of one of the popular daily newspapers here in Kenya that “the Registrar of Trade mark has patented Orange Logo” was not correct.

“This is the second time that a distinctly East African design is being claimed by foreigners.”<sup>16</sup>

The aforementioned statement elicited emergence of some truth about those who were behind the UK trade mark application which was later known that some Kenyans had a hand in the move to have the word kikoy registered.<sup>17</sup> For once, it was only fair to spare the foreigners who had in the past been severally associated with taking part in claiming Kenyan's proprietary information.

<sup>15</sup> <http://ins.onlinedemocracy.ca/index.php?name=News&file=article&sid=9546&theme=Printer> (accessed on 22 December 2009)

<sup>16</sup> <http://ipsnews.net/africa/nota.asp?idnews=37165> (accessed on 22 December 2009)

<sup>17</sup> A participant disclosed to have been part of the Applicant of KIKOY trade mark in the UK at a conference on Hand Woven Textile Products, held on 2 December 2009 at the Red Court Hotel by the Kenya Bureau of Standards (KEBS)

“will see Kenya retain the kikoi as part of its traditional heritage”<sup>18</sup>

Retaining of kikoi as traditional heritage in Kenya again raises questions as to what form of protection is desirable for it, since it is also made in other countries like Tanzania who would as well wish to appropriate it freely.

“Odek said if the trademark is to be granted in the UK Kenyans would not export any Kikoi products to 30 European countries unless done through Kikoi UK Ltd.”<sup>19</sup>

The statement above hinted at the likely difficulties that are already highlighted in the foregoing paragraphs to have contributed to the mentioned genuine issues of material fact that could make the kikoy application not registered even if registrable in the UK. As the purpose of trade mark registration is to promote trade by protecting consumer and creating a pro-competitive and transparent market in the economic system.

“If the UK Kikoy Company limited succeeded in its bid, the firm would have stopped anyone from marketing or selling Kikoi anywhere on the globe using the name.”<sup>20</sup>

The concept of territoriality to trade mark law was ignored, as the phrase “anywhere on the globe” shows that trade mark registration in the UK is effective internationally. That statement tends to assume a patent or a copyright ownership scenario in a number of countries globally as oppose to a trade mark registration’s territorial scenario. An identical trade mark for same goods or services can be owned in two different countries by holders who are not linked in terms of affiliation, association, approval or sponsorship. The statement emanating from a high level portfolio in the country means that problems of lack of awareness in matters of intellectual property rights in Kenya are still raging! Before awareness is created among the general public, it should be built first in the higher ranks of government.

“It's outrageous that words and terms that are distinctive to a people, a culture and a language should be appropriated in this way merely to advance the self-interest of commercial organisations,”<sup>21</sup>

That comment was seemingly made in light of the intention of the applicant. It took on board the sanctity of industrial property rights that the trade marks law protects. Given that businesses based in both countries had a hand in the application filing initiative, it was clear that monopolistic line of thought was at play. That goes against the spirit of trade marks registration as object of intellectual property. Quality and consistency in goods or services are controlled by sound market competitiveness and transparency in a way that consumer is afforded the best opportunity to make safe, fair, and equitable choices.

“If the trademark had been granted it would have given the company a virtual monopoly over the use of the term in the UK.”<sup>22</sup>

Precisely, the rights conferred to the holder of a registered trade mark are negative rights. This is because those rights are meant to exclude, not to include, anybody else other than the holder or with

<sup>18</sup><http://www.managingip.com/Article/1940916/The-UK-Kenya-and-the-kikoi-controversy.html> (accessed on 22 December 2009)

<sup>19</sup> [http://www.zoominfo.com/people/Odek\\_James\\_135147313.aspx](http://www.zoominfo.com/people/Odek_James_135147313.aspx) (accessed on 22 December 2009)

<sup>20</sup> <http://www.communication.go.ke/news.asp?id=117> (accessed on 22 December 2009)

<sup>21</sup><http://www.independent.co.uk/news/world/africa/british-company-claims-ownership-of-kenyas-colourful-national-cloth-438991.html> (accessed on 22 December 2009)

<sup>22</sup><http://www.marsgroupkenya.org/multimedia/?StoryID=220432&page=1> (accessed on 22 December 2009)

his/her consent to use the trade mark or to import goods or services bearing it into the protected territory. Any act in the contrary amount to infringement of those rights.

“Kenyan activists are fighting to retain intellectual property rights over a fabric design that was developed in East Africa, but is now at risk of being patented by a British company.”<sup>23</sup>

The term ‘patented’ is not used properly as fabric design is not a subject of patenting but an industrial design registration or even copyright protection if it is creatively done. A design can at times qualify for registration as a trade mark on condition that it is distinctive and none functional.

The statement highlights the fact that kikoi comes from East Africa, in the sense that even if Kenya is the only country that came out to fight the intended registration, it could not end up claiming ownership to ‘kokoi’ against others. That position makes it difficult to identify a suitable means of protecting the word kikoi by only one country from a monopolistic missappropriation abroad.

“Should Kenya petition UNESCO for KIONDO and KIKOY to be included in the world heritage list?”<sup>24</sup>

That is a fantastic relevant concern, particularly when considering the originality of both kiondo and kikoy, not as objects of industrial property but of cultural preserve. But the question still remains what form of protection does Kenya wants? For example for who, against who? In case they are kept as cultural preserve, that would not give a deserving protection of the same abroad.

In case information held in the above posted captions were correct and factual, intellectual property in Kenya could not be perceived as new any more, irrespective of how new it looks. As that is a clear indication that the need to focus on ownership of the intangible property already existed among Kenyans. This projection is further supported by the level of vigilance that has emerged in Kenya in respect of the need to ascertain ownership of the country’s riches in natural heritage and identity. Low level of awareness in appreciating the cost and benefits of intellectual property in the country has denied many Kenyans opportunity to appreciate fruits of their mental creativity. This has instead made the country vulnerable to panics caused by any form of misinterpretation or misplacement of facts surrounding intellectual property rights ownership.

## CONCLUSION

### The Answer to the Starting Question

Yes, it is registrable, any way. But in the UK case, it was not possible.

The answer to the starting question, therefore, is that the word KIKOY is registrable in the UK. But in the particular case, although the application did not get to registration, due to none compliance by the applicant, there were rather persuasive, genuine issues of material fact that could defeat the otherwise existence of legal effect against other businesses by the company on the word kikoy, which is phonetically identical to the word kikoi, in the UK market.

Let us meet again later on the complexities behind protection of the M-PESA-like idea in Kenya.

*Note: One is absolutely at liberty to treat views in this article as purely personal and in no way, whatsoever, should they pre-empt or reflect any different opinion held by Kenya Industrial Property Institute on matters relating to kikoi loss to the UK.*

<sup>23</sup> [http://www.finalcall.com/artman/publish/article\\_3426.shtml](http://www.finalcall.com/artman/publish/article_3426.shtml) (accessed on 22 December 2009)

<sup>24</sup> <http://ip-kenya.blogspot.com/2008/02/should-kenya-petition-unesco-for-kiondo.html> (accessed on 03 November 2009)